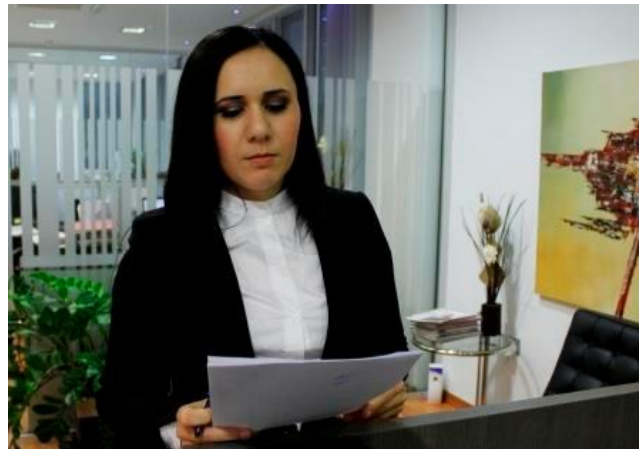




Tax newsletter - October 2017/01

New rules for taxation of intra-group financing arrangements

On 30 June 2017, the Cyprus Tax Department issued a circular with respect to the new rules for the taxation of intra-group financing arrangements which apply from 1 July 2017. The new circular provides for the application of transfer pricing methodology to such activities based on the arm's length principles as advocated by OECD.



The Cyprus Tax Department announced earlier this year that the application of the pre-agreed minimum profit margins (of 0.125% to 0.35%) for back to back loans will be terminated as at 30 June 2017.

Below are the main provisions of the circular:

1. Applicability of the circular

The circular applies to intra-group financing activities where loans granted by a company (financing company) to related parties financed by financial means and instruments, such as private loans, cash advances, bank loans and debentures.

The circular provides that two companies are considered to be related if they fall the scope of Section 33 of the Income Tax Law.

2. Transfer pricing requirements

A financing company will be required to determine its remuneration on the basis of transfer pricing principles. This would involve the company identifying each commercial and financial relationship with related parties.

The financing company should consider the risks involved by entering into such intra-group financing transactions. The financing company bearing risks must have the financial capacity to manage those risks and bear the financial consequences if the risks assumed actually materialize.

Furthermore, an appropriate comparability analysis must be carried out in order to

determine whether the remuneration resulting from the transactions between related parties are comparable to transactions between independent parties under similar circumstances on the open market. In this way, the company can benchmark its remuneration against that generated by comparable transactions and circumstances between unrelated parties.

3. Substance requirements

The circular stipulates that financing companies must have an actual presence in Cyprus and have the qualified personnel to control the risks and transactions entered into.

The actual presence criteria take into account the number of the member of the board of directors that are Cyprus tax residents, the number of the board of directors meetings held in Cyprus ,the main management and commercial decisions taken in Cyprus as well as the number of shareholders meetings held in Cyprus.

4. Transactions without commercial rationale

Transactions that cannot be observed on the open market and are devoid of any commercial rationale must be disregarded to ensure full compliance with the arm's length principle.

5. Simplification regime

A financing company which meets the substance requirements mentioned above and is engaged in purely intermediary financing activities, borrowing from related entities and on-lending to related parties will be deemed to comply with the arm's length principle if it receives in relation to its related parties transactions a minimum return of 2% after-tax on assets.

Our company can assist clients with understanding the potential impact of the circular on their financing arrangements.

This content is for general information purposes only and should not be used as a substitute for consultation with professional advisors.

[Visit our website](#)

[email us](#)



