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Transfer Pricing Developments in Cyprus

HOW WE CAN HELP

Transfer Pricing (TP)

Transfer Pricing in the context of taxation refers to the rules and methods for setting the prices at which goods, services or property are exchanged between connected (i.e. related) parties. With the increase in cross-border trade and international transactions, TP has become a critical issue for businesses and governments around the world. In order to ensure compliance, governments have implemented TP regulations that require enterprises to document and justify the prices they use for their transactions with connected parties.

The Arm's Length Principle ('ALP')

The ALP is a widely accepted international standard for determining the appropriate transfer prices of transactions between connected parties. In other words, the transfer prices of goods, services or property between connected parties should reflect the transfer price that would have been agreed upon, as if such parties were acting independently with each other and in their self-interest.

The ALP is codified in the tax laws of many countries and is also reflected in the guidelines and recommendations of organizations such as the Organisation for Economic Cooperation and Development ('OECD'). In Cyprus, the ALP is governed by Article 33 of the Income Tax Law ('ITL').

Article 33 of the ITL

More specifically, Article 33 of the ITL states that:

"Where;
(a) An enterprise participates directly or indirectly in the management or control or capital of an enterprise of another person; or
(b) The same persons participate directly or indirectly in the management, control or capital of two or more enterprises; and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly".

Transfer Pricing Requirements in Cyprus

The notion of the arm's length principle has existed in the Cypriot tax legislation for several years; however, Cyprus introduced its first Transfer Pricing ('TP') documentation requirements only for certain types of transactions in 2017. Such transactions included the following:

i. On-lending financing activities (otherwise known as 'back-to-back' financing). Such a requirement was imposed by a circular (EE 2017 03) issued by the Cypriot tax department on June 30th 2017. The circular applies until December 31st 2021, and has been terminated following the introduction of the new TP rules as of January 1st 2022 (please see below);

ii. The determination of the Intellectual Property ('IP') income derived from the use of a qualifying IP asset, which is embedded in the sale of goods or services. Such a requirement was imposed by a circular (EE 2017 04) issued by the Cypriot tax department on March 22nd 2017.

What's New with TP in Cyprus?

In line with international tax developments, Cyprus has introduced a broader set of TP rules and documentation requirements. Specifically, as of **January 1st 2022**, Cypriot taxpayers have the obligation to prepare and maintain a TP documentation file for their controlled (i.e., related party) transactions. The TP documentation consists of a '**Master File**' and a '**Cyprus Local file**'.

In effect, the **new TP rules** capture all transactions between connected parties in excess of €750,000 per tax/ financial year and category of transaction. Heavy penalties may be imposed in cases of non-compliance.

The new rules have also introduced the following:

i Advance Pricing Agreement ("APA") procedure

The possibility to apply for an Advance Pricing Agreement ('APA'), effectively allowing taxpayers to obtain a pre-approval (unilateral, bilateral or multilateral) from the tax authorities in relation to their pricing methodologies;

ii Summary Information Table ('SIT')

The Summary Information Table ('SIT'), which mandates taxpayers to include specific high-level information about their controlled transactions during a tax year.

What's Next?

As the tax landscape continues to evolve and become more complex, it is increasingly essential for taxpayers to keep up-to-date and compliant with the latest developments. Transfer Pricing has certainly absorbed all the attention, and it is undoubtedly one of the 'hottest topics' in the international tax arena. By staying informed and taking a proactive approach to TP compliance, taxpayers can help mitigate the risk of disputes and avoid potential penalties.

At SPL, we understand that TP analysis can be a complex area with significant implications for our client's business. Thus, we highly recommend that our clients perform a TP impact assessment and ensure compliance with the new rules. Our tax team can assist you in understanding the latest developments in the tax landscape, assess the potential impact on your business, and develop strategies to ensure compliance and minimize risk.

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