A positive impact on Greek services

Greece has begun to get noticed. Recent changes to Greek company law has made it easier for foreign companies to seriously consider establishing a Hellenic operation. The government is also tackling the country's once deep-rooted corruption and bureaucracy. There are signs Greece is changing - for the better.

Greece has an unflattering reputation for bureaucracy, corruption and high (relative) taxation. But what is the environment like in reality for business and investors, particularly with regard to taxation? Is Greece beginning to offer financial incentives to foreign investors to establish themselves in Greece and are private public partnerships becoming more common, not to say attractive to overseas investors?

Alexandros Lykourezos, managing partner of Lykourezos Law Offices, contends that the Greek regulatory environment is definitely changing for the better. "The Greek government is making a great effort to try and minimise the bureaucracy and corruption with regard to taxation as well as with regard to the procedure for auditing companies," he says.

One recent initiative to give investors more confidence is a list of tax-deductible expenses he says. "The Ministry of Economy and Finance are continuing to make new lists of expenses in order to bring an end to possible injustices by auditors and any transactions between the auditors and the entrepreneurs. The reporting procedure with respect to VAT and other obligations related to the Greek Code of Books and Records has already been minimised and has reduced the number of accounting books to be maintained by a company."

Much diminished bureaucratic work that traditionally had to be slogged through by entrepreneurs is the result. Corporation tax has also been cut from 35 percent to 25 percent - a welcomed move.

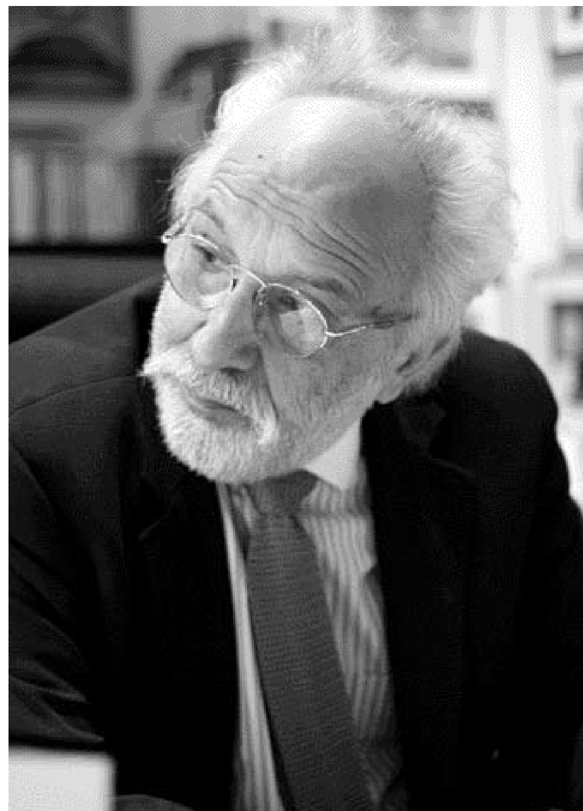
Financial incentives increased

The presence of Greece within the EU market and its proximity to the emerging markets of Eastern Europe and to the Middle East certainly make Greece a convenient location for companies looking to expand.

Foreign investors are increasingly taking a hard look at acquiring established distribution networks, be it by buying existing companies or establishing their own. Foreign ownership is permitted without any restriction in just about all Greek business sectors; a range of non-tax and tax incentives to encourage foreign investors also exists.

The roster of growing incentives by the Greek government includes:

- Special industry incentives as well as export incentives are available to investors;
- Limited approval requirements. An investor can either form a company or acquire an existing one without any requirement for approval by the Greek government in relation to the value of the acquisition;
- Enterprise zones. The government encourages establishment of industrial enterprises within specific industrial areas near major cities specially designed to offer infrastructure and facilities for industry;
- Regeneration areas. Locations in less-developed and formerly deprived areas is encouraged through higher incentives.



