

CYPRUS

TRANSFER PRICING PROFILE

1. Reference to the Arm's Length Principle

Income Tax Law (Art. 33 Law No.118(I)/2002)

2. Reference to the OECD Transfer Pricing Guidelines

No specific legal provision. In practice OECD Transfer Pricing Guidelines are followed.

3. Definition of related parties

Art.33 Law 118(I)/2002 defines related and connected parties:

- (a) a business in the Republic participates directly or indirectly in the management, control or capital of a business of another person; or
- (b) the same persons participate directly or indirectly in the management, control or capital of two or more businesses
- (c) An individual is connected with another individual if the first individual is the spouse or relative of the second individual, or the spouse of a relative of the second individual, or relative of the husband or wife of the second individual;
- (d) a person is connected with any person with whom he is in partnership, and with the husband or wife or relative of any individual with whom he is in partnership;
- (e) a company is connected with another company –
 - (i) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or
 - (ii) if a group of two or more persons has control of each company, and the groups either consist of the same persons, or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected;
- (f) a company is connected with another person if that person has control of it or if that person and persons connected with him together have control of it;
- (g) any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

Per Art. 33–

- (a) "control", in relation to a company, means the power of a person to secure –
 - (i) by means of the holding of shares or the possession of voting power in or with relation to that or any other company, or
 - (ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first-mentioned company are conducted in accordance with the wishes of that person, and,
- (b) "control", in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one half of the income of the partnership;
- (g) "relative" means spouse and individual up to the third degree of kindred whether married or unmarried.

4. Transfer pricing methods

TP Methods as per OECD Transfer Pricing Guidelines: Comparable Uncontrolled Price, Resale Price, Cost Plus, Transactional Net Margin and Transactional Profit Split Methods.

5. Transfer pricing documentation requirements

No specific legal requirements. No specific administrative requirements. Generally per legal framework burden of proof is on taxpayer therefore adequate documentation that can prove application of the Arms Length Principle must be available.

Implementation of the Code of Conduct on Transfer Pricing documentation for associated enterprises in the European Union (EU TPD) - summary of Member States' responses to the 2013 JTPF questionnaire on the implementation of the EU TPD:

https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/jtpf/2013/summary-ms.pdf

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

No specific regulations-general provisions apply.

7. Information for Small and Medium Enterprises on TP

Information relevant for SMEs in tackling transfer pricing matters is available on the JTPF webpage at: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/profile-cy.pdf

8. Information on dispute resolution

Dispute resolution under the Arbitration Convention does not need to 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).

Declaration by Cyprus (*Official Journal C 160, 30/06/2005 P. 0011 – 0022*)

"The term "serious penalty" includes penalties for:

- (a) fraudulently or wilfully making or submitting a false statement, return, document or declaration in respect of income or claims to any allowances or deductions;
- (b) fraudulently or wilfully submitting false accounts;
- (c) refusing, failing or neglecting to submit a tax return;
- (d) refusing, failing or neglecting to keep proper records or to make documents and records available for inspection;
- (e) aiding, assisting, counseling, inciting or inducing a person to make, deliver or furnish any return, statement, claim, accounts or document, or to keep or prepare any accounts or documents, which is or are materially false.

The legislative provisions governing the abovementioned penalties are included in the Assessment and Collection of Taxes Laws (Law No. 4/1978 as amended)

9. Relevant regulations on Advance Pricing Arrangements

Currently No APAs but this may change in the near future through legislation.

10. Links to relevant government websites

www.mof.gov.cy/ird

11. Other relevant information

Secondary and compensating year-end adjustments may result in double taxation. Two questionnaires launched by the EU Joint Transfer Pricing Forum (JTPF) in 2011 took stock of the situation prevailing in each EU Member State with respect to secondary and compensating year-end adjustments as on 1 July 2011.

[Secondary Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

[Compensating/year-end Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

Concerning implementation of Directive 2011/16/EU Legal provisions exist allowing the passive presence of visiting foreign officials in administrative offices and administrative enquiries (Art.9(1a) and 9(1b) of Law205(I)/2012)

Cross border transfer pricing adjustments may be made under the MAP (Mutual Agreement Procedure).

There are No legal provisions allowing downward adjustments as a result of a coordinated transfer pricing control.