

## ROTTERDAM CONGRESS NATIONAL REPORTS

### TAXATION OF CHARITIES

#### NATIONAL REPORT

##### I General questions:

1. Are there special (preferential) tax rules for not for profit activities in general? Are these given in statutory law or have they been created by case law?

In Greek tax law, specific exclusionary provisions have been established regarding non-profit activities. These tax exemptions are provided in a statute enacted by virtue of the statuteally enshrined principle of Tax legality. It was the long-standing practice in Greece to grant tax exemptions through specific legislation to certain non-profit legal entities. To address this, the recent Law n.3842/2010 provided for the abolishment of a large number of non-standard tax exemptions that were established by special provisions that applied to non-profit legal entities.

Moreover, although in principle the introduction of tax exemptions under a contract between the State and taxpayers is prohibited, on the other, the legislative ratification of contracts concluded between the State and non-profit legal entities which provide for tax exemptions and exceptions is allowed.

Finally it should be noted that in any case, the jurisprudence of the courts has significantly contributed in the shaping of tax exemptions applicable to nonprofit legal entities, in the sense that the competent administrative court, in case of dispute by the tax authorities, examines the non-profit character or not of the legal entity in question based foremost on its stated purpose of its statute, in order to consider the inclusion of the legal entity to the relative exclusionary tax provision.

2. Which activities are within the scope of not for profit activities benefiting from special tax rules? (non-market activities such as religious, political, philosophical, philanthropic activities, non-professional amateur activities, or activities which may be conducted as a business activity but which are conducted for public benefit such as education, health care, cultural, artistic and sports activities, pure business activities conducted for non-profitable objects etc.)

In Greek law there is not a general definition of non profit activity on the basis of which the subjection to the relevant exclusionary tax provisions takes place. We can distinguish between two cases.

In particular:

1. A tax exemption granted to Legal entities or entities pursuing non-profit objects, without specifying in particular those objects in which case it is the responsibility of the administration and, if challenged of the court to characterise the activity in question of the legal entity or entity as a non-profit activity in order for the tax exemption to be applicable.
2. A tax exemption is granted to legal entities or entities pursuing exhaustively listed non-profit objects, which are identified in the exclusionary provision itself. Such objects may include: beneficial to the state/nation, charitable, educational, cultural, social, religious, artistic, entertainment, etc. The definition of the concepts of these objects is delivered by several directives of the administration, but also by the interpretation given in the case law.

In the absence of a general tax legislative definition of non-profit activity or non-profit legal entity, we must refer to the position of the administration and case law to draw certain criteria for characterisation of a legal entity as of non-profit nature. The characterisation of legal entity as a non-profit legal entity or not is very crucial in terms of tax law, since upon it depends the taxation of the legal entity for all of its income or for only some of it, derived from certain exhaustively listed sources. First and foremost, for the characterisation of legal entity as of non-profit nature or not, its stated purpose on its statute is decisive. According to the administration “for a legal entity to be considered as of non-profit character, first it is required that its statute does not contain profit-making as its purpose, however, if it effectively operates under conditions different from those stated in its statute, it is also required that it does have under those conditions the purpose of profit-making.” The legal entity retains its character as a non-profit legal entity, even if it derives revenue from its activities to cover its costs and even if it has a surplus (profit) that is shown to be spent to further developing its activity and promoting its stated purpose. According to case-law, the non-profit character of a legal entity does not have as a consequence the lack of any activity with economic results, because the gathering of revenues by such an entity, as well as the provision by it of services of any kind with or without any exchange or consideration, but for an amount which aims to cover marginal costs in the context of achieving its stated purpose(s), does not bestow to that entity the nature of a non-profit entity, provided these revenues are not distributed to its members.

In the same lines it was accepted by the State Legal Counsel (N.S.K.) by No. 373/2003 Opinion that “even civil partnerships that have complied with the publicity formalities and pursue an economic purpose fall within the concept of national legal entities of private law. In particular, as concerning non-profit civil partnerships, it is accepted both in theory and in the case-law that as non-profit activity relating to an economic purpose, which pursued by those partnerships, is (also) considered the activity which consists to legal relations of economic content such as, eg, the exercise of charity, the provisions of scholarships and financial aids to the needy. By contrast, in principle it seems that from the notion of "non-profit activities" are excluded activities that are conducted as business - speculative activities, but realised to the public interest, such as education, health, .... The tax provisions usually associate the established tax exemption with the existence or not of profit on the part of the legal entity rather than with its pursued purpose, such as education, health, sports (see, eg, immovable property tax, income tax, VAT). If non-profit legal entities acquire revenues from commercial activities, which they use to pursue their non-profit purpose, it has been accepted (as opposed to that applied in the past) that they are not subject to income tax. In contrast, if profit-making legal entities acquire revenues from commercial activities, which they use for non-profit objects (eg, in the context of corporate responsibility) they are subject to income tax. However, certain expenses incurred in this context, particularly such as donations and sponsorships, are deductible from gross income with a consequent reduction in taxable income. Finally, the pursuit of purely commercial activities to achieve non-profit objects, in terms of taxation is treated differently depending on the person who exercises those activities.

### 3. Are there special forms of legal entities required for non-profit status?

Non-profit activities can be pursued either by legal entities either private or public or other associations that have no legal personality. Also, non-profit activities that benefit from favorable tax treatment, can be pursued both by domestic and foreign legal entities or entities.

A standard medium for pursuing non-profit activities is the foundation (*idrima*) which is governed by private law. Public charitable foundations are regulated in principle by the provision of Article 109 of the Statute.

Domestic private entities of non-profit character are unions, the charitable fund-raising committees, civil partnerships and housing associations.

Union is "an association of persons that pursues nonprofit objects and acquires legal personality upon registration in a register kept at the Court of first instance of their seat." The existence of non-profit purpose is an essential condition, which is expressed in a negative way in the sense that the pursuit of profit to the benefit of the legal entity itself or of its members is prohibited.

Another medium for pursuing non-profit activities are the fund-raising charitable committees. These committees consist of at least five members, and have as their purpose to raise money or other items with fundraisers, festivals or other similar means, to serve certain public or charitable purpose. These committees acquire legal personality by decree. Another type of legal entity that pursues non-profit objects is the civil partnership. It is recognized both by theory and by case-law that as non-profit economic activities, pursued by non-profit civil partnerships, are (also) considered those activities which have an economic content, such as the exercise of charity, providing scholarships and financial aids to needy people, but also broader cultural or ideological activities in financial management or financial responsibilities. "

4. Are there special rules for non-resident or international non-profit entities? In that respect are there tax rules for non-resident non-profit organisations that may raise problems under the application of the basic EU treaty freedoms? Have there been any significant changes in the domestic law due to EU law (Infringement procedures, EU case law, or directives)?

The Greek tax law has specific provisions on the tax treatment of foreign legal entities of non-profit character. In particular, a differentiation is evident between the manner non-profit legal entities are being taxed depending on the location of their seat, ie whether these are domestic legal entities seated in Greece or foreign legal entities. While the former are being taxed only for their revenues coming from immovable property and securities, while the later are being taxed based on all of the revenues flowing from any source situated in Greece. Certainly, both domestic and foreign non-profit legal entities are not being taxed on any other kind of revenue gained in the pursuit of fulfilling their objects. According to doctrine therefore, on this view, the subject of income tax of domestic origin of domestic non-profit legal entities is wider to that of foreign non-profit legal entities. This differential tax treatment between domestic and foreign non-profit legal entities has not so far troubled the jurisprudence of Greek courts. Finally, it should be noted that there were no significant

changes in Greek tax law concerning the tax treatment of foreign non-profit legal entities or entities by virtue of European law.

## II Income tax:

1. What are the material conditions for special tax status? (nature of the activities, size of the business activities, purpose of the business activities, time-span within which business income must be spent, remuneration or benefits of the members or employees of the association etc.). Are there different conditions between special treatment of the activities and special treatment for contributions to the activities?

