

Greek roots, global reach: structuring succession for a cross-border family

May 2025

CONFIDENTIAL



Factual background

Client profile:

- Principal is a **Greek national, French tax resident**, active in the **shipping industry** and **money market investments**;
- Family consists of **four children**:
 - Two are **Greek tax residents**
 - Two are **U.S. persons** (U.S. citizens or U.S. tax residents)

Planning Considerations:

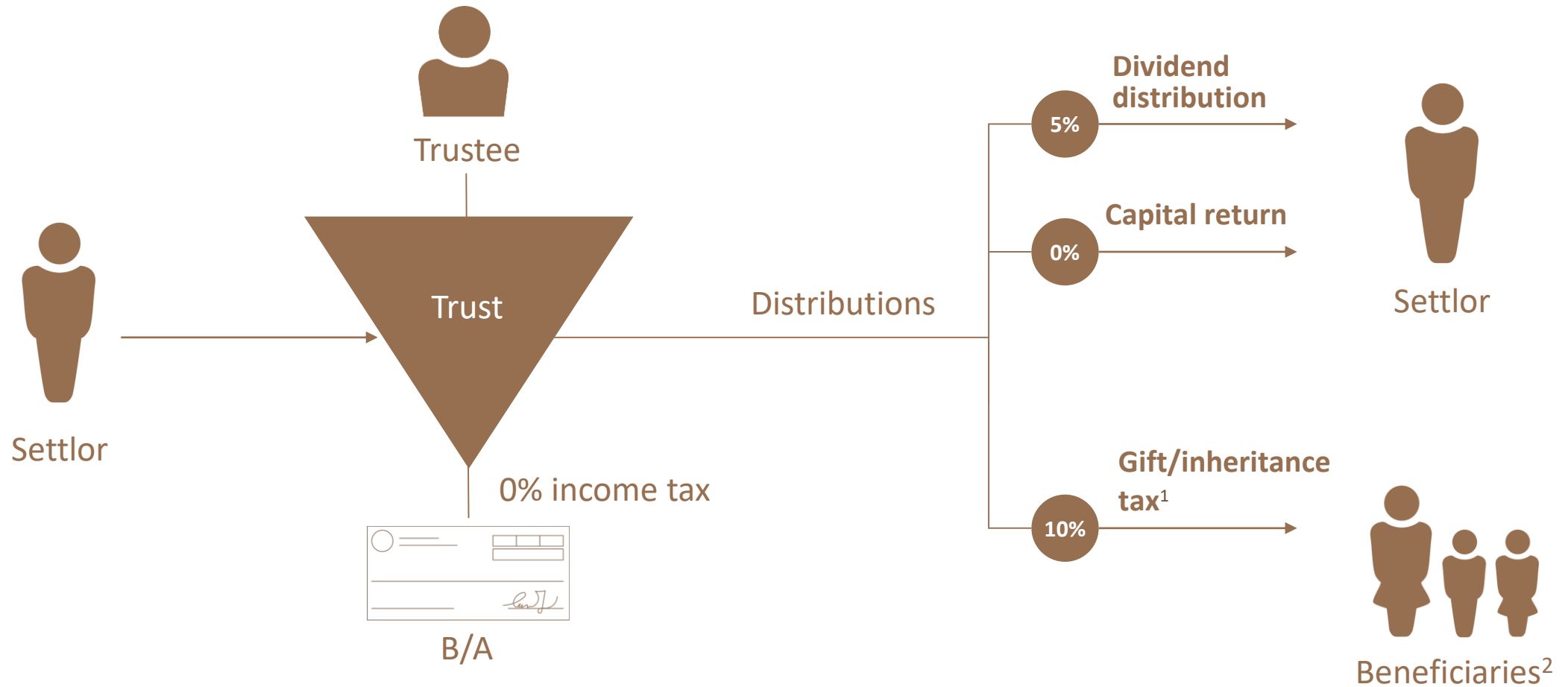
- The client is exploring the establishment of an inter vivos trust in Guernsey to hold the majority of their global assets;
- Remaining assets are intended to pass under a will governed by Greek succession law;
- Key jurisdictions involved: Greece, France, U.S., and Guernsey (UK as a stand-in for trust perspective).

Greece

Trust



Inter vivos trust



¹ Gift tax treatment is the same during the lifetime, as well as following demise of the settlor.

