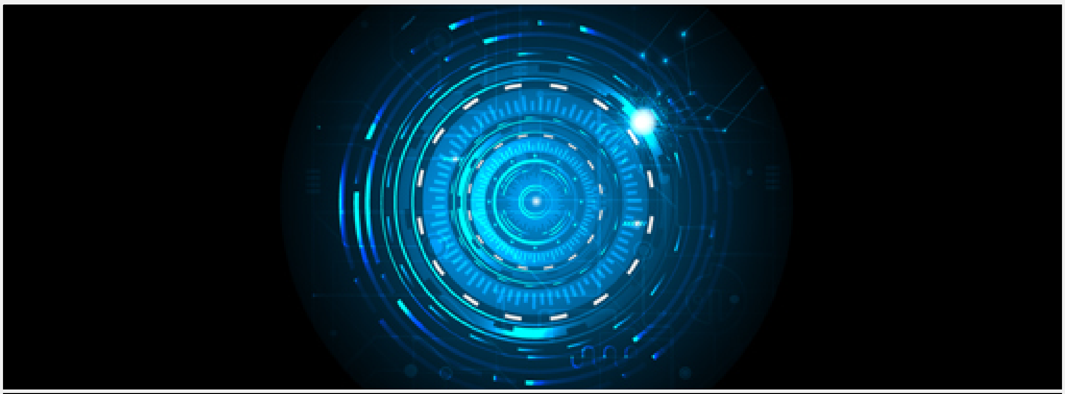

Irish Revenue release guidelines on low-value intragroup services

Global Transfer Pricing Alert 2018-009

The Irish Revenue issued **guidelines** in March on a simplified approach to low-value intragroup services, indicating that they are prepared to accept a 5 percent mark-up of the relevant costs without requiring a formal benchmarking study. The guidelines also set out the documentation requirements for taxpayers to avail themselves of this simplified approach.

Details

The guidelines set out what services constitute low-value intragroup services for purposes of the simplified regime. These are services that exhibit the following features:

- The services are of an administrative/routine nature, often consisting of back-office support services;
- The services are supportive in nature and not part of the multinational group's core business;
- The services do not use or create unique and valuable intangible assets; and
- The services do not involve significant risk for the service provider.

The guidelines state that there is no definitive list of services that can be considered to be low-value-adding in nature. The facts and circumstances must be considered on a case-by-case basis.

The guidelines also refer to Chapter VII of the 2010 OECD transfer pricing guidelines, which provide further guidance regarding intragroup services and the key considerations in analyzing intragroup services for transfer pricing purposes:

- Whether intragroup services have been rendered; and
- What the charge for such intragroup services should be in accordance with the arm's length principle.

In applying the benefit test to low-value intragroup services, Irish Revenue are prepared to accept the taxpayer's evidence of benefit by category of service, rather than requiring that the taxpayer specify individual activities performed that give rise to the costs charged. When no benefit is provided, Irish Revenue will not accept the charge as a deductible cost for corporation tax purposes in the hands of the recipient Irish company.

Irish Revenue consider the cost-based method as the most appropriate transfer pricing method once the cost base has been determined. A 5 percent mark-up on the relevant costs is acceptable without the need for a formal benchmarking study.

Certain supporting documentation is required that must clearly set out what services are provided or received when the simplified approach is adopted. The following information must be included in the documentation:

- A description of the low-value intragroup services provided/received;
- The identity of the service's recipient/provider;
- An explanation of why the services fall under the simplified approach;
- The rationale for the provision/receipt of such services;
- A description of the benefits of each category of services;
- Confirmation of the mark-up applied;
- Written contracts for the provision of the services and relevant amendments to those contracts;
- Calculation of the fee showing the calculation of the cost base, the application of relevant allocation key(s), and the mark-up applied;
- Confirmation that shareholder costs and duplicate costs are excluded from the cost base; and
- Confirmation that no mark-up has been applied to passthrough costs.

Irish Revenue also refer to the EU Joint Transfer Pricing Forum work on low-value-adding intragroup services, and note that the guidelines published by the EUJTPF represent good practices consistent with the guidance notes issued.

Comments

The publication of the guidance notes by Irish Revenue provides taxpayers with a level of support in terms of how to deal practically with related-party transactions that are routine in nature and fall within the ambit of the guidance. Many taxpayers have applied such an approach for years.

Interestingly, the guidance notes are drafted with reference to the 2010 version of the OECD transfer pricing guidelines, because Ireland's domestic transfer pricing laws still align with the 2010 guidelines. Action 10 of the OECD's base erosion and profit shifting (BEPS) project provided a more up-to-date framework for dealing with low-value intragroup services, which is included in the updated Chapter VII of the 2017 OECD transfer pricing guidelines. The updated Chapter VII does provide examples of services that would not constitute low-value intragroup services in paragraph 7.47. In addition, examples of services that may constitute low-value intragroup services are outlined in paragraph 7.49.

While the 2017 OECD transfer pricing guidelines have not been formally adopted in Ireland yet, the new provisions contained in Chapter VII should still be read in conjunction with the guidance notes issued by Irish Revenue when formulating a transfer pricing policy for low-value intragroup services.

Back to top

Contacts

Gerard Feeney (Dublin)
gfeeney@deloitte.ie

Back to top

Useful links

Resources

- 2016 Global Transfer Pricing Country Guide
- Arm's length standard
- Transfer pricing alerts

Get Connected

- Deloitte tax@hand
- Join Dbriefs
- Follow @Deloitte Tax
- www.deloitte.com/tax

Back to top

Get in touch

30 Rockefeller Plaza
New York, NY 10112-0015
United States