As already mentioned above (Question I. 4), the location of the seat of non-profit legal entities, ie whether the case is about domestic non-profit legal entities with their seat in Greece or foreign legal entities, is the first crucial test in relation to the tax treatment of non-profit legal entities. Apart from the location of non-profit legal entities, a key criterion for the granting of tax exemptions to domestic non-profit legal entities is their source of income. Provision of Article 99, paragraph 1, lit e' of the Code of Income Taxation exhaustively lists the sources of income non-profit legal entities benefit from that are the subject of taxation (ie immovable property and transferable securities). The location of the seat of non-profit legal entities and the source of their income are the main criteria for the extent of their taxation. Therefore, besides the non-profit character of legal entities and the nature of business carried on by them and thus, their pursued objects no other substantive requirements for granting them tax exemptions are provided for, such as the size of their activity, the time limit within which they have to spend their revenue obtained to fulfil their objects, etc.

2. What are the formal conditions for special tax treatment? ( official permission from administration, financing, culture, sports, social affairs, central, regional, local, formalities for obtaining permission, duration, renewal)

First, no special formal requirements are required by tax legislation for non-profit legal entities to benefit from exclusionary tax provisions. For subjecting a legal entity of non-profit character to the exclusionary tax provisions, a determination by the tax authority of its non-profit character is required. As already mentioned, for the characterisation of a legal

entity as of a non-profit character, both its stated purpose on its statute and the purpose pursued in reality is required.

This determination on the non-profit character or not of the legal entity in question is conducted by the tax authorities during the monitoring for the enforcement of such taxes (for example when checking the tax return statement or during typical tax audit), without requiring the issuance of a special declaratory act by the tax authority. In some cases however, the characterisation of a non-profit legal entity due to exercise of certain kinds of non-profit activities is conducted under certain procedures. In particular, specific procedures are followed for the recognition of charitable unions. Similarly, for sports clubs the opinion of the General Secretariat of Sports is required.

For foreign non-profit legal entities to benefit from the exclusionary tax provisions and particularly for the exemption from taxation of their revenues obtained in the pursuit of their non-profit objects, a certificate of the foreign tax authority is required by which it is certified that they are excluded from taxation in their home country due to their non-profit character.

### 3. Tax treatment of income from purely non-profit activities.

The income of domestic non-profit public or private law legal entities, including any type of foundations, that are realised in the pursuit of their objects are exempted from taxation. (Article 99, paragraph 1, lit e', Code of Income Tax). For example it has been accepted, that they are not subject to taxation, as they are realised in the pursuit of their purpose, the income of the candle stands of the monasteries of Mount Athos and the monks' ascetic places, income from publishing activities in any form (printed books, video tapes etc. ) of the Holy Community of Mount Athos, which reveal the monastic tradition of Athos, etc., income of scientific communities and unions etc, from advertisements included in publications issued and distributed for free to their members, revenues from lotteries with a car prize for the purpose of building a church, the income of University Research Institutes of Mental Health from the distribution of products produced by their patients. Similarly, foreign non-profit, public or private law, legal entities, are not being taxed for income gained in the pursuit of their objects.(Article 99, paragraph 1, lit st', Code of Income Tax)

### 3. Tax treatment of business income used to support non-profit activities.

We should distinguish between domestic and foreign non-profit legal entities, as a different treatment of their revenues obtained outside the context of pursuit of their objects is provided for.

First, with regard to domestic non-profit legal entities, previously it had been accepted that they were subject to income tax for their revenues obtained beyond the pursuit of their non-profit purpose. In particular, according to its number 383/1973 opinion, the Legal Counsel of State decided that the income derived from activities that do not fall within the non-profit activities of these legal entities are taxed even if revenues are then used to realise the non-profit activity. The above position has now been abandoned, as both the newest case-law, as well the Legal Counsel of State itself, held that revenues obtained from activities that are not prescribed by the legal entities' statute are exempted from taxation, such as benefits from agricultural exploitations, income from rental of outdoor car parks.

The Legal Counsel of State by its 373/2003 opinion by referring to the true meaning and interpretation of the wording of the provision of lit e' of par. 1 of art. 99, expressed the view that the above provision establishes a tax exemption for non-profit legal entities and their income with the exception of those obtained by immovable property and securities.

Therefore, because of the exhaustive list of sources of income sources subject to tax, ie from rentals of immovable property and securities, it is concluded that revenues obtained by non-profit legal entities through commercial enterprises are exempted from taxation, especially if they are then used to pursue the legal entity's stated objects. So for example, it has been held that domestic non-profit legal entities, private or public, are not being taxed for goodwill from the transfer of their private-use automobiles and from the granting of the right to use their names to a mutual fund in which they participate.

As regards foreign non-profit legal entities, these are being taxed for the sum of their income from any source found in Greece, provided that income is not realised in the pursuit of their purpose. Therefore, the income of foreign non-profit legal entities gained from commercial enterprises is taxed independently of the manner it will be then used and, consequently, even if used for the pursuit of their non-profit purpose. So for example, it has been held that earnings (goodwill) resulting from the sale of immovable property located in Greece by a foreign non-profit legal entity are taxed in Greece, due to the fact that the specific commercial activity falls outside its non-profit purpose, irrespectively of the fact that these revenues may indeed be used to the fulfilment of its non-profit purpose.

For foreign legal entities of non-profit character, tax is being calculated on the rate of twenty-three (23%) for income obtained during financial year 2012, twenty-two (22%) for

income obtained during financial year 2013, twenty-one (21%) for income obtained during financial year 2014 and twenty (20%) for income obtained during financial year 2015 and subsequent financial years.

Similarly, foreign, public or private law, legal entities and of non-profit character are not subject to tax for their revenues obtained in the pursuit of fulfilment of their objects (Article 99, paragraph 1, lit st' CIT).

#### 4. Tax treatment of investment income used to support non-profit activities.

Domestic non-profit, public or private law, legal entities, are taxed for net income earned domestically or abroad, from securities (shares dividends, interest on deposits, Greek government bonds, etc.). As noted by the administration, conventions signed by Greece and other states for the avoidance of double taxation do not apply to non-profit, public or private law, legal entities. As a result, if domestic legal entities obtain income abroad from securities, this net income is necessarily taxed in Greece together with any income of the same category obtained in Greece.

Income of non-profit legal entities and foundations resulting from securities is determined according to the provisions of Articles 24 to 27 of CIT. By way of exception, for the determination of net interest income obtained by these legal entities, the interest paid to loaning institutions is deducted up to the rate of total gross income from interest.

For domestic legal entities of non-profit character, tax is calculated on the rate of twenty-three (23%) for income obtained during financial year 2012, twenty-two (22%) for income obtained during financial year 2013, twenty-one (21%) for income obtained during financial year 2014 and twenty (20%) for income obtained during financial year 2015 and subsequent financial years.

A special arrangement has been set for local and community foundations, as well as for hospitals, nurseries, childcare centers and nursing homes that have been established by the Prefectures. The same applies for Tertiary Education Institutions that operate in the form of legal entities of public law, which are taxed for income from securities they have obtained, except the income obtained from interest resulting from deposits and loans of the Greek government. These persons are taxed for income from securities (other than those exempted) under the general provisions (ie the tax is calculated at the rate of twenty three (23%) for income year 2012).

Monasteries are taxed separately at a rate of 10% for income earned both from interest on deposits and Greek government bonds. A 10% of that income is being withheld by which procedure any tax liability is fulfilled.

5. Tax treatment of remuneration or reimbursement of expenses for employees, administrators, volunteers.

The wages paid to employees of a non-profit legal entity during the course of a financial year consists for the person receiving it income from employment (a. 45 of CIT). This income from employment is not treated under special provisions due to the fact it is being received by employees of non-profit legal entities, but is taxed on the same manner that income from employment in profit-making legal entities is being taxed. Tax is being withheld from the employment income, as well as from any other benefit, paid on a system basis or on a daily basis to the employee of a non-profit legal entity.

6. Tax treatment of gifts, contributions and public subsidies in the tax base of the non-profit organisation, possibility of transferring gifts or contributions from one tax exempt organisation to another.

Membership subscriptions and registration fees, as well as donations or gifts made to non-profit legal entities lack of any conceptual characteristic features of income and thus, according to the tax administration, are not subject to taxation. Finally, no special rules concerning the possible transfer of donations or grants from a non-profit legal entity to another of the same character have been established.

7. Special rules for the accumulation of income and/or wealth in non-profit organisation.

As previously mentioned, domestic public or private law, legal entities, of non-profit character, , are taxed for net income earned by tenancies of immovable property (art. 99, par. 1 lit e' of CIT).

