

EFC COUNTRY PROFILE JANUARY 2011: GREECE

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I. Legal framework for foundations

- **Does the jurisdiction have a basic legal definition of a foundation (Description where applicable)? What different legal types of foundation exist (autonomous, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations)?**

Most foundations are private law foundations which are regulated by Articles 108 – 121 of the Greek Civil Code. Private foundations are described as organisations with their own legal personality created by a disposition of assets under a deed of establishment made either *inter vivos* or via a will, for the pursuit of a lasting purpose. Legal personality includes limited liability and full transactional capacity of the foundation.

Law 2039/1939 and Art. 109 of the Constitution govern public benefit foundations. A public benefit foundation is described as a disposition of assets, made *inter vivos* or via a will for the pursuit of (general interest) charitable purposes over a definite or indefinite period (Art. 95 Law 2039/1939).

Another group of foundations is incorporated by the state, so-called public foundations, which are subject to different public rules. Furthermore, there are non-autonomous foundations. Non-autonomous foundations are characterised by the fact that an endowment is given to a person (physical or legal) in order to fulfil a specific purpose. A non-autonomous foundation has no legal personality.

Foundations in Greece are self-governing, non-membership organisations with an endowment which serves public or private purposes (*universitas bonorum*).

- **What purposes can foundations pursue?**

The purpose of the foundation has to be specific, lasting and lawful, i.e. not in any way contrary to the law (Art. 174 Greek Civil Code) or to good morals and public order (Art. 178 Greek Civil Code). The law distinguishes between foundations in general and public benefit foundations that serve the general interest by pursuing charitable purposes and which receive tax exemption. Charitable purpose, according to the Art. 1 of Law 2039/1939 is every public, religious, philanthropic or any other purpose beneficial to the community.

- **What are the requirements for the setting up of a foundation (procedure, registration, approval)? What application documents are required? Are there any other specific criteria for registration?**

To set up a foundation two legal acts are needed: The founding act in the form of a notarised deed or will (Art. 109 Greek Civil Code), and the state approval of this founding act, which gives the foundation legal personality. According to Arts. 108 and 112 of the Greek Civil Code, foundations can only be established by state approval. The competent ministry

recommends the establishment by presidential decree. The decree then has to be published in the Official Journal of the Government. The Ministry of Finance keeps a register of foundations.

The formation deed has to specify the purpose, the foundations' assets and the statutes, which determine the organisational structure of the foundation in accordance with the wishes of the founder (Art. 110 para. 1 Greek Civil Code).

The state approval may determine, complete or modify the organisational structure of the foundation under the condition that the will of the founder is respected (Art. 110 para. 2 Greek Civil Code).

If the formation deed is not sufficiently clear as to whom the beneficiaries are, the state approval may determine this in accordance with the will of the founder.

➤ **Is State approval required? (Approval by a State Supervisory Authority with/without discretion? Registration with a state authority or court? Notarisation by a Notary public?**

The Ministry of Finance and the competent Ministry, depending on the purpose of the foundation recommend the establishment of the foundation by presidential decree. The decree then has to be published in the Official Journal of the Government. The Ministry of Finance keeps a register of foundations.

➤ **Do foundations have to register? If yes, in what register?**

No. There is no general requirement to register under Greek law.

If foundations are registered, what information is kept in the register?

If foundations are registered, is the register publicly available?

In Greece there is no publicly available register of foundations.

➤ **Is a minimum capital required?**

No. There is no explicit legal provision concerning a specific initial amount, but the competent state authority will not approve the formation deed if it confirms a lack of adequate assets for the fulfilment of the foundations' purpose. A foundation without assets is invalid (Council of States' judgement 4578/1996).

➤ **What governance requirements are set out in the law?**

An important element of the foundation is the organisational structure. A governing board usually governs the foundation.

The formation deed has to satisfy the necessary governance rules of the foundation. It has to establish the governing board, other organs, and their rights and duties in accordance with the will of the founder and the law (Arts. 65-69 of the Greek Civil Code on the governing organs of legal persons).

