

# Transfer Pricing Country Summary Greece

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## Legislation

### Existence of Transfer Pricing Laws/Guidelines

The legal framework for transfer pricing includes:

- Law 4172/2013 (new Income Tax Code applicable from 1 January 2014);
- Law 4174/2013 (the Tax Procedures Code, applicable from 1 January 2014);
- Law 2238/2013, as amended by L.3775/2009, L3842/2010 and L.4110/2013 for transactions entered into up until FY 2013;
- Law 3728/2008 for transactions entered into in FYs 2008, 2009, and 2010;
- Ministry Circular 1097/2014, amended by POL. 1144/2014 and 1284.2013;
- Relevant guidelines released by the General Secretariat of Public Revenues with regard to APAs.

### Definition of Related Party

Related party is defined as:

- Participation of one person in another person's share capital through direct or indirect ownership of stock, shares, or any other participation rights of at least 33 percent in terms of value, number, rights of participation to the profits, or voting rights of these shares;
- Relation to any other person that directly or indirectly owns stock, shares, voting rights, or any other participation rights of at least 33 percent in terms of value, number, rights of participation to the profits, or voting rights of shares of any other related entities;
- Relation to any other party with which a substantial direct or indirect administrative dependence or control exists, or any other party that exercises or is capable of exercising decisive influence in relation to an entity's decision-making, as well as common control or dependence or influence by a third party.

The interpretation of the notion of direct or indirect administrative dependence is the following:

- More than half of the board of directors or one or more managing directors or directors are appointed by the other person;
- The same person or persons participating in the administration of one legal person as managing directors or directors participating in the administration of the other person under the same capacity; and
- A third person appoints more than half the board of directors or one or more of the managing directors or directors of both the other persons.

As of direct or indirect control with regard to the 'decisive influence', the following holds:

- one person lends or provides guarantees for credits of the other person, and the capital loaned or the guarantee provided exceeds, on an aggregate basis, 50 per cent of the borrower's total assets (credit and financial institutions are exempted from this provision);

- a third person lends or provides guarantees for the credit of two persons, and the capital loaned and guarantee provided exceed 50 per cent of the borrower's total assets on an aggregate basis (credit and financial institutions are exempted from this provision);
- one person supplies or appoints the supplier or suppliers of the other person, with reference to at least 90 per cent of the raw and secondary materials that are required for the manufacturing of the finished products of the latter, while the former determines the sale price of these products. The above situation should derive from a written or oral agreement.

## Transfer Pricing Scrutiny

A taxpayer is targeted for transfer pricing scrutiny by tax authorities if it has violated tax obligations, has significant deviations from industry average figures, incurs losses that are caused by trading companies.

## Transfer Pricing Penalties

If tax liabilities are generated due to transfer pricing adjustments, taxpayers are subject to penalties of:

- 10 percent of the additional tax liabilities if the difference is between 5 and 20 percent of the initial tax return;
- 20 percent of the additional tax liabilities if the difference is between 20 and 50 percent of the initial tax return;
- 100 percent of the additional tax liabilities if the difference is more than 50 percent of the initial tax return, provided that the difference is intentionally generated by taxpayers.

In case of late filing of the Summary Information Table (SIT), a one-off penalty calculated at 0.1 percent of the value of transactions subject to documentation requirements is imposed. However, the penalty cannot be less than EUR 500 and cannot exceed EUR 2,000.

In the event of filing an amended SIT, a penalty applies only to the extent that the declared amounts are amended and such amendments exceed the amount of EUR 200,000. If the amended amount exceeds EUR 200,000, penalty calculated at 0.1 of the value of transactions subject to documentation requirements is imposed. However, the penalty cannot be less than EUR 500 and cannot exceed EUR 2,000.

In case of inaccurate filing of SIT, a one-off penalty calculated at 0.1 percent of the value of transactions subject to documentation requirements is imposed (minimum penalty of EUR 500; maximum penalty of EUR 200,000). If the inaccuracy of the amounts does not exceed 10 percent of the value of the total transactions subject to documentation, no penalty applies.

In case of non-filing of the SIT, penalty calculated at 0.1 percent of the value of transactions subject to documentation requirements is imposed (minimum penalty of EUR 2,500; maximum penalty of EUR 10,000).

In the case of failure to provide the transfer pricing file to the tax authorities within 30 days from the official request, a penalty of EUR 5000 applies, which is increased to EUR 10,000 if it is provided after 60 days, and to €20,000 if it is provided after 90 days or if it is not provided at all.

Penalty for non-submission of CbC report has been set at EUR 20,000 is imposed, whereas penalty for late submission or submission of inaccurate CbC information has been set at EUR 10,000.

## Advance Pricing Agreement (APA)

Provisions regarding APA came into effect on 1 January 2014. APA procedure was published by the Greek Ministry of Finance on 16 October 2014.

The guidance does not provide for rollbacks, and notes that the term of the APA cannot exceed four years and an APA cannot apply to a fiscal year preceding the date of the application.

The company is required to submit an annual report demonstrating its compliance with the APA. If no compliance report is filed, the APA is canceled from the fiscal year for which no report was filed and onward.

APA preliminary consultation fee is EUR 1,000. APA application fee is EUR 5,000. In case of consultation with foreign tax authority arising from bilateral or multilateral APA, a fee of EUR 10,000 is charge for the APA application in each country.

## Documentation and Disclosure Requirements

### Tax Return Disclosures

Greek companies and local affiliates/branches of foreign multinationals must submit the Summary Information Table to the tax authorities no later than four months following the end of the tax year. This table provides information about quantitative and qualitative measures of related-party transactions as per transaction category and per related party.

### Level of Documentation

Intercompany transactions of up to EUR 100,000 are exempted from the documentation requirements if the gross revenues do not exceed EUR 5 million. When the gross revenues exceed €5 million, the threshold for transfer pricing documentation increases to €200,000. When the threshold is met all transactions should be documented, no matter their value.

## Record Keeping

Transfer pricing documentation must be retained for the entire period of the statute of limitations, which is six years.

## Language for Documentation

For multinational enterprises, group-related documentations can be submitted in English or any other internationally accepted language. They may be requested by the tax authorities to be translated to Greek, within 30 days. Documentation related to the local entities and the financial analysis of related-party transactions must be submitted in Greek.

## Small and Medium Sized Enterprises (SMEs)

There are no special provisions governing SMEs.

## Deadline to Prepare Documentation

The deadline to prepare transfer pricing documentation is four months following the end of the tax year.

## Deadline to Submit Documentation

Upon request by the tax authorities, transfer pricing documentation must be submitted within 30 days.

## Statute of Limitations

The statute of limitations is six years.

## Transfer Pricing Methods

Transfer Pricing Methods in the OECD Transfer Pricing Guidelines 2010 are fully adopted, including transaction-based methods and profit-based methods:

- Comparable uncontrolled price (CUP) method;
- Resale price method;
- Cost plus method;
- Profit split method;
- Transactional net margin (TNMM) method.

Traditional methods are preferred to transaction methods. If transactional methods are chosen instead of traditional methods while both methods are applicable, explanations must be provided.

## Comparables

Local databases are available. Foreign comparables are accepted in case local comparables are not sufficient. There is a restriction regarding the version of the database used for the preparation of the benchmarking study, i.e. the liable entity should use the version that is available two months before the closing of the audited fiscal year and any other version available up to the submission of the income tax return.

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