First, independent taxation for income obtained from immovable property of certain persons at the rate of 20% is provided for. Income earned by domestic legal entities which have been lawfully incorporated or are under formation and which are proved to pursue

charitable objects from tenancies of buildings and land property is taxed separately at the rate of twenty percent (20%) to the fulfilment of the tax liability of these legal entities.

Income earned from buildings in general and tenancies of land belonging to the holy churches, holy monasteries, holy seats, to the monasteries of Mount Athos, the Holy Monastery of Patmos, the Holy Monastery of Sinai, to Apostolic diakonia, the Holy Sepulchre, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Alexandria and Jerusalem, the Holy Archbishopric of Cyprus and the Holy Stavropegic Monasteries Cyprus are taxed separately at a rate of twenty percent (20%) to the fulfilment of the tax liability of these legal entities.

The above income is taxed separately at the rate of 20% regardless if used for the pursuit of non-profit (charitable or religious) of the legal entity. However, taxable according to the above are only the real incomes of the aforementioned legal properties from tenancies of land and buildings and not the imputed income.

As noted by the administration, conventions for the avoidance of double taxation concluded between Greece and other countries do not apply to non-profit, public or private law, legal entities,. Therefore, if domestic legal entities acquire income from tenancies of property situated abroad, this net income is necessarily taxed in Greece together with any income of the same class earned in Greece.

For that income gained from immovable property no tax prepayment is certified for the following financial year.

Income that non-profit legal entities and foundations obtain from immovable properties is determined according to the provisions of Articles 20 to 23 of CIT. Especially for the determination of income from tenancies of immovable properties all costs of repair, maintenance, renovation and any standard operating costs as well as any other relating expenses borne by those legal entities are deductible up to fifty percent (50%) of their gross income, provided they are proved by legal documentation.

For the above domestic legal entities of non-profit character, tax is calculated on the rate of twenty-three (23%) for income obtained during financial year 2012, twenty-two (22%) for income obtained during financial year 2013, twenty-one (21%) for income obtained during financial year 2014 and twenty (20%) for income obtained during financial year 2015 and subsequent financial years.

Local city council and community foundations, as well as hospitals, nurseries, childcare centers and nursing homes established by the Prefectures, as also the Tertiary Education Institutions that operate in the form of public legal entities, are exempted from income tax and hence are also exempted from taxation on the income obtained from any immovable

property (they are taxed only for income accruing from securities, which is taxable under the general provisions, except income arising from interest on deposits and loans by the Greek State).

Besides from tax on income obtained from tenancies of buildings and land property, further additional tax is levied in addition to income tax, on income obtained from immovable property acquired by the non-profit legal entity. This tax is calculated at a rate of 3% to the total gross income derived from property, which however cannot exceed the total amount of income tax. The additional tax is not levied on income obtained from immovable property to legal entities that are exempted from tax for that type of income, such as for example income from immovable property belonging to hospitals, nurseries, childcare centers and nursing homes set up by the Prefectures.

The additional tax of 3% is not levied to the imputed income of non-profit legal entities that results from use of their own buildings, as those, as it was mentioned above, they are exempted from income tax.

Income earned from tenancies of buildings and land property in Greece, by foreign legal entities, which are proved to pursue non-profit objects, as well as delegations of foreign religions or denominations, are taxed separately at a rate of twenty percent (20%) to the discharge of the tax liability of those legal entities.

Any other foreign non-profit legal entities - other than those proven to pursue charitable objects and delegations of foreign religions or denominations – are taxed for any income earned in Greece, and thus, are also taxed for any tenancies of immovable property, provided such income is not obtained in the performance of their objects.

Imputed income from immovable property owned by a recognized foreign religion and denomination, is exempted from income tax on condition of reciprocity, when used for the celebration of worship and for the provisions of religious services.

#### 8. Tax treatment of the liquidation of a non-profit organisation.

There are no general provisions governing the tax treatment of any “surplus” in case of liquidation of a non-profit legal entity. The provisions on the incorporation of the individual legal entity must be sought, in order to widen the tax treatment of any reserves.

In the instance of dissolution of a union, which takes place with an issuing of a resolution of the general meeting of its members, its assets is not distributed amongst its members but

accrues to the State. As distribution is considered not only the return of contributions, but also the provisions of one-off economic benefit to its members.

#### 9. Tax treatment of the deductions of gifts and contributions in the person of the donor or contributor.

First, it should be noted that the tax treatment of donations and sponsorships to non-profit legal entities differs depending on whether they are made by individuals or legal entities. Therefore, depending on whether the donor or sponsor is an individual or a legal entity, donations or sponsorships are treated differently under the provisions of Articles 9 and 31 of CIT, respectively.

##### A. Tax treatment of donations and sponsorships made by individuals

By provisions of Law 3842/2010 a very significant change was introduced concerning the tax treatment of donations of monetary funds to non-profit legal entities and sponsorships to cultural legal entities, which are provided by individuals. In particular, in contrast to the previous regime, the deductibility of these expenses from the total income of taxpayers has been abolished and was replaced with a tax relief of a certain proportion to those costs. Specifically, a tax relief of 20% of cash donations and sponsorships has been established, which cannot in any case exceed the rate of ten percent (10%) of total income, which is taxed according to the general provisions.

Now, under the current provisions for tax relief to the rate of 20% of monetary funds paid by the taxpayer due to a donation towards any charitable foundations, union of a non-profit character, which provide educational services and grant scholarships, public domestic legal entities, private domestic legal entities that have been lawfully incorporated or are currently under incorporation and which pursue non-profit objects, research and technology centers governed by Law 1514/1985 and research centers in the form of domestic private legal entities of non-profit character.

Also a tax relief of 20% is provided for any monetary sums paid by the taxpayer as sponsorship towards private domestic non-profit legal entities which have been lawfully incorporated or are under incorporation provided they pursue cultural objects.

Also a tax relief of 20% is provided for any monetary sums paid by the taxpayer as donations to government, local authorities, the National Social Cohesion Fund, the churches, the monasteries of Mount Athos, the Ecumenical Patriarchate of Constantinople,

the Patriarchate of Alexandria and Jerusalem, the Holy Monastery of Sinai, the Orthodox Church of Albania, domestic higher education institutions, state and municipal hospitals and hospitals of private law subsidized by the State Budget and as well as to the Fund for Archaeological resources.

Moreover, a tax relief of 20% is provided for to the value of medical equipment and ambulance cars, which are transferred as donations to the state and municipal hospitals and hospitals and hospitals of private law subsidized by the State Budget.

The total amount of donations and sponsorships of this type on which the tax relief is calculated cannot exceed the rate of (10%) of total income taxed according to the general provisions. The tax relief is carried out if the amounts of donations and sponsorships exceeding in total the sum of one hundred (100) euros. The total amount of cash donations and sponsorships of this type, on which tax relief is granted, cannot exceed ten percent (10%) of the resulting income. The amounts of such donations and sponsorships are not deductible under other provisions of the CIT.

It should be noted that the reduction of tax due to donations is subject to certain formal requirements (art. 9, par. 3, lit z', as in force). In particular, it is provided that when the amounts of donations and sponsorships exceed three hundred (300) euros per year, they are taken into consideration only if they have been deposited in a special account of the legal entity which must have been opened in particular for that purpose in the Public Deposits and Loans Fund (*tameio parakatithikon kai daneion*) which lawfully operates in Greece (this condition does not apply to donations made to the recipients in the instance of aa). If the donation of an individual has not been made in a special account belonging to the legal entity, but on a private account of its legal representative, it cannot be recognised as an expense to be deducted from the total income of the donor.