The organisational structure may be defined, completed or amended by the state approval in accordance with the will of the founders (Art. 110 Civil Code). However, the internal rules of a foundation may be amended even against the founder's wishes if the governing body

requires it and if the proposed amendment is necessary for the maintenance of the endowment or for the fulfilment of the foundations' purpose (Art. 119 of the Greek Civil Code). For such an amendment, a presidential decree is needed.

Additional regulations concerning the administration of charitable foundations are included in Art. 99 of Law 2039/1939.

Is it mandatory to have a supervisory board?

No, it is not mandatory for Greek charitable institutions to have a supervisory board.

What are the requirements concerning board members? Is a minimum/maximum number of board members specified? What are the rules concerning appointment of board members? And their resignation/removal?

In Greek law there is no minimum number of board members specified for foundations. According to Art. 65 of the Greek Civil Code a legal entity is managed by one or more persons.

The statutes of a foundation determine its organisational structure and provide all necessary details concerning its administration, management and representation, as well as the election of board members and the recruitment of key personnel (Art. 98 para. 2 of Law 2039/1939).

According to Art. 99,para. 1 of Law 2039/1939, the board members of a charitable foundation are required to accept their appointment by a declaration submitted to the Minister of Finance. They are also required to send their resignation to Minister of Finance in the same way.

What are the duties and what are the rights of board members, as specified by national legislation?

The board of directors have the task to manage the foundation and are legal representatives of it. According to Art. 67 of the Greek Civil Code the board members who have the administration of the legal person must take care of its affairs and represent it judicially and extra judicially (Duty of care and duty of loyalty). Substitution is prohibited unless the statutes provide otherwise.

According to Art. 68 of the Greek Civil Code, the extent of the power of the persons who administrate the foundation is determined by the formation deed or the statutes. Certain matters of the administration can be delegated to private persons. It is not clear whether the authority of this third person extends to any related transaction.

What are the rights of founders? Can fundamental decisions, such as change of purpose, be made at the discretion of the founder? What are the legal requirements in such circumstances?

The will of the founder is the central element of the private law foundation described in the deed of foundation.

If the purpose of the foundation has become unrealisable, the competent authority may give by a new decree another similar purpose in accordance with the probable will of the founder (Article 120 of the Greek Civil Code). When the will of the founder is fully unrealizable the property left for a charitable purpose may exceptionally be used for other similar purposes under a special law (Article 121 of the Greek Civil Code).

What are the rights of beneficiaries (e.g. right of information)?

Beneficiaries can take legal action against the foundation according to Art. 116 of the Civil Code. If these persons are not sufficiently determined by the founding deed, the administration of the foundation has to determine them reasonably.

What rules are in place to ensure against conflict of interest? What is the legal definition of a conflict of interest under your legislation? How is self-dealing prohibited?

There is no legal definition of a conflict of interest under Greek legislation. However Art. 69 of the Greek Civil Code stipulates that if the persons who are indispensable for the administration of the legal person are missing, or if their interest is in conflict with those of the legal person, the President of the First Instance Court appoints provisional Administration at the request of anyone who has legitimate legal interest.

Can staff (director and/or officers) participate in decision making? How and to what extent?

Only if, and to the extent that it is provided by the formation deed or the statutes of the foundation. According to the Law 2039/1939 (Art. 99 para. 5) the directors of foundations act according the regulations of the founding act or the statutes of the foundation.

The formation deed or the statutes of the foundation determine the participation of directors in decision making (Art. 99 of Law 2039/1939 para. 5)

➤ **Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation?**

The board of directors represents a foundation towards third parties.

The statutes of the organisation must determine the persons who represent the foundation towards third parties.

Do the director and officers have powers of representation?

Yes, if this power is given from the formation deed or the statutes of the foundation.

➤ **Liability of the foundation and its organs**

What is the general standard of diligence for board members? Does your country differentiate between voluntary (unpaid) and paid board members?

Articles 61-77 of the Greek Civil Code contain general provisions for all private legal persons.

Board members are personally liable for wilful or grossly negligent performance or neglect of their duties. They must act with due diligence and care and in compliance with the statutes and the purposes of the foundation at all times. (Art. 713 and 717, Greek Civil Code)

In Greek law there is no difference between paid and unpaid board members.

