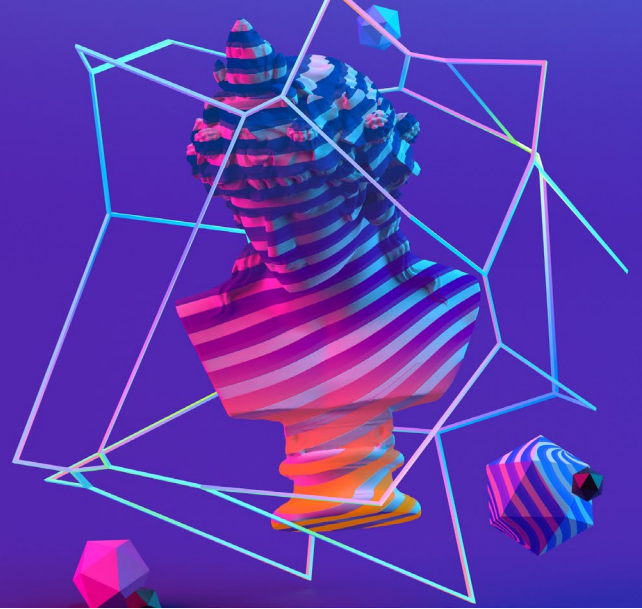


Transfer pricing – Circular 6/2023

Transfer pricing alert

July 2023



On 6 July 2023, the Cyprus Tax Department released a new Circular (6/2023) titled “Simplification measures for persons that are exempt from the obligation to maintain a Cyprus Local File”.

The Circular provides guidance to persons which are exempt from the obligation to prepare a Cyprus Local File with regards to the **minimum transfer pricing documentation** which is required to be maintained to support the arm’s length nature of their transactions with related parties (controlled transactions).

In addition, the Circular introduces optional **simplification measures** that can be used by such persons for certain controlled transactions.



Minimum transfer pricing documentation requirements

The Circular clarifies that persons that are exempt from the obligation to prepare a Cyprus Local File, should maintain **minimum documentation** for their controlled transactions, i.e., for transactions that do not exceed the threshold of EUR 750,000 in aggregate per category on an annual basis:

- ✓ **Brief functional analysis;**
- ✓ **Characterisation of the entity** based on the results of the functional analysis;
- ✓ Selection of the most appropriate **transfer pricing method;**
- ✓ **Benchmarking study.**



Simplification measures

Persons **exempt from the obligation to prepare a Cyprus Local File** may choose to apply the **simplification measures** for the following types of controlled transactions:

- Back-to-back financing**, i.e., financing provided to related parties that is financed out of debt;
- Financing** received or provided (not falling in the above category);
- Low value adding services.**



It should be noted that the Simplification Measures **can only be applied** for the respective categories of transactions that do not exceed the threshold of **EUR 750,000** in aggregate per category on an annual basis.

In addition, the Simplification Measures **cannot be applied** if reliable **internal comparable transactions** can be used to determine the arm's length level of prices for such controlled transactions.

Simplification rates

The applicable simplification rates as stated in the Circular, are the following:

- ✓ A minimum **pre-tax net return of 2.5%** on the average outstanding receivable balances for back-to-back financing arrangements.
- ✓ A pre-tax interest rate equal to at least **the ten-year government bond yield rate** of the jurisdiction in which each borrower operates **increased by 3.5%** for financing provided by a Cypriot tax resident person to a related party.
- ✓ A pre-tax interest rate equal to or less than **the ten-year government bond yield rate** of the Republic of Cyprus **increased by 1.5%** for financing received by a Cypriot tax resident person from a related party.
- ✓ For low value adding services, a markup on costs of at least **5%** for services being provided, and a maximum of **5%** for services being received by a Cypriot company.

Persons elected to apply the simplification measures should also maintain supporting documentation as stated in the Circular.

DAC6 consideration

As stated in the Circular, application of simplification measures by a person which carries out cross-border controlled transactions constitutes such transactions as reportable cross-border arrangements in accordance with Article 2 (1) and Annex IV, Part II, Label E.1 of the Administrative Cooperation in the Field of Taxation Law of 2012 (205(I)/2012), as amended, and according to the provisions of Regulation 42(2) of K.Δ.Π. 438/2021 (referred to as DAC6 provisions).

How KPMG Cyprus can assist

Should you like to further discuss the content of the legislation and potential impact to your business, please contact one of our trusted advisors from the Tax department at KPMG in Cyprus.

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