In this case the relevant bill of receipt of the Bank or of the Deposits and Loans Fund is required which must contain certain information. In particular, the recovery of the bill of receipt issued by the bank must indicate the details of the donor or sponsor and of the recipient, the amount of donation or sponsorship in figures and in writing, the date of deposit and signature of the donor or sponsor, as appropriate. If the original is given to the recipient for the recovery of the amount donated, a copy of the bill, certified by the Deposits and Loans Fund or the Bank, from which it was issued, is submitted. To reduce the amount of tax, the following are required to be submitted, a) Duplicate receipt or bill of collection of the amount of donation or sponsorship, issued by the legal representative of the recipient and b) a certificate or a copy of the relevant act of the legal representative of the recipient showing the acceptance of the donation and the registration of the amount

of the donation in the official records of the recipient. In case of a donation of a monetary sum under condition, a certificate of the legal representative of the recipient is required showing the amount of net proceeds accruing to the recipient. The same applies with respect to donations accruing to respective government agencies and similar charitable legal entities (organizations, foundations), established in other Member States of the European Union and countries of the European Economic Area / European Free Trade Association. For proof of payment of donations of monetary sums to state agencies and similar charitable legal entities (organizations, foundations, etc.), established in other Member States of the European Union and countries of the European Economic Area (EEA) / European Free Trade Association (EFTA), the documentation required are those specified in Section F of Article 6 of 1017701/306/A0012/POL.1040/19.2.2001 Gazette B 232) resolution of the Minister of Finance. If the documents do not prove the non-profit and charitable character of such entities, a certification of that character is required stating that they are non-profit legal entities which pursue a charitable purpose. All the above documents must be legally translated.

The new provisions under which the costs relating to financial donations and sponsorships are not deducted from the income, reduce the amount of income tax arising under the tax bracket at a rate of twenty percent (20%), are in force from 1/1/2010 to income earned and expenditure incurred from that date onwards.

The deduction of tax in case of donations and sponsorships primarily apply for Greek residents. In contrast, "those who live abroad and acquire income in Greece are not entitled to certain deductions, including the reduction due to the donation or sponsorship.

From this provision residents of Member States of the European Union who earn income in Greece in exceed of ninety per cent (90%) of their total income are excluded", who, in whatever relates to their tax treatment, have an equal treatment to that of Greek residents, in the framework of community legal order and the jurisprudence of the ECJ.

#### B. Tax treatment of donations and sponsorships made by legal entities

The ITC provides a range of deductions for donations and sponsorships made by legal entities.

In particular, monetary sums paid at the rate of 10% over the total net income or profits resulting from balance sheets are deducted from gross income of businesses when given as donations to charitable foundations, unions of non-profit character which provide

education services and grant scholarships, churches, the monasteries of Mount Athos and the Ecumenical Patriarchate of Constantinople, the Patriarchate of Alexandria and Jerusalem, the Holy Monastery of Sinai, the Orthodox Church of Albania, domestic legal entities of public law, domestic legal entities that have been lawfully incorporated or are under incorporation and pursue charitable objects, research and technology centers governed by N.1514/1985, research centers which are domestic legal entities of private law of a non-profit character and have been legally incorporated.

It should be noted that with the last amendment of the applicable legislative provisions by law 3842/2010, a maximum limit for the allowed deductible donation has been proscribed, dependent upon the sum of total net income or of the profits resulting from balance sheets. Plus, the donation is deductible only up to ten percent of the total net income or profits, while the remaining amount of the donation may not be deducted.

Also, monetary sums paid at the rate of 10% over the total net income or profits resulting from balance sheets are deducted from gross income of businesses when given as sponsorships to private domestic legal entities, legally incorporated or under incorporation, provided they pursue cultural objects. By joint decisions of the Ministers of Finance and Culture, after scrutiny by the Ministry of Culture, legal entities pursuing cultural objects that fall under the scope of these provisions are determined. Legal entities of private law pursuing cultural have been identified by several decisions of the Minister of Culture.

By administrative circular pol.1011/23.1.2007, the administration gave guidance on the definition of private entities that pursue cultural objects and which should be considered when applying Articles 8 and 31 of the CIT regarding expenses' deduction.

As regards the conditions for deductibility of donations that are listed in Article 31 of the ITC, it is provided that monetary donations and sponsorships must not in principle have been deducted based on any other provision of the CIT. Also, a quantitative restriction on the deductibility of donations is provided in the sense that the total amount of deductible donations cannot exceed the amount of resulting net profit before deducting these amounts from gross income of the relevant accounting reference period. Finally, if the amounts of donations and sponsorships of that restriction – besides any donations made to the recipient prescribed in the first paragraph -exceed two hundred ninety (290) euros per year, they are taken into consideration only if they have been deposited in the Deposit and Loans Fund or in an account of the legal entity held in a bank.

C. Tax treatment of "Cultural sponsorships" of Law n.3525/2007 made by a natural or legal entities.

Along with the aforementioned regime of Article 31 ITC, Law 3525/2007 provides for the deduction for expenses related to "cultural sponsorships". The term "Cultural sponsorships" refers to a pecuniary or other economic benefit in kind, in intangible goods or services from individuals or legal entities, domestic or foreign, for the support of specific cultural activities or objects, conducted by the recipient of the sponsorship for exchange of the promotion of the social profile and benefaction of the sponsor. The deduction of the amounts of financial sponsorship is imposed on the gross income of the enterprise's accounting reference period, during which those amounts are paid, regardless of the time of acceptance of the sponsorship proposal by the Office of Sponsorships from the Ministry of Culture. If the sponsorship proposal is not accepted, then the enterprise is obliged to submit an overdue income tax statement by which it will declare as income subject to taxation, the amount of the expense deducted by its gross income. For donations in kind effected in the form of material goods or services, the deduction of their value is imposed on the gross income of the accounting reference period within which the supply of goods or services were provided for, regardless of the time of acceptance of the sponsorship proposal by the Office of Sponsorships from the Ministry of Culture. If the sponsorship proposal is not accepted, then the enterprise is obliged to submit an overdue income tax statement by which it will declare as income subject to taxation, the cost of materials goods or services deducted by its gross income.

In particular, the monetary sum or value of benefit after its monetary evaluation by a special Appraisal Committee, which offered as a cultural sponsorship, is fully deductible from taxable income or taxable gross income of the business enterprise which offered the sponsorship. The total deducted amount may not exceed "ten" percent (10%) of the total taxable income or net profits resulting from the books of the company, which offered the sponsorship.

A written, contract of sponsorship is required, for the subjection to the regime of the law assessed above. This contract is submitted to the Grants Office, which operates at the Ministry of Culture. For the deduction of the money paid according to law 3525/2007 for cultural sponsorships to non-profit private legal entities and non-profit civil partnerships of art. 741 of the Civil Code, the following are required: a certified copy of the resolution of the Minister of Culture, by which the sponsorship was characterised as cultural, the original bills of payment of those amounts, if the sponsorship was monetary, and the Ministerial Decision on the valuation of the sponsorship if it was made in kind or in intangible goods or services, and proof of delivery and receipt of the sponsorship.

D. Other Discounts

The deduction of the value of movable monuments that are transferred as donations to recognised by the Minister of Culture museums is provided for. Also, in this case a maximum allowed limit for the deductible expense is prescribed. Specifically, the amount deducted cannot exceed a percentage of fifteen percent (15%) of total net income or profits resulting from the balance sheet of the relevant accounting period, out of which the deduction is calculated on the gross income stated therein. In case of transfer for the reason of donation to museums not belonging to the state, the donation is accepted after a monetary valuation of the monuments by the special Appraisal Committee. If the decision of the special Appraisal Committee is issued on a later accounting reference period from that during which the donation was given, the amount of the previous sentence is deducted from the gross income of the relevant fiscal year during which the decision was issued.

Also, the deduction for certain donations to certain charitable foundations is provided for. In particular, the deduction of the value of food donated by businesses that produce or sell such goods to the charitable foundation called "Food Bank -FOUNDATION FOR FIGHTING HUNGER" is prescribed. For the value of donated food, the cost of their acquisition or production is taken into account on a case-by-case basis and the issuing of prescribed by the provisions of Article 14 of KBS taxation document is required.

Sums paid as donations to domestic legal entities that pursue charitable objects are deducted from gross income, notwithstanding whether those persons are under the form of a foundation or not.

According to the administration, cash donations by a business enterprise to a non-profit civil partnership are deducted from gross income on the condition that a certificate of the competent over the civil partnership Tax Authority is submitted, by which it is certified that the non-profit objects, listed in the statute, are complied with, while at the same time the terms and conditions set out in law are also complied with. By invoking the previously mentioned interpretive circular, the Ministry of Finance considered in an individual solution issued, which was also published, that the deduction to the amount of the donation from the total income of taxpayer, the stated on the statute purpose of pursuing charitable purpose does not suffice, but at the same time the legal entity in question must in reality engage in activity aimed at achieving that purpose. Therefore, two conditions must be satisfied at the same time, in particular a) the legal entity must exclusively pursue charitable objects and b) the legal entity must be proven to carry out the purpose stated. It is also underlined that the competent tax office should in any case monitor and verify if the civil partnership in question has deviated from its charitable purpose. Therefore, cash donations by a business enterprise to a non-profit civil partnership are deducted from gross

income on the condition that a certificate of the competent over the civil partnership Tax Authority is submitted, by which it is certified that the non-profit objects, listed in the statute are complied with, while at the same time the terms and conditions set out in law are also complied with.