Is there a “business judgment rule”, giving a board member a “safe harbour”, if she/he (1) acts on an informed basis; (2) acts in good faith, (3) acts in the best interests of the corporation, (4) does not act out of self-interest (duty of loyalty concept plays a role here), and (5) is not wasteful?

Board members must act in good faith. This is a general duty which includes the duty not to act in self-interest but to act in the best interests of the foundation and for the fulfilment of its purpose and the original intentions of its founder.

“Business judgment rule” is a new legal term in Greek company law.

What is the liability the directors and officers?

They are liable for acts and omissions in performing the tasks assigned to them which create liability for damages.

Can the founder modify the standard of diligence for board members in the foundation’s statutes?

No

Can board members be held **civilly** and/or **criminally** liable in the following cases?

	Yes	Probably yes	Unclear	Probably no	No
The foundation distributes money for a purpose which is a public benefit purpose but not accepted in the foundation’s statutes.	X- Civilly liable				
The foundation loses its status of a tax benefit foundation (because one requirement in tax law was not fulfilled).	X- Civilly liable				
The foundation loses money because a board member has acquired some stocks in a company which unexpectedly went bankrupt.		X- Board members are liable if they could or should have known that the company would go bankrupt			
The foundation sells immovable property to the spouse of a board member. The board member was unaware that the price was too low.	X- Civilly liable.				
The foundation sells immovable property to a third person. The board member was unaware that the price was too low.	X- Civilly liable				

Board members may be also criminally liable if they cause wilful damage to the property of the foundation.

➤ **Are economic activities allowed (related/unrelated)?**

Commercial activities of foundations are allowed as long as they are within the objectives of the foundation. However, the issue of whether foundations should engage in commercial activities is a controversial one. It is possible to set up a corporate foundation which is linked to a corporation with regard to finance and administration.

➤ **Are there any rules/limitations regarding foundations' asset management?**

There are no rules in the Greek Civil Code regarding foundations' asset management. In contrast Law 2039/1939 includes many formal limitations concerning foundations' asset management.

➤ **Are foundations legally allowed to allocate grant funds towards furthering their public benefit purpose/programmes which (can) also generate income? (recoverable grants; low interest loans; equities)**

Yes, but the income must be used for the foundation's public benefit purposes.

What are the requirements for an amendment of statutes/amendment of foundations purpose?

A decree is needed for any amendment to the statutes, according to Arts. 110 and 119 of the Civil Code. According to Art. 120 of the Civil Code, any change of the foundation's purpose is allowed only if the fulfilment of the original purpose has become impossible to achieve. The will of the founder must be respected. The state supervisory authority may give to the foundation another similar purpose in accordance with the probable will of the founder.

The purpose of public benefit foundations can only be changed through a court decision (Art. 109 of the Greek Constitution). In this case, the amendment of the purpose of a public benefit foundation is allowed not only if the fulfilment of its original purpose has become impossible, but also if the wish of the founder can be better realised through another purpose.

➤ **What are requirements with regard to reporting, accountability, auditing?**

Annual budgets and statements of accounts of revenue and expenses must be made. Public benefit foundations must work with an annual budget, according to Arts. 101 and 102 of Law 2039/1939. The budget must be approved by the Ministry of Finance in advance. A balance sheet for the assets and liabilities of the foundation must be prepared.

Reporting requirements: Do annual reports and/or accounts of foundations need to be made publicly available?

Yes. In accordance with Arts. 101 and 102 of Law 2039/1939 the directors or administrators of public benefit foundations are required to submit an annual report of revenues and expenses together with a balance sheet of assets and liabilities to the Ministry of Finance for approval within two months of the closing of the financial year. This annual report, including the balance sheet, must be published in the daily press at the place of foundation's legal seat.

What type(s) of report must be submitted (annual report including details of finances and activities, public benefit report, tax report/tax return, other reports e.g. on 1% schemes)?

Annual report of revenues and expenses together with a balance sheet of assets and liabilities.

Who checks (supervisory/tax authorities)?

