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## **GREECE TRANSFER PRICING OBLIGATIONS 2016**



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# GREECE

## TRANSFER PRICING OBLIGATIONS

### 2016

#### *1. General*

**General** Greece has recently adopted the OECD Guidelines and the new ITC explicitly refers to OECD Guidelines as far as the interpretation and application of its provisions relating to inter-company transactions. Moreover, intra-group transactions should follow the arm's length principle when carried out cross-border or domestically, under different economic or commercial conditions from those that would apply between non-associated third parties. Any profits which would have been derived by a domestic entity but were not derived due to the application of those "different economic or commercial conditions", will be included in the taxable income of the local company, only to the extent that such income does not decrease the amount of tax paid.

Transfer pricing is regulated by the articles 2, 50, 51 of the Greek Income Tax Code (law 4172/2014), by the articles 21, 22 and 56 of the Greek Tax Procedure Code (law 4174/2014) and by explanatory circulars related to the above mentioned laws.

#### *2. "Related parties" definition*

**Related parties**

"Related parties" is defined as:

- two or more persons, if any of these persons, directly or indirectly, holds shares or equity of at least 33% (based on the value or number of the shares), or holds rights to profits or any voting rights, in the other person; or
- Any person who controls or exercises, or is able to exercise, dominant influence over another person, or two persons that are thus controlled by a third party.
- The holding percentage of an indirect participation is calculated by multiplying the holding percentages of each tier.

**Who is liable**

All legal entities and joint ventures must comply with transfer pricing documentation requirements regarding any transactions with related parties. Individuals and exempt legal entities are not obliged to comply with the transfer pricing documentation requirements regarding related party transactions. Foreign legal entities which are tax residents of a country with

which Greece has a tax treaty in effect, deriving income from immovable property located in Greece, must comply with the transfer pricing documentation requirements, whether or not a permanent establishment is maintained in Greece

Dividends paid to shareholders, and remuneration paid to members of boards of directors, are not considered as inter-company transactions between related parties.

### *3. Obligations*

Domestic legal entities (connected) and permanent foreign business establishments in Greece are required to keep transfer pricing documentation file for intra-group transactions according to the provisions (article 21) of Greek Tax Procedure Code. A transfer pricing documentation file must be prepared and a summary information sheet must be submitted electronically to the Greek tax authorities. The two obligations apply to all inter-company transactions for both Greek entities and permanent establishments, Branches of foreign companies in Greece unless the value of all transactions does not exceed the amount of 100.000 euros in total or the amount of 200.000 euros in total where the gross revenues of the corresponding financial year of the Greek entity exceeds the ceiling of 5.000.000 €. If these thresholds are exceeded, all inter-company transactions for each affiliated entity should be documented.

### *4. Transfer pricing documentation*

#### *Files for intra-group documentation*

The documentation file for intra-group transactions consists of two parts, the "basic documentation" file and the "Greek documentation" file, which is complementary to the basic file and contains additional information. The main documentation file -in case of a group- is common for all the companies within the group and contains common standard information for the liable legal entity, its permanent establishments and its affiliate companies. The Greek documentation file provides evidence for the liable legal entity and for the transactions which have to be documented. The exact content of both folders is specified in Circular POL 1144/2014.

### *5. Basic documentation file content*

#### *Basic documentation file*

- a general description of the activities undertaken and the strategy of the liable legal entity (parent company), including any changes that took place in comparison with the previous tax year
- a general description, in case of a group, of its organisational, operational, and legal structure, including an organisational plan, a list with its members including its permanent establishments, a description of the relation between these legal

entities, and any changes in the ownership of intangible assets, in financial transactions, in the tax results of the group in comparison with the previous tax year.

- A general description of the affiliated entities or their permanent establishments involved in the transactions which need to be documented.
- A general description of the transactions which need to be documented and in which the affiliated entities are involved, thus a general description of: a) the nature of the transactions (sale of goods, services, financial transactions, intangible assets, etc.), b) the flow of invoices, c) the amount of the transactions
- A general description of the ongoing functions, the risks undertaken, the changes that might occur in the functions and the risks in relation to the previous tax year.
- The ownership of intangible assets (patents, trademarks, trade-names, know-how) and the payment or collection of royalties.
- A description of its payment policy explaining the compliance with the arm's length principle in the intra-group transactions
- A list of cost contribution agreements, decision for pre-approval of the methodology for intra-group pricing and court decisions concerning the members of the group in relation to the pricing of their intra-group transactions.
- Description of the transactions carries out within the tax year with person with which the liable was connected or with which their connections was interrupted within the same tax year, before their connection or after the disconnections in order to obtain the possibility to be used as comparable elements.

## 6. Greek documentation file content

### *Greek documentation file*

The Greek documentation file specifies the functions and risks undertaken by the company in question both within the group and the development of its activities outside the group. More specifically the necessary documentation is:

- A detailed description of the liable entity and its strategy including all the changes that took place in comparison with the previous tax year.
- Detailed description of the transactions to be documented including: a) the nature of the transactions (sale of goods, services, financial transactions, intangible assets, etc.), b) the flow of invoices, c) the amount of the transactions, d) description of the extraordinary charges or facts, including those resulting from the transfer of functions as described in article 51 of law 4172/2013, e) In case of sale/purchase or transfer of intangible assets to or from

an affiliate entity, additional information (in relation to these transactions) for the compliance with the arm's length principle, ie. the price to which an independent person would be willing to acquire the intangible asset in question under comparable conditions, taking into account the expected benefits and the utility for his enterprise.

- A comparative analysis, namely: a) Characteristics of the assets and functions, and information related to internal or/and external comparative elements, if available. Specific factors should be taken into accounts in order to justify the comparability of the intangible assets and the price according to the arm's length principle, such as: the expected benefits, geographical restrictions, transfer of exclusivity rights or not, participation of the acquirer in future developments, b) operational analysis (ongoing functions, assets used, business risks), c) contract terms, d) economic conditions, e) special strategies of the business.
- Explanation for the selection and the methods used for the definition of intra-group transaction prices.
- Description of the policy implementation of the liable person in relation to the intra-group transfer prices.
- Commitment of the liable person to provide any supplementary information in relation to the intra-group transactions, upon request of the Tax Authority and within reasonable time, especially in the vase of a tax audit.
- Reasoning of the method of calculating the adjustment, when the liable readjusts his taxable profits in order to comply with the arm's length principle.
- Description and detailed reasoning of any adjustments made to achieve comparability.
- Additional information for transactions with affiliate persons established or with their tax residence in countries non-cooperative on tax matters, which in case of the group will include any balance-sheet information and the income statements of the affiliated entities.
- Flow chart of the transactions, including the extraordinary ones.
- Copies of the contracts governing the transactions in question.

## 7. *Non-compliance*

*Inaccurate or incomplete documentation*

It should be borne in mind that the documentation file should be drawn up by the management of the business, while in case of compliance with inaccurate or incomplete documentation fines are imposed.

## 8. Deadlines

*Deadlines to  
prepare the file  
& obligation to  
keep the folder*

The documentation file (consisting of the mail file and the Greek file) is drawn up within 4 months from the end of the tax year and is submitted electronically to the Tax Administration within the same term. The documentation file is kept at the premises of the liable person during the entire period for which there is an obligation to keep books and records of the relevant tax year. The taxable person shall update the folder until the end of the tax year in which the above change takes place. Notwithstanding the above, the documentation file can be used for the next tax year, if updated, incorporating all the necessary changes.

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