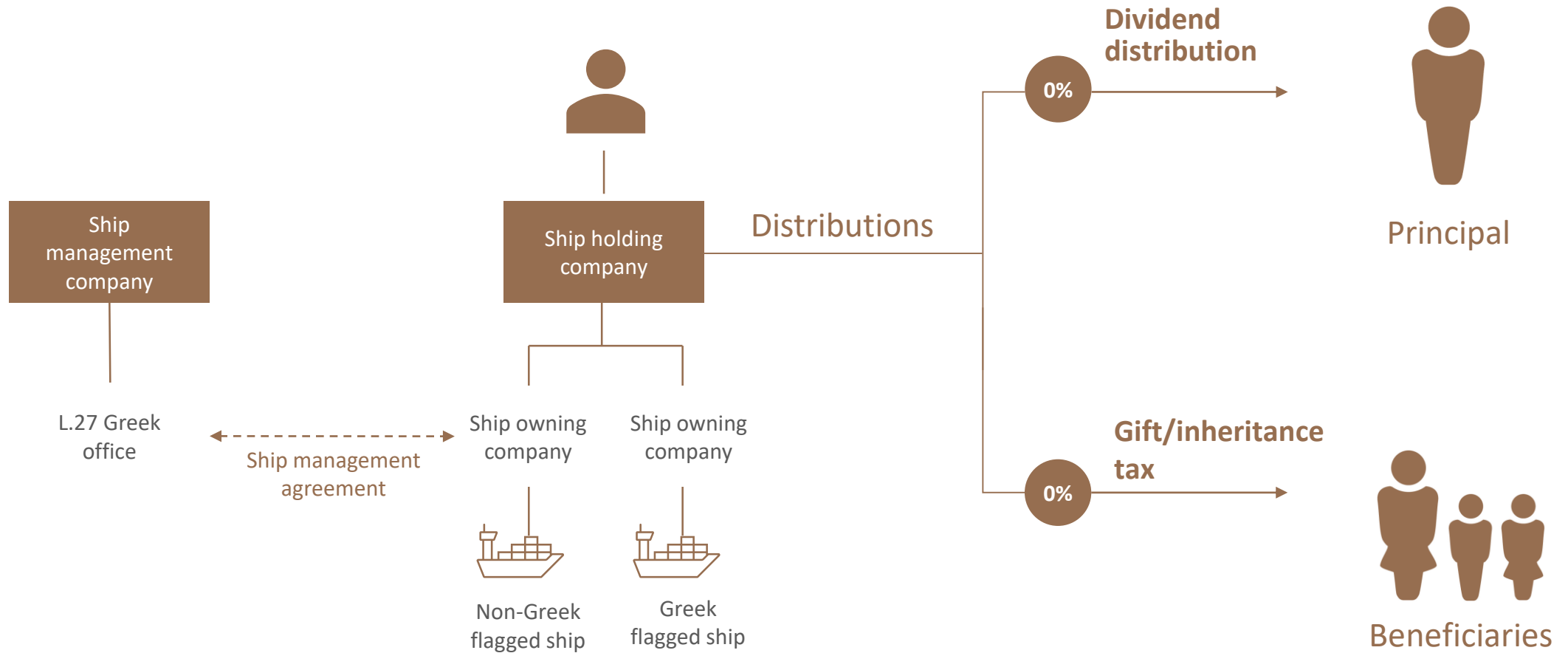
² Beneficiaries are assumed to be close relatives (spouses, children, grandchildren, parents) of the settlor.

Greece

Shipping



Tax treatment of shipping assets in Greece



France

Trust tax treatment



Transfer of Assets into a Trust: Tax Considerations

When a French tax resident transfers assets into a trust, the key question is whether this triggers a **taxable event under French law**, particularly in terms of **gift or inheritance tax**.

❖ *Revocable Trusts*

If the trust is **revocable**, French authorities and courts generally consider that the settlor **retains control and beneficial ownership** of the assets. As a result:

- There is **no legal transfer of ownership**,
- And therefore, **no gift or inheritance tax** is due at the time of the transfer into trust.

❖ *Irrevocable Trusts*

In the case of an **irrevocable trust**, the settlor no longer holds ownership or control over the assets. However:

- French practice tends to view such transfers as **indirect gifts**,
- But taxation is usually **deferred** until the assets are actually distributed to the beneficiaries.

Since the 2011 reform (Law no. 2011-900), **taxable events are typically triggered only at the time of termination**, not when assets are initially settled into the trust — unless the structure is deemed abusive

Taxation of Trust Distributions in France (for French Tax Residents)

Under **Article 120-9° of the FTC**, distributions from a foreign trust to a French tax resident beneficiary are, by default, taxed as **investment income**. This income is subject to the following taxes under the Flat Tax regime:

- ✓ **12.8%** personal income tax.
- ✓ **17.2%** social contributions.

