

IN-DEPTH

# Transfer Pricing

CYPRUS



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# Transfer Pricing

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In-Depth: Transfer Pricing (formerly The Transfer Pricing Law Review) provides a practical overview of the main transfer pricing rules in key jurisdictions worldwide. Each chapter summarises the relevant country's substantive transfer pricing rules, explains how a transfer pricing dispute is handled – from initial scrutiny through to litigation or settlement – and discusses the interaction between transfer pricing and other parts of the tax code (such as withholding taxes, customs duties and attempts to prevent double taxation).

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# Cyprus

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## Introduction

As an internationally recognised business centre, Cyprus is a jurisdiction largely compliant with Organisation for Economic Co-operation and Development (OECD) standards, as recognised in the latest OECD progress report,<sup>[1]</sup> and as such follows many of the OECD principles and practices, including the 'separate legal entity' approach, which is broadly accepted internationally (see the OECD definition of the international arm's-length principle).<sup>[2]</sup>

Cyprus generally applies the above-mentioned international arm's-length principle, which essentially requires that conditions and circumstances attached to a 'controlled transaction' are consistent with comparable transactions concluded in the open market.

Over the years, the OECD has produced the Transfer Pricing Guidelines (TPGs)<sup>[3]</sup> and several reports refining their application and broadening their scope. The most recent and comprehensive reports comprise the Final Reports on Base Erosion and Profit Shifting (BEPS) Actions 8–10,<sup>[4]</sup> which largely revise the previous TPGs with the stated aim of taxing profits where economic activities take place and value is created, giving particular weight to the party undertaking and managing economically significant risks. In addition, in February 2020 the OECD issued TPGs on financial transactions for the first time.

The OECD's work in this area (i.e., the TPGs and reports) underpins the arm's-length principle incorporated in the OECD Model Tax Convention<sup>[5]</sup> and forms the basis of an extensive network of bilateral double tax treaties; therefore, several jurisdictions are already applying this principle and the underlying transfer pricing methodology to either domestic or cross-border transactions.

The OECD Model Tax Convention contains the arm's-length principle under the heading 'Associated Enterprises' (Article 9),<sup>[6]</sup> which states:

Where—

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

The relevant Cyprus legal framework giving effect to this arm's-length principle is replicated below. In particular, the Income Tax Law<sup>[7]</sup> provides the following:

(1) Where—

(a) a business in the Republic participates directly or indirectly in the management, control or capital of a business of another person; or

(b) the same persons participate directly or indirectly in the management, control or capital of two or more businesses;

and in either case conditions are made or imposed between the two businesses in their commercial or financial relations which differ from those which would be made between independent businesses, then any profits which would, but for those conditions, have accrued to one of the business, but, by reason of those conditions, have not so accrued, may be included in the profits of that business and taxed accordingly.

(2) The provisions of sub-section (1) apply also in connection with any transaction between connected persons.

Recent amending legislation<sup>[8]</sup> introduced a threshold of 25 per cent profit share, equity participation or voting rights, for determining 'connected persons'. This threshold may apply directly or indirectly.

The above arm's-length principle as enshrined by the Income Tax Law covers both physical persons and companies (the definition of which is set out below but note that this definition includes what are described as 'corporations' in other jurisdictions).

Companies, pursuant to the Income Tax Law, are defined to include under Article 2:

anybody with or without legal personality, or public corporate body, as well as every company, fraternity or society of persons, with or without legal personality, including any comparable company incorporated or registered outside the Republic and a company listed in the First schedule [comprising a list of several companies registered in other EU Member States]; but it does not include a partnership.<sup>[9]</sup>

In addition, the amendments introduced transfer pricing provisions (the Cyprus TP requirements or the new TP Law) into Income Tax Law No. 118(I)/2002 and Assessment and Collection Law No. 122(I)/2002 (collectively the 'national Tax Law'). As expected, the new TP Law is aligned with the TPGs by effectively<sup>[10]</sup> transposing these into the national Tax Law. The new TP Law came into effect on 1 January 2022. It replaces the earlier Cypriot transfer pricing regulations that only governed financial back-to-back (BtB) controlled transactions (the BtB Regulations)<sup>[11]</sup> (see 'Presenting the case', below). The BtB Regulations only applied to 31 December 2021.

