

DOING BUSINESS IN GREECE

A LEGAL & TAX GUIDE



JULY 2010

INTRODUCTION

In the country of Xenios Zeus, the god of hospitality, it appears that, in most of the cases, skepticism and uncertainty are the words that lead the mind of the investors who want to make business in Greece. According to official statistics, public deficit has ballooned to almost 13% (12.7%)¹ of the gross domestic product. The debt is estimated at more than 404 billion dollars or 113%² of its gross domestic product and several credit tracking agencies -such as Standard and Poor's- have down rated Greece credit rating³ transforming business in Greece to a “high risk” investment. On the other hand, a month ago, one of the biggest Arab financial Groups, the Abu Dhabi Mar, invested in Greece buying the 75.1 per cent of the share capital of Skaramanga, the Mediterranean largest shipyard (HSY). China's Cosco Pasific signed an agreement on the containers of Piraeus, while Russia's Prime Minister Vladimir Putin in the meeting that he had last month with the Greek Prime Minister stressed that the oil-pipeline of Burgas- Alexandroupoli will start in the near future. The two discussed also the possibility to set up a joint company with [Gazprom](#) to design the country's stretch of the gas line for the South Stream project. Last but not least, according to a survey presented from the agency “Invest in Greece”, the biggest part of Serbians and Romanians still vote Greece as their preferred destination for their vacations.

All in all, Greece undoubtedly has a hard time but nothing is lost yet. Sectors such as transportation, (renewable) “green” energy and tourism are still strong and full of potential. The geostrategic position of Greece will always leave to the country, the privilege in sectors such as carriage and energy and this is underlined also from the interest of countries such as China and Russia. The weather conditions give the opportunity to many companies of renewable energy to transfer their branches in Greece. Additionally, it is important to keep in mind that Greece has one of the highest rates in tertiary (university, college, etc) enrolments worldwide, providing the highest rate of university graduates in the EU⁴ and as a result the highest amount of skill-workers in the market. Concluding, the natural beauty's of the country and its

¹ <http://www.phantis.com/news/?newsID=20100226135449>

² Ibid.

³ Standard and Poor's

⁴ http://greek-investments.com/index.php?option=com_content&view=article&id=13:welcome-to-our-company&catid=13:greece

remarkable history will always keep it as one of the biggest attractions for the tourists. This guide shows how a foreign enterprise could invest in Greece. It analyses all the types of companies that could be established in the country demonstrating also the necessary steps for their incorporation. Additionally, it explains all the steps related to tax liabilities of the different types of companies, provided by Greek laws and the directives of the European Union.

GREEK COMPANIES- BUSINESS ENTITIES

From the past, people have understood that a joint action would be much more beneficial for their business, instead of trying individually to promote their business and financial interests. Therefore, even from the time of Ancient Rome, the individual have united their interests and actions through the establishment of business entities, companies and corporations.

In Greece, there are several types of companies provided by several Greek laws. The general provisions of business entities are established under the Greek Civil Code (articles 741 to 784). According to the Greek Civil code, with the contract of a business entity, two persons at least have the mutual obligation to promote a joint (financial) cause with joint contributions.

The main difference amongst entities provided by Greek law, is the discrimination between personal and capital companies. As personal companies under Greek law are considered the entity/ company of the Greek Civil code, the general partnership (Omorrythmos Etairia), the Limited partnership (Eterorrythmos etairia), the “invisible” or de facto company. As capital companies are considered the corporation (Anonymi Etairia) and the Limited Liability company (Etairia Periorismenis Efthninis), as well as the Limited partnership into shares.

There in a “numerous clausus” with regard to the types of companies provided by Greek law. This means that only these types of companies can be established under

Greek law and no other type. However, in case that this is not opposed to the provisions of law, these types of companies can be evolved.

Foreign entities may establish and operate in Greece freely. Depending on the case particularities, such establishment can be effected by forming a local entity provided the Greek law or through establishing a branch in Greece even through participating in a joint venture with other entities.

1. Company of the Civil Code

This type of company, which is regulated by the Greek civil code (Articles 741 to 784) is a union of individuals who intend to promote a joint interest (athletic, financial cultural, financial). All members have to contribute for the promotion of the joint goal. The company of the Greek civil code does not constitute a legal entity, except in some cases.

Establishment agreement

The Greek civil code company can be established through the execution of an agreement between two at least individuals or entities. Pursuant to this contract, members are obliged to contribute to the company, towards promoting the joint cause. The contract can be even informal (verbal), except for cases where for example a real estate property, a boat or an airplane is contributed in the company (where a document or even a public notary's Deed is necessary).