The Ministry of Finance.

Where is the required information publicised?

In the daily press at the place of the foundation's legal seat.

What are the legal requirements concerning external audit? Is external audit required by law for all foundations?

Law 2039/1939 requires external audit of all foundations.

By whom should audits be undertaken? Do requirements/guidelines exist regarding international and national auditing agencies and standards?

By the Ministry of Finance.

➤ **Supervision (which authority – what measures / sanctions?)**

The Ministry of Finance, the Council of National Bequests, or another competent ministry, depending on the purpose of a foundation, exercises supervision of the foundation after its establishment. All public benefit foundations are under the supervision of the Ministry of Finance. If the governing board does not follow the statutes of the foundation, the State may dismiss members of the board and appoint new ones.

➤ Does the supervisory authority comprise of a public administrative body, a public independent body, a combination of a governmental body and a court, or a public body and an independent body?

The Council of National Bequests is a public administrative body which consists of a Judge, a Legal Council of State, the Director of the Ministry of Finance, the Director of the National Bank of Greece, and two individuals.

What is the extent of the supervision? Does the body review reports and make inquiries? Are public benefit organisations subject to inspection?

Yes. The body reviews reports and makes inquiries.

Is approval from the authority required for certain decisions of the Board of Directors?

Yes. The approval of the Ministry of Finance and the Council of National Bequests is required.

Is it mandatory to have a state supervisory official on the board?

No. It is not mandatory to have a state supervisory official on the board of a foundation.

What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public benefit status?

Compliance measures are disciplinary penalties and sanctions provided by the regulations of the Code of Criminal Law. (Articles 140,143 and 144 of Law 2039/1939).

➤ **When and how does a foundation dissolve?**

If dissolution is provided for in the statutes of the foundation, it can take place without a further decree.

A foundation has to be dissolved if its purpose has been fulfilled or has become unattainable, or if the foundation's activities have diverged from its purpose or if its purpose as well as its activities have become unlawful, immoral or contrary to public order (Art. 118 Greek Civil Code).

➤ **Under what conditions does the civil law in your country recognise a foreign foundation?**

The Greek civil law recognises foreign legal persons which are formed in accordance with the law of the state where they have their seat. Foreign foundations having charitable status in their state of origin are recognised under Greek law, if they pursue charitable objectives linked to the very same interests of the general public, which are also promoted by the Greek state.

➤ **Does the civil law in your country allow a foundation to conduct (some or all) activities (grant-making, operating, asset administration, fundraising) abroad? Is there any limitation?**

Greek civil law allows a foundation to conduct its activities abroad.

II. Tax treatment of the foundation

➤ **What are the requirements to receive tax exemptions (pursuing public benefit purposes, non-distribution constraint, being resident in the country?)**

The pursuit of public benefit purposes is the main requirement for receiving tax exemptions. According to Article 1 of Law 2039/1939, a charitable purpose is any public, religious, philanthropic or other purpose beneficial to the community.

➤ **What are reporting/proof requirements to claim tax exemptions?**

➤ **Is specific reporting required for the use of state funds?**

➤ **Is there an obligation to report on donors and beneficiaries?**

➤ **Are there specific accounting rules for foundations?**

➤ **Is there a statutory definition in the civil law (foundation law, trust law) of your country what a public benefit purpose (charitable purpose) is? If yes, please give us the definition.**

Charitable purpose, according to the Art. 1 of Law 2039/1939, is every public, religious, philanthropic or any other purpose beneficial to the community.

- **Is there a statutory definition in the tax law of your country of what a public benefit purpose is? If yes, please give us the definition.**

The tax law does not include any definition of public benefit purpose. Art. 25 of Law 2961/2001 stipulates the tax exemption of gifts to non-profit legal persons under the condition that these legal persons pursue purposes which are beneficial for the Greek nation, as well as other religious, generally philanthropic, educational, artistic, or charitable purposes within the scope of Art. 1 of Law 2039/1939 (see above). According to Art. 1 para. 1 of Law 1111/1972, charitable purpose is every purpose which concerns the granting of moral or material aid to people who have a proven need for help, whether long-term or temporary.

