



**K. TREPPIDES
& CO LTD**

Direct Taxation

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***Cyprus: New Transfer Pricing Rules and
Documentation Requirements as of 1 January 2022***

We would like to inform you that on the 30th of June 2022 the Cyprus Parliament passed a law introducing, for the first time, a comprehensive Transfer Pricing legislation (TP legislation) which is harmonized with the Organization for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

The new TP legislation was published into the Official Gazette of the Republic on 8 July 2022, and it is effective from 1 January 2022.

The new TP requirements, which can be found under s.33 of the Cypriot Income Tax Law (ITL) 2002, can be considered as an essential modification to the existing law. The importance of the implementation of these new transfer pricing requirements, becomes more noticeable if one takes into consideration that for almost two decades

the ITL under s.33, while defining the arm's length principle (ALP), it didn't provide a clear understanding on its practical effect, creating problems within the market.

Applicability

The new requirements apply to transactions between related parties. A more detailed definition as to what constitutes 'related parties' is now included in the new TP legislation with the intention to capture the situations where 'control' exists. This is essentially determined on a minimum of 25% participation threshold, i.e., direct, or indirect holding of 25% of the voting rights, the share capital, or the income.

Transactions involved

The new TP legislation now covers all types of transactions between related parties such as transactions related to sale and purchase of goods, provision and receipt of services, financing transactions, and transactions involving intellectual property (IP), such as licensing (royalty fee) and sale or purchase of IP.

TP Documentation requirements

Cyprus tax resident persons and permanent establishments of non-tax resident entities, now have the obligation, subject to certain conditions, to prepare a TP documentation file (Local and Master file) and a Summary Information Table (SIT) for transactions falling under the new TP legislation.

TP documentation file:

- **Local File**

This applies to all taxpayers subject to small size exemption (i.e., when the controlled transactions cumulatively, per category, do not exceed €750,000 per tax year).

The taxpayers have the obligation to prepare a transfer pricing local file which includes, financial information, detailed information relating to the intercompany transactions, explanation on how they comply with the ALP, a comparability analysis, a functional analysis, and the selection of the most appropriate TP method.

- **Master File**

This applies to taxpayers who act as either the Ultimate or Surrogate Parent Entities of a multinational enterprise (MNE) Group for Country-By-Country Reporting purposes (i.e., with group consolidated revenues exceeding €750 million).

The master file contains high level information relevant for all members of an MNE including its global business operations, its overall TP policies, the global allocation of income and economic activity.

Summary Information Table

This applies to all taxpayers. The table should contain general information about the group including the identity of the counterparties, respective values of the transactions and the jurisdiction of tax residency.

Deadlines

TP Documentation file (Local and Master file)

These need to be prepared by the Income Tax Return submission deadline for the relevant tax year and they need to be made available by the taxpayer at any time after the preparation deadline and submitted to the tax authorities upon request within 60 days.

Summary Information Table

The SIT shall be submitted to the tax authorities at the same time with the Income Tax Return.

Penalties for non-compliance

The Assessment and Collection of Taxes Law was amended to incorporate penalties for non-compliance with the newly introduced TP documentation requirements as per below:

TP Documentation file (Local and Master file)

- if the documentation is not made available to the Tax Commissioner within 60 days from the notification of a request, a penalty of €5,000 will apply.
- if the documentation is not made available from the sixty-first (61st) day until the ninetieth (90th) day a penalty of ten thousand euros (€10,000) will apply.
- if the documentation is not made available at all or made available after the ninetieth (90th) day, a penalty equal to twenty thousand euros (€20,000) will apply.

Summary Information Table

In case of late submission of the SIT, a five hundred euros (€500) penalty will apply.

Advance Pricing Agreement (APA)

The taxpayers have the option to agree in advance with the tax authorities the TP methodology for specific controlled transactions for a specific period based on the ALP. The tax authorities will accept or reject the request for the APA within 10 months of its submission, with the tax authorities having the right to extend the timeframe up to 24 months upon notification of the taxpayer. The APA may be valid for a period of up to 4 years.

For any further information and/or clarifications required on the way this significant change to the TP legislation will potentially impact your business please do not hesitate to contact our advisors from the Tax Department of K. Treppides & Co Ltd in Cyprus.



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