The Greek "Property Tax"

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The current economic downturn is being felt globally. All sectors of the economy are feeling the pinch, especially government. Nowhere are the pressures on governmental finances more keenly felt than in Greece, where governmental debt and expenditures *vis-à-vis* governmental revenues are threatening not only Greece but also the stability of the European Union if not the worldwide economy.

For more than a year now, Greece has been the focal point of economic concern. In order to avoid a default of Greece's debt and the catastrophic effects that would ensue, the Greek Government has undertaken fiscal reforms and new legislation designed to bolster governmental revenues and diminish governmental expenditures. So it was with great fanfare that the world found out about the newly enacted Greek "Property Tax."

A "Duty" or "Privilege" Tax

The new tax measure is technically a tax on property, but it is not a "property tax" as we know it in North America. It is certainly a broad-based tax measure, but it is more of a "duty" or a "privilege" tax. It is not an *ad valorem* tax on wealth accumulated in property or even real estate. It is a duty. A duty is an obligation or, literally, a thing owed. It stems from the root idea of an obligation to serve or give something in return. The new tax measure also appears to be a "privilege" tax on the privilege of having a home provided with electricity. Remember that the main electric utility provider in Greece is owned by the Greek Government. The new tax measure has been legislatively styled "Special Duty on Buildings Powered by Electricity."

The new measure was passed by the Greek Parliament on September 27, 2011, and takes effect for calendar years 2011 and 2012. Word is that it may be extended through 2014. The passage of the new tax was met with immediate and intense opposition from the Greek people, who have been besieged by numerous severe austerity measures in recent months. Although these measures are undoubtedly required by the unbalanced fiscal milieu, they are hard for the Greek people to tolerate.

Those of us who maintain ties and own improved properties in Greece are also concerned. Greece freely allows nonresident foreigners to own property in Greece. The calculation of the new tax, its collection, and its enforcement are of vital interest to these nonresident owners.

Little is known about the new law, which was announced in the official Gazette on October 3, 2011. The details are to be determined by ministerial decisions, which have not yet been fully published. However, enough information is available to give one a picture of what is to come.

Tax Connected to Electricity Service

The special property duty is to be levied against any residential or commercial building that is connected to electric power or was connected on September 17, 2011 and that is also subject to the Municipal Real Property Duty, which is a similar duty in effect since 1993 and is paid to the municipal government. Attempted avoidance of the tax for 2011 by disconnecting the electric service will fail if electricity was provided to the building prior to September 17, 2011.

The owner of the building on September 17, 2011, is liable for the duty imposed in 2011. The owner of the building on April 28, 2012, is liable for the duty imposed in 2012. Co-owners on those dates are liable for their proportionate share. If the building is leased, the tenant is liable for the special property duty and then can deduct it from rent payments.

Collection of the special property duty will be administered by the electric company (i.e., the Public Power Corporation [PPC] and/or other providers of electricity); customers will find the levy on their electric bills.

Customers will see the first of two installments on their December 2011 bills. Failure to pay the special property duty will result in the electric company's cutting off the electric service, and if the duty is not paid, it will be transferred to the tax office for collection. The tax office will initiate collection procedures within 4 months after notification by the electric utility providers that electric power has been terminated for nonpayment of the special duty.

Formula for Calculation of Tax

This special property duty is calculated by a three-variable formula. The first variable is the size of the property in square meters or, more correctly, the size of the lighted area on each electric utility bill. The second variable is the location of the property. This is a zone that has had an official zone rate applied to it. This zone rate appears to be a rating of the affluence of a particular zone. The zone rate assigned determines the rate per square meter. The rates, expressed as euros per square meter, for each zone price are shown in table 1. The final determinant is the age of the building; an age multiplier is assigned as shown in table 2.

The calculation of the special property duty owed is a simple multiplication of the three variables. For example, an 8-year-old house with 80 square meters of lighted area in a village with an assigned zone rate of 525€ will owe a special property duty of

$$80 \times 4 \times 1.20 = 384€.$$

As is usual with most tax measures, exemptions and special considerations are attached to the legislation, as follows:

1. There are exemptions for the electricity bill for communal areas of apartments and hotels (only communal areas) and for agriculture and industrial buildings.
2. Unemployed persons, disabled persons (a disability rate of more than 80 percent, which is certified by a public hospital), and large families (more than 3 children younger than 18 years) with a certain income level (less than 30,000€) are eligible for the lowest rate of 0.50€ per square meter, only if
   - The property is less than 120–200 square meters.
   - The property is located in non-affluent areas where property zone rates are less than 3,000€.
   - The property has an objective value less than 150,000€.
   - If a property owner resides in Greece, he or she must pay taxes on worldwide income. If a property owner does not reside in Greece, he or she pays taxes on only the property in Greece
   - The unemployed person is registered with OAED (Greek unemployment office) at least 12 months before the date that the electricity bill is issued, has received at least 6 of the 12 monthly subsidies, and has a declared income of 12,000€ or less on his or her 2010 tax filing.
   - The long-term unemployed person not collecting OAED subsidies must have a declared income of 12,000€ or less on his or her 2010 tax filing.
3. Other exemptions are for properties owned by charitable legal entities, sports clubs, certain religious organizations, as well as the Greek State.