- **Support of “the public at large”**

Do the activities of a tax-exempt foundation generally have to benefit “the public at large”?

No, but the section of the public that is benefited must be chosen on the basis of an objective criterion.

If yes, can a tax-exempt foundation support a small number of disadvantaged/underprivileged individuals?

A tax exempt foundation can support a small number of disadvantaged/underprivileged individuals. The purposes and the activities of such a foundation must be clear and specific.

Examples: Do the following purposes promote the public at large?

	Yes	Probably yes	Unclear	Probably no	No
For benefit of the inhabitants of a city with 1,000,000 inhabitants				X- This is an unclear purpose. The benefit must be a specific one.	
For benefit of the inhabitants of a village with 10,000 inhabitants				X- This is an unclear purpose. The benefit must be a specific one	
For benefit of the employees of a company				X - This is an unclear purpose. The benefit must be a specific one	
For benefit of the members of a family				X - Confining benefits to family members is clearly a private rather than a public criterion.	
For benefit of the students of a university				X- The benefit must	

				be a specific one.	
Award for the best student of a university	X				

➤ **Non-Distribution Constraint**

Does a **tax-exempt** foundation generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc?

Yes. Capital contributed by founders or donors should support public benefit purposes and not the personal benefit of these persons.

What happens with the foundation’s assets in case of dissolution?

The founder has to specify in the statutes what is to be done with the residual assets. If it is not specified, then in the case of the foundation’s dissolution these assets must be transferred to the public treasury.

➤ **“Altruistic” Element**

Is remuneration of board members allowed in **civil law** and in **tax law**? If remuneration is allowed, are there any limits in **civil law** and/or in **tax law**?

Board members are obliged to perform their services gratuitously (Art. 714, Greek Civil Code). Remuneration of board members is not allowed in tax law.

Does **tax law** allow a donor/funder to receive some type of benefit in return for a donation? (e.g. postcards, free tickets for a concert)

There are no specific rules on this matter.

Is there a maximum amount that can be spent on office/administration costs in **civil law** and in **tax law**? If yes, how are “administration costs” defined?

No, there is no rule about a maximum amount which can be spent on office/administration costs, either in civil or in tax law.

➤ **Hybrid Structures (elements of private benefit in public benefit foundations)**

Does the **civil law** of your country accept the following provisions/activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, his spouse and descendants.		X - Greek law allows any lawful purpose. Therefore “mixed purposes” i.e. public as well as private benefit purposes			

		may be accepted.			
The founder retains a beneficial reversionary interest in the capital of a property or other asset for his own continuing use.			X- The legal term: "reversionary interest" is unclear for Greek law.		
The gift is of only the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favor of the founder (or another member of her/his family) as tenant.			X- The legal term: "freehold reversion" is unclear for Greek law.		
A foundation distributes a (small) part of its income to the founder or his family.		X- "Mixed purposes" may be accepted. A foundation serving public benefit purposes may provide a supplementary element of benefit of a private, non-public nature.			

Does the tax law of your country accept the following provisions/activities of a tax-exempt foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, his spouse and descendants.					X- The pursuit of a public benefit-purpose is the main requirement for tax exemptions.
The founder retains a beneficial <i>reversionary</i> interest in the capital of a property or other asset to retain for its own continuing use.			X- The legal term: "reversionary interest" is unclear for Greek law.		
The gift is of only the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of			X- The legal term: "freehold		

years, or even for life) in favor of the founder (or another member of her/his family) as tenant.			reversion" is unclear for Greek law.		
A foundation distributes a (small) part of its income to the founder or his family.					X- The pursuit of a public benefit-purpose is the main requirement for tax exemptions.

Are there any other examples from your country (in **civil law** and/or **tax law**) regarding such "hybrid structures" (e.g. law provisions, court decisions, etc.)?

n/a

➤ **Distributions and Timely Disbursement**

Are foundations allowed to spend down their capital?

Yes

Are they allowed to be set up for a limited period of time only?

Yes, if they can accomplish their purposes within that limited period of time.

