

HELLENIC REPUBLIC

TRANSFER PRICING PROFILE

1. Reference to the Arm's Length Principle

Direct reference to the Arm's Length Principle is provided for by:

Income Tax Code: Law 2238/1994, article 39 par.1 for the financial year that begins from 1/1/2012 and onwards as well as for over-twelve month accounting period that begins before 1/1/2012 and ends on 31/12/2013 and after.

Income Tax Code: Law 4172/2013, article 50 par.1 from the fiscal year that begins on 1/1/2014 and after.

2. Reference to the OECD Transfer Pricing Guidelines

Direct reference to the OECD Transfer Pricing Guidelines is provided for by:

Income Tax Code: Law 2238/1994, article 39 par.5 for the financial year that begins from 1/1/2012 and onwards as well as for over-twelve month accounting period that begins before 1/1/2012 and ends on 31/12/2013 and after.

Income Tax Code: Law 4172/2013, article 50 par. 2 from the fiscal year that begins on 1/1/2014 and after.

3. Definition of related parties

The definition of related parties is provided for by:

Income Tax Code: Law 2238/1994, article 39 par.2 for the financial year that begins from 1/1/2012 and onwards as well as for over-twelve month accounting period that begins before 1/1/2012 and ends on 31/12/2013 and after.

Income Tax Code: Law 4172/2013, 7th dash of article 2 from the fiscal year that begins on 1/1/2014.

4. Transfer pricing methods

The Decision POL. 1097/9.4.2014 of the General Secretary for Public Revenue, as in force, provides for the priority of the traditional OECD TP Methods (Comparable Uncontrolled Price Method, Resale Price Method, Cost plus Method) for determining transfer prices. Traditional transaction methods are regarded as the most direct means of establishing, whether conditions in the commercial and financial relations between associated enterprises are arm's length.

Transactional profit methods can also be used under specific circumstances, i.e. if the traditional transaction methods cannot be applied reliably. In particular, where there is no or limited available

reliable comparable data, traditional transaction methods might be difficult to apply and a transactional profit method might be the most appropriate method in view of the availability of information.

5. Transfer pricing documentation requirements

Greece follows the three-tiered standardised approach to transfer pricing documentation.

Income Tax Code: Law 2238/1994, article 39A par.3, 4, 5, 6 for the financial year that begins from 1/1/2012 and onwards, as well as for over-twelve month accounting period that begins before 1/1/2012 and ends on 31/12/2013 and after.

Tax Procedure Code: Law 4174/2013, article 21 par. 1, 2, 3, 4, 5 from the fiscal year that begins on 1/1/2014.

Implementation of the Code of Conduct on Transfer Pricing Documentation for associated enterprises in the European Union (EU TPD). Under the provisions of Tax Procedure Code, our internal legislation is harmonized with the Code of Conduct on Transfer Pricing Documentation.

Law 2238/1994 as well as Law 4174/2013 explicitly establish an obligation for Greek associated enterprises, branches of foreign enterprises to prepare Transfer Pricing Documentation for their intra-group transactions. There is an exemption from the documentation for certain transactions based on criteria such as the volume of transactions and the turnover. The TP Documentation File follows those referred in the EU Code of Conduct and consists of the master file and the Greek documentation file which supplement the master file and contains additional information, with regard to the Greek enterprises of the group. The transfer pricing documentation obligation applies also to permanent establishments that maintain in Greece foreign enterprises members of multinational groups.

Finally, Greece imposes the filing obligation for a CbC Report on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Greece in respect of fiscal years commencing on or after 1 January 2016. The provisions of Law 4484/2017 and Law 4490/2017 as well as the Decision of the Governor of the Independent Authority for Public Revenue (IAPR) POL 1184/22.11.2017 make reference to the exchange of CbC Reports.

6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

According to Income Tax Code, Law 2238/1994, article 39B par.3, for the financial year that begins from 1/1/2012 and onwards as well as for over-twelve month accounting period that begins before 1/1/2012 and ends on 31/12/2013 and after, enterprises which do not abide by the Arm's Length Principle, according to the provisions of article 39 par.1, are subject to administrative penalties of Law 2523/1997.

- In case of late filling of Summary Information Table of article 39A par.4 of Income Tax Code, Law 2238/1994, a separate fine is imposed, according to the provisions of article 4 par.5 of Law 2523/1997. The aforementioned fine is calculated at the rate of one thousandth (1/1000) of the reported gross revenues and shall not be less than one thousand (1.000) Euros and more than ten thousand (10.000) Euros.

- In case of non-filing of Summary Information Table or non submission of TP Documentation File of article 39A par.4 of Income Tax Code, Law 2238/1994, a separate fine is imposed, according to the provisions of article 4 par.6 of Law 2523/1997. The aforementioned fine is calculated at the rate of 1/100 of the reported gross revenues and shall not be less than ten thousand (10.000) Euros and more than one hundred thousand (100.000) Euros.