Resulting in an overall taxation rate of **30%**. High-income taxpayers may additionally face the **Exceptional Contribution on High Income (CEHR)** or the newly introduced **Differential Contribution on High Income (CDHR)**, potentially raising the minimum effective taxation rate to **37.2%**.

If the trust is located in a jurisdiction classified by France as a **Non-Cooperative Jurisdiction (ETNC)**, the applicable tax rate drastically increases to **75%** (*Guernesey is not currently included on the French ETNC list*).

The updated list (as of 16 February 2024) includes:

Anguilla, Antigua and Barbuda, Bahamas, Belize, Fiji, Guam, Palau, Panama, Russia, Samoa, Seychelles, Trinidad and Tobago, Turks and Caicos Islands, U.S. Virgin Islands, Vanuatu, and others.

Taxation of Undistributed Trust Income – Article 123 bis of the FTC

The scope of **Article 123 bis** is **broad**, and it applies when a French tax resident holds, directly or indirectly, at least **10% of the financial rights in a foreign entity benefiting from a privileged tax regime**, provided the entity's assets are **primarily composed of financial or monetary investments**.

- ✓ The French tax authorities consider that **foreign trusts** fall within the scope of Article 123 bis.
- ✓ Guernsey may qualify as a **privileged tax regime country**.
- ❖ **Taxation trigger:** In such cases, the French resident is **taxed on the entity's profits, even if no distribution is made**.
- ❖ **Tax principle:** This is a shift from **distribution taxation** (upon receipt) to **accrual-based taxation** (as profits are earned) as investment income (Flat tax 30%).
 - ✓ **A 25% uplift** applies to the taxable base.
- ❖ **Exemption:** The taxpayer may escape Article 123 bis if they can **prove the absence of a tax avoidance intent**.

Inheritance tax *via* Trusts in France

Since the legislative reform of 2011, transfers made through a trust are governed by specific tax rules. These apply to:

- ✓ **Gifts**, and
- ✓ **Inheritance** events occurring **after 30 July 2011**.

❖ A “Look-through” Tax Approach

- ✓ France applies a **transparent approach**:
- ✓ Trusts are disregarded for tax purposes, and transfers are taxed **as if made directly between the settlor and the beneficiary**.
- The applicable **gift or inheritance tax rate** depends on the **family relationship** between them.

❖ 60% Inheritance Tax in Certain Cases

However, Article 792-0 bis, II-2 provides for a **flat 60% tax rate**, regardless of the relationship, in the following cases:

- ✓ The trust was created **after 11 May 2011** by a settlor who was **tax resident in France** at the time of creation;
- ✓ Or the **trustee is established in a Non-Cooperative Jurisdiction** (within the meaning of Article 238-0 A of the FTC).

⚠ If the **settlor dies while resident in France**, any assets transferred via the trust are **subject to inheritance tax at a 60% rate**, unless a more favourable regime applies.

❖ The 60% flat rate may be avoided if it can be demonstrated that the transmission:

- ✓ Respects the logic of a **standard inheritance**, and
- ✓ Involves a **clearly identified beneficiary** with **determined shares**.

This exception is not automatic and remains uncertain in practice: **limited guidance and case law**.

French Reporting Obligations for Trusts

French tax law imposes strict reporting obligations when a trust has a French nexus. A return is required **if any of the following are met**:

- ✓ The **settlor** is a **French tax resident**,
- ✓ At least one **beneficiary** is a **French tax resident**,
- ✓ The trust **holds assets located in France**, whether directly or indirectly (e.g. via real estate companies).

Trusts with a French nexus must comply with two key reporting obligations:

❖ Event Trust return

- ✓ Within **1 month** of creation, modification, or termination
- ✓ *Form 2181-TRUST1*

❖ Annual Declaration

- ✓ Due by **June 15th**, reporting asset values as of 1 January
- ✓ *Form 2181-TRUST2*

❖ Penalties:

- ✓ **€20.000 per failure**, per declaration
- ✓ **Joint liability**: trustee, settlor, and beneficiaries

Thank you

Established in 1893, Zepos & Yannopoulos is one of the leading and largest law firms in Greece providing comprehensive legal, tax and accounting services to companies conducting business in Greece.

All rights reserved. Neither part or whole of this presentation may be reproduced or transmitted in any form or by any means, or stored in any retrieval system of any nature without prior permission. Application for permission for other use of copyright material including permission to reproduce extracts in other published works shall be made to the publishers. Full acknowledgment of author, publisher and source must be given.
Nothing in this presentation shall be construed as legal advice. The presentation is necessarily generalised. Professional advice should therefore be sought before any action is undertaken based on this presentation.

CONFIDENTIAL