This chapter delves into the new TP Law and provides insights on specific transactions and areas. The new TP Law has a wide scope covering a broad range of items and transactions. In brief, the transfer pricing methodology for applying the provisions of the new TP Law may be divided into two main areas:

1. the delineation of the connected or controlled transaction and subsequent recognition of the delineated transaction; and

2. the selection and application of the selected transfer pricing methodology.

## Year in review

Transfer pricing rules now monitor transactions between connected parties. In brief, the Cypriot transfer pricing rules are largely in line with the OECD Transfer Pricing Guidelines in terms of delineation of the transaction using the comparability factors; recognition of the transaction; selection of the appropriate TP method; and implementation and pricing of the transaction. During the year, the Tax Administration published circulars laying out simplification measures pertaining to the above.

## Filing requirements

The new TP Law creates specific filing and reporting requirements obligating the taxpayer to hold proper documentation for its controlled transactions. The filing requirements apply for transactions that exceed the monetary threshold of €750,000. The Tax Administration recently announced that an amending law will soon pass raising the monetary threshold to €1 million (and €5 million for financial transactions). The Law introduces a three-tiered approach for documentation, namely the master file, the local file and a summary table briefly describing controlled transactions (cumulatively, TP documentation).

The obligation for preparing the master file applies only to Cypriot companies that operate as the ultimate holding entity or surrogate parent entity in a multinational group (MNE). The obligation should only apply if the MNE has consolidated revenues exceeding the monetary threshold of €750 million. This is aligned with the country-by-country reporting requirements.<sup>[12]</sup> In brief, the master file lays out a blueprint of the MNE and relevant information in relation to the organisational structure, business description, intangibles, intercompany financial activities and tax positions.

Regarding the local file, the obligation applies to all taxpayers not falling within the de minimis monetary threshold of €750,000. The threshold is determined by reference to the class of transactions (all activity of a particular type is aggregated). The local file reveals detailed information on the controlled transaction entered into by the local entity.

Finally, the summary table lays out a brief overview of the controlled transactions entered into by the taxpayer. The master file and local file should be prepared by the income tax return filing deadline. However, the new TP Law does not lay down the obligation to submit these together with the tax return. These should be submitted upon request by the authorities. The summary table must be prepared and submitted along with the annual tax return.

## Presenting the case

## Pricing methods

The new TP Law incorporates the OECD-approved five pricing methods (the OECD recognised methods) into the national Tax Law. These are split into two categories: traditional transaction methods and transactional profit methods. The traditional transaction methods comprise the comparable uncontrolled price method (CUP), resale price method (RPM) and the cost-plus method (CPM). The transactional profit methods comprise the transactional net margin method (TNMM) and the transactional profit split method. RPM, CPM and TNMM are one-sided methods with the tested party selected as having the less complex functionality profile. The remaining methods are two-sided because they apply to both parties of the transaction.

Aligned with the TPGs,<sup>[13]</sup> the taxpayer has the freedom to employ a method that differs from the OECD recognised methods for pricing a transaction. In this situation, the taxpayer should justify the use of the different method. The different methods should not supersede the OECD recognised methods when the latter are more appropriate.

### Financing arrangements (provision of loans to related parties)

The incorporation of the TPGs into the national Tax Law, suggests that Chapter X of the TPGs should have full effect. In brief, Chapter X requires two-step pricing, covering both the amount of the loan and the size of the interest rate. Chapter X lays down several considerations for accurately delineating an outlay of funds and whether this should be regarded as a loan for tax purposes (e.g., quasi equity). The debt capacity of the debtor forms a useful indicator in examining the underlying nature of the advancement of funds with the debt coverage ratios providing useful metrics.

In general, financing arrangements such as the provision of loans to related parties mainly make use of the CUP methodology, as comparables are generally available by reference to their economically relevant characteristics. This pricing methodology may be used in conjunction with the business or commercial sense underpinning a particular financing arrangement.

A transfer pricing report is expected to cover the following.

#### Functional, economic and business circumstances and contractual analysis

This entails a delineation of the transaction by examining the contractual relations, the functional profile and the prevailing economic and business circumstances surrounding the loan transaction, the debtor and the creditor. A clear understanding should be provided concerning the transaction in question that will (1) support that a genuine loan has been granted and (2) provide an economic analysis or substantiation for the transaction.

