

Trinidad and Tobago to introduce transfer pricing legislation

October 12, 2023

In brief

The Trinidad and Tobago (T&T) Minister of Finance on October 2 announced the introduction of a legislative transfer pricing framework with a time frame of 24 months. The introduction of transfer pricing specific legislation should further align T&T with its commitments to the OECD Base Erosion and Profit Shifting (BEPS) International Framework.

Action item: In the context of the October 2 announcement and in preparation for introduction of transfer pricing legislation, companies should begin taking steps intended to comply with the upcoming regime in order to mitigate both future and historical transfer pricing risks in the face of increased revenue authority scrutiny. This includes addressing upfront areas of noncompliance by reviewing all intercompany transactions, and collating documentation to analyze whether related-party transactions are conducted on an arm's-length basis having regard to the OECD guidelines.

In detail

Current legislative framework

The Board of Inland Revenue (BIR) currently relies on Section 67 of the Income Tax Act to challenge related-party transactions as this allows the BIR to disregard any transactions that it views as artificial or fictitious. The BIR can further rely upon arm's-length requirement provisions within double taxation agreements to challenge access to treaty benefits.

Implications for companies operating in T&T

The Government has engaged the CAF Development Bank and the Inter-American Center of Tax Administrations (CIAT) to advance a policy framework for transfer pricing legislation with a completion deadline of 24 months. It is expected that the policy framework will provide specific stipulations as to the appropriate pricing and reporting of transactions between an enterprise operating in T&T and its related parties.

Observation: The Minister of Finance did not provide details as to the content of the new legislation. However, in line with current OECD guidance, the forthcoming legislation may require T&T resident enterprises to prepare transfer pricing documentation that presents details of group operations and provides supporting evidence that

controlled transactions (e.g., services, tangible goods sales, royalties, and loan arrangements) with related parties are undertaken at arm's length.

As a point of reference, the OECD guidelines provide for the following three-tiered structure for standardized documentation:

- A master file containing standardized information relevant to all multinational entity (MNE) group members
- A local file referring to material transactions of the local company
- A country-by-country report containing certain information relating to the global allocations of the MNE's group's income and taxes paid, together with certain indicators of the location of economic activity with the MNE group.

Observation: Transfer pricing regulations have the potential to impose significant administrative requirements on taxpayers, particularly where there is currently no transfer pricing policy or documentation in place for related-party transactions in T&T.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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