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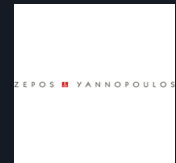
Country Comparative Guides 2024

Greece

Tax Disputes

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This country-specific Q&A provides an overview of tax disputes laws and regulations applicable in Greece.

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Greece: Tax Disputes

1. Is it necessary for a taxpayer to register with the tax authority? Are separate registrations required for corporate income tax and value added tax/sales tax?

It is necessary for taxpayers to register with the tax authority.

The Tax Procedures Code (L.5104/2024) provides for each natural and legal person or entity who is liable to pay or withhold tax, according to the tax legislation or is obliged to file a tax return within the context of the Tax Procedures Code to register with the tax authority and obtain a Tax Identification Number. This number is the same for all taxes, including corporate income tax and VAT. However, if the taxpayer will perform an activity within the scope of VAT, he has in this case the obligation to report additional information for the registration.

2. In general terms, when a taxpayer files a tax return, does the tax authority check it and issue a tax assessment – or is there a system of self-assessment where the taxpayer makes their own assessment which stands unless checked?

Tax returns are filed electronically with the tax authorities' portal. In principle, when the taxpayer files a tax return the tax is calculated automatically at the time of filing and therefore a direct tax assessment is made. Subsequently the tax authorities have the right to perform an audit and proceed with a corrective tax assessment, if they consider that the tax return of the taxpayer is not accurate.

However, the Tax Procedures Code provides for other types of tax assessment:

- Administrative tax assessment in instances, where the tax is not calculated at the time of the filing of the tax return, but at a later stage on the basis of the return filed by the taxpayer.
- Estimated tax assessment, when the taxpayer has not timely filed a tax return. In such case the assessment is made on the basis of available data.
- Preliminary tax assessment, where the tax authorities proceed with the assessment of the tax before the deadline of the filing of the tax return by the taxpayer,

on the basis of available data.

3. Can a taxpayer amend the taxpayer's return after it has been filed? Are there any time limits to do this?

The taxpayer has the right to amend a tax return after it has been filed. The amendment can be made anytime until the 10th day following the service of the preliminary audit report (in case of audit) or within the statutes of the limitation period.

4. Please summarise the main methods for a tax authority to challenge the amount of tax a taxpayer has paid by way of an initial assessment/self-assessment.

Once the taxpayer has filed a tax return and paid the tax, the tax authorities have the right to perform an audit. In case the tax authorities consider that the tax return filed was inaccurate and the amount of tax paid not correct, they can proceed with a corrective tax assessment.

5. What are the time limits that apply to such challenges (disregarding any override of these limits to comply with obligations to relief from double taxation under a tax treaty)?

A tax audit can be initiated any time within the statute of limitations period, i.e. within five years, starting from the end of the tax year in which the relevant tax return should be filed.

Said statute of limitations period is extended, as follows:

- For one year, if the taxpayer submits an initial or an amending tax return or if new evidence is made available to the tax authorities, within the fifth year of the statute of limitations.
- For as long as it takes for the transmission of the requested information, should a request for information is submitted to another jurisdiction, plus one year from the receipt thereof by Greek tax authorities and only for the matter for which information has been requested.
- For one year following the issuance of the relevant

decision, should an administrative or judicial appeal be filed. In this case, the extension concerns only the subject matter under dispute.

(d) For as long as a Mutual Administrative Procedure (MAP) is in progress and only for the subject matter under dispute. If a decision is handed down in the context of the MAP, the statute of limitations is extended for one year following the issuance of the decision.

(e) For one year, should a request for annulment or amendment of a tax assessment or a fine be submitted, because of a numerical or calculating error or due to manifest lack of tax liability.

Apart from the above, the statute of limitations period can be extended to 10 years, in case of non-filing of a tax return within five years starting from the end of the year in which the tax return should have been filed or in case new evidence is made available to the tax authorities after the expiry of the aforementioned five-year period.

Moreover, especially for years 2012 – 2017 should the tax authorities identify tax evasion, in this case the applicable statute of limitations period is extended to 10 years, starting from the end of the tax year in which the relevant tax return should have been filed.

6. How is tax fraud defined in your law?

The Tax Procedures Code provides for a definition of tax evasion. The latter is committed when the taxpayer intentionally in order to avoid the payment of tax¹:

- conceals taxable income deriving from any source or assets; especially, by omitting to submit a tax return, or by submitting an inaccurate tax return, or by posting in the accounting books or declaring in the tax return (partly or fully) fake expenses,
- does not pay, or inaccurately pays, sets off and deducts taxes,
- deceives the tax administration in order not to pay, or to inaccurately pay, set off, deduct, receive a tax refund, or to hold taxes, duties & contributions.
- issues false or fictitious fiscal documents or accepts fictitious fiscal documents or alters same irrespective of whether the payment of tax is avoided.