Compiling a proper functionality analysis, the OECD guidance on permanent establishments (PEs) of banks<sup>[14]</sup> may be used as a reference point when analysing the functionality profile of a Cypriot company lender. This guidance provides a variety of elements that can be used to assess the functions, risks and assets of a PE maintained by a bank, some of which can be applied by analogy to companies even if the object of the transfer pricing analysis is not a bank or a regulated financial institution.

### **Economic analysis**

The economic analysis will begin with credit scoring the debtor using available tools. The credit scoring will consider both quantitative and qualitative factors (e.g., country and industry risk).

The credit scoring will be used along with other key elements or characteristics extracted from the loan agreement to carry out a comparative analysis of those elements or characteristics (loans or bonds featuring similar elements or characteristics). Commercial databases may be used for compiling the comparable data. It is likely that comparability adjustments such as foreign exchange currency or term of maturity will be necessary.

As a result, the emerging table of data will consist of comparables or near comparables, featuring similar credit rating, the maturity of the loan and the currency of the loan, among other data. The arm's-length interest rate will be determined using these comparables or near comparables.

Occasionally, the lender company may only undertake limited functions and risks. In this case, determining the credit scoring of the debtor should not be requisite for assessing the arm's-length pricing element of the interest rate. The lender should only be remunerated with a risk-free return. Chapter I of the TPGs<sup>[15]</sup> elaborates on the determination of a risk-free rate of return.

### **BtB controlled transactions**

Prior to the introduction of the new TP Law, the BtB regulations governed BtB transactions. The BtB regulations came into effect in July 2017, covering situations where a company in Cyprus obtained borrowed funds for providing loans to related parties; they applied until 2021. The BtB regulations required that a transfer pricing study should be prepared. The following analyses lie at the core of this study:

1. functionality analysis, concentrating on the functions, assets and risks that the Cyprus company undertakes to perform its financial business; and
2. comparability analysis, by way of which the conditions and circumstances of the BtB arrangement should be consistent with the comparable conditions of a BtB transaction in an uncontrolled transaction.

The intention of the above approach was to price an arm's-length equity return for the Cypriot company that functioned as the intermediary financing company (receiving and providing loans).

In other words, the purpose was to 'reward' the BtB company for maintaining sufficient own capital to absorb the future expected loss. This in turn entailed:

1. determining the expected loss; and
2. establishing a market return by using the Capital Asset Pricing Model.



Determining the expected loss inextricably leads to the determination of the own capital that the company should retain to absorb expected losses, and in this respect the BASEL framework<sup>[16]</sup> may be applied by analogy. In addition, a key component for determining the expected loss is the use of probability of default. The probability of default may be measured by using the credit score models used by credit agencies such as S&Ps and Moody's.

Simplification measures also apply, whereby pure intermediary financing vehicles may opt in to these measures and be released from the requirement to perform a comparability analysis. Notwithstanding this, the intermediary financing company should still perform a functionality analysis demonstrating that it undertakes related functions, assets and risks.

Companies following the simplification route should have applied a minimum return on the BtB transaction of 2 per cent (after tax), calculated on the face value of the principal loan.

Simplification measures also apply to companies having a profile or outlook similar to financial institutions, as described in EU Regulation No. 575/2013. These companies would be required to produce at least 10 per cent (after tax) return on their equity. The above analysis applies for 2017–2021.

### **Buying or selling goods or services**

The new TP Law covers the buying or selling of goods or services. Commonly, the CPM or the TNMM may be deployed for pricing a service or transfer of property (finished or semi-finished products) in a controlled transaction. For the sale of goods, the RPM or TNMM would be more appropriate.

In brief, the CPM<sup>[17]</sup> determines an arm's-length markup after considering the cost of the service or property. The TNMM may instead apply computing an arm's-length net profit margin for a service or transfer of property. The availability of reliable information such as comparability of the gross profit margin will be an essential ingredient for determining the most appropriate method. In the absence of reliable information on gross profit margins, the TNMM may be the most appropriate method. The TNMM will compute a net profit margin in relation to costs.