Contributions

The contributions to the company can be of any kind (i.e. funds, work, clientele, real estate property, etc...), with or without value. The value and the kind of contribution can be freely determined by the company's establishment contract.

In case that one of the members of the company does not provide of any contribution, this does not affect the legal status of the company. However, the other members of the company, have the following options:

- a. claim the contribution against the member who has not provided same;
- b. request the termination of the company; or
- c. exclude this member from the company.

According to the relevant provisions of Greek law, the contributions of the company do not belong to the company but to all members of the company in undivided interest shares.

Cause

As indicated above, the cause of the company of the Greek civil code can be of any kind (cultural, financial, educational, etc..). The members of the company are obliged to promote the joint cause by effecting the necessary actions or even omissions (omit to compete to the causes of the company, etc...). However, this type of company cannot promote commercial causes.

Company shares

The contract of establishment of the Greek Civil Code companies regulates each member's share on the company. If the contract does not provide same, then it is considered that all shares are equal.

Unless it is otherwise provided, the company share cannot be conveyed nor can be seized.

Rights and obligations of the Members

The members of this type of company have the following rights:

- To participate to the administration of the company;
- To vote; in case that it is not regulated differently by the company's establishment contract, there has to be a consensus of all members for a resolution to be valid;

- To be informed of all matters related to the company;
- To participate to the earnings of the company;
- To participate to the liquidation of the companies contribution.

And the following obligations:

- To promote the joint cause;
- To contribute to the company;
- To participate to the administration and representation of the company;
- To participate to the company's losses. Each member participates to the losses pursuant to his share on the company; otherwise, all members participate equally. However, against third parties, all members are jointly and severally liable for the losses of the company.

Members of a Greek Civil Code company

A person becomes a member of this type of company, when he executes the contract of establishment of the company and in case that he agrees with the founding members to participate to the company. In this case, an amendment contract is executed between the new member and the existing.

On the other hand, a person loses his membership on a company, upon his passing, after his own declaration for exiting the company and finally after his exclusion from the company.

Administration of the company

According to the Civil Code, the administration of the company is effected by all the members of the company jointly. However, the members are free to decide on any other form of administration, such as joint administration by some members of the company or even sole administration by each member; in no case, third parties, non-members of the company can become administrators of the company.

The administrators represent the company before any third party and authority and their actions bind the company, except for reasons where the third party was aware that the rest of the administrators were opposed to the actions of the specific administrator.

Dissolution of company

The company of the Greek Civil Code can be dissolved for specific reasons provided by the Greek Civil Code. More specifically, the reasons for dissolution, provided by the Greek Civil code are the following:

- The company has effected its cause;
- With a consensus decision of the Members of the company
- If there is only one member of the company left;
- If a member passes away, becomes legally incapable or in case that he was declared as bankrupted.
- In case that the company was established for a specific time, upon the passing of this time;
- For a grave reason, upon termination by a member of the company;
- For companies established for indefinite time, the company is dissolved upon termination of any member.

Upon the dissolution of the company and during the state of liquidation (“ekkatharisi”), the company can revive.

Liquidation of the company (“ekkatharisi”)

Upon the dissolution of the company, the company passes to the stage of liquidation. At this stage the members of the company, become the liquidators of the company and fulfill any and all liabilities of the company. Upon the completion of this stage, the company is terminated.

Company of the Greek Civil Code, recognized as legal entity

The company of the Greek Civil Code is recognized as a legal entity, in case that its cause is financial and all probate procedures provided for the general partnership (i.e. registration of the establishment contract to the Court of First Instance archives, etc..) have been fulfilled for this company. In such a case, this type of company is recognized as a legal entity and the company has its own assets and is liable with these assets for the liabilities of the company;

2. General Partnership-Omorrythmos Etairia (OE)

Another type of personal company is the General partnership (Omorrythmos etairia). The General partnership is recognized under Greek law as a legal entity. It is regulated by the relevant provisions of the Greek Civil Code, as well as by the Commercial law.

Founding a General Partnership

For the establishment of a General partnership, Greek law provides that a certain procedure of probate is required to be followed.

The first and indispensable step required is the execution by the partners of the articles of Association. This can be effected through the execution either of a Notarial document or of a private agreement and must include the following information:

- a) The names and residence of the partners.
- b) The name of the General partnership.
- c) The administrators of the Partnership.
- d) The kind and value of the contributions provided by the partners.
- e) The duration of the Partnership.
- f) The goals/ purposes of the Partnership.

g) That the specific partnership will be a General Partnership (Omorrythmos etairia).