Cash donations by a business enterprise to a union, which cannot be classified as charitable, because its activity benefits only its members and not the community, are not deductible from its gross income. The characterization of the charitable purpose of a union is made by the tax authority on the basis of its statute and the information provided and, if challenged, by the tax courts. Cash donations to foreign charities are not deductible from gross income of business enterprises.

#### Deduction of donations to non-profit civil partnerships

By its opinion number 736/1998, the Legal Counsel of State accepted that private legal entities also include non-profit civil partnerships that pursue charitable objects. As already mentioned, charitable purpose within the meaning of Law n.2039/1939 is, in contrast to a private purpose, any state, religious, charitable purpose, which is generally beneficial to the public in whole or in part. For a deduction to be applied to these cash donations, the existence in the legal entity's statute of exclusive pursuit of charitable purpose in accordance with art. 1 of Law n. 2039/1939 does not suffice, but the actual development of charitable activity is conjunctively required. Therefore, the Tax Office should consider whether the civil partnership engages in reality in the pursued charitable purpose.

However, when a legal entity has been recently incorporated, the exclusive pursuit of charitable purpose according to its statute is adequate proof of the pursuit of the charitable purpose. Therefore, cash donations to non-profit civil partnerships are deducted provided a certificate of the Tax Office is submitted, which, according pursuant to 1003821/10031/V0012/POL.1005/14.1.2005 A.Y.O (Decision of the Minister of Finance), certifies that both the non-profit objects, listed in the statute of the civil partnership in question are complied with as well as the terms and conditions set out in law are all complied with.

#### Deduction of donations to charitable fund-raising committees

Cash donations to a charitable fund-raising committee that acquired legal personality in accordance with Article 122 of the Civil Code by a presidential decree that is published in the Official Gazette are deducted from income. In contrast, if the charitable fund-raising

committee has been established on the basis of par. 1 of art. 17 of Regulation 8179 of the Holy Synod of the Church of Greece by the simple procedure without publication in the Official Gazette, then any monetary donations to it are not deductible from the income of the donor.

## II VAT/GST or turn over taxes:

Since VAT rules have been harmonised for all the EU Member States, the rules should be more or less the same. Therefore the national report on VAT should emphasize in what respect national VAT rules deviate from the rules on the VAT directive. Ideally the national report should make a short reference to the general VAT rules in the directive and briefly indicate whether this rule is followed under national law. If that is not the case the deviation should be explained and reported more extensively.

What are the material conditions of special VAT status (non-profit activities as non-economic activities outside the scope of VAT, scope of exemptions under art. 132 VAT directive in national law)?

Article 22 of n.2859/2000 has transposed Article 13 of the sixth Directive (Article 132 of the VAT Directive – 2006/112/EC), which provides for exemptions from VAT for activities of 'public interest'. The latter article leaves to the discretion of Member States to establish the conditions required for the granting of these exemptions. Exemptions from VAT are provided either to legal entities and associations of a non-profit character and for acts that are made for the achievement of the purpose of such entities or for specific acts of certain legal entities and associations. In any case, the exemptions are limited by the principle of non-discrimination, meaning that they are granted only if they do not lead to distortions of competition and therefore do not compromise the neutrality of the tax.

Especially the Greek legislation establishes the following exemptions:

1. Relief from VAT of services closely associated with sport or physical education provided by non-profit legal entities to persons engaged in sport or physical education.
2. A tax relief from VAT is provided for provision of services and for any closely related to them supply of goods to their members in exchange for subscription, to non-profit legal entities and institutions that pursue in the context of their collective interest political, trade unionism, religious, philosophical or philanthropic or national objects, if these do not lead to distortions of competition.

3. A tax relief from VAT is provided for provision of services of cultural or educational nature and for any closely related to them delivery of goods to their members by legal entities or other institutions or non-profit foundations, which operate legally in Greece for cultural or educational objects, if these do not lead to distortions of competition. As specified by the Ministry of Finance, the aforesaid provision mainly covers services provided to visitors of museums, monuments, archaeological sites, as well as the organisation of cultural events, exhibitions, conferences and lectures (right input, etc.) by the persons mentioned.

Moreover, as in the previous instance, amongst the conditions included is the condition that the prescribed tax exemption should not lead to distortions of competition (eg. The exploitation of a stationery selling goods by a charitable union).

4. A tax exemption is provided for to legal entities of religious and philosophical character for the provision of working staff for the conduct of certain activities (nursing and medical care and diagnosis, welfare and social security and education) for the purpose of intellectual assistance and development. For the granting of the exemption the aforementioned three conditions must be cumulatively satisfied. By contrast, the supply of working staff by legal entities besides those exhaustively listed or by those on the list but for objects other than those exhaustively listed, is not exempt from VAT.

5. A tax relief from VAT is provided for the provision of services and delivery of goods by non-profit legal entities or institutions that pursue in the context of their collective interest political, trade unionism, religious, philosophical or philanthropic or national objects, which are legally operating in Greece for cultural or educational objects, on the occasion of events organized by them aimed at their financial support. In this context, revenues earned by the aforementioned non-profit legal entities that result from the performance of artistic events, exhibitions, conferences etc., and have an occasional character, realised solely for the financial support of such persons (exhaustively listed) are exempted.

6. The exemption of Mount Athos from VAT is provided for in a relevant EU directive. Articles 5 to 8 of EU Directive 2006/112 on VAT determine the territorial scope of its application. In particular, Article 6 thereof specifies the territories that are not considered as taxable territory of the Community for VAT objects, including Mount Athos, and hence, this Directive does not apply to these territories.

Are there specific formal conditions for special VAT status?

Apart from the essential requirements in certain cases, certain formal conditions for the granting of exemptions from VAT are prescribed. These formal requirements are defined either by the statute itself or by ministerial decisions issued under statutory delegation.

Regarding the exemption from VAT of services of cultural or educational nature and any closely related to them delivery of goods by legal entities or other institutions or non-profit foundations, legally operating in Greece which pursue cultural or educational objects, its has been clarified by a circular that for the avoidance of any ambiguity, as legal entities pursuing cultural objects are defined those which are determined by joint resolutions of the Ministers of Finance and Culture, after scrutiny of the Ministry of Culture. It should be noted that for the application of provisions of paragraphs 4 and 5 of Article 35 ofn.1884/1990, which seem that they also apply for the implementation of lit, ist' of paragraph 1 of Law n.2859/2000, any private law legal entities that pursue cultural objects have been defined by joint decisions of the aforementioned Ministers,.

Also, based on the statutory delegation of lit ist' of par. 2 of art. 22Of the VAT Code, Ministerial Decision of the Minister of Finance, n. P 6786/640/7.10.1986 has been issued which provided that the exemption from VAT of the relevant revenues (due to theatrical event, for which there is a participation fee) to be obtained, an application of the foundation must have been submitted to the Head of Tax Office of the periphery where the beneficiaries of the exemption have their seat, which must indicate the type of services, the type and quantity of goods for which the exemption is requested. The application shall be approved by the Head of the Tax Office stating the above goods, which are approved to be made available without tax.

With regard to the granting of exemption from VAT for the provision of services and delivery of goods by non-profit legal entities or institutions that pursue in the context of their collective interest political, trade unionism, religious, philosophical or philanthropic or national objects, as well as by legal entities or other institutions or foundations of non-profit character, which are legally operating in Greece to the pursuit of cultural or educational objects, on the occasion of events organized by them aimed at their financial support (art. 22, par.1 lit ih' of the VAT Code), a prior approval from the Head of Tax Office of the periphery where the seat of the non-profit legal entity is located, is required.

Moreover, as explained by the administration, events made by such person for financial aid must not exceed two events per year as the maximum allowed limit. The introduction of this restriction has been criticized by legal doctrine, which considers that the restriction is arbitrary, because neither of the provision is clear on that point, nor the Ministerial Decision 6786/640/1986 P, which defines the VAT exemption procedure.

