

About this newsletter

CYPRUS proposes to adopt OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2017 Edition).

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Transfer pricing is one of the most important issues that multinational companies face. Transfer pricing controversies are a major tax issue for companies. Cyprus becomes the last country in Europe to implement transfer pricing rules in an era when base erosion and profit shifting (BEPS) issues are taking centre stage and new requirements on transfer pricing documentation are being implemented by governments. This Report summaries the proposed Transfer Pricing Features of the Cypriot Legislation 2021.

Transfer Pricing draft bill has been submitted to the Cyprus Parliament.

CYPRUS

1. Introduction

In June 2021, a bill was submitted to the House of Representatives for introducing legislative provisions to codify the transfer pricing (TP) regulatory regime in Cyprus. The transfer pricing rules are to be applied consistently with the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (hereinafter "OECD TPG").

The proposed legislation requires domestic and international transactions between associated persons to be in line (for tax purposes) with the "arm's length" principle, as mentioned in Article 9 of the OECD Model Tax Convention and as explained by the OECD TPG. Under the proposed Regulations, taxpayers have an obligation to prepare and maintain transfer pricing documentation. This documentation is intended to allow the tax administration to assess the arm's-length nature of intra- group transactions.

2. Documentation criteria and preparation

2.1 Taxpayers subject to this new requirement

The Regulations provide that this obligation is applicable for all transactions between related parties with certain exemptions. 'Related parties' shall have the meaning assigned to it in the Section 33, as amended, of the ITL. The parties that are obliged to prepare the TP documentation are persons that are tax resident in Cyprus, and foreign entities that operate through permanent establishments in Cyprus.

2.2 Documentation requirements

The documentation that must be prepared according to the Regulations are the Master File and the Local File.

2.2.1 Local File components

The taxpayers are obliged to prepare and maintain a Local File, if the intra-group transactions cumulatively per category amount to or should amount based on the arm's length principle, up to € 750,000 per tax year. The Regulations provide no guidance regarding the information to be included in the file but based on the OECD TPG, the Local File provides more detailed information relating to specific intercompany transactions. Such information would include relevant financial information regarding those specific transactions, a comparability analysis, and the selection and application of the most appropriate transfer pricing method.

2.2.2 Master File components

In contrast to the Local File, the Master File provides a high-level overview of the global business operations, including its overall transfer pricing policies and the allocation of income and profits of the MNE group business as a whole. The Regulations also clarified those entities that are part of multinational groups should have a Master File for the respective year, prepared by the ultimate parent entity (UPE) or another entity of the group, provided that the consolidated revenue exceeds € 750,000,000 in the preceding accounting year.

2.3. Preparation and submission

The documentation must be prepared within 12 months of the end of the tax year and shall be accompanied by a summary table of information and the latter shall be submitted electronically to the Tax Department no later than nine months after the end of the tax year. There is no obligation to submit the transfer pricing documentation to the tax authorities. The TP documentation should be kept by the taxpayer and provided to the tax authorities upon request. However, the documentation shall be submitted to the tax authorities within 60 days from the day of request. Additionally, it should be noted that the responsible entity is obliged to update all TP documentation if needed. The update shall be done within 12 months after the end of the tax year during which an update was necessary.

3. Advance Pricing Arrangements (APA's)

According to the said Regulation the taxpayers may submit to the Tax Commissioner an application for pre-approval of the arm's length methodology, for the pricing of specific or existing cross-border transactions with related persons. This procedure is known as an "Advance Pricing Agreement" (hereinafter "APAs").

4 Next Steps

The new TP legislation introduces significant new compliance obligations in Cyprus. The taxpayers that are involved in any transactions with related parties will need to review the new rules and take necessary steps to ensure they are able to comply with the new requirements. Companies have intragroup transactions cumulatively per category, up to € 750,000 per tax year need to review their filing and notification requirements. Companies that are members of Multinational groups will also need to review their filing and notification requirements in Cyprus.

** The information provided above is purely a courtesy guideline and should not be constituted as advice. Please contact us for an updated profile. Specialist advice may be sought*