



ISSUES IN OWNERSHIP OF REAL ESTATE

GREECE

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1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?

Although the notion of fee simple ownership does not exist in Greek law, since it is a common law concept, a similar type of property, i.e. full ownership, exists in Greek jurisdiction.

2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?

Ownership confers to the beneficiary the absolute right to dispose the asset at will provided that he/she does not infringe the law or the rights of third parties or thereby exclude any action by another. Ownership may be acquired in a variety of ways. In practice, though, it is usually acquired by inheritance or a transfer from a previous owner, which necessitates the conclusion of a transfer of ownership Notarial Deed. The agreement to transfer may result from either a sale of the property or by virtue of a donation, parental gift or other means of transfer and is vested with the form of a Notarial Deed. It must be noted that a prerequisite for the conclusion of a sale and purchase agreement is the payment of the relevant tax by the buyer prior to the execution of the notarial deed.

It should be noted that real estate assets may also be acquired by other means, mainly by “adversary possession”. In particular, a person may become owner of a real estate asset provided that: (i) he/she has in his/her possession said property for a time period of ten (10) years in good faith, by virtue of a lawful title and by acting as lawful owner (ordinary adversary possession), or (ii) he/she has in his/her possession said real estate assets for a time period of twenty (20) years.

3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?

According to the Greek Civil Code, any instrument evidencing the transfer/acquisition of ownership must be registered with the competent Land Registry or Cadastre Office (in case a Cadastre has been fully implemented at the territory where the asset is located), in order to become valid, otherwise it is deemed as non effective. Registration consists of the filing of a summary of such instrument with the Land Registry/Cadastre. Such registration entails payment of the relevant fees, which are calculated on the basis of the price on the Notarial Deed.

Before acquiring land, the prospective purchaser must conduct a search at the Land Registry and/or the Cadastre Office of the place where the asset is located in order to ascertain whether the titles are in good order and whether there exist or not any encumbrances over such property. Review of the relevant books on ownership, easements, mortgages, etc., may be conducted either by the interested party together with a lawyer or by a lawyer alone. The review usually of the titles in Greece expands for a time period of at least 20 years. Following filing of a relevant application, the Land Registry/Cadastre issue property certificates evidencing the ownership status of specified real estate assets.

4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?

The assurances of purchasers are the title certificates from the Land Registry/Cadastre combined with title reports from the lawyers that performed the search, if requested. There is no specific cost. Titles insurance does not exist as such in Greece but is now under development.

5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?

A Greek limited by shares company (*Anonimi Eteria*) or Greek limited liability company (*Eteria Periorismenis Eythinis*) are the most common forms of entities used.

6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?

Greece adopted in 1999 legislation permitting the creation of Real Estate Investment Companies (REICs) and Real Estate Mutual Funds.

7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?

VAT at 19% in case of acquisition of buildings (and of the part of land on which they are erected) that have been erected on a basis of building permit that was issued following January 1st, 2006 and have never been occupied or used in the past (first occupation concept). VAT burdens the purchaser.

Real estate transfer tax (varying from 7% to 11%) in case of any acquisition of real estate property that is not subject to VAT, such as acquisition of (i) land, or (ii) buildings, whose building permit has been issued prior to January 1st, 2006. The real estate transfer tax is imposed on the objective value of the real estate property (i.e. a value computed on a basis of a specific formula issued by the Ministry of Finance) or the transfer value agreed, whichever is higher, and it burdens the purchaser.

Real estate transaction duty in case of any subsequent sale of real estate property that has been purchased following January 1st, 2006. The real estate transaction duty is imposed at the rate of 1% on the real estate's objective value or the transfer value agreed, whichever is higher, and it burdens the purchaser.

8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?

The transfer of interests in a company owning immovable property is subject to income taxation rather than transfer, stamp tax or other similar tax.

More specifically, the transfer of shares not listed in a Stock Exchange is subject to a 5% transfer tax (which is deemed to constitute an income tax even though the justifying reason of imposing such tax is the transfer as such, irrespective of the realization of a capital gain). Such tax is computed on the higher between a minimum transfer value designated on the basis of a specific formula set forth in the Greek Income Tax Code and the transfer value agreed. The 5% tax exhausts the tax liability of non Greek tax resident sellers, whereas it is offset against the income tax liability of Greek tax residents corporate sellers. The transfer of parts in Greek limited liability company is subject to a 20% tax on the gain realized from such sale. As discussed above, the payment of such tax exhausts the tax liability of non Greek tax resident sellers, whereas it is offset against the income tax liability of Greek tax residents corporate sellers. Both taxes mentioned above are borne by the seller and are paid to the Greek State prior to the execution of the share/parts purchase agreement.

Foreign sellers residents of countries that have signed a treaty with Greece for the avoidance of double taxation may be exempt from the above mentioned taxes on the basis of the provisions of the respective treaties.

9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among of this jurisdiction?

There are neither political subdivisions in Greece nor special tax regulations governing different areas.

10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?

No. However for tax purposes, companies owning Greek real estate may opt to disclose their ultimate beneficial owners for the purpose of being exempt from the 3% special real estate tax.