3. Are there any special rules with respect to the operation of the VAT exemption? (in particular with the receipt of gifts of contributions by a non-profit-organisation/or to a non-profit organisation by a VAT payer, subject to charge, credit for input tax?, the treatment of mixed activities, i.e. partially chargeable activities and partially exempt or out of scope activities within the same entity).

As already mentioned, according to Ministerial Decision 1283/7.11.1.99 and opinion 531/95 of the Legal Counsel of State, a distinction is drawn between donation and sponsorship and, in particular, it is provided that "The sponsorship for a particular project is considered as a donation-economic benefit without any exchange – provided that between the sponsor and the beneficiary an obligation for the provisions of any exchange has not been agreed or implied. In case of an exchange, it must be examined whether there is a whole or partial onerous legal transaction according to the value of consideration provided.". From the above it follows that while the donation is the provision of monetary funds by the donor to the recipient without the obligation to provide any consideration, sponsorship is the provision of monetary funds by the donor to the recipient of the sponsorship, who undertakes the obligation to provide for a certain exchange. In practice, the sponsor bears the cost (funding) of a particular cultural activity, eg funding a music concert organised by a domestic private legal entity of non-profit character, legally operating. If during the above activities, direct or indirect, promotional and advertising services are provided to the sponsor, then it is a provision of services and as such an invoice for the provision of the services must be issued by the person receiving the sponsorship. In any case, if the sponsorship involves the element of consideration, which creates conditions of a transactional relationship between the donor and the foundation/legal entity of non-profit character, the latter must proceed to the issuing of the relevant invoice for the fees received, on the basis of which VAT should be calculated which corresponds according to the applicable provisions of Law n. 2859/2000.

From the wording of Article 22 of the VAT Code it is concluded that activities exempted refer to the provision of services and deliveries of goods. It could be argued that the law considers that in particular the activities of legal entities of non-profit character always fall within the concept of economic activity and therefore no issue arises for acts not subject to VAT (ie acts outside the scope of VAT, for which no specific exemption is required for) .

Therefore, every act of non-profit legal entities should be considered separately as to the nature and tax treatment for the objects of VAT.

With regard to the right to deduction, legal entities of non-profit character exercise it regularly, provided acts performed do not fall under certain exemption.

In particular  
specifically:

In Article 36 paragraph 8 of the VAT Code it is provided that legal entities not subject to tax are exempted from the obligations of the person liable to tax and mainly from the obligation to submit VAT statements. The wording of the law is probably incorrect, since the legislative arrangement for the exemption by the obligation to submit statements of legal entities not subject to tax is redundant.

In essence it is an exemption from the obligation to submit VAT statements of legal entities exclusively conducting exempted acts without a right to deduct their revenue tax. In this category of legal entities, those of non-profit character are also included.

If non-profit legal entities perform acts for which either no tax exemption is provided for or the exemption is waived due to the distortion created in competition, then for these acts the aforementioned legal entities are obliged to submit periodic statements. These statements are exceptional in the sense that only cover specific transactions. For example, if a non-profit legal entity organizes three events in one year to raise money for that purpose, then the third event (as already mentioned the first two events are exempted from VAT according to a Circular of the administration) the legal entity must submit a special VAT statement in order to pay the tax due after offsetting costs related to (directly connected) to the taxable activity.

If a certain legal entity of non-profit character engages in continuous taxable activity (such as a foundation, which operates a retail shop, cafe and restaurant outside a museum), has all the obligations of a taxable person, ie to submit periodic VAT statements and tax statements for each calendar year. In this case, the general rules for deduction of revenue tax and the deductible proportion, apply. Such legal entities deduct the totality of revenue tax that is directly related to their taxable activity, do not deduct the revenue tax that is directly related to an exempted activity without the right of deduction, while they by analogy deduct the so-called "common costs", ie costs incurred both for taxable and exempted acts.

A key issue that arises in such cases is the calculation of the deductible proportion of the tax, particularly whether any amounts received by these legal entities in the form of donation- subsidy are to be included in that calculation. On this issue, the Ministry of

Finance has not issued a formal position / guidelines through a circular. According to theory in this special occasion sponsorships and donations that are outside the scope of VAT, i.e. donations given with no consideration should be taken into account for determining the deductible proportion due to the fact that donations and sponsorships are one of the main sources of funding for these legal entities. ' As rightly observed, in accepting the contrary view, i.e. if these amounts are not included in the denominator of the fraction, then a question of distortion of competition and violation of the principle of neutrality is raised. Therefore, in our opinion, the deductible proportion should follow the rules for profit-making legal entities.

4. What are the VAT rules for cross-border services or supply of goods (cross-border services and exports of goods or intra-community supplies by VAT payers to foreign non-profit organisations, exports or intra-community supplies by domestic non-profit organisations to foreign non-profit-organisations and imports or intra-community acquisitions of services or goods by domestic non-profit organisations). A case of special interest is the choice between administrative services in-house or outsourced, which make a difference in VAT-burden and possible use of VAT-groups when services are produced in a joint venture between several non profit organisations.

Regarding cross-border supply of goods and provision of services by non-profit legal entities the same rules governing cross-border transactions of taxpayers apply.

In particular, the rules for intra-Community supply and acquisitions of goods are applied, provided that cross-border transactions of non-profit legal entities are considered as intra-Community supplies, ie if they do not fall under any exceptions of the relative articles.

If a non-profit legal entity is the recipient of services by a taxable person established abroad, we must distinguish between two instances.

In particular, if the aforementioned non-profit legal entity which is subject to tax and performs an exempted activity, possesses VAT Number for any cause according to the relative provisions (eg due to an intra-community acquisition of a good exceeding the limit of 10,000.00 Euros) and does not have an income tax deduction right because it performs an exempted activity, then Greece is considered as the place of taxation and thus, it must file a VAT return by a special periodic statement to the Greek State for any services received. On the contrary, if the above non-profit legal entity does not have a VAT

Number from any reason, then the applicable VAT is levied on to it in the state where the service provider is established(Article 14 of n.2859/2000).

### III Inheritance, estate and gift taxes:

5. Are there specific definitions or conditions of non-profit activities or – organisations, including trust arrangements with respect to inheritance, estate and gift taxes?

#### Inheritance tax for non-profit legal entities

First it should be noted that by 2010, ie before the amendment of the Inheritance, donations and parental provisions Tax Code by Law n. 3842/2010, a full exemption from inheritance tax of non-profit legal entities and of estates of art. 96 of O.Law 2039/1939 were provided for subject to certain conditions. But Law 3842/2010 provided for the imposition of inheritance tax and donation tax to non-profit legal entities, nevertheless the relative tax burden is clearly diminished in contrast to that levied on profit-making legal entities .

Specifically, under the current legislative framework, acquisition of funds by non-profit legal entities due to death, which have been incorporated or are under incorporation in Greece, as well as by the respective foreign legal entities on the condition of reciprocity and the fortunes of Article 96 of O.Law 2039/1939, as long as these entities are proven to pursue national or religious or on a wider circle charitable or educational or artistic in the sense of Article 1 of O.Law n. 2039/1939 objects, are subject to tax, calculated separately at the rate of zero point five per cent (0.5%). Acquisition as of cause of death of other assets by those persons is subject to a tax, calculated separately at the rate of zero point five per cent (0.5%). The same rate applies to inheritance tax levied on the cause of death acquisition of monetary amounts or other assets by churches, the monasteries, the sacred space of the Holy Sepulchre, the Holy Monastery of Mount Sinai, the Ecumenical Patriarchate Kostantinoupoleos The Jerusalem Patriarchate, the Patriarchate of Alexandria, the Church of Cyprus, the Orthodox Church of Albania.