The executed Articles of Association are then filed with the competent Tax Authority of the district where the partnership holds its registered office. A corporate tax on the percentage of 1% is imposed on the capital of the Partnership.

Following the above, the Articles of Association, certified by the Tax Authority, is then filed and certified by the competent Chamber of Commerce and subsequently filed and certified by the Public Insurance organizations (Tameio Nomikon and T.P.D.A) for the payment of the required capital contributions.

Summary of the executed Articles of Association is then filed with the competent books of the Companies' Records at the Court of First Instance, of the district where the partnership has its registered seat, within the following 15 days after the execution of the Articles of Association.

The time required for the establishment of a General partnership is aprx 3-4 days

The summary of the Articles of Association is finally posted for three months at the Court of First Instance. It is only then that the General Partnership is recognized as a legal entity. Only in some cases, the procedure of probate of a summary of General Partnership's articles of Association need to be published at the Government's Gazette.

Amendment of the General Partnership's Articles of Association

For the amendment of the Articles of Association, the same procedure (as above) is required

Name of the General Partnership

The General Partnership's name is formed by the full names of the partners. In fact, it is usually formed by the name of some of the partners along with the word "and SIA O.E." (& Co). The general Partnership's bankruptcy entails the partners' bankruptcy.

Capital of the General Partnership

There are no limitations as far as the minimum capital is concerned. The capital can be contributed in cash, in kind or even in the form of personal services to the partnership. In case that real estate property is contributed, the article of the General Partnership has to be executed before a Public Notary.

Administration of the General Partnership

According to the relevant provisions of law, each partner of the Entity is appointed as an administrator of the company, acting individually. His personal actions bind the General Partnership against any third party. However, the articles of Association can freely regulate any other type of administration.

Liabilities of the Partners for debts and obligations of the General Partnership

All partners of the General Partnership are jointly and severally liable with their personal property for the debts of the general partnership. Such liability is limited to 5 years after the dissolution of the General Partnership or for 5 years after the partner leaves the company (in case that such liability arose at the time that he was a still partner).

Bankruptcy of the General Partnership

The General Partnership's bankruptcy entails the partners' bankruptcy.

Dissolution of the General Partnership

The dissolution of the General Partnership can be effected through the filing of a termination by any partner. Such termination needs to be addressed to every partner. In case of a written termination, it is required to be served on every partner. After the notification of the above termination to the partners, the General Partnership passes to the stage of "liquidation". The General Partnership remains a legal entity until its total liquidation. The partners, appointed as liquidators are in charge of the liquidation of

the General partnership's property, the payment of its debts, the rebate of the capital contributions and of the distribution of anything surplus to the partners.

Taxation of General Partnership

According to Income Taxation Law No. 2238/ 1994 (articles 10 & 64), as amended by law 3842/2010, subject to taxation law is among others, the general partnership. The profits of the company are taxed under the name of the general partnership and not under the names of the partners, as this was the case until fiscal year 1992.

The profits of the general partnership are taxed on the fixed percentage of 25% on the net "tax" profits of the partnership after the deduction of the following:

- a) The profits that have already been taxed or are exempted from taxation.
- b) The profits of the partnership that have been raised by the shares and dividends of mutual funds, limited liabilities companies, corporations, etc...
- c) The administration reward for three (maximum) general partners of the general partnership. Such reward is estimated to 50% of the total net profits of the company.

An additional tax on the percentage of 3% is imposed on the total gross income received from leases of the real estate property assets of the partnership. However, such amount cannot exceed the main tax imposition.

With regard to the Greek branches of foreign companies, branches of foreign or limited partnerships are still taxed under the fixed percentage of 20% on the net "tax" profits of the partnership.

Moreover, each year, the general partnership is liable in paying additional amount arising to 55% on the current fiscal year's tax imposition, as an advance payment for next year's tax obligation. Such amount is reduced to half (i.e. 27,5%), in case that the general partnership has started its activities for a period of less than three years, while this advance payment is deducted from next year's tax imposition.

Competent tax authority is the tax authority of the area, where the partnership has its registered seat.