Does the **civil law** and/or the **tax law** of your country require a foundation to spend its income (or a certain amount of the income) within a certain period of time, e.g. within the next financial year?

No. There are no statutory restrictions on the accumulation of income. To accumulate capital as long as that is not the foundation's primary purpose may be accepted under Greek civil law.

Does the **civil law** and/or the **tax law** of your country require a foundation to spend a percentage of its overall assets in the form of a "payout rule"?

No. There are no explicit rules on distribution in Greek law.

Example: Does the **civil law** of your country accept the following activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public benefit purpose of the foundation.		X			

Example: Does the **tax law** of your country accept the following activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public benefit purpose of the foundation.		X			

Are there any examples or cases from your country (in **civil law** and/or **tax law**) regarding the question of “timely disbursement” (e.g. law provisions, court decisions, etc.)?

n/a

➤ **Does activity abroad put the tax-exempt status at risk?**

Activities can be conducted abroad without losing tax exemption.

➤ **Income tax treatment**

For Greek non-profit legal persons, public or private, only the net income earned in Greece or abroad through rental properties as well as securities is subject to tax. Any other income, including other revenues, acquired through the pursuit or fulfilment of the foundation’s purposes or missions is not subject to tax (Art. 99 para. 1e of Law 2238/1994, Income Tax Act (I.T.A.)).

For foreign non-profit legal entities, public or private, the net income from any source earned in Greece is subject to tax. Any other income of these entities acquired through the pursuit or fulfilment of their missions is not subject to tax (Art. 99 para. 1f of Law 2238/1994, Income Tax Act (I.T.A.)).

The income of Greek foundations or other charitable Greek legal persons gained from renting buildings and land is taxed at a rate of twenty percent (20%) (Art. 109 para. 2 after the amendments of Art. 12 para. 4 of the Law 3842/2010 for income from the 1 January 2010).

The provisions of the preceding paragraph also have application for income earned in Greece by foreign entities and agencies of foreign religions and faiths. (Ar. 109 para. 2, after the amendments of para. 4 Art. 12 of Law 3842/2010 for income from 1 January 2010).

Grants and donations, investment income, and economic activities such as income deriving from grant expenditures cannot be qualified as taxable income under Greek law (Response no. 373/2003 of the State Legal Council).

Grants and donations

Investment income (asset administration)

Economic activities related/unrelated)

Major shareholding - considered as an economic activity and taxed accordingly?

Income deriving from grant expenditure towards public benefit purpose/programme activities (such as loans, guarantees, equities)?

➤ **Capital gains tax, where separate from income tax**

n/a

➤ **Withholding tax on foreign investment income?**

n/a

➤ **Gift- and inheritance tax**

Gifts and inheritances are subject to separate taxation at a rate of 0,5% if the recipients are: Non-profit entities who exist or are formed legally in Greece, as well as foreign non-profit legal persons on the basis of reciprocity and Art. 96 of Law 2039/1939, if they are operating for a proven national or religious purposes or a wider circle of charitable, educational or artistic purposes within the meaning of Article 1 of Law 2039/1939. (Art. 25 para.3 of Law 2961/2001 and Art. 25 para. 9 of Law 3842/2010)

Cash donations to non-profit legal persons shall be subject to tax after the removal of a tax-exempt amount of thousand €1,000 per year (Art. 43 B a) of Law 2961/2001).

Also subject to separate taxation under the provisions of para. 5 Art. 29 of Law 2961/2001 are:

- Public entities, the prefectures, municipalities, communities, churches, the monasteries, the Temple of the Holy Sepulchre Audience, the Holy Monastery of Mount Sinai, the Ecumenical Patriarchate of Constantinople, the Patriarchate Jerusalem, the Patriarchate of Alexandria, the Church of Cyprus, the Orthodox Church of Albania.
- Non-profit entities, which exist or are founded legally in Greece, and foreign non-profit legal persons on the basis of reciprocity and Art. 96 of Law 2039/1939, if they are operating for demonstrably national or religious purposes or a wider circle of charitable or educational or artistic purposes within the scope of Article 1 of Law 2039/1939 (para 3 of Art. 25 of Law 2961/2001 and para. 9 of Art. 25 of Law 3842/2010)

➤ **Value added tax (VAT)**

There is a special procedure for foundations to gain exemption from VAT.

