



Advance Tax Rulings issuance by the Commissioner of Taxation on Direct Tax matters

Introduction to the ruling process

The administration and enforcement of the tax legislation in Cyprus is the responsibility of the Commissioner of Taxation, who heads the [Tax Department](#), a Department within the [Ministry of Finance](#).

An advance ruling system on the interpretation of law was introduced in 2004 and is used extensively by an increasing number of taxpayers. Taxpayers may apply to the Commissioner for an advance tax ruling when they need to confirm their interpretation of certain provisions of the tax law.

Purpose of Tax Rulings and procedure for issuance

Advance tax rulings are issued by the Commissioner with respect to future transactions, or transactions for years for which the submission deadline of the income tax return has not lapsed.

As mentioned above, such requests for advance tax rulings should be submitted in writing confirming all relevant information of the taxpayer including:

- Full name and Tax Identification Code (TIC) of the relevant taxpayer and taxpayers involved in the transaction(s) along with the group name if exists.
- Confirmation as to whether the income tax returns for which the deadline has elapsed have been submitted
- The subject matter for which an advance tax ruling is requested
- Full disclosure of the facts and circumstances around the subject
- Detailed request for ruling
- Relevant extracts of the Tax Legislation and relevant case law, circulars or other practices of the Tax Department
- Justification of the interpretation of the applicant taxpayer

It should be noted that the Tax Department may request further information, evidence and/or clarifications with respect to the subject matter which are expected to be provided within a reasonable timeframe, without which the Tax Department may delay the issuance of the Tax Ruling.

Taxpayers may receive an advance tax ruling/reply which extends to matters that have not been specifically requested in their ruling request/application, but these may have been considered relevant and necessary to be clarified by the Tax Department irrespectively.

Effect of the Advance Tax Rulings

An advance tax ruling issued by the Commissioner binds the Tax Department, as long as:

- all facts are accurate, and no relevant facts have been left out, and
- no changes in tax policy have been adopted after the issuance of the ruling, affecting its application.

In case a change in the facts and circumstances described arises that may impact the ruling, the taxpayer should consider applying for an updated tax ruling.

Furthermore, an advance tax ruling is only relevant to the taxpayer who has applied for the tax ruling and the specific transactions to which it refers. The Commissioner retains the right to revoke or amend a tax ruling in case he identifies an omission/error in the assessment of the facts and circumstances, even after its issuance. Tax Rulings are generally not binding on the taxpayer or on the courts.

Administration fee

As provided in the Assessment and Collection of Taxes Law, the Council of Ministers may determine the fees for the issuance of advance direct tax rulings by the Commissioner through the issuance of a decree. As per the issued [Decree](#), (Κ.Δ.Π. 130/2016), the Council of Ministers has decided that the fee for the issuance of a direct tax ruling amounts to €1.000 and the relevant fee for the issuance of an expedited tax ruling amounts to €2.000. Expedited tax rulings are usually issued within 21 working days as per the relevant Circular [2016/13](#).

The obligation for payment of the admin. fees can be recorded by the taxpayers in their respective [Tax Portal](#) account under code (0911). Payment can be executed either via online banking or via [JCC Smart](#).

Exchange of information and means of submission

As per the amended Directive 2011/16/EE advance cross border rulings shall be exchanged between the Member States and the European Commission. In this respect, all tax ruling requests should be submitted together with a specific form T.D.219/2016 (both pdf and word format) completed and accompanied by the payment receipt of the fee prescribed above via email to the Tax Department, as clarified within the Circular 2016/13.

Deemed cross border ruling

A tax ruling is considered as a cross border ruling if all the below criteria are satisfied:

- a) Such ruling is issued, amended or renewed for a specific person or a group of persons and which can be referred by the specific person or group of persons and;
- b) a cross border arrangement is included (definition found below) or the activities in which a person relevant to the ruling in another jurisdiction is involved, create a permanent establishment outside Cyprus and;
- c) such ruling is issued prior to the transactions or activities taking place in another jurisdiction which may create a permanent establishment or is issued prior to the submission of the Income Tax Return of the period in which the arrangement or series of arrangements or activities and relates but is not restricted to:
 - Prospective investments
 - Rendering of services or sale(dispatch) of goods
 - Financing or use of tangible or intangible assets

Cross border arrangement

A cross border arrangement is considered an arrangement or a sequence of arrangements in which:

- a) Not all participants are tax residents in the jurisdiction which issued the Advance Tax Ruling, or;
- b) At least one of the parties is a tax resident in more than one jurisdiction, or;
- c) One or more parties exercised its activities in another jurisdiction through a permanent establishment and the specific arrangements form part of the activities of the permanent establishment or is the activity of the permanent establishment, or;
- d) An arrangement or series of arrangements which have cross border implications

Concluding remarks

In cases where the tax implications of a transaction are uncertain/subjective, obtaining a tax ruling is one of the most reliable ways to determine the potential tax consequences of the transaction.

Requesting specific guidance as to the treatment and interpretation of the Cyprus tax law will provide taxpayers with clarity and certainty on the application of the law before any tax consequences occur.

Last but not least, rulings can also lead to a reduction of legal disputes and to the improvement of the legal relationship between the tax administration and the taxpayers.

Author



Michalis Michaelides

Partner, Business Tax Services Leader

Tel: +357 22 360 719

Email: mmichaelides@deloitte.com

www.deloitte.com/cy/tax

© 2023 Deloitte Limited

This communication contains information which is confidential. It is exclusively to the intended recipient(s). If you are not the intended recipient(s), please: (1) notify the sender by forwarding this email and delete all copies from your system and (2) note that disclosure, distribution, copying or use of this communication is strictly prohibited. Any erroneous disclosure, distribution or copying of this email communications cannot be guaranteed to be secure or free from error or viruses.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, its global network of member firms, and their related entities (collectively, the "Deloitte organisation"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte & Touche (M.E.) LLP (DME) is the affiliate for the territories of the Middle East and Cyprus of Deloitte NSE LLP ("NSE"), a UK limited liability partnership and member firm of DTTL.

Deloitte Limited, a private limited liability company registered in Cyprus (Reg. No. 162812) is the sub-licensed affiliate of Deloitte NSE for Cyprus. Deloitte Limited is among the leading professional services firms in Cyprus, providing audit & assurance, consulting, financial advisory, risk advisory, tax and related services as well as a complete range of services to international business through over 750 people in Nicosia and Limassol. For more information, please visit www.deloitte.com/cy.

Offices: Nicosia, Limassol