

CYPRUS TAX DEPARTMENT ANNOUNCEMENT FOR TRANSFER PRICING DOCUMENTATION

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A few weeks ago, the Cyprus Tax Department published a new “Frequently Asked Questions” (FAQs) page on its website with respect to transfer pricing to give basic guidance on aspects of the new Transfer Pricing documentation rules that were introduced last year.

In particular, it is clarified that Interpretive Circular 3 dated 30 June 2017 with respect to back to back financing transactions (which under certain conditions provided for a safe harbour return of 2% after tax on assets) no longer applies as from 1 January 2022.

The main questions addressed in the FAQs page are listed below:

- 1. If the controlled transactions in Category "A" cumulatively exceed €750.000 or shall exceed €750.000 on the basis of the arm's length principle as described in article 33(9)(a) of the ITL and at the same time the controlled transactions in Category "B" cumulatively do not exceed the €750.000 threshold in a tax year, is there an obligation to include the controlled transactions of Category "B" in the Cyprus Local File?**

No, there is no obligation to include Category "B" controlled transactions in the Cyprus Local File. Only, the controlled transactions of a category which cumulatively exceed or shall exceed €750.000 on the basis of the arm's length principle during a tax year must be documented and analysed in the Cyprus Local File. In this specific example, it will be Category "A" controlled transactions only.

- 2. How is the €750.000 threshold being determined in the context of rental income activities during each tax year?**

The threshold is determined by reference to the total rental income on the basis of the arm's length principle in a tax year.

- 3. Do purchases and sales need to be aggregated for the purposes of assessing whether the threshold has been exceeded?**

Yes, the threshold is based by reference to the absolute values of the controlled transactions for each category occurring in a tax year. For example, if total purchases and total sales amount to €400.000 and €500.000, respectively, the cumulative amount in this category is €900.000. Thus the threshold in this category has been exceeded.

/2

4. Is the Cyprus Local File and Summary Information Table prepared using the tax year or the accounting year of the company?

The Cyprus Local File and Summary Information Table are prepared with respect to the tax year.

5. Under which category of the Summary Information Table should Financial Guarantees be reported?

Financial Guarantees should be reported under the category "Financial Transactions".

6. Should a Benchmarking study be prepared every tax year or only if something changes with regards to the intra group loans?

A Benchmarking study should be prepared when an intra group loan is initiated and updated when:

- i. new loans are provided or received by the company, or
- ii. significant terms of the existing loans change or amended, or
- iii. the functional profile of the company changes, or
- iv. the market and economic conditions change significantly (if applicable).

The above list is indicative and not exhaustive. Further guidance is provided in the OECD TP Guidelines. Please note that in accordance to Article 33(10) of the Income Tax Law, the Master File (where applicable) and the Local File shall be updated every tax year.

7. Who is responsible for the completion and the submission of the Summary Information Table?

It is the responsibility of the taxpayer to complete the Summary Information Table. The Summary Information Table shall be submitted by the Statutory Auditor or Tax Consultant.

8. Is the circular dated 30/06/2017 with title "Tax treatment of intra group back to back financing transactions" still applicable following the enactment of the new TP Legislation and Regulations?

The Back to Back circular was abolished with effect as from 01/01/2022.

Relikor can advise clients about the potential impact of the newly issued FAQs relating to the Cyprus Transfer Pricing Documentation rules, and assists with the preparation of the relevant transfer pricing analysis and documentation. For more information: Call us at +357 22025795 or visit our [website](#)