With the abolition of the aforementioned exemptions and the subjection to an inheritance tax – even with a lower rate of 0.5% - the provision on the deduction of foreign tax will be in force. In particular, it is provided that the tax proved to have been paid or finally awarded in one or more foreign states for the movable property located at them and up to the amount of tax corresponding to the property in each foreign state, is deducted from the resulting tax on the total value of the inherited property. To determine the deductible

amount, the tax resulting from the total value of the inherited property, according to the provisions of Law n.2961/2001, is apportioned according to the parts of that property located in Greece and in each foreign state. The tax due resulting after the above deductions cannot be less than the tax attributable to assets located in Greece, without including any assets in the foreign state taxed in Greece. The tax paid or imposed abroad for deduction, is considered to be the tax which is levied on the property taxed in Greece and paid or imposed for the account of a foreign state or, in the case of a federation, this is taken to include the tax levied on the part of the federal constituent states. The tax paid or imposed abroad, is converted into drachmas at the official price in Greece for the foreign currency, in which it was paid or imposed at the time of establishment of the tax liability. The application for deduction of the tax paid or levied abroad, is submitted within five years from the final clearing of that tax accompanied by a relative certificate of the foreign tax authority.

Finally, worthy of reference are the relative special provisions of Law 2039/1939 regarding bequests. In particular, it is provided that bequests given to the state or charitable objects and in general to legal entities and foundations of lit b and c of par. 1 of art. 11 of Law 1641/1919 are not deductible as charges from the assets of inheritance, if the affected heir or any other liable person does not attach in his inheritance tax statement, a certification of the executors or administrators of the bequest or of the foundation, to whom the bequest has been given or by the persons exercising its management, certifying that the bequest has been deposited together with any overdue interest. If the deposit of the bequest has taken place after the submission of the inheritance tax statement by the liable person, it is deducted as a charge to the inheritance with the result the deduction or the return of any surplus levied inheritance tax, after an application of the beneficiary which is submitted within three years from the deposit of the bequest. Those responsible for the receipt and audit of tax statements and inheritance tax statements, heads of tax offices and consuls are obliged to report to the Directorate of National Bequests of the Minister of Finance on the deposit or payment of bequests, at the latest within one month of submission to them of the relevant certification by the executors or administrators of bequests or of charitable foundation.

Taxation of donations to Non Profit legal entities

Following recent legal amendments (L.3842/2010 and L. 3943/2011) full tax exemption from charity donations to non profits has been abolished. The aforementioned laws were modified in order to include reciprocity as a mandatory condition in order to achieve tax exempt status from a donation to a non-profit legal entity abroad. Cash donations will now be subject to a separate tax rate of 0.5%, with this tax coming into effect after first deducting the cash allowance of one thousand (1,000) euro annually.

By virtue of L. 3943/2011 certain issues regarding the declaration of these donations as well as their corresponding taxes have been regulated. Specifically, monetary donations under the annual threshold of one thousand (1,000) euro may be declared without the details of the donor, given that this information is not available. The general provisions require that declarations be made within six (6) months of the donation, except in the case that the donation was accompanied by a notarized document for the action (Article 86, Paragraph 3 of the Donations Tax Code). In addition, it was established that liability for the receipt and confirmation of these statements lies with the chief of the tax office in whose jurisdiction the nonprofit resides. Exception from tax status (and therefore from tax declarations) are donations resulting from nationwide initiatives for proven charitable objects.

Through the L.3842/2010, tax exemptions for the following categories have been repealed: Political Parties legally recognized by the rules of parliament, Athletic Clubs (as defined by Article 47 of the L. 75/1975), Olympic, National and Municipal gyms (due to the charitable cause they pursue), Institutions of Higher Education and Public Hospitals which house educational units as a mean through which to reach their goals. The law (v. 3943/2011) returned Athletic Clubs (as defined by Article 47 of the L.75/1975) to tax exempt status for donations.

Financial donations to churches and monestaries, the Holy Sepulchre, the Holy Monastery of Mount Sinai, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Church of Cyprus, the Orthodox Church of Albania, are all subject to tax after surpassing the annual threshold of one thousand (1,000) euro.

A final issue concerns the taxation of donations that are characterized sponsorships. According to the opinion (number 531/1995) issued by the legal counsels of state and accepted by the Minister of Finance, sponsorships are identified as donations as long as

they are not accompanied by some sort of obligation on behalf of the nonprofit receiving the sponsorship. Therefore, if a sponsorship consists of a sum that is not associated with some sort of return, it is recognized by the Donations Tax Code as a donation. If, however, the sponsor receives some sort of reimbursement for the sum, then it is noted as a reciprocal agreement. In this case only the difference between the sponsorship and the return, if there should be any, is considered a donation.

## Taxation of Immovable property

### Property Tax

Since 2010, property located within Greece is subject to an annual property tax. The tax is imposed on the total value of the subject property. With regards to legal entities, regardless of whether they are registered in Greece or abroad, they are subject to the property tax. However, there are some exemptions.

In particular, Museums, as defined by the L.3028/2002, the European Cultural Center of Delfon, Foreign Archeological Schools and the American Farm School are exempt of property tax.

Tax exempt status, from the property tax, is granted to immovable property used for spiritual, educational, religious and charitable work by the following: Known Religions and Denominations (as recognized by Article 13 Paragraph 2 of the Greek Constitution), the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Orthodox Church of Albania, as well as private temples of known religions and dogmas used for common worship. In Immovable property housing administrative functions of religions also receives exempt status. In addition, unfinished buildings intended for use as places of worship receive exempt status. As noted by the administration, the immovable property located on the Athos Peninsula (from Megali Vigla and on) makes up the area of Mount Athos and is exempt from the property tax as a result of their Constitutionally recognized special status. Unions or foundations, nonprofit in nature, that are directly associated with churches of known religions are also exempt from the property tax. Property of legal entities as subject to the Provisions of L..3647/2008, in other words subjects to the Holy Islamic Law and exists for nonprofit reasons are also exempt of the property tax.

Exempt status is also granted to immovable property that is granted without return to the

Greek Public or legal entities governed by public law, so far as they are used for the following reasons: All Levels of Public Education, Public or Municipal Health Care, Public or Municipal Social Care, Public or Municipal Childcare/Kindergardens/Orphanages, Public or Municipal Nursing Homes, as well as sporting infrastructure with free public usage. It is clearly distinguished by the administration that this exempt status is only in effect for the portion of the immovable property that is used for the aforementioned objects, and does not cover other uses of the property (such as snack bars, stores, etc).

With regard to the property tax rate of nonprofit legal entities, there are two categories which define the rate. In any case, however, nonprofit legal entities receive a special tax rate of 0.1% or 0.3%, compared to 6‰ of for-profit legal entities. Specifically, immovable property owned and used by a nonprofit organization are taxed at a rate of 0.1%. The taxable rate of 0.3% applies to property owners, domestic and foreign, by condition of reciprocity by private or public legal entities proven to be nonprofit in character. The 0.3% rate also applies to Museums, the European Cultural Center of Delfon, Foreign Archeological Schools, Known Religions and Dogmas (as recognized by Article 13 Paragraph 2 of the Greek Statute), the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Orthodox Church of Albania.

## Municipal Property Tax

In addition to the property tax, immovable property is also subject to the Municipal Property tax. This tax is implemented every 1<sup>st</sup> of January and payable by the legal owner of the property. The rate of the tax is determined by the municipal government and ranges from 0.25 per thousandth (0,25o/oo) to 0.35 per thousandth (0,35o/oo) and is common to the whole municipality.

Exempt from the municipal property tax are the following: All types of immovable property owned by public charity organizations, domestic legal entities with nonprofit character, as well as immovable property under the L.. 2039/1939 so long as their goals are proven to be greater good whether religious, educational, artistic or charitable, as well as foreign organizations with the same goals on the basis of reciprocity.

Also exempt from the municipal property tax are immovable property owned by the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Apostolic Ministry of the Church of Greece and the general religious organizations, as well as to the recognized foreign religions that use the property solely for public worship and religious ceremonies.

In addition to this, immovable property that is owned by Athletic Clubs, leagues and organizations (legally recognized by the General Ministry of Sports) and used solely for athletic events is also exempt from the municipal property tax.

## Special State Tax on electrically powered for residential or commercial use buildings

Exempt from this special state tax are Known Religions and Denominations (as recognized by Article 13 Paragraph 2 of the Greek Statute), the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Orthodox Church of Albania, for all property used for worship, education or nonprofit work. The same applies for domestic legal entities of a nonprofit character as well as the properties that apply to L. 2039/1939, as well as foreign legal entities with the same goals on the basis of reciprocity, so long as their goals are proven to be greater good whether religious, educational, artistic or charitable.

In addition to this, immovable property that is owned by Athletic Clubs, leagues and legal entities (legally recognized by the General Ministry of Sports) and used solely for athletic events is also exempt from the municipal property tax.