Footnote(s):

¹ The Tax Procedures Code provides for an exclusive list of said taxes i.e. (Corporate) Income Tax, VAT,

Withholding Taxes, Duties & Contributions, Uniform Real Estate Tax, Special Real Estate Tax, Insurance Tax, Tonnage Tax. Moreover, the minimum monetary thresholds set forth in law are €50,000 for VAT and €100,000 for the remaining taxes, duties & contributions.

7. How is tax fraud treated? Does the tax authority conduct a criminal investigation with a view to seeking a prosecution and custodial sentence?

When the tax authorities carry out a tax audit and issue a corrective tax assessment, if the taxes assessed exceed the thresholds for tax evasion, they file a criminal complaint with the Public Prosecutor for the latter to initiate criminal proceedings.

8. In practice, how often is a taxpayer audited after a return is filed? Does a tax authority need to have any justification to commence an audit?

Due to the applicable statute of limitations, taxpayers are, in principle, audited once every 5 years, although there may be cases where they are audited more often, or they are audited less frequently than 5 years. Nonetheless, the filing of a tax return which results in a tax refund, the filing of a tax return under reservation and/or the filing of an amending tax return – under conditions – are often treated as triggering events for a tax audit.

No. Tax authority does not have to give a reason for opening an audit. Moreover, the selection of the taxpayers to be audited is based on risk analysis criteria, not publicly available.

9. Does the tax authority have to abide by any standards or a code of conduct when carrying out audits? Does the tax authority publish any details of how it in practice conducts audits?

Tax officers should abide with the Code of Conduct for Public Servants. Said Code applies to almost all public sector workforce. Thus, there are no rules specifically applicable for tax officers.

No. Such details are not made available.

10. Does the tax authority have the power to compulsorily request information? Does this

extend to emails? Is there a right of appeal against the use of such a power?

Yes. The tax authority has a wide range of auditing powers, while the taxpayer is recommended to abide with the tax authority's requests.

Said powers may include also review of emails, although this is not a common practice among the tax authorities. The criterion to assess the validity of the tax authority's request is whether such request can be deemed relevant with the purpose and/or the subject of the tax audit.

There are no law provisions explicitly providing for a remedy in case of arbitrary use of power. However, this might be a part of the tax litigation arising from the challenge of the corrective tax assessment.

11. Can the tax authority have the power to compulsorily request information from third parties? Is there a right of appeal against the use of such a power?

The Tax Procedures Code explicitly provides for the tax authority's right to request information from third parties. The definition of third parties includes, among others, organizations of the public sector, public independent authorities, financial institutions, Undertakings for Collective Investment in Transferable Securities (UCITS), the cadastre, land registries, insurance companies, private clinics, private schools, telecommunication companies etc.

There are no law provisions explicitly providing for a remedy in case of arbitrary use of power. However, this might be a part of the tax litigation arising from the challenge of the corrective tax assessment.

12. Is it possible to settle an audit by way of a binding agreement, i.e. without litigation?

The applicable legal framework does not provide for a binding agreement to settle an audit. However, if the taxpayer accepts the tax assessment and waives its right to further challenge it, a discount in the penalties assessed is provided, the percentage of which varies, depending on the stage of the procedure at which this acceptance by the taxpayer is made.

13. If a taxpayer is concerned about how they are being treated, or the speed at which an audit is

being conducted, do they have any remedies?

In principle, procedural law provisions set very short deadlines within which the taxpayers must respond to the tax authorities' requests (i.e., 10 working days to provide required information and documents). Thus, it is common practice to seek for an extension of the relevant deadline(s). Said extension lies with the tax authority's discretion. On the other hand, tax authorities should complete the audit within one year with the possibility for a six months extension. An additional six months extension may be granted in extraordinary situations. Therefore, the time frame for the performance of a tax audit is provided directly by law and accordingly it cannot be challenged.

14. If a taxpayer disagrees with a tax assessment, does the taxpayer have a right of appeal?

Yes.

15. Is the right of appeal to an administrative body (independent or otherwise) or judicial in nature (i.e. to a tribunal or court)?