Regarding the RPM, the requisite is to compute a gross profit margin out of which the reseller will recoup its marginal cost that covers the selling and other expenses and earns an adequate profit. To compute a net profit margin in relation to sales, the TNMM may apply instead. Similarly, the availability of information should be the essential ingredient for deciding the most appropriate method.

All three methodologies – CPM, RPM and TNMM – require screening tools and data mining techniques. Ultimately, a reliable sample of observations should be assembled that is near the covered scenario. Relevant considerations for compiling a sample include the nature of services or product and industry, functionality profile, covered years, the operational capacity (start-up phase or not), persistently being in a loss position or insolvency, availability of relevant financial and other information. Databases that may be used include Amadeus and Orbis.

Chapter VII<sup>[18]</sup> introduces a safe harbour of 5 per cent markup on low value activities. The incorporation of the TPGs into the national Tax Law hints that a taxpayer may find resort to this safe harbour when pricing low-value activities. In brief, low-value services encompass

supportive or auxiliary nature services unrelated to taking key risks or requiring unique and valuable intangibles. Chapter VII explicitly excludes a list of services from the definition, such as sales, marketing or distribution activities, and lays down a list of support activities that may fall within the definition, such as human resource activities.

### **Transactions involving non-business assets that produce exempt income in Cyprus**

Although the new TP Law has broad scope covering several transactions and arrangements, we may posit that transactions or arrangements unrelated to 'business assets' (pursuant to the national Tax Law) should be excluded from the transfer pricing reporting obligation. The reasoning for the suggested exclusion rests on their very nature – the national Tax Law applies to non-business assets. Non-business assets mainly comprise corporate titles (such as shares in corporate entities or units in investment funds).

That being said, transactions that involve non-business assets may confront secondary adjustments (see 'Secondary adjustments and penalties', below), especially if they lack commerciality. Business and commercial rationale underlying a transaction is very important in relation to the tax impact (and treatment).

In this respect, it is advisable that transactions involving non-business assets that produce exempt income in Cyprus, such as foreign dividend income<sup>[19]</sup> or capital gains on sale of corporate titles,<sup>[20]</sup> are underpinned by a sound business and commercial rationale relative to the overall context in which they occur. It may also be advisable for the taxpayer to obtain an advance tax ruling: an application that sets out the specific facts and circumstances underlying the transaction and seeks the opinion of the tax authorities.

## **Intangible assets**

The new TP Law has also incorporated Chapter VI on special considerations for intangibles.<sup>[21]</sup> Chapter VI introduces the DEMPE<sup>[22]</sup> activities principle, which lies at the heart of this Chapter. DEMPE forms an essential ingredient in the delineation of a transaction or arrangement that relates to the ownership or exploitation, or both, of intangible assets. It delimits the functions and tasks that each party undertakes in the research, development, enhancement, protection and commercial exploitation of the intellectual property (IP). It also defines the relevant commercial, market, operational and market risk that each party assumes. Ultimately, it aids in rewarding each party by reference to the relevant functions and risk, capabilities and authority.

An IP owner may outsource research and development (R&D) to the group's R&D company, while retaining all relevant key risks and functions and having the capability and authority to own and operate the developed intangible property. To price this, the R&D company may earn a cost-plus markup rewarding it only for the R&D tasks performed.

Arm's-length pricing of a licence or royalty fee will require scrutiny of specific features relevant to intangible assets. These include exclusivity, the extent and duration of legal protection, limitation and geographical scope, and useful life. Databases such as Royalty Stat and Royalty Source may be employed.

Cypriot companies that hold intangible assets (trademarks and industrial designs) may, for the purposes of determining the transfer price on the contemplated income streams, expect to employ a variety of commonly used valuation techniques, such as discounted valuations. These valuation techniques are used in particular for hard-to-value intangibles for which comparable transactions do not exist. Discounted valuation techniques should be based on reasonable forecasts and assumptions.

## Settlements

General rules on handling a dispute<sup>[23]</sup> with the tax administration are applicable. In this regard, a settlement may be reached amid a tax audit after negotiations with the tax administration and provision of relevant evidential documentation underpinning, inter alia, the historical treatment of the taxpayer's affairs (including any transfer pricing issues that may arise). In this regard, any settlement reached on a transfer pricing issue would generally be of an ex post nature (applying to historical transactions) and not ex ante.

