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Cyprus Tax News

Additional FAQs issued by the Cyprus Tax Department with respect to the Transfer Pricing Documentation rules

On 28 March 2024, the Cyprus Tax Department ("CTD") uploaded additional "Frequently Asked Questions" ("FAQs") on its website with respect to Transfer Pricing ("TP").

The FAQs provide further guidance on the TP Documentation rules that were introduced from tax year 2022 onwards.

The most recent questions addressed in the FAQs, are listed below. For FAQs #1 - #17, please refer to the relevant FAQs section on the website of the tax authorities. It is expected that the CTD will be adding more FAQs over time and thus it is recommended that taxpayers monitor the CTD FAQs section for any further clarifications that may be published.

New FAQs published on 28 March 2024:

18. **Should the sale of shares or other securities between related persons that fall under the definition of "titles" as per Article 2 of the Income Tax Law ("ITL") and Circular 2008/13 be reported in the Summary Information Table ("SIT") and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?**

    No.
    In this specific case only, such transactions shall NOT:

    a) be taken into account for the purposes of assessing whether the threshold of Article 33(7) of the ITL has been exceeded or

b) be reported in the SIT or

c) be documented in the Local File / or satisfy the minimum TP documentation (if applicable).

For the treatment of Trade Receivables and Other Receivables arising from such transactions, please refer to Questions 19, 20 and 21.

19. **Should balances of trading nature (i.e. Trade Receivables and Trade Payables) between related persons be reported in the SIT and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?**

No.
Such balances should not be reported in the SIT provided that the terms of such Trade Receivables and Trade Payables between two related parties do NOT differ from those which would be made between two independent parties and as such they are not considered to be of financing nature.

Trade Receivable or Trade Payable balances of trading nature (but not of financing nature) shall NOT:

a) be taken into account for the purposes of assessing whether the Local File threshold of Article 33(7) of the ITL is exceeded or

b) be reported in the SIT or

c) be documented in the Local File / or meet the minimum TP documentation (if applicable).

20. **Do Trade Receivable balances or Other Receivable balances (for example long outstanding balances) between related persons that are considered to be balances of financing nature (i.e. not of trading nature) have to be reported in the SIT and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?**

Yes.
Trade receivable balances or Other Receivable balances of financing nature shall:

a) be taken into account for the purposes of assessing whether the Local File threshold of Article 33(7) of the ITL is exceeded and

b) be reported in the SIT and

c) be documented in the Local File / meet the minimum TP documentation (if applicable).

21. **What amount needs to be reported in the SIT in relation to Trade Receivable or Other Receivable balances between related persons which are considered to be balances of financing nature?**

The maximum balance during the reported year of such Trade Receivable or Other Receivable balances shall be included in the SIT for the purposes of assessing whether the applicable Local File threshold of Article 33(7) of the ITL is exceeded.

22. **Qualifying Owners, Qualifying Charterers and Qualifying Ship Managers as per sections 6, 18 and 28 of the Merchant Shipping**

(Fees and Taxing Provisions) Law 44(I)/2010, as amended, engage in Qualifying Shipping Activities which are subject to tonnage tax.

Should controlled transactions arising from a Qualifying Shipping Activity that is subject to tonnage tax be reported in the SIT and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?

No.
The taxable Income arising from a qualifying shipping activity between two related persons who are both subject to tonnage tax shall NOT

a) be taken into account for the purposes of assessing whether the applicable Local File threshold of Article 33(7) of the ITL is exceeded or
b) be reported in the SIT or
c) be documented in the Local File / meet the minimum TP documentation (if applicable).

23. **Party A (Qualifying Owners, Qualifying Charterers and Qualifying Ship Managers as per sections 6, 18 and 28 of the Merchant Shipping (Fees and Taxing Provisions) Law 44(I)/2010, as amended) engages in a Qualifying Shipping Activity which is subject to tonnage tax.**

    Party B's activities are subject to Income Tax.

    Should controlled transactions arising from a Qualifying Shipping Activity between Party A and Party B (whose business income is subject to income) be reported in the SIT and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?

    Only Party B's income which is subject to Income Tax shall:

    a) be taken into account for the purposes of assessing whether the applicable Local File threshold of Article 33(7) of the ITL is exceeded or
    b) be reported in the SIT or
    c) be documented in the Local File / meet the minimum TP documentation (if applicable).

24. **Qualifying Owners, Qualifying Charterers and Qualifying Ship Managers as per sections 6, 18 and 28 of the Merchant Shipping (Fees and Taxing Provisions) Law 44(I)/2010, as amended, earn income from a Non-Qualifying Shipping Activity which is subject to Income tax.**

    Should controlled transactions arising from a Non-Qualifying Shipping Activity which is subject to Income tax be reported in the SIT and be taken into account for the purposes of assessing whether the applicable Local File threshold is exceeded?

    Yes.
    Any income generated from a controlled transaction in relation to a non-qualifying shipping activity by the Qualifying owners, Qualifying Charterers and Qualifying Ship managers as per the provisions of the Merchant Shipping Law 44(I)/2010, as amended shall:

a) be taken into account for the purposes of assessing whether the applicable Local File threshold of Article 33(7) of the ITL is exceeded and
b) be reported in the SIT and
c) be documented in the Local File / meet the minimum TP documentation (if applicable).

Deloitte Comments

The new FAQs provide additional guidance on matters such as how trade balances are treated for the purposes of the TP Documentation rules and completion of the SIT. In addition, they provide clarifications on the carving out of specific types of transactions, such as the sale of shares and other tax exempt securities, as well as shipping related activities subject to tonnage tax.

The above is also helpful for taxpayers who are preparing or will be preparing their SITs, Local Files and simplified TP Documentation (as applicable) in the coming months. As a reminder, taxpayers which have an obligation to prepare a SIT have been granted an extension until 30 November 2024 for the tax year 2022 to submit their corporate income tax return (TD4) and SIT, as well as to have their TP Documentation in place. Please see link to our previous tax alert, issued on the 23 February 2024, on this matter.

How can we help?

Deloitte Cyprus can assist clients with understanding the potential impact of the newly issued FAQs, as well as other relevant guidance, on their TP compliance requirements. Furthermore, we can assist with performing transfer pricing analysis, as well as preparation or review of TP Documentation and SITs, to ensure full compliance with the Cypriot TP legislation.

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