Alexandros Lykourezos, Managing Partner at Lykourezos law offices

From a tax perspective, branches and corporations (Societe Anonymes and Limited Liability Companies) are subject to income tax at a rate of 25 percent. "General and administrative expenses," says Alexandros Lykourezos, "are charged by a foreign parent company to its subsidiary in Greece and may be tax-deductible, while the same expenses incurred by a head office and allocated to its branch in Greece are tax-deductible up to five percent." Such restrictions may be in conflict, he warns, with double taxation treaties provisions.

Dividends distributed by Greek corporations are not subject to withholding tax on the grounds that underlying profits have already been taxed in their name. However, says Mr Lykourezos, "branches of foreign companies are taxed on their aggregate profits irrespective of any profit remittance to their head office."

EU harmonisation boost

Many EU regulations have already been included in Greek legislation concerning Societe Anonymes (SAs) to harmonise with EU law. Societe Anonyme is the most popular form of company in Greece. At least two founding members, individuals or legal entities, are initially required to establish a Societe Anonyme. The liability of shareholders is limited to the amount contributed to the share capital. This means that only the Societe Anonyme is fully liable for the company's debts. The minimum share capital of a Greek Societe Anonyme is €60,000. The General Assembly of the shareholders is the supreme corporate-body of a company while the operation of a Societe Anonyme is administered and directed by its Board of Directors (BoD). Taxation law is slowly but surely beginning to address EU directives such as 2003/48/EC, which concerns taxation on interest income earned by individuals on their savings, as well as directive 90/435/EC, which addresses the common taxation status of companies and subsidiaries.

More progress on EU harmonisation

with company conversion and mergers predicts Alexandros Lykourezos, is expected in the near future. In order to establish a branch in Greece, foreign companies do not need to commit any share capital for deposit says Mr Lykourezos. However, evidence is required that total capital is not less than €60,000 - the minimum share capital of SAs - or €18,000 (minimum share capital for limited liability companies) respectively. “Company branches are supervised by the Greek Ministry of Development and they must file,” advises Alexandros Lykourezos, “a copy of their financial statements and those of their parent with the Ministry of Development. Depending on size criteria branches are subject to certified audit requirements.”

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But what are the main issues regarding corporate tax that foreign companies need to be aware of? Mr Lykourezos says that net income calculation of companies is complex given it’s adjusted by non-deductible expenses, tax-free income and taxed income. “To arrive at taxable profit you need to deduct dividend income and profits from any other domestic companies. If profits are distributed in dividends, directors’ fees, etc, then the taxable profit must be increased by the portion of distributed profits corresponding to tax-free income.” Under current Greek tax law, every company is treated as a separate entity adds Mr Lykourezos, and there is no provision for consolidated group tax treatment.

Double taxation still a worry

As regards double taxation, it is avoided either under provisions of domestic law - which provides for a foreign tax credit to be given in respect of foreign income>>

>> tax paid - or under the provisions of existing double tax treaties. Greece, says Mr Lykourezos, has signed several tax treaties with other countries following the OECD model. "Under these tax treaties, a number of methods have been established to avoid double taxation. If a double taxation treaty is applicable, the tax liability of a foreign company in Greece is determined by the treaty. In general, treaties limit the taxation of business activities to the profits attributable to a permanent establishment in Greece."

• Tax treaties concluded by Greece generally follow the credit method for the avoidance of double taxation, under which the country of residence allows residents to deduct from their tax on income or capital an amount equal to the tax paid in the contracting country.

• Other methods provided by Greece's tax treaties for the avoidance of double taxation include the exemption from corporate and personal income tax for specific categories of income (eg trading profits not arising from a permanent establishment); and limiting taxing power in one country, eg, by reducing withholding taxes on investment income (dividends, interest and royalties).

• If Greece has no tax treaty with a particular country, its domestic tax law provides double taxation relief through a unilateral credit for income tax paid to the foreign country on reported income earned there, but only to the extent of Greek income tax payable on the same income.