From the fiscal year that begins on 1/1/2014, according to the provisions of article 56 of Tax Procedure Code (Law 4174/2013) the aforementioned fines have as follows:

- In case of late filing or inaccurate/incomplete filing of the Summary Information Table, a fine shall be imposed amounting to one thousandth (1/1000) of the transactions of the taxable person for which there was an obligation for documentation. This fine may not be lower than five hundred (500) Euros nor higher than two thousand (2.000) Euros. In case of late filing of an amending Summary Information Table, the said fine shall be imposed only if there are changes in the amounts of the transactions and the overall differences are above two hundred thousand (200.000) Euros. In case of inaccurate filing of the Summary Information Table, the said fine shall be calculated based on the amounts related to the inaccuracy and shall be imposed only if such inaccuracy is higher than 10% of the overall transactions for which there was an obligation for documentation. In case the Summary Information Table is not filed, a fine shall be imposed amounting to one thousandth (1/1000) of the transactions for which there was an obligation for documentation, which may not be lower than two thousand five hundred (2.500) Euros nor higher than ten thousand (10.000) Euros.

- In case the TP Documentation File is made available to the Tax Administration from the thirty – first (31st) day from the notification of a relevant invitation until the sixtieth (60th) day, a fine equal to five thousand (5.000) Euros shall be imposed. If it is made available from the sixty first (61st) day until the ninetieth (90th) day, a fine equal to ten thousand (10.000) Euros shall be imposed, while if it is not made available at all or if it is made available after the ninetieth (90th) day, a fine equal to twenty thousand (20.000) Euros shall be imposed.

It is noted that according to the provisions of article 54 par.3 of Tax Procedure Code, if it is discovered in the context of an audit that the same violation has been committed again, within five years from the issuance of the initial act, the aforementioned fines shall be doubled, and if the same violation is committed again at any time, the fines imposed shall be four times the original fine.

Regarding Country-by- Country Reporting, in case of not filing, a fine shall be imposed amounting to twenty thousand (20.000) Euros, while in case of late filing or inaccurate/incomplete filing of Country-by-Country Report, a fine shall be imposed amounting to ten thousand (10.000) Euros.

7. Information for Small and Medium Enterprises on TP

Small and Medium Enterprises with one or more associated enterprises are exempted from the obligation to keep TP Documentation Files in the following cases:

a) when the intercompany transactions or transfer of operations do not exceed one hundred thousand (100.000) Euros per tax year in total, where the turnover of the taxable person does not exceed five million (5.000.000) Euros per tax year, or

b) when the intercompany transactions or transfer of operations do not exceed two hundred thousand (200.000) Euros per tax year in total, where the turnover of the taxable person exceeds five million (5.000.000) Euros per tax year.

8. Information on dispute resolution

Competent Authority for Transfer Pricing	Independent Authority for Public Revenue (IAPR) General Directorate of Tax Administration Directorate of Audits
MAP cases and APA	Special Tax Audits Section 10, Karageorgi Servias str. 101 84 Athens Greece Tel: +30 210 3375219 Fax: +30 210 3375354 e-mail: d.eleg4@aade.gr
Domestic guidelines & administrative arrangements	MAP: Tax Procedure Code: Law 4174/2013, article 63A IAPR Governor's Decision POL 1049/2017 and 1129/2017 APA: Tax Procedure Code: Law 4174/2013, article 22. Decision POL 1284/31.12.2013 of the General Secretary for Public Revenue.
User fees	APA: -One thousand (1.000) Euros for the submission of the application for preliminary consultation. -Five thousand (5.000) Euros for the submission of the application for an Advance Pricing Agreement. -In case of a request for consultation with foreign tax authorities, ten thousand (10.000) Euros for the consultations with each country involved.
Other dispute resolution mechanisms	The EU Arbitration Convention. Arbitration procedure under DTCs.

Dispute resolution under the Arbitration Convention may not be initiated and may be suspended if one of the enterprises involved is subject to a "serious penalty" for the transactions giving rise to the profit adjustment (article 8).

According to the unilateral Declaration of Greece on article 8 of the EU Arbitration Convention (*Official Journal of the European Union, C 160, 30/06/2005, p. 0011 – 0022*): "The term "serious penalties" includes administrative penalties for serious tax infringements, as well as criminal penalties for offences committed with respect to the tax laws in accordance with the relevant provisions of the Code of Books and Records, of the Income Tax Code, as well as all specific provisions which define the administrative and criminal penalties in tax law."

9. Relevant regulations on Advance Pricing Arrangements

Decision POL 1284/31.12.2013 of the General Secretary for Public Revenue describes in detail the APA procedure.

10. Links to relevant government websites

<https://www.aade.gr/epicheireseis/phorologikes-yperesies/eisodema/endoomilikes-synallages>

11. Other relevant information

According to the provisions of article 12 of Law 4170/2013, the presence in administrative offices and enquiries is allowed. In contrast, there are not legal provisions allowing the interview of individuals or the examination of records. Furthermore, there are not legal provisions allowing to perform downward adjustments as a result of a coordinated transfer pricing control.