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Greece Provides Guidance on Transfer Pricing Rules



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Greece's Finance Minister has issued a ministerial decision that provides guidance on the contents of the transfer pricing documentation file, the parties subject to the transfer pricing rules and exemptions therefrom, language requirements, transfer pricing documentation methods, and the content of the summary information table.

The new ministerial decision – POL 1097, issued 9 April 2014 -- is to a great extent similar to a previous decision (POL 1179/2013), which provided guidance and clarifications on Greek transfer pricing rules and documentation requirements under the previous tax regime (Income Tax Code - L.2238/1994). The older decision is still applicable for fiscal years ending on or before 31 December 2013.

Deadline for the submission of the Summary Information Table

According to the new ministerial decision, the deadline for submission of the summary information table (SIT) remains the end of the fourth month following the taxpayer's fiscal year end, in accordance with the provisions of art. 21 para.3 of Law 4174/2013.

The SIT may only be filed electronically on the webpage of the General Secretariat of Information Systems (GSIS) – www.gsis.gr – of the Greek Ministry of Finance.

Submission of the SIT requires the use of a special application (xml file), that is provided by the Ministry of Finance, and should meet the specifications set forth by the ministry in the new decision's appendix, also available on the GSIS website.

It should be noted that the SIT is attached to the Greek transfer pricing file and is filed electronically with the tax authorities merely for information purposes. The SIT should not be considered by any means complete and sufficient transfer pricing documentation that supports the compliance of the taxpayer's intragroup transactions with the arm's length principle.

Companies and transactions subject to documentation requirements

The new ministerial decision states that the intragroup transactions and transfer of functions entered into by domestic legal entities that fall under the scope of art.2 L.4172 (Greek sociétés anonymes, limited liability companies, private companies, cooperatives, associations, foundations, consortia, etc.), are subject to transfer pricing documentation requirements.

Exemptions from the transfer pricing documentation obligation are available in the following cases:

- Intragroup transactions or transfers of functions with one or more related parties not exceeding €100,000 annually and in total, provided the taxpayer's turnover during the fiscal year does not exceed €5,000,000.
- Intragroup transactions or transfers of functions with one or more related parties not exceeding €200,000 annually and in total, provided the taxpayer's turnover during the fiscal year exceeds €5,000,000.
- Commercial/industrial special purpose companies established under the provisions of Law 89/1967 are exempt from the transfer pricing documentation obligation because these companies already document their intercompany transactions through the preapproval of their cost plus method.

If the intercompany transactions or transfers of functions (in total and not per category of transaction or per counterparty) exceed the €100,000 €200,000 thresholds annually, then the documentation requirement is triggered for every separate intragroup transaction or transfer of function, irrespective of its value.

Transfer Pricing Documentation File

Under the Code of Tax Procedures, taxpayers must prepare the transfer pricing documentation file within four months following the end of their fiscal year. The transfer pricing file must be kept at the taxpayer's premises, according to the provisions of the Code of Tax Recording Transactions.

The transfer pricing documentation file must be made available to the tax authorities within 30 days following a request.

Special Chapter on Market Conditions Changes

An important provision of this ministerial decision is the newly enacted obligation to include a "special chapter" in the transfer pricing documentation file, whereby the taxpayer is required to describe all facts and events of the prior fiscal year that have an impact on the information and data included in the file and that are due to market conditions changes.

The taxpayer may use the existing transfer pricing documentation file to cover also the next fiscal year's transfer pricing documentation requirements, provided that file is updated and includes all necessary changes. The taxpayer must disclose all the sections of the existing documentation file that were updated with relation to the previous fiscal year.

The documentation file must be updated within four months following the end of the fiscal year.

Incomplete or Inadequate Documentation

Under POL 1097/9.4.2014, a transfer pricing documentation file will be considered incomplete or inadequate by the local tax authorities if, during the course of an audit, it is not possible for the auditor to verify the correctness of the calculations or the transfer pricing documentation methods used, even after additional information has been provided to the auditor.

When the documentation file is deemed incomplete or inadequate, a one-off penalty is calculated at the rate of 1 percent on the taxpayer's revenues during the fiscal year under review, including any adjustments to the taxpayer's profits. This penalty cannot be less than €10.000 or more than €100.000.

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