The new TP Law has introduced an advance pricing arrangement (APA) mechanism via separate regulations.<sup>[24]</sup> The regulations lay out the process for instituting an APA application request and the prescription of the content and object of the request. It also sets a 10-month time limit for the tax administration to opine on the APA requests and constrains the validity of the APA for a time horizon not exceeding four years. Generally, the Cyprus APA mechanism is aligned with the APA mechanism as enshrined in the TPGs, Chapter IV.<sup>[25]</sup>

## Investigations

The law generally grants the right to the tax authorities to assess a taxpayer's tax return after the applicable submission deadline<sup>[26]</sup> and to issue a notice of assessment to the taxpayer stating the tax authorities' agreement or disagreement with the tax return submitted.<sup>[27]</sup>

Similarly, the law provides the taxpayer with the right to dispute an assessment; an objection should be filed by end of the month following receipt of the decision, specifying the reason for the objection.<sup>[28]</sup> Following submission of an objection, the tax authorities and the taxpayer usually exchange views (at meetings or by correspondence), which invariably involves the taxpayer providing additional documentation to support their case.

When examining the tax affairs of a company, the tax authorities will also examine the pricing of controlled transactions. In this regard, the focus will be on verifying the completeness and accuracy of the relevant transfer pricing, which lies at the core of the local file. In brief, they will examine whether the controlled transaction has been properly delineated and recognised after considering the applicable economic and business circumstances surrounding it, as well as the relevant contractual terms, and after ensuring that a proper functionality analysis has been performed to adequately identify the risks and functions taken by the Cypriot company.

Thereafter, the tax authorities will examine the reasonableness of the selected methodology, the economic benchmarking, the screening criteria and comparability adjustments (if any).

When the dispute is successfully settled, following negotiations with the taxpayer or their counsel the tax authorities will cancel their original assessments and issue revised or final ones. If the negotiations reach a stalemate (e.g., no agreement is reached between the tax authorities and the taxpayer or their counsel), a final assessment will be issued without the taxpayer's involvement, in which case the taxpayer may seek recourse to the Tax Tribunal or to the Supreme Court (see below).

## Litigation

If a taxpayer wishes to challenge the tax authorities' findings, position or tax assessment on a specific matter, they may appeal to the Tax Tribunal<sup>[29]</sup> or the Supreme Court,<sup>[30]</sup> or both.

In this respect, if the taxpayer receives a final notice of assessment from the Commissioner, and a subsequent agreement is not reached, they should file their application to the Tax Tribunal within 45 days of the the final notice of assessment being issued.

The Tax Tribunal will examine the claimant's application request a report from the tax authorities documenting the facts of the case and their position. At a later stage, the Tax Tribunal will set a hearing with the two sides and decide on the case. The burden of proof falls on the taxpayer.

Should any of the parties disagree with the Tax Tribunal's decision, they may seek recourse to the Supreme Court. If the taxpayer disagrees with the decision, they must pursue this action within 75 days of either final notification of the assessment or the issue of the Tax Tribunal decision. The burden of the proof should lie with the taxpayer. Recourse to the Supreme Court is brought under Article 146 of the Cyprus Constitution. The Supreme Court will assess the validity of the Commissioner's decision, but if this is found to be reasonable, the Court will not quash the decision.

The following is taken from a relevant Supreme Court ruling on its power to quash the Commissioner's decision under Article 146:

The Supreme Court has no jurisdiction to go into the merits of the taxation and substitute, where necessary, its own decision. The power of the Supreme Court is limited, as indicated, to the scrutiny of the legality of the action, and to ascertain whether the administration has exceeded the outer limits of its powers. Provided they confine their action within the ambit of their power, an organ of public administration remains the arbiter of the decision necessary to give effect to the law; and so long as they make a correct assessment of the factual background and act in accordance with the notions of sound administration, their decision will not be faulted. In the end, the courts must sustain their decision if it was reasonably open to them . . . The approach of the court to the validity of a taxing decision is no different from its approach in respect of any other administrative decision liable to review under Article 146.<sup>[31]</sup>

Transfer pricing matters are also governed by the above rules; therefore, if the taxpayer and the tax authorities cannot reach an agreement on a controlled transaction, the taxpayer may find recourse to either the Tax Tribunal or the courts, or both.