[the below answer covers both, questions 15 & 16] Should the taxpayer disagree with a tax assessment, the latter can be challenged. The first step is to file an appeal with an administrative body, the Dispute Resolution Committee of the Independent Authority for Public Revenue. Said Committee should review the case and issue a decision within 120 days. After the expiry of the above period, either the Committee will deliver a decision by virtue of which the taxpayer's administrative appeal will be accepted or rejected, or the taxpayer's administrative appeal should be deemed as tacitly rejected if not decision is issued. Subsequently, the taxpayer has the right to file an appeal with the competent court. The applicable law provisions allocate jurisdiction in tax disputes as follows: for main tax assessed up to €150,000 the case falls in the jurisdiction of the Administrative Court of First Instance, while in excess of €150,000 the case will be heard by the Administrative Court of Appeal at both first and last instance. The next step is to file an appeal with the Supreme Court, but only for matters concerning the interpretation of law.

The taxpayer cannot directly appeal to courts, omitting the stage of the administrative appeal to the Dispute Resolution Committee.

16. Is the hearing in public? Is the decision published? What other information about the appeal can be accessed by a third party/the public?

The procedure before the Dispute Resolution Committee of the Independent Authority for Public Revenue is not public. Contrary to the above, court hearings are held in public.

Both, the decisions delivered by the Dispute Resolution Committee and Courts are published. The main difference is that whereas the decisions of the Dispute Resolution Committee can be accessed (after the names of the taxpayers concerned have been removed) through the publicly available website of the Independent Authority for Public Revenue, court decisions cannot (although it should be noted that court decisions are published in legal periodicals and databases again with the names of the taxpayers removed).

Only the judgment can be accessed by a third party / the public. Litigants' names and further particulars, as well as other documents of the case file cannot be accessed.

17. Is the procedure mainly written or a combination of written and oral?

The procedure is mainly written, although the parties have the right to appear in court through their legal representative(s) and elaborate on the grounds of the appeal.

18. Is there a document discovery process?

There is no discovery process in the sense of common law jurisdictions as a pre-trial procedure. However, the litigants are obliged to submit their file including all the supporting evidence prior to the hearing date.

In particular, the tax authority should submit its views along with the relevant case file at least 30 days prior to the hearing date, while the taxpayer has the right to submit the supporting evidence until the (working) day prior to the hearing date. Within the aforementioned context litigants are able to make copies of the counterparty's case file, while they are entitled to submit post-hearing memos up to 3 working days following the hearing date in order to enhance their position and rebut the counterparty's argumentation and evidence material. Should the litigants file a post-hearing memo, another 3-working day deadline applies to respond.

19. Are witnesses called to give evidence?

Witness testimonies are provided for in law, either in person at the hearing date, or in writing at the pre-trial stage. Since tax disputes usually invoke legal issues deriving from the different interpretation of the tax law provisions and the witnesses are able to testify only facts of which are aware, the witness testimony option is not broadly common in tax disputes. However, in case that a witness testimony is required the process usually takes place in writing at the pre-trial stage either before a notary public or before the district court.

20. Is the burden on the taxpayer to disprove the assessment the subject of the appeal?

In principle, each litigant bears the burden to prove that their allegations are lawful. Notwithstanding the above, in various cases law and/or case law allocate between the parties the burden of proof. For instance, should the tax authority find that an expense is not deductible due to lack of productivity, the tax authority should prove the validity of what is claiming. On the other hand, should tax law provide for a rebuttable presumption in favor of the tax administration, then the taxpayer bears the burden of proof to challenge it.

21. How long does an appeal usually take to conclude?

An average time for a tax dispute to conclude, from appealing to the Dispute Resolution Committee to a Supreme Court decision, would be 5 years.

22. Does the taxpayer have to pay the assessment pending the outcome of the appeal?

Payment is not a prerequisite to initiate proceedings against the assessment. Nevertheless, when the taxpayer challenges the tax assessment, he is obliged to pay 50% of the assessed amount whereas payment of the remaining 50% is lawfully suspended. However, it is highly recommended to pay the 100% of the amounts assessed in order to avoid interest accruals, safeguard measures, where applicable, blocking of issuance of the tax clearance certificate or enforcement measures in urgent cases.

23. Are there any restrictions on who can conduct or appear in the appeal on behalf of the

taxpayer?

As regards the first phase of the tax litigation i.e., the appeal before the Dispute Resolution Committee, the taxpayers themselves are able to sign and file the administrative appeal, as well as to appear before the above Committee, if needed.

As regards the judicial proceedings, authorized attorneys-at-law sign and file the appeals as well as represent the taxpayers before the courts.