## Special immovable property tax

In addition to the aforementioned, a new special tax has been passed by law which applies to every legal entity that holds the rights to property within Greece. This special tax is determined at a rate of 15% of the value of the immovable property.

Regardless of the country of registered office, exempt from this special tax are legal entities that are proven to pursue in Greece charitable, cultural, religious, educational goals so far as they are carried out on property owned by the legal entities, as well as for property which is used and proceeds are proven to be utilised to reach these objects. Also exempt is immovable property being unused and producing no income.

Also exempt from this special tax are Known Religions and Dogmas (as recognized by Article 13 Paragraph 2 of the Greek Constitution), the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Orthodox Church of Greece.

Also exempt from this special tax, given that their headquarters are located within Greece or the European Union, are legal entities subject to public jurisdiction, the Archeological Company, domestic Museums, the European Cultural Center of Delfon, Foreign Archeological Educational foundations, domestic cooperative associations and their legal entities, domestic municipal legal entities, the legal entities which fall into the categories of the L.3647/2008 (Greek Government Gazette 37 A)], as well as domestic public law charitable foundations and domestic unions.

Finally, legal entities whose seats are located in Greece or other member states of the European Union with the total of their shares owned by domestic or foreign foundations are also exempt of this special tax for property proven to be used for charitable goals in Greece.

1. Are there any specific formal conditions for special inheritance, estate or gift tax status?

## Immovable Property Tax

immovable property owned by museums are exempt from property tax. In order to establish and operate a state museum, the Ministry of Culture must issue a decision.

Upon request, a similar decision is issued in recognition of the museum. In the case of exemption of the property tax, the Official Gazette indicating recognition by the Ministry of Culture and Tourism for the operation of the museum is necessary.

Also exempt from the property tax are Foreign Archeological Educational Foundations that operate with their own property. In order to apply for this exemption, the legal entity must receive a certificate from the Ministry of Culture that they are a foreign archeological educational institute.

Also exempt from this special tax are Known Religions and Dogmas (as recognized by Article 13 Paragraph 2 of the Greek Statute), the Holy Sepulchre, the Holy Monastery of Mount Sinai, Mount Athos, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Orthodox Church of Albania. As mentioned by Greek Administration, immovable property intended for religious use are accepted by the law at will of the owner, so far as the legal steps are taken. Therefore, in order for the exemption for places of public worship the following are needed: a) for temples: license issued by the Ministry of Education and Religion, b) for monasteries: presidential decree of their founding.

As it has already been mentioned, nonprofit unions or foundations with sole religious goals directly on behalf of the established churches or religious centers that they abide to have no legal entity but are eligible for exemption of the property tax. There is no condition regarding the organizational form of the religious community, except that it must represent a known religion or denomination. These unions receive their exemption when they submit in common with the religious center to which they are tied the following: a. license of establishment and operation of the temple by the Ministry of Education and Religion, b. certificate issued by the Ministry of Education and Religion that the temple represents a known religion or dogma, c. article of association of the institution providing the connection with the known religion and temple. In the case of the exemption of a private temple of a know religion or dogma, a certificate by the priest or authority must be made at the municipality it is located stating that the temple works at least once a year.

Exceptional immovable property tax

Certain documents are required in order to achieve exemption from the special property

tax. Legal entities proven to pursue in Greece charitable, cultural, religious, educational objects, and regardless of the country of their headquarters, are required to submit the following documents to the Tax Office in order to achieve the exemption:

a) An application for approval of the exemption for the specific property that falls into the aforementioned categories. This application contains a description of the property and it must match the description in the previous year's Property Tax statement. If changes have been made it must match the description of the current years immovable property Tax statement.

b) When regarding a domestic legal entity, a certified copy of the incorporation, with any amendments, notarized by the competent authority, along with the issue in the Greek Official Gazette where these amendments are noted.

When regarding a foreign legal entity, a notarized copy of the incorporation with all of its amendments, in official translation, as well as certification of the competent authorities in the country of registered office also in official translation.

In the case of exemption of companies where all of the shares are owned by domestic or foreign foundations, and their charitable goals in Greece are proven: a notarized copy of the incorporation with all of its amendments of the institution which holds the total number of shares of the company applying for exemption. In the case that they are held by a foreign institution, all the documents must be in official translation and accompanied by notarized certificates by the competent authorities in the country of origin attesting to the foundations' existence.

c) Photocopy of the previous year's Property Tax statement, and in the case of amendments to the immovable property during the current year a copy of the current years immovable property tax statement.

d) In the case of an unused building owned by accepted charitable, religious or educational institution, the utility bills (electricity or water) for the whole taxable year.

Regarding the procedure, the certificate of exemption may only be issued following the monitoring and recognition by the Tax Office which holds authority that the legal entity has proven to seek in Greece the goals and scope as described above. That the property for which exemption is being requested is either

5. Used for charitable reasons
6. Owned and used for charitable, cultural, religious or educational reasons
7. That the building is proven not to be in use and does not provide any income

The head of the Tax Office may, at his own discretion, ask for additional information in order to issue the certificate of exemption. The certificate of exemption is issued by the head of the Tax Office separately for each property. The certificate may be received from the Tax Office by the legal representative or a third party holding power of attorney.

Are there specific tax rules for wills, gifts, or transfer of assets to domestic or foreign non-profit activities, or –organisations including trust arrangements (exemptions, base rules, valuation rules, or tax rates)?

1. Are there specific tax rules for wills, gifts, or transfer of assets by domestic non-profit organisations to domestic or foreign beneficiaries including charitable trust arrangements, in the pursuit of their non-profit activity (exemptions, base rules, valuation rules, or tax rates)? Is there any annual wealth tax or other tax in replacement of the inheritance, estate or gift tax on non-profit organisations or charitable trust arrangements?

#### IV Other taxes:

This heading is intended for a great variety of taxes which may contain rules of special privilege (exemption or refund) for non-profit or charitable activities. Examples are custom duties on imports of relief goods, excises, annual vehicle or road tax, energy tax, transfer tax on real estate, stamp taxes on deeds etc.

#### Immovable property Transfer Tax (FMA)

This tax is charged, under certain conditions, on the purchaser or the successful bidder in the transfer of property by sale or auction. Churches and monasteries as buyers are exempted by this the immovable property transfer tax. Also, from this tax the value of the property transferred to the members of a non-profit cooperative association is exempted up to the percentage the immovable property transfer tax has been paid by the cooperative

association itself for the sale of the property in question. The transfer of immovable property by a non-profit building society to its members was exempted by from the transaction fee imposed if that tax was imposed instead of the FMA according to the above.

No other exemptions from the FMA for other non-profit legal entities were provided for. Therefore, in case of transfer of immovable property to a non-profit legal entity due to purchase, that legal entity as a buyer will bear the attributable FMA. In case of sale of property by non-profit legal entity, that entity is not subject to FMA, as the tax is levied on the buyer not the seller. Regarding the rates of FMA, a rate of 8% is provided for up to the value of 20.000 euros of the immovable property and a rate of 10% in excess of the amount of 20.000 euros.

### Stamp duty

Discharge receipts that are given for subscriptions, contributions, subsidies and any kind of financial aid granted by any natural or legal entity to ecclesiastical, educational, charitable, civic and beneficial to the state/nation unions or foundations, organizations and charitable committees are exempted from stamp duties. The concept of foundations of this provision covers also foundations that possess the capacity of a public law legal entity. Unions, however, generally are not exempt from stamp duty in the absence of any exclusionary provision.

The payment of inheritances and bequests that are inherited to charitable foundations and objects are exempted from stamp duty. By L.D. 1079/1971 all exemptions from stamp duty were abolished from entry into force of that law, except for some that are included in legislation, which has remained in force and are specifically mentioned.

Regarding the Greek religious, civic, charitable and educational institutions it should be noted that donations to them (Document evidencing donation) are exempt from stamp duty. Similarly, foreign religious, civic, charitable and educational foundations are exempted on the condition of reciprocity.

Greek civic foundations are exempted from stamp duty for any legal proceedings initiated by them or by their opposing litigants which relate to inheritances, bequests and donations that are given in the context of the realisation of civic and charitable objects, foundations and properties. By contrast, the churches, monasteries and holy seats are not exempt from stamp duty, except for receipts of paid subscriptions addressed to them.