



Practical Legal Guide for Greek Australians

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TOP 10 LEGAL ISSUES

1. Ktimatologio Land Registrations

This newly established institution calls for immediate submission of the land Titles and topographic diagrams for those owning property to places in Greece proclaimed under registration.

Make sure that you have perfected your Title, procured its Certificate of Registration from the Land Registry (Ypothikofylakeion) and declared it promptly; in any case, **confirm** that your property has been registered under your name. If not, you should immediately seek judicial remedies, otherwise you jeopardize its ownership.

2. Inheritances & Estates

If land in Greece is inherited, either through an –Australian or Greek- will, or without a will, the heir should proceed with officially “accepting” the inherited land, through a Public Notary’s Deed, which must be recorded in the competent Land Registry in Greece, bringing thus title under his/her name. An inheritance Tax Statement must also be filed. The Greek Estate has to be probated in the Athens Court of First Instance.

All the above procedures can be implemented through a Limited Power of Attorney, without your presence in Greece being necessary.

3. Buying and Selling property in Greece

A. When **buying**, one should:

- a. have a title investigation in the competent Greek Land Registry effected, through an experienced Greek lawyer in order to ensure flawless legal title;
- b. apply for acquisition permits, if the property is characterized as “a border area” in Greece;
- c. take care of relevant currency and taxation procedures;
- d. confirm through impartial Greek appraisers the property’s fair/true value;
- e. negotiate terms of sale; and
- f. arrange for the execution of the sale Deed and its proper registration with the competent Land Registry in Greece.

B. When **selling**, one should:

- a. confirm through impartial Greek appraisers the property’s fair/true market value;
- b. properly market the property in order to maximize the prospected proceeds;
- c. negotiate terms of sale and secure maximum protection, when there is Bank financing;
- d. procure all tax and municipal tax clearances;

- e. take care of the issuance of certificate of Energy Attribution, upon inspection of the property under sale from a classified civil engineer/ “Energy Inspector” and
- f. take care of the execution of the sale Deed and wire transfer of the sale proceeds to the designated foreign or Greek bank account.

All the above procedures can be implemented through a Limited Power of Attorney, without your presence in Greece being necessary.

4. Greek Parental Gifts (Goniki Parohi)

Greek Law regulates Parental Gifts favorably in terms of tax treatment. When there is real estate property involved, the conveyance is implemented through the execution of a Notarial Deed by both parties (parents and children) and its subsequent registration in the archives of the competent Land Registry of the property’s location. The property may be gifted in full title (*pliris kyriotis*), or by the parent withholding the life estate (*epikarpia*). Taxwise, for parental gifts of real estate properties effected after January 8, 2010, the tax free amount has increased to €150,000, while the remaining of the property’s tax value is taxed on a progressive tax scale of 1% to 10%. When the parental gift concerns funds, such parental gift is taxed on a fixed percentage of 10%. With the engagement of the proper legal and tax vehicles, the child acquires full ownership of the gifted property at the parents’ passing, without any further Probate or Taxation obligation whatsoever at that time.

5. Wills (Australian and Greek) for property in Greece

An Australian will may regulate the Greek property owned by the testator. In any case, a separate Greek will may be executed in the absence, or to the supplement, of an Australian will.

An Australian will, after it has been probated by the Australian Courts, must be registered at the Athens Court of First Instance, together with all relevant documents (certificate of death, etc).

Children, parents and the spouse cannot be excluded completely from their inheritance rights in Greece by virtue of a will, except for extreme reasons. This is called a “forced share” right (*nomimi moira*).

If a will is not executed for the Greek property (intestate succession), Greek Law arranges the line of succession/inheritance, as follows:

- Spouse and children
- Spouse, parents and brothers /sisters
- Spouse, grandparents, their children and grandchildren
- Spouse and great grand-parents
- Spouse
- The State

Since the will may burden the heirs and/or the Estate with substantial tax and legal obligations, it is recommended that the drafting of a will be very carefully reviewed by an experienced lawyer.

6. Trespassing of property in Greece- Adverse possession

Property can be acquired in Greece, not only through a Notarial Deed, but also through adverse possession rights (*"chrisiktisia"*). A person that exercises acts of possession on a foreign property as if it was his own property, eventually (10-20 years) acquires ownership of this property through *chrisiktisia*.

It is often the case of people who believe that their properties have been taken care of by their relatives or local acquaintances, to lose same properties to the benefit of the above very persons through adverse possession.