The deadline for filing the annual income tax statements of a General partnership expires on:

- a) April 1st of the current fiscal year, if the partnership holds accounting books of the 1st or 2nd category;
- b) April 15 of the current fiscal year, if the General partnership involves insurances, bank representation or if the General partnership participates in an entity or joint venture which keeps accounting books of the 3rd category and in case that the accounting period terminated in November- December of the previous calendar year;
- c) Within 3, 5 months after the termination of the accounting period, in case that the partnership holds accounting books of the third category.
- d) Within 3 months after the dissolution, the modification or the merging of the partnership.

Since the General Partnership is taxed on the annual profits and the partners do not have any further tax liabilities, foreign companies participating in a Greek General partnership are not obliged to file annual income tax statements.

3. Limited partnership- Eterorrythmos Etairia (EE)

In every aspect, a Limited Partnership is similar to a General Partnership. The basic difference between them is that in the Limited partnership, there are two kinds of partners: the general partner (omorrythmos etairos) and the limited partner (eterorrythmos etairos), with different liabilities for the debts of the partnership. More specifically, the limited partner is liable for the EE's debts only up to the amount that corresponds to the capital that he contributed. However, at least one of the partners must be liable without any limitation (omorythmos etairos). In case a limited partner effects any administration actions, then he loses his limited liability status.

Formation of the Limited partnership

The procedure regarding the formation, the amendment and the dissolution of a Limited Partnership remains the same as for the General partnership.

The Limited Partnership consists of one (at least) general partner or general partner and limited partner(s). The general partner(s) are liable without any limitation for the debts of the partnership, while the limited partner(s) are liable up to their contributed capital.

Name of the Limited Partnership

The Limited Partnership's name is named by the full names of one or more general partner(s). In case that the name of a limited partnership is included in the Limited Partnership' name, he is considered as general partner of the partnership with full liability for the partnership's debts.

Administration of the Limited partnership

The limited partners cannot be appointed as administrators of the Limited Partnership. Only the general partners are granted with administration powers; the limited partners are not allowed to act as administrators or representatives of the EE. The limited partner is without any limitation liable for the EE's debts and obligations in case that he/ she is appointed as administrator or co-administrator of the partnership or has accepted his/her involvement in administration tasks.

Taxation of Limited Partnership

For the taxation of limited partnership, the relevant provisions for the taxation of a general partnership apply.

4. Joint Venture (Koinopraxia)

The Joint Venture is the co-operation of two or more individuals or legal entities, in order to accomplish and pursue a specific project. This type of company has in most of the cases temporary and occasional purposes. Foreign entities are allowed to participate to a Greek joint venture, upon issuance of a Greek Tax Identification Number (AFM).

The Joint venture is not recognized by law as a legal entity, although Greek taxation law recognizes it as a fiscal entity.

For the recognition of the Joint venture as a fiscal entity, prior to the joint venture beginning its activities, the agreement of establishment of the Joint venture needs to be filed before the Tax Authority.

Freelance professionals (i.e. lawyers, civil engineers, architects), are prohibited by Greek law from founding a Joint venture.

Taxation of the Joint venture

The Joint venture was taxed previously on a fixed percentage of 25% on the total net profits of the Joint Venture. Each member of the Joint venture is personally liable for payment of the tax liabilities.

According to the new taxation law No. 3842/2010, the previous taxation system (of the fixed percentage of 25% on the total net profits) has been abolished. The provisions which apply for the taxation of general partnership and limited partnership, apply also for the taxation of this type of company.

5. Corporation (Anonymos etairia - A.E.)

OVERVIEW OF AN A.E

The Corporation (“Societe Anonyme” in French) is regulated by Law 2190/1920, as amended by law 3604/2007). According to article 1 of Law 3604/2007, the corporation is a capitalized company with legal personality for the debts of which the company is solely liable with its assets. It can be established by one or more individuals or can become a single shareholder company by the concentration of all shares to only one person. Every “Societe Anonyme” is a legal entity even if its object is not commercial.

Name

The name of the Corporation must include the name “Anonymos etaireia”

Capital

The minimum share capital of a corporation cannot be less than 60.000euros. However, several laws may provide a higher capital for specific types of Corporations. The capital of the Corporation is divided in shares of value 0,30€ to 100€. The contributions of the partners can be in cash or on property assets (real estate property, stocks, bonds).

Formation and registration of a corporation

The registration of an A.E in Greece requires only a few weeks from the notarization of the Article of Incorporation before the Notary Public.

For the establishment and probate of a corporation, the first step is the pre-registration of the Corporate's name, by the competent Chamber of Commerce so as for the latter to examine and approve the legality of the name. The competent Chamber of Commerce for the Corporation is the one located in the area where the corporation will hold its registered seat.