## Secondary adjustment and penalties

Currently, the Cyprus arm's-length principle does not explicitly provide for secondary adjustments, although in the absence of wording to forbid these, the tax authorities may apply adjustments. Secondary adjustments may take the form of a deemed:

1. dividend distribution (if it involves Cyprus tax residents and domiciled physical persons);
2. receivable equal to the difference between the actual transfer price and the fair market price on which the market interest rate will be imputed; or
3. operating income.

Secondary adjustments may be invoked in response to primary transactions involving tax-exempt assets and could take any of the forms mentioned above. In the event of a secondary adjustment being made, a primary controlled transaction that should not have any direct tax implications in Cyprus may ultimately be subject to taxation, especially if it lacks a commercial or business rationale.

## Broader taxation issues

### Diverted profits tax

The arm's-length principle in Cypriot law does not apply to transactions where no controlled relation exists between the parties or to certain transactions that constitute capital transactions.

Although there is no specific diverted profits tax provision, the law enshrines the following general anti-avoidance tax provisions (from the Assessment and Collection of Taxes Law and the Capital Gains Tax Law, respectively), which govern applicable situations and complement the arm's-length principle:

Where the Director is of the opinion that in respect of any year of assessment the object of the tax of any person is reduced by any transaction which in his opinion was artificial or fictitious, he may disregard any such transaction and assess the persons concerned on the proper object of the tax.<sup>[32]</sup>

In case of a disposal between related persons, as such term is interpreted by the Income Tax Law in force, where the disposal proceeds declared is an amount which is less than the market value of the property, there shall be deemed as disposal proceeds the amount of the market value of the property at the date of its disposal, as this is ascertained by the Director.<sup>[33]</sup>

In addition, the general anti-abuse rule (GAAR)<sup>[34]</sup> may be employed to deny a tax benefit or to recharacterise transactions if 'an arrangement or a series of arrangements' is intended, exclusively or mainly, to exploit tax incentives.<sup>[35]</sup> The GAAR has been incorporated into the national Tax Law through the transposition of the EU Anti-Tax Avoidance Directive (effective since 1 January 2019).

## Double taxation

Cyprus has a very broad tax treaty network and generally applies the mutual agreement procedure (MAP) in response to its obligations under its bilateral double tax treaties (which are mainly based on the OECD Model Convention – therefore giving effect to Article 25 of the OECD MAP, where applicable) or the EU Arbitration Convention<sup>[36]</sup> pursuing the elimination of double taxation.

Prima facie, the MAP may also be invoked in the context of primary adjustments under transfer pricing for the corresponding adjustment to apply, thereby eliminating or mitigating the possibility of double taxation.

Currently, there is limited practical experience of invoking a MAP for transfer pricing. In addition, the Income Tax Law<sup>[37]</sup> provides that if the tax authorities make an upward adjustment to a taxpayer's tax calculation during their audit, a corresponding downward adjustment should also be made in the books of the connected controlled party. The resulting corresponding adjustment may be allowed as a deduction for the purposes of determining the connected controlled party's tax calculation if, under the normal rules, the subject matter of the corresponding adjustment would have qualified for deduction.

In providing for a corresponding downward adjustment to be made, the law provides a framework for mitigating cases of double taxation, at least within Cyprus.

## Outlook and conclusions

Notably, the arm's-length principle in Cyprus law is in line with the international arm's-length principle as envisaged in the relevant OECD Model Convention and Transfer Pricing Guidelines, and it governs controlled transactions in Cyprus. The new TP Law builds on the arm's-length principle and is at the forefront of pricing-controlled transactions.

The new TP Law effectively incorporates the TPGs into national law and creates a reporting and filing obligation for the preparation and maintenance of TP documentation. In this regard, the TPGs provide a toolbox for interpreting and applying the new TP Law and at the same time draw experience from other jurisdictions that implement the TPGs. This new area is expected to give rise to potential disputes following tax audits, with some cases choosing to resort to the courts.

