



Tax Department issues FAQs on Transfer Pricing

3 April 2023 - The Commissioner of Taxation has published on the website of the Tax Department updated Frequently Asked Questions (FAQs) with respect to Transfer Pricing (TP) and particularly on the application of Article 33 and Article 33C of the Income Tax Law, K.Δ.Π 273/2022 and K.Δ.Π 314/2022, which are in effect as from 1 January 2022.

Following our Tax Alert No. 159 Cyprus introduces all-new Transfer Pricing rules, the Commissioner of Taxation issued clarifications relating to the application of the transfer pricing regulations. As a reminder, we note that the Cyprus tax legislation was amended with effect as from 1 January 2022, introducing new Transfer Pricing documentation requirements (Master File, Local File and Summary Table) for Cyprus tax resident persons and permanent establishments of non-Cyprus tax resident persons situated in Cyprus that engage in domestic and/or cross-border transactions with related parties.

The FAQs on transfer pricing provide more clarity on the application of the exemption threshold for the preparation of a Local File, the preparation of the Summary Table and the updating of Transfer Pricing documentation.

Furthermore, an important clarification issued by the Commissioner of Taxation is on the abolition of the circular dated 30/06/2017 relating to the "Tax treatment of intra group back-to-back financing transactions", as from 1 January 2022. In essence, the Commissioner of Taxation confirmed that the documentation requirement and simplification measures included in the above-mentioned circular (including the 2,286% simplification margin on back to back financing arrangements), will not be applicable as from 1 January 2022. Instead, the general provisions of the income tax legislation and the newly introduced Transfer Pricing documentation requirements (and exemption thresholds) will apply from the tax year 2022 onwards, for transactions falling under the scope of the circular.

Since the new TP rules and the FAQs issued by the Commissioner of Taxation provide a clearer framework to taxpayers as to how they should be documenting their controlled transactions to support that they are adhering to the arm's length principle, taxpayers should begin planning with respect to their TP practices and methods, which will be documented under the new rules.

Failure to do so could result to the following:

- potential additional corporate tax liabilities
- increased tax audits
- material penalties
- adverse reputation



It is noted that since the new provisions specifically refer to OECD Guidelines, any TP study has to cross-reference those Guidelines. This effectively requires the engagement of highly qualified professionals on TP matters.

As always, the Department of Taxation of Costas Tsielepis & Co Ltd is at your disposal should you require any further information, clarifications or assistance with your transfer pricing challenges or any other tax-related matter.