Following the above, the next step required, is the drafting and preparing of the Articles of Incorporation, which will regulate the operation and administration of the Corporation. The Articles of Incorporation require to be executed before the Notary Public and they must include the following information:

- the name and object of the company;
- its registered seat;
- its duration;
- the names of the founding parties of the Corporation;
- the amount and method of payment of the share capital;
- the type of shares, as well as their number nominal value and issuance;
- the number of shares of each class;
- the conversion of registered shares into bearer shares;
- the convocation, composition, operation and competence of the Board of Directores and of the General Meeting;

- the auditors (listed companies are obliged to have an Internal Auditor Department)
- the rights of shareholders;
- the balance sheet and the appropriation of profits;
- the dissolution of the company and liquidation of assets.

Following that, the certified copies of the Articles of Association (ratified also from the Chamber of Commerce) should be submitted at the competent Prefecture.

Following the approval of the Articles of Association from the competent Prefecture, the founders of the company must register the new company with the Companies' Registry maintained at the Ministry of Development or the Prefecture. The Companies' Registry consists of each company's record, the company's file and the Index of companies.

Concluding the aforementioned actions the next step is the registration of the company at the competent Chamber of Commerce.

During this period and more specifically no longer than 15 days from the notarization of the Articles of Association, the company must pay at the Tax Authority a corporate tax arising to 1% of its share capital.

The procedure of incorporation is concluded with the publication of the Articles of Association and the document of approval at the Government's Gazette.

In order for the new Company to be able to carry out business after its incorporation, certain actions will be required:

- Tax registration of the new Company with the competent tax authorities and authentication of its accounting books and records;
- Registration of the new Company with the competent social security and labor authorities in order to be able to hire personnel;
- Open a bank account with a Greek bank in Greece and payment of capital (minimum EUR 60 000) into such amount.

- Constitution of the new company's Board of Directors as a body and delegation of powers and responsibilities to its members (or third parties) and publication thereof in the Government's Gazette.
- Verification of the payment of the new company's share capital by its Board of Directors and publication thereof in the Government's Gazette.

In case that the management [directors or legal representative(s)] are foreigners, they are obliged to register with the Greek tax authority and issue a Greek tax registration number. Issuance of residence permits for non-EU residents who legally represent the Corporation may also be necessary.

Administration of the Corporation (Anonymos Etaireia- AE)

The administration is carried out by the Board of Director, the General Meeting of Shareholders and the Internal Audit Department which is compulsory for the listed companies.

The Board of Directors (BoD) consists of at least three members and according to law 2190/ 1920, as amended by law 3604/2007, it is possible to appoint a legal entity as member of the BoD. In this case, the legal entity has to appoint a natural person as its representative. While the same body of companies listed on the ATHEX should consist of executive directors. The service of the BoD cannot be more than six years . Nonetheless, the mandatory extension of the expired service of a BoD member is valid until new members are elected by the next ordinary General Meeting.

The General Meeting of Shareholders is the supreme governing body of the company and decides for subjects including but not limited to the amendments of he Article of Incorporation, the increase or decrease of the share capital, the change of company's nationality, the appointment of independent external auditors, the extention of the duration or the dissolution of the company. The resolutions of the General Meeting of Shareholders are taken by the majority of the particiapping members, who will need to represent more than 50% of the shares of the corporation. However, in some cases, Law requires higher majority 2/3 of the participating members of the General Meeting of Shareholders.

The members of the Internal Audit department are appointed by the BoD and their main responsibilities are to monitor the company's compliance with the Internal Operation Regulation, the Articles of Incorporation and the corporate and capital market legislation, reporting at the BoD any conflict between the company's interests and the interests of the members of the board and managers. The annual financial statements of non-listed companies must be audited by two auditors or a firm of auditors appointed by the General Meeting of Shareholders.

Publication

Certain acts of the A.E that are subject to compulsory publication. In addition to those required for the foundation and establishment of an AE those mentioned in the state of registration the principle are :

- the General Meeting of Shareholders resolutions for the amendment of the Articles of Incorporations with the Administrative decision of approval when required, as well as all the new text of the Articles of Incorporation together with the amendments
- the appointment and the termination for any reason of any person who is appointed as an administrator of the Corporation or for the persons who are authorized to conduct the company's regular audit.
- all the decisions related to the increase or decrease of the corporation's share capital.
- the minutes of the BoDs meeting according to which the payment of the share capital is confirmed either upon incorporation or increase
- the annual financial statements , initial and modified by the General Meeting (balance sheet, income statement, income appropriation, account and Notes) and the relevant reports of the BoD and of the company's auditors
- the monthly accounting statement of the banks and of branches of foreign banks.

