

Greece: Family Offices



New law 4778/2021 introduces the concept of family offices in Greece and regulates their business purpose, the nature of the services to be provided, details for their operation as well as various tax matters (determination of gross income, profit percentage, taxable income, calculation of income tax and applicable payment process and VAT applicable).

The objective of the new law

- ▶ Based on the new law, the wealth and family assets of individuals who are tax residents of Greece may be managed by family offices which takes up a legal form of one of the legal types of entities acknowledged within the Greek Income Tax Code (*such as Societe Anonyme, Private Capital Company, Limited Liability Company, personal entities etc*) other than non profit organizations.
- ▶ The above family offices will have as their exclusive objective the provision of support to Greek tax resident individuals and to their close family members (*such as their spouse, their underage children, their parents*) with regard to the management and administration of their assets and investments that they hold either directly or indirectly through legal persons or legal entities.

- ▶ The above close family members, as well as legal persons / legal entities where the above Greek tax resident individuals and/ or their family members participate, may participate in the family office.
- ▶ *It may be appropriate to extend the scope of the above framework so that the above family offices may provide the respective services: a) not only to the natural persons-members of the family, but also to companies or other entities that own or manage assets on behalf of the family members (including foreign seated foundations, trusts etc), b) in the administration and management of assets of foreign tax residents (especially given that an individual qualifying as a local tax resident under the special tax status of articles 5A or 5B of law 4172/2013 may be subject to such regime for a maximum of fifteen years, after which the individual may have left Greece) and/or c) without generation restriction (e.g. by providing for the possibility of providing services to ancestors and descendants with no restriction and regardless of their financial status, but also to additional family members, such as persons included in the B' Category of article 29 of law 2961/2001 (siblings, nephews/nieces etc).*

Operation

- ▶ The above entities may employ personnel or assign to third parties the provision of the respective services regardless of the country of establishment of such service providers (with a reservation held for the application of the Greek Income Tax Code rules about restrictions for deducting expenses made/paid to a natural or legal person tax resident in a non-cooperative jurisdiction for tax purposes or in a jurisdiction with a privileged tax regime).
- ▶ Close family members cannot be employed by the qualifying family office.
- ▶ Qualifying family offices should cumulatively a) incur annual expenditure of at least Euro 1,000,000 and b) employ at least 5 employees within 12 months as of its establishment and on an ongoing basis.
- ▶ *It may be appropriate to provide an exemption from the application of the provisions of article 4 par. 3 (b) and par. 4 of law 4172/2013 (according to which a legal person or a legal entity is a Greek tax resident for any tax year, if the place of the exercise of actual administration is in Greece), with the introduction of a provision that will exclude the possibility that the management and administration activities of the special purpose company (family office) are considered to render Greece the place of tax residence of companies whose assets will be managed by these companies.*
- ▶ *It may be appropriate to decrease the required (minimum) amount of operating expenses in order to render the new framework more competitive and in line with similar regimes found in foreign jurisdictions.*

- ▶ *A Common Decision of the Minister of Finance and the Governor of the Independent Public Revenue Authority is expected, which will determine, among else, the services that can be provided by these companies and will also indicate the sources of their revenues.*

Calculation of the taxable income

- ▶ The gross income from the services provided by the qualifying offices is defined by adding a seven percent profit (7%) to all their expenses and depreciation, except income tax (cost method plus profit margin).
- ▶ For the determination of the taxable income of the offices, the expenses (on which the above mentioned percentage of profit is calculated) are deducted from their gross income, provided that they are evidenced by supporting documentation in accordance with the provisions of Law 4308/2014 (a provision found also in the law 89/67 offices' tax treatment).
- ▶ If for any reason the company's revenue, as shown in their accounting books, is higher than the revenue, as determined by the above method "cost plus profit margin", the revenue shown in the accounting books is taken into account.
- ▶ The income tax of the above offices is calculated with the income tax rate of legal entities (24%).
- ▶ *It appears that there is no special treatment exemption for the income taxation of the dividends to be distributed by the above family offices to the partners, nor any exemption from the special solidarity contribution.*
- ▶ The general provisions for the submission of the income tax return of legal entities and the payment of corporate income tax apply equally for the above family offices.
- ▶ The above family offices are required to withhold income tax for payments they effect as per the general rules.

VAT

- ▶ "Internal transactions" (services) provided between the family office and the individuals who participate therein (members) are outside the scope of Greek VAT.
- ▶ *Further clarifications are required regarding the content of the "internal transactions" excluded from the scope of VAT as well as the compatibility of the provision with the European law.*

Entry into force

- ▶ The above provisions are effective for fiscal year 2021 and onwards.

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