➤ **Capital taxes on value of assets, where applicable?**

n/a

➤ **Taxes on the transfer of assets?**

There is not a relevant legal provision in Greek law.

➤ **Other taxes, where applicable (Real property tax)**

Up to the financial year 2010 and for each subsequent year tax is imposed on real property which is in Greece and belongs to a natural or legal person. (Art. 27 para. 1 of Law 3842/2010).

The value of the real estate of a Greek or foreign non - profit legal person, private or public, operating for proven charitable, religious, philanthropic or educational purposes is taxed at a rate of three per thousand (3‰) (Art. 35 para. 2 of Law 3842/2010).

The value of the owner occupied buildings of non-profit legal persons is taxed at a rate of one per thousand (1‰). (Art. 35 para. 3 b) of Law 3842/2010).

➤ **Can a foreign foundation get the same tax benefits as a national foundation according to the wording of the tax law in your country? If yes, under what conditions?**

The basis for reciprocity is a relief provided by national law, based on bilateral agreements for reciprocal treatment, and is examined on a case-by-case basis. In order to benefit from this relief, the beneficiary foreign non-profit legal persons must provide to the competent Greek tax authority official documents issued by the competent authorities in their country of origin giving evidence (i) that they pursue public benefit purposes and (ii) that the tax laws of their country of origin also provide for tax exemption in favour of foreign (Greek) non-profit legal persons.

What is the tax treatment (inheritance and gift tax) of legacies to non-resident public benefit foundations?

They are subject to separate taxation at a rate of 0.5%.

Are there current discussions about the question of whether cross-border activities of foundations or other non-profit organisations are protected by the fundamental freedoms of the EC Treaty? Especially: Are the consequences of the Stauffer decision of the European Court of Justice and/or the current infringement procedures of the European Commission discussed by legal scholars or by practitioners? (e.g. publications in law journals) / Have there been any resulting changes to you county's legislation, or are changes being discussed?

No. There have been no articles published on this issue in Greek law journals during the last two years.

III. Tax treatment of donors

➤ **System of tax credit or tax deduction?**

Tax deduction.

➤ **Tax treatment of individual donors**

From the taxpayer's gross income, up to 20% of the following may be deducted:

- The sums paid by the individual in donations to charitable institutions; to non-profit public or private legal persons which provide education and award scholarships as well as other legally formed and established in Greece legal persons which seek charitable purposes; to research and technology organisations governed by Law 1514/1985, and research centres which are domestic legal non-profit persons (Art. 9 para. 3 g) cc) of Law 2238/1994, as amended with Art. 1 para. 4 cc) of Law 3842/2010).
- The sums paid in sponsorship to non-profit domestic legal persons which are operating for cultural purposes. Cultural objectives are in particular the cultivation, promotion and dissemination of literature, music, dance, drama, film, painting, sculpture and art in general, and the establishment, expansion and maintenance of approved private museums such as those for art, natural history, ethnology and folklore (Art. 9 para. 3 g) dd) of Law 2238/1994 as amended with Art. 1 para. 4 dd) of Law 3842/2010).

In cases where the value of donations and sponsorship in line with the criteria outlined above exceeds €300 per year, these must be deposited in a special account of the legal person opened for this purpose at the Deposits and Loans Fund or a bank lawfully operating in Greece.

The cash receipt voucher must indicate the donor and the recipient, the amount of donation or sponsorship, the date, and the signature of donor or sponsor.

The value of gifts and donations is deductible only if their aggregate sum exceeds €100.

The deduction will apply only if the total amount of donations and sponsorships does not exceed 10% of the donor's total income taxed under the general provisions.