- the company's dissolution
- the court decision of any degree which declares that the company is null and void or bankrupt or the decisions of the Court that recognize the nullity of the decisions of the General Meeting
- the appointment and replacement of liquidators together with their identification data
- the balance sheet of liquidation and
- the deletion of the company from the Companies Registry

Accounting Books

The Tax Code for Books and Records provides that Corporations are required to hold double entry books of account,. The accounts structure should be as it is foreseen at the Greek General Chart of Accounts or at the Banking Chart of Account, in case that the company is a Bank. Furthermore, if the company is listed on the ATHEX it should prepare its financial statement according to the International Financial Reporting Standards (IFRS).

Government supervision

The Ministry of Development or the competent Prefecture controls the actual payment of the share capital, the increase or decrease of the former together with the amendments of the Articles of Association. It is underlined that if the share capital of a company exceeds 3 million euros or the company belongs to a certain sector such as bank or insurance, the amendments require the approval of the Ministry or the Prefecture. The Ministry or the Prefecture could also apply to the Court to arrange a special audit of the corporation.

Conveyance of Corporation shares

Unless it is otherwise provided by the Corporation's Articles of Incorporation, the shares of the Corporation can be freely conveyed.

However, the corporation cannot acquire her own shares or cannot receive as guarantee own shares. Additionally, the conveyance of the shares of the affiliated corporation to the mother corporation is prohibited.

Dissolution& Liquidation of a Corporation

An A.E might be dissolved due to bankruptcy or due to expiration of its duration length. It could also come to an end because of a resolution of a General Meeting of the Shareholders taken by a qualified majority or upon virtue of a court decision following an application of representatives who have at least one-third of the capital or by any third party having a legal interest including the company's supervising authority.

After the request and the approval of the dissolution of the Corporation, the Corporation passes at the procedure of liquidation. The liquidators perform the following actions:

1. recording of the corporation's assets;
2. Issuance of Balance sheet and publication;
3. Payment of debts and collecting claims;
4. New inventory,issuance of new balance sheet and publication;
5. Return of the contributions of the members and distribution of any remaining assets (respectively to each member's share);
6. Erasing the corporation from the public archives.

The stage of liquidation cannot exceed the period of 5 years, unless this has been approved by the Court or the General Meeting of Shareholders. The Corporation can revive during the stage of liquidation.

Taxation of Corporation

As per the provisions of the new taxation law No. 3842/2010, the undistributed profits of a Corporation for the current administration period are taxed with the percentage of 24%.

For the administration period of 2011, such profits will be taxed under the percentage of 23%.

For the administration period of 2012, such profits will be taxed under the percentage of 22%.

For the administration period of 2013, such profits will be taxed under the percentage of 21%.

For the administration period of 2011, such profits will be taxed under the percentage of 20%.

With regard to the distributed profits, the Greek corporations who pay compensation and shares to the members of the Board of Directors and to the Directors, compensation to the employees (except for salaries), as well as dividends or pre-dividends to fiscal persons or individuals, foreign or local, despite the fact that the company pays such amounts in cash or in shares, are liable in paying tax in the percentage of 40%.

The share that the shareholder received is further taxed under the general provisions for taxation of individuals. The tax that has been withheld by the corporation prior to the release of the amount to the shareholder is deducted from the tax imposed on the individual.

In case that the net profits of the local corporation, include dividends or profits from the company's participation to another local corporation, for which tax has been imposed on the distributed profits, this tax is also deducted from the tax that the corporation is liable to the Greek State.

Finally, Greek corporations which distributes profits as shares, pre-shares, compensations and percentages to the members of the Board of Directors and to the Directors (except for salaries), do not withhold taxes.

In general, the competent tax authority for the filing of the Tax statement of the corporation is the local tax authority where the company is seated. For foreign legal entities, the competent tax authority is the tax authority where the company has its permanent establishment.

The deadline for the submission of the income tax statements of the corporations, expires on the 10th day of the fifth month after the closure of the administration period, when the income was received and according to the last digit of their Greek Tax Number.

6. Limited Liability Company (Etairia Periorismenis Efthinis- E.P.E.)

AN OVERVIEW

A limited liability company is a capital company, regulated by law 3190/1955. However, the Limited Liability company has many ‘personal’ characteristics such as that the partners of the EPE can be appointed as the administrators of the company. The EPE is a legal entity with full liability for its debts.