24. Is there a system where the “loser pays” the winner’s legal/professional costs of an appeal?

The applicable legal framework explicitly provides for apportionment of the costs upon relevant request by the parties. However, the court is not bound from such request and based on the conditions can release the losing party from such obligation. When awarded, compensation of the winner’s costs is only symbolic and does not actually result in recovery of the costs incurred by the winner.

25. Is it possible to use alternative forms of dispute resolution – such as voluntary mediation or binding arbitration? Are there any restrictions on when this alternative form of dispute resolution can be pursued?

Apart from tax disputes arising from cross-border transactions due to which alternative dispute resolution can apply e.g. MAP or arbitration under the EU Arbitration Convention, no alternative dispute resolution is provided.

26. Is there a right of onward appeal? If so, what are all the levels of onward appeal before the case reaches the highest appellate court.

Once the tax audit has been concluded and the relevant findings become final, the taxpayer has the right to appeal before the Dispute Resolution Committee of the Independent Authority for Public Revenue.

Following that stage, the case can be brought to courts and particularly within the jurisdiction of either the Administrative Court of First Instance or the Administrative Court of Appeal depending on the monetary threshold set forth in law that are met (for further details please refer above to the question no. 16). Should the case be brought to the court of first instance, then the Administrative Court of Appeal is competent to

review the case as an appellate court at second instance, while the Supreme Administrative Court stands at the last instance. Otherwise, if the appeal is directly tried by the Administrative Court of Appeal at both first and last instance, the litigants are able to seek further review only by the Supreme Administrative Court and only for matters concerning the interpretation of law.

27. What are the main penalties that can be applied when additional tax is charged? What are the minimum and maximum penalties?

Law provides for two (2) different types of sanctions: (i) penalties/fines and (ii) interest for late payment.

More specifically, there are fixed fines for procedural infringements of the tax legislation and penalties relating to the underpayment of taxes calculated at a %.

Procedural fines vary from €100 the lowest for the non-filing or late filing of a tax return, for instance, to €100,000 for tampering with a cash register.

As regards penalties, the minimum applicable rate is 10% to 50% the maximum. In most cases, the base on which the above penalty is calculated is the difference between the tax resulted from the tax return and the tax assessed.

On the other hand, interest for late payment currently accrues at 8,76% per annum.

28. If penalties can be mitigated, what factors are taken into account?

- In case the taxpayer files a tax return after an audit order has been served or accepts the assessment after the preliminary audit report has been issued the applicable penalty is reduced by 50%.
- In case the taxpayer accepts the assessment after the final audit report is issued and before the filing of an administrative appeal, the penalty is reduced by 40%.
- In case the taxpayer accepts the assessment after the decision of the Dispute Resolution Committee and before the filing of a judicial appeal, the penalty is reduced by 30%.
- In case the taxpayer accepts the assessment after the judicial appeal is filed and until the day prior to date of the first hearing before the court, the penalty is reduced by 25%.

29. Within your jurisdiction, are you finding that tax authorities are more inclined to bring

challenges in particular areas? If so, what are these?

Current trends in tax audits are the following: in the area of corporate income taxation the deductibility of business expenses and transfer pricing are the most common. In VAT, tax authorities are inclined to challenge VAT refunds, as well as the supply of services between affiliated companies within EU on the ground of fixed establishment.

Wire transfers and purchase of assets is the most common ground for which individuals are audited.

30. In your opinion, are there any areas which taxpayers are currently finding particularly difficult to deal with when faced with a challenge by the tax authorities?

Tax audits resulting in claims of tax evasion have an increased level of difficulty for the taxpayers to deal with. This is due to the fact that any tax assessment can practically qualify as tax evasion, should the requirements of the monetary threshold – relatively low – and be met. Thus, in those cases, besides the tax assessment taxpayers should also face criminal

complaints. This is because tax authorities file criminal complaints without investigating whether the taxpayer intended to underpay taxes or not. Even different interpretation of the applicable provisions can lead to claims of tax evasion. Therefore, as a result the taxpayers find themselves involved in different – tax and criminal – proceedings.

31. Which areas do you think will be most likely to be the subject of challenges and disputes in the next twelve months?

Transfer pricing is expected to be one of the trends in the upcoming months; in particular the benchmarking studies and/or the selected method(s).

In terms of corporate income tax, the deductibility of expenses, either on the productivity ground, or on the ground of the adequacy of the supporting documentation, is expected to be challenged.

As regards individuals, tax residence issues are expected to attract the attention of the tax authorities in the following years.

Finally, as regards VAT, the notion of fixed establishment is expected to be disputed.

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