➤ **Tax treatment of corporate donors**

Corporate donors may deduct from their gross income:

- The amounts paid as donations to the State, to agencies of local government, to Universities, public or municipal hospitals and hospitals that are private legal persons or are subsidised by the state budget and to the Archaeological Resources Fund
- The value of food donated by enterprises which produce or sell such goods to the charitable foundation called "Food Bank-Foundation for the Prevention of Hunger"
- The value of movable monuments, as defined by the current legislation, which are transferred as a donation to the State or to Museums recognised by the Minister of Culture. The amount deducted in this case cannot exceed 15% of total net income or profits derived from the balance sheet of each financial year.
- The value of medical equipment and ambulance cars, transferred as donations to the State
- Amounts, which do not exceed 10% of the total net income or profits derived from balance sheets and which are donated to charitable institutions, non-profit legal persons which provide educational services and award scholarships, to Churches, to the Monasteries of Mount Athos, to the Orthodox Church of Constantinople, to the Patriarchates of Alexandria and Jerusalem, to the Holy Monastery of Sinai, to the Orthodox Church of Albania, to domestic legal entities of public or private law which are lawfully formed in Greece and operate for proven charitable purposes, to the research and technology organisations established and governed by the provisions of the Law 1514/1985 and the Law 3653/2008, and to research centres which are private domestic non-profit legal entities and have been legally established in Greece.

- Amounts, which do not exceed ten percent of total net income or profits derived from balance sheets and which are donated to domestic non-profit legal persons of private law legally established in Greece and pursuing cultural purposes. Cultural purposes are particularly the cultivation, promotion and dissemination of literature, music, dance, theatre, film, painting, sculpture and arts generally, and the creation, expansion and maintenance of recognised private museums, such as those for art, natural history, ethnology and folklore.

Donations and sponsorships which exceed €290 per year must be deposited in the Deposits and Loans Fund or in an account of the legal person kept in a bank, which legally operates in Greece. In particular, donations to sports clubs are taken into consideration only if they are deposited in an account of the Deposits and Loans Fund or in a bank, which legally operates in Greece.

The total amount of donations that are deductible may not exceed the amount of net profits generated by the removal of these amounts from the gross revenues of the relevant accounting period.

➤ **Tax treatment of donations to non-resident public-benefit foundations**

The provisions related to donations to domestic non-profit legal persons apply also to donations to public benefit foundations established in Member States of the European Union as well as European Free Trade Association/European Economic Area countries. The donations may be deposited into a bank of the country where the recipient is domiciled.

The donor will also benefit from tax deduction for donations to the following non-resident organisations: The Ecumenical Patriarchate of Constantinople, the Patriarchate of Alexandria and Jerusalem, the Holy Monastery of Sinai, the Orthodox Church of Albania.

➤ **Other frameworks such as percentage law systems**

None

➤ **What are reporting/proof requirements to claim tax benefits?**

Donations and sponsorships amounting to more than €300 must be deposited in a special account of the legal person which should be opened for this purpose in Deposits and Loans Fund or in a bank lawfully operating in Greece. The cash receipt voucher issued by the bank must indicate the particulars of donor and recipient, the amount of the donation or sponsorship in figures and in words, the date of deposit, and the signature of the donor or the sponsor.

IV. Tax treatment of the beneficiary (receiving a grant or other benefit from a foundation)

Individuals

Neither donation tax nor income tax is applicable to the beneficiary (Response of the State Legal Council 787/1997).

Legal entities

n/a

V. Trends and developments

➤ **Recent trends or developments affecting the legal and fiscal environment for public benefit foundations**

n/a

➤ **Impact of anti-terrorist debate**

Is there a specific national/regional anti-terrorism act (legislation) in your country, (which one and date of entry into force or adoption)?

Yes. Law 2928/2001.

If so, has this law introduced new legal and regulatory requirements for foundations (please describe)?

No

Has the foundation supervisory authority introduced new regulatory/oversight requirements to comply with counter terrorism measures/law?

n/a

Has the foundation supervisory / regulatory authority(ies) introduced guidance tools to assist foundations to comply with counterterrorism measures/law?

n/a

If so, did the foundation supervisory authority engage in a consultation with the foundation sector on counter terrorism measures/ does it plan such a consultation?

n/a

➤ **Public fundraising**

Are there any specific laws that regulate fundraising and do they affect foundations?

n/a

Useful contacts

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