Capital

According to law 3661/2008, capital of an EPE cannot be less than 4.500euros. The capital could not fall one-half below of the 4.500euros. In such a case, the administrators should Call for a general meeting in order to decide for the future of the company. The contributions of the partners can be in cash or on property assets (real estate property, stocks, bonds).

Name

The name of the Limited Liability company has to include the term “ EPE- Etairia Periorismenis Efthinis”.

Foundation of a Limited Liability Company

The Limited Liability Company can be established by one or more persons. If the entire capital of the EPE is concentrated in the hands of one partner, the company's name must include the words "Sole partner EPE". The partner may be either an individual or a legal entity.

The first and indispensable step is for the partners to have the Articles of Association executed before a Public Notary. They should include:

- all the personal data of the partners together with their tax registration numbers and the Tax Authority where they are registered
- the scope of the company
- its qualification as limited liability company
- the company name
- its seat
- its duration
- the capital and the contributed capital of each partner.
- The partners' contributions and their value;
- the administrators of the company.

If the capital of the EPE exceeds the amount of 29.347,0286 euros, then the Articles of Association should be drafted by an attorney.

Within 15 days from the notarization of the Articles of Association, a capital corporate tax in the percentage of 1% of the share capital, is imposed.

In furtherance to the above, the Articles of Association must be submitted at the Chamber of Commerce, as well as before the Attorney's Public Insurance Institution.

Upon payment of the relevant fees and taxes and the issuance of certified copies of the notarized Articles of Association by the tax authority, the Chamber of Commerce and the Attorney's Public Insurance Institution, the company has to submit the certified Articles of Association at the competent Court of First Instance.

Finally, a summary of the Articles of Association is published at the Government's Gazette.

For the finalization of the registration procedure, the Limited Liability Company has to proceed with several other registrations and filings. More specifically, finalizing the registration at the Chamber of Commerce; Issuance of a tax registration number by the competent tax authority and certification of its accounting books and records; registration at the competent social security and labor authorities.

Administration

The EPE is administered and represented by one or more persons that are appointed by the Articles of Association . The administrators do not need to be partners of the company. If no administrators are appointed, the administration of the company is granted to all partners. With regard to the Auditors, only “large EPEs” are subject to an audit by a certified auditor.

ACCOUNTING BOOKS AND RECORDS : they are the same as those of an A.E

PUBLICATION: The documents that should be compulsory filled at the Court of First Instance and published in the Government Gazette -except from those mentioned above-are:

The amendments of the Articles of Association

The administrators

The financial statements

The reports of the administrators and auditors

LIQUIDATION: The dissolution of an EPE is compulsory in the case of bankruptcy. Furthermore, the 75% of the majority of the share capital and the number of partners may also decide to dissolve the company and liquidate its assets at any time.

TAXATION OF A LIMITED LIABILITY COMPANY

For the limited liability company, the same tax rules apply as for the corporation.

7. OFF SHORE Corporations

AN OVERVIEW

An off shore is one of the most useful types of business in the commercial world. The advantages of an off shore are plenty and well known to the commercial world. Some of them are related to the reduction of taxation, the minimization of the risks related to the owner's personal liability since all actions, contracts, agreements and activities are made by the Company, the anonymous transferring of ownership of almost any asset and the financial continuity. In Greece the off shore companies are established under the law 3427/2005 which amended the law 89/1967.

According to article 1 of the aforementioned law, foreign companies may be established in Greece only for the purpose to provide exclusively consulting services, centralization of accounting services, quality control of production, products, procedures and services, preparation of studies, designs and contracts, advertising and marketing services, data processing, receipt and supply of information and research and development services, to their associated enterprises (within the meaning of article 42e of Law 2190/1920) that are not established in Greece, and/or to their head-office.

The enterprises established are obliged:

- to employ at least 4 employees at the end of the twelve-month period following the date of publication of company's license from the Minister of Economy and Finance

- to exceed 100.000euros of annual operating expenses in Greece

INCORPORATION OF AN OFF SHORE

A special license is required which is granted by a decision of the Minister of Economy and Finance, published also in the Government's Gazette. The license is issued within fifty (50) days the latest from the filing of a relevant application to the

Directorate of Foreign Investments in the Ministry of Economy and Finance. The license granted may be revoked by a decision of the Minister of Economy and Finance, if infringements of the terms and conditions of the law 3427/2005 are effected. Prior to any revocation, the Administration is obliged to call in writing the company to provide its views in writing for the alleged infringements within a fifteen (15) days deadline.

