

Transfer Pricing Latest Developments



In general, Greece has adopted the arm's length principle and the OECD Guidelines on transfer pricing. Transfer Pricing Documentation requirements in Greece are provided by two different authorities, by the Ministry of Finance, Competitiveness and Maritime (former Ministry of Development) and the Ministry of Finance, through the enactment of two legislative acts.

Ministry of Finance, Competitiveness and Maritime

By virtue of the provisions of L. 3728/2008, which was enacted on December 2008, transfer pricing documentation requirements were introduced for the first time in Greece. Specifically, as per fiscal years from 2008 and onwards, it has become obligatory for the associated companies, regardless of the type and legal form under which they operate in Greece, to document that their inter-company transactions comply with the arm's length principle, through the compilation of a transfer pricing documentation file.

Furthermore and on top of the documentation requirements, associated companies operating in Greece should submit to the Ministry of Finance, Competitiveness and Maritime (former Ministry of Development) a list including all their intercompany transactions.

The above relate to both the Greek Companies and branches of foreign Groups.

In case companies fail to comply with the new documentation requirements heavy financial and administrative fines are provided. Specifically, a fine equal to 10% of the value of the inter-company transactions in case of non-compliance with the list filing or non-filing the transfer pricing documentation in due time, when requested, is provided, while potential penal sanctions as set by the Greek Market Inspection Code could be imposed to the Company's legal representatives as well as a fine equal to 5,000 Euros, if the compliance with the arm's length principle is not evidenced for inter-company transactions. In this case, the tax authorities are being notified to carry out a transfer pricing audit and impose additional taxes and sanctions provided in the relevant tax legislation.

Ministry of Finance

By virtue of the provisions of L. 3775/2009 new article 39A was incorporated in the Greek Income Tax Code. The new provisions apply to transactions effected during the accounting periods with respect to which the income tax return should be filed as of 1.1.2011 onwards (effectively fiscal period 2010). The data that should be kept in the documentation file is similar to the data included in the documentation files of article 26 of L. 3728/2008 for the Ministry of Development.

According to the tax regulations, in case of non-compliance with the arm's length principle, a 20% fine on the adjustment of the taxable income is imposed, for which no reduction to 1/3 is applicable in case of administrative settlement, plus penalties for filing of inaccurate tax return amounting to 2% of the tax due per month of delay capped at 200% and reduced to 3/5 in case of an administrative settlement.

To be noted that the relevant penalties provided by tax regulations are imposed irrespective of the possible imposition of the penalties, based on article 26 of L. 3728/2008, by the Ministry of Finance, Competitiveness and Shipping.