Table 1. Greek Special Property Duty: Euro per square meter according to zone rate

Euro Per Square Meter	Zone Rate
3€	Up to 500 €
4€	501 -1,000 €
5€	1,001 -1,500 €
6€	1,501 -2,000 €
8€	2,001 – 2,500 €
10€	2,501 -3,000 €
12€	3,001 – 4,000 €
14€	4,001 – 5,000 €
16€	over 5,001 €
0.5€	Persons who are unemployed, have more than 3 children younger than 18 years, or are more than 80% disabled whose building is in rate zone 0–3,000€.

Table 2. Greek Special Property Duty: Age multiplier according to age of building

Age of Building (years)	Age Multiplier
<26	1
20–25	1.05
15–19	1.10
10–14	1.15
5–9	1.20
0–4	1.25
Despite the age of the building, for persons who are unemployed, have more than 3 children younger than 18 years, or are more than 80% disabled whose building is in rate zone 0–3,000€.	1

There are also procedures for correcting the size of the building, the only variable that can be easily contested. This adjustment requires the filing of a form along with the latest electric bill, a building permit or similar legitimate document, and a recent topographic survey.

Legal Challenges

Meanwhile, there have been many recent amendments to the collection procedure and, predictably, several legal challenges to the procedures and the tax itself. To refine the assessment procedure and to cope with the significant errors in the data used for the calculation of the new duty, the PPC and the other electricity suppliers will ask the municipalities to correct the data in their databases in collaboration with taxpayers. In the event that correction of the data results in excess duty payments, the excess paid will be used as a set-off to the next installments. Consideration is also being given to more installments being allowed for the duty that is to be billed and collected in 2012.

On the litigation front, there will be a hearing on December 2, before the highest Greek administrative court, on a challenge to the constitutionality of the new duty. The several grounds on which the constitutionality of this duty is being challenged are that it is contrary to the principles of proportionality (Article 25 of the Greek Constitution: "The rights of man as an individual and as a member of the society are guaranteed by the State and all agents of the State shall be obliged to ensure the unhindered exercise thereof"); equality (Article 4 of the Constitution: "All Greeks are equal before the law"); free development of the personality (Article 5 of the Constitution: "All persons shall have the right to develop freely their personality and to participate in the social, economic, and political life of the country, insofar as they do not infringe the rights of others or violate the Constitution and the good usages"); and that it offends human dignity (Article 2 of the Constitution: "Respect and protection of the value of the human being constitute the primary obligations of the State"). These provisions generally form the basis for constitutional attack of revenue measures.

Additionally, a civil court has issued a temporary injunction against the public utility and other electric service providers to prohibit cutting off electric service to a nonpaying taxpayer. The basis on which the injunction was issued was the discovery of significant errors in the calculation of the duty in the electricity bills regarding building areas, the zone value of properties, and the age of the buildings. The source of many of the inaccuracies has been found to be the data that the municipalities have transmitted to the electricity suppliers. Thess data were utilized to calculate the previously imposed municipal service tax. Due to the very low municipality tax (which was assessed on electricity bills and was computed in the same manner using the age, area, and zone value of the property), no taxpayer took the time to verify the data used to calculate the municipality tax even though it was listed on the electricity bills. Because the amounts of the new duty are significantly higher, more attention is being paid to the data and numerous errors are being found.

Finally another legal issue has recently been raised. The question presented is whether consumers can make separate deposits to the Deposits and Loans Fund in favor of the PPC and the other electricity suppliers in order to effectively pay the electricity bill without paying the new duty assessed with the electricity bill. Ancillary to such a question is whether the PPC and the other providers could then cut off the electric service. The Greek Council of State has ruled that the Deposits and Loans Fund should not accept such deposits since deposits authorized by its scope of operations refer only to claims/payments of private arrangements and in the specific case there is no authorization to accept any such other payments.

Time Will Tell

As utility bills began arriving in early November, the continued public opposition to austerity measures including new taxes had resulted in a collapse of the Greek Government and a formation of a new coalition government along with a new prime minister on November 11, 2011. There were still rumblings of civil disobedience regarding the new tax measure, and it was reported that sales of portable generators in the country were skyrocketing.

The newly formed government received a vote of confidence and immediately began discussing the 2012 budget. Although austerity measures have been implemented over the past two years, Greece's budget deficit in the first 10 months of 2011 widened 11 percent, to 20.1 billion Euros from 18.1 billion Euros a year earlier, according to preliminary figures. The new government is reportedly moving forward with further austerity measures, while unions have threatened a general strike when the 2012 budget is voted on in parliament.

Time will tell whether these efforts will work to meet Greece's deficit goals and increase public revenue. Time will also tell whether this and other austerity measures will be accepted by the Greek people. The two concepts are inexorably intertwined.

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