With regard to their profits, the gross income of the companies deriving from the services they provide, is compulsory collected through bank remittances. They are reached with the application of a profit percentage on their total expenses and depreciations, excluding corporate income tax (cost plus method).

The profit percentage is determined by the criteria of a Ministerial Decision and is reviewed by a Committee formed in the Ministry of Economy and Finance. The Committee consists of a counsel of the Legal State Council, serving in the Ministry of Economy and Finance, as Chairman, the Director of the Directorate of Income Taxation, the Director of the Directorate of Foreign Investments and a chartered accountant as members. The said profit percentage is reviewed every five years or even earlier if the market conditions alter significantly.

For the determination of the profit percentages, which cannot be less than 5% are taken into consideration, mainly, the nature of the services provided, the field of activities and the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. For the determination of the mark up, all expenses on which the profit percentage applies, shall be tax deductible for corporate income tax purposes, on the condition that they are supported by fiscal documents in compliance with the provisions of the Code of Books and Records.

Taxation of the Offshore company

Pursuant to the new law 3842/2010, the offshore company is now liable in payment of capital gains tax in the percentage of 20% to the profits received from the sale of

shares within three months from their purchase and in the percentage of 10% for profits received from sale of shares within 3 to 12 months from their purchase. When shares are sold after 12 months from their acquisition, the tax imposition arises to the percentage of 0,015%.

Additionally, there is a tax imposition in the percentage of 15% of the tax value of the properties owned by the offshore company, imposed on the individual-owner of the company.

8. BRANCHES

AN OVERVIEW

Foreign companies can establish branches in Greece. If the foreign entity has shares, it is treated like an AE whereas if it does not, then it is treated as an E.P.E. Additionally, if the foreign entity's capital is lower than 60.000 euros it is treated as an E.P.E even if its capital is divided into shares.

INCORPORATION OF A BRANCH

The procedure of the establishment is the following:

First, it is necessary to register the branch's corporate name with the competent Chamber of Commerce. Furthermore, the company has to file all relevant documentation related to the branch's Head Office including also a power of attorney from the appointed legal representative in Greece. In case that the legal representative is a foreigner, he should file for a tax registration number from the Tax Authority for Foreign Residents. The founders of the branch have to file the relevant documents to the local Prefecture in order for the branch to be registered with the Prefecture's archives. Last step is the publication of the summary of the branch's establishment to the Government's Gazette.

As was mentioned also for the A.E and E.P.E after the incorporation of the branch, more registrations are necessary so as for the former to carry out its business. Initially, the branch has to finalize the registration of the branch at the competent Chamber of

Commerce; it needs also to acquire a tax registration number by the competent tax authority and certification of the accounting books and records and has also to be registered before the competent social security and Labour Organization in order to be permitted to hire employees. Finally, the founders of the Branch have to open a bank account before a Greek Bank.

Branches are also subjects to certain publications depending on size criteria and on the kind of industry. In detail, with regard to an A.E branch, article 7a of law 3604/2007 provides that there are certain acts (except of those mentioned in the process of registration of an A.E) of branches of companies seated in non EU countries that are required to be published. These are:

- the law of the country governing the company;
- if provided by the above law, the Companies Registry in which the company is registered and its registration number in such Registry;
- the company's form seat and object as well as the amount of the paid up capital;
- the appointment, the termination of duties, as well as the identification data of the persons who have the power to represent judicially and extrajudicially;
- the company's accounting documents (financial statements) with the exception of the accounting documents of credit and financial institutions drawn up, audited and published according to the law of the State which governs the company.

The annual financial statements are published within the next financial year together with the branch's accounting statement.

EXCEPTIONS

It is important to underline that entities incorporating in

- Banking
- Insurance

- Venture Capital
- Portfolio Investment
- Mutual Fund Management
- Leasing
- Factoring and Forfaiting
- Consumer credit

are subject to special requirements that are not part of the aforementioned laws and the minimum capital requirements are set at higher levels than those mentioned for the A.E or the E.P.E. Furthermore banks, insurance and leasing companies could be established in Greece either as an A.E or a branch, while all the other types could be incorporated only as A.E.

“John Tripidakis is one of a very few lawyers registered with the Athens Bar who is entitled to practice Greek law in Australia as an “Australian Registered Foreign Lawyer” and is not entitled to, and does not practice Australian law.”