



CUP method for transfer pricing purposes

21 July 2023 – The Commissioner of Taxation has taken the position that the most appropriate method for financing transactions for transfer pricing purposes is the Comparable Uncontrolled Price (CUP) method, effective from the tax year 2023 onwards.

The Commissioner issued his position in [Circular No 7/2023](#) on 7 July 2023.

The Circular notes that the CUP method, based on arm's length interest rates, is applicable to any taxpayer that:

- (a) engages in back-to-back loan financing arrangements; and
- (b) based on the conclusions of the functional and risk analysis (functions, assets and risks assumed), is characterised as a financing business which has the operational and financial capacity to assume the risks involved. The taxpayer must also be able to exercise control over the relevant risks and should have sufficient own funds to absorb potential losses in case any of the risks related with the financing transactions materialize

The Circular also states that the use of any other method by taxpayers which have the above profile will only be permitted in exceptional cases and following a pre-approval to be obtained through the normal ruling procedure.

In such cases, the following additional information should be provided:

- The reasons why the CUP method is less suitable or cannot be applied under the specific circumstances.
Taxpayers will still need to undertake and present a comparability analysis for interest rates to support their position that the CUP method based on interest rates leads to inappropriate results.
- Detailed analysis supporting the position that the proposed alternative method aligns with the arm's length principle, as defined in the OECD TP Guidelines, and leads to results which satisfy this principle.
- Conclusion as to why the alternative method proposed is considered to be more appropriate than the CUP method.

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 this or any other tax-related matter.