7. Taxation in Greece.

A. Inheritance Taxation.

Greek Law has ranked the heirs in categories depending on their kinship with the deceased. Different tax scales apply for each category providing also a tax free amount and a progressive tax scale, depending on the value of the inherited property.

A number of relatives are included to each category/scale. More specifically:

First category: Parents, children, grandchildren, spouse, etc.

Second category: Grandparents, great grandchildren, brothers, sisters and parents in law, etc.

Third category: Any other relative who is not included in the above categories or any other third party.

The tax free amount was €95.000 and €20.000 for each one of the first two categories/tax scales respectively, while the remaining of the properties's tax value was taxed in the percentage of 1% for real estate properties and 10% for the rest of the assets. The above provisions have changed pursuant to tax laws 3815/2010 and 3842/2010. For the inheritance of any kind of assets, the tax free amount has increased to €150.000 for heirs of the first category, while the remaining of the properties' tax value is taxed on a progressive tax scale of 1% to 10%. For heirs of the second category, the tax free amount has increased to €30.000, while the remaining is taxed on a progressive tax scale of 5% to 20%.

B. Real Estate Conveyance Tax.

It is calculated with 8% for property's value up to 20.000€ and further up with 10% aprx., according to law 3842/ 2010. There is an additional tax imposition of 3% in favor of the Greek Municipalities. It is paid by the purchaser.

Several exemptions apply with the most important, the one for “first home residence”.

C. Value Added Tax.

The conveyance of real estate properties whose building permit was issued after 01/01/2006 is subject to V.A.T. of 23%.

D. Income Tax.

Relevant statements are submitted annually around May. Income is taxed through a progressive scale of 5% to 45%.

8. Family Law in Greece.

A. Divorce.

Greek Courts have jurisdiction for the issuance of a divorce if one of the spouses is a Greek citizen, if the spouses have their last residency in Greece, or if the defendant has his/her permanent residency in Greece.

There are two different procedures for the issuance of a divorce in Greece: the uncontested (consensual divorce) and the contested (litigation) divorce.

B. Alimony.

The former spouse has the right to receive alimony after the Greek divorce, if he/she cannot secure his/her maintenance from the income that he/she has or from his/her property. This right is also recognized in case of separation and interruption of life in common. The spouse who terminates the marital life for an important reason has the right to request alimony.

C. Child support

Both parents have the obligation to support their children according to their means and financial status (income from employment, ownership of property that can produce income, potential ability to work, etc).

D. Child Custody.

The parent who exercises the physical custody (*epimeleia*), usually decides the place of residence of the child. The other parent has a right of personal communication with the child. Further on, grandparents also have a right to communicate with the child.

E. Property distribution (division) upon divorce.

If a marriage is dissolved and the property of the one of the spouses has during the duration of the marriage increased, the other spouse, provided he/she contributed to such increase, is entitled to claim the attribution of that part of the increase which derives from his/her contribution. It is

presumed that such contribution amounts to 1/3 of the increase, except if a higher or smaller contribution or no contribution at all can be proven.

9. Greek Citizenship and Greek Passports

Greek Passport allows the holder to reside and work in all the countries of the European Union. It can be issued only to a Greek Citizen who is registered with a Greek Municipality. Therefore, it is necessary that the person interested in acquiring Greek Citizenship proceed first with a recognition of his/her Greek Citizenship and his/her Registration with a Greek Municipality; then he/she can also proceed with an issuance of a Greek Identity Card and/or Passport.

The child of a Greek male or female obtains the Greek Nationality at birth. Every person can be registered as a Greek Citizen, if his/her ancestors or one of them was a Greek Citizen, provided that the person requesting the Greek Citizenship proves the sequence of Greek origin.

10. Power of Attorney

Although it aims to serve the need for convenience, it may be at the same time a very dangerous document if misused, since the grantor is bound by the acts of the grantee.

It does not have a time bar limitation unless the grantor has specifically defined it.

It must always be drafted by an experienced Greek Lawyer who will adequately protect and secure the interests of the grantor.

We can entirely assist you with all the above procedures and relevant legal issues in Greece, by contacting us in Australia.

Call for a free initial consultation: 0402 751 102, or

e-mail us at: info@greeklawyersonline.gr for a free extended version (37 subjects-72 pages) of our "Legal Guide for Greek Australians"

"The content of this practical legal guide, do not constitute legal advice and under no circumstances should they be considered as such, until our office is retained and has reviewed the complete file of the client's case".