## Endnotes

- 1 Cyprus was rated Largely Compliant in the Phase 2 Peer Review Report of the Global Forum on Transparency and Exchange of Information for Tax Purposes. [^ Back to section](#)
- 2 OECD Model Tax Convention, Article 9. [^ Back to section](#)
- 3 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (1995–2022) (TPGs). [^ Back to section](#)
- 4 OECD/G20 Base Erosion and Profit Shifting Project: Aligning Transfer Pricing Outcomes with Value Creation: Actions 8–10: 2015 Final Reports. [^ Back to section](#)
- 5 OECD Model Tax Convention, Article 9. [^ Back to section](#)
- 6 *ibid.* [^ Back to section](#)
- 7 Article 33, Income Tax Law of 2002, 118(I)/2002, as amended. [^ Back to section](#)
- 8 *id.*, Article 33(3)(c). [^ Back to section](#)
- 9 *id.*, Article 2. [^ Back to section](#)
- 10 Article 33(6), Income Tax Law of 2002, 118 (I)/2002, as amended. [^ Back to section](#)
- 11 Cyprus Tax Department Circular EE 3. [^ Back to section](#)
- 12 Decree on Country-by-Country Reporting, 401/2016. [^ Back to section](#)
- 13 TPGs, Paragraph 2.9. [^ Back to section](#)
- 14 OECD, Report on the Attribution of Profits to Permanent Establishments (2008, 2010), Part II: Special Considerations for Applying the Authorised OECD Approach to Permanent Establishments (PEs) of Banks. [^ Back to section](#)
- 15 TPGs, Paragraph 1.108. [^ Back to section](#)
- 16 The full set of standards of the Basel Committee on Banking Supervision. [^ Back to section](#)
- 17 OECD TPGs 2022, Part II: Traditional transaction methods. [^ Back to section](#)
- 18 *id.*, Chapter VII: Special considerations for intra group services, Section D. [^ Back to section](#)
- 19 Article 3, Special Contribution for the Defence of the Republic Law of 2002, 117(I)/02, as amended (easily met participation exemption) and Article 8(20), Income Tax Law of 2002, 118(I)/2002, as amended. [^ Back to section](#)

- 20** Article 8(22), Income Tax Law of 2002, 118(I)/2002, as amended. ^ [Back to section](#)
- 21** TPGs 2022, Chapter VI: Special considerations for Intangibles. ^ [Back to section](#)
- 22** Development, enhancement, maintenance, protection and exploitation of intangibles.-  
^ [Back to section](#)
- 23** Kyriacos Scordis, Penelope Papapetrou, Costas Michail and Phoebe Papageorgi, 'Cyprus', in David Pickstone (ed.), The Tax Disputes and Litigation Review (11th edition, Law Business Research, 2023). ^ [Back to section](#)
- 24** Transfer Pricing Regulations elaborating on Transfer Pricing Documentations, 314/2022. ^ [Back to section](#)
- 25** TPGs 2022, Chapter IV: Administrative approaches, F. Advance pricing arrangements. ^ [Back to section](#)
- 26** Article 13(1), Assessment and Collection of Taxes Law of 1978, 4/78, as amended. ^ [Back to section](#)
- 27** id., Article 19. ^ [Back to section](#)
- 28** id., Article 20(3). ^ [Back to section](#)
- 29** id., Article 20A. ^ [Back to section](#)
- 30** id., Article 21. ^ [Back to section](#)
- 31** Costas M Pikis v. The Republic (1965) 3 CLR. 131, at 149. ^ [Back to section](#)
- 32** Article 33, Assessment and Collection of Taxes Law of 1978, 4/78, as amended. ^ [Back to section](#)
- 33** Article 9(4), Capital Gains Tax Law. ^ [Back to section](#)
- 34** Article 33.A(1), Income Tax Law of 2002, 118(I)/2002, as amended. ^ [Back to section](#)
- 35** Article 6, Council Directive (EU) 2016/1164 of 12 July 2016. ^ [Back to section](#)
- 36** Convention 90/436/EEC; CRS decree 161/2016 implemented the automatic exchange of financial account information for Cyprus financial institutions. ^ [Back to section](#)
- 37** Articles 33(5) and 9(1)(e), Income Tax Law of 2002, 118(I)/2002, as amended. ^ [Back to section](#)





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