Investment incentives aplenty

Naturally certain incentive zones within Greece can make life easier for overseas investors. Mr Lykourezos says a system of regional investment incentives does give grants, tax breaks and employment subsidies to corporations that invest outside the urban centres of Athens and Thessaloniki.

For the purpose of promoting development and economic decentralisation through investment, Greece is divided into three areas (A, B and C) for both industrial and tourist investment on the basis of their level of development.

Area A covers the districts of Attica and Thessaloniki. Area B includes the districts of Thessalia, the Islands of South Aegean, the Ionian Islands and the regions of Crete, Central Macedonia, West Macedonia and Sterea Hellada.

Area C includes the regions of East Macedonia, Thrace, Epeiros, North Aegean, Peloponissos, and West Greece.

The available incentives cover:

• Income tax allowances on investment value;
• Investment grants;
• Financial leasing subsidies;
• Employment subsidies.

Do note though that grants can rise up to 60 percent depending on the region where an investment takes place advises Alexandros Lykourezos. "The highest percentage of grants is furnished to the enterprises established in Area C which is the least developed. Special incentives are available for investments that will protect the environment and will produce energy from alternative sources. Such incentives are also available for research and development (R&D) projects in the area of high technology."

Greek government policy generally encourages most types of investment that generate economic growth and employment. Investment incentives are usually aimed at the industrial or tourist development of specific regions. There are absolutely no restrictions on or discrimination against foreign investment.

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PPP projects poised to take off

New Greek Private Public Partnership legislation will certainly interest many investors. The procedure is still complex, though Alexandros Lykourezos says the process, once launched properly, is straightforward enough. "The overall supervision is done by a Committee of Ministers presided by the Minister of Economy," he says. "The Greek PPP Taskforce has the form of a Special Secretariat with the Ministry of Economy. The Public Body first examines whether it wants a PPP for a certain project and if so, applies to the Ministerial Committee stating the reasons why. If the project is approved, the Public Body forms an Award Committee which commences the procedure for a Public Bid, according to EU Law."

Currently Greek law provides three types of award procedure:

• Open procedure: all are invited;
• Closed procedure: only those who meet pre-required criteria are invited;
• Competitive dialogue: a procedure introduced by EU law for particularly complex projects, where all contenders discuss with the Public Body the best technical procedure for the completion of the project.

Once the contender has been selected, the PPP contract is formed and signed.

PPP flexibility welcomed

PPP instruments abolish requirements of parliament ratification - needed in concessions - securing Private Sector engagement, a change that is particularly significant given Greek environmental and archaeological issues.

Furthermore, PPPs are considered off the balance sheet, so PPPs are not included in the state budget and therefore do not increase public debt, provided that the significant portion of risk - such as construction risk, demand or availability risk - is transferred to the private sector.

But just how receptive is the Greek business climate to PPPs? "From my experience I can say that there is great excitement in Greece about this new market," says Mr Lykourezos. "PPPs present an exciting investment prospects and business opportunities. The new legislation and the awarding procedures provided are also completely harmonised with EU directive standards."

So far the PPP legislation is applied to projects with a budget up to €200m, although projects of a higher budget may be approved by the Ministerial Committee. The Greek Ministerial Committee has in fact approved three projects the go beyond that €200m threshold, including the installation and operation of a security system in 12 Greek ports - €342m - the construction of the Paediatric and Oncological Hospitals in Thessalonica, €324m and €330m respectively.

The new PPP arrangements will have the most impact in education, culture, health, port infrastructure and public service accommodation predicts Mr Lykourezos. "PPPs in Greece so far are used for projects subsidised by the state without end-user fees. Taking into accounts all these projects, you could argue that the new PPP arrangements will have a major impact on the majority of Greek public services." The hope of course is that the public also gains. Better value for money for all should be the result. ■

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