Transfer Pricing
Country Summary

Greece

March 2023

1. Introduction

Greece closely follows the rules and guidelines laid down by the OECD, in its transfer pricing legislation. The Income Tax Code contains the provisions and the regulations of the Greek transfer pricing rules. It shall be mentioned that the OECD TP guidelines, are also followed in during the MAPs and APAs procedures. The arm's length principle is also laid down in the Income Tax Code.

In particular, the Legal framework for transfer pricing in Greece includes the following:

- 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;
- L.4484/2017 (Adaption of Greek legislation to the provisions of the Greek Directive).

2. Laws & Regulations

a) References to OECD/EU/Local Rules

The provisions of the Income Tax Code and the Tax Procedures Code regarding the transfer pricing are applied and interpreted in line with the principles of the OECD Guidelines. Accordingly, the tax authorities must consider the Guidelines when ruling on transfer pricing issues. It is necessary to note that the OECD transfer pricing methods have been accepted by Greece and have been implemented in the local legislation. Specifically, OECD transfer pricing methods have been laid down in the Income Tax Code (Law 4172/2013) and the Tax Procedure Code (L.4174/2013).

b) Definition of Related Party

The Related Party Definition can be found in article 2(g) of the Greek Income Tax Code (L.4172/2013). Accordingly, it articulates:
'**Associated person**': any person who participates directly or indirectly in the management, control, or capital of another person with whom they are related or associated. In particular, the following persons are regarded as associated persons:
a) any person who owns directly or indirectly stocks, shares, or shareholding of thirty-three (33) percent or more, by value or by number, or profit rights or voting rights,
b) two or more persons if one person owns directly or indirectly stocks, shares, voting rights or participation in the capital of at least thirty-three (33) percent, by value or by number, or profit rights or voting rights,
c) any person with whom there is a direct or indirect relationship of substantial management dependency or control, or who has or could potentially have a decisive influence on another person, or where both persons have direct or indirect relationship of substantial management dependency or control with a third person or are potentially influenced by such third person.

c) Nature of Transfer Pricing Documentation

Greece follows the three-tier approach when it comes to TP documentation. Essentially, this means that MNEs must prepare the Master file, he Greek File and the Country-by-Country Reporting. The latter is only necessary where the consolidated group turnover exceeds €750,000,000. The taxpayer must submit to the Ministry of Finance a TP Summary Information Table within the time period provided for the submission of annual income tax returns. It is necessary to note that 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. Legal entities that have been exempted from taxation do not have to

d) Tax Havens & Blacklists

The Greek Ministry of Finance updated the list of non-cooperative jurisdictions for tax purposes, in 2019. The list is updated biannually, and thus it is necessary to mention that by the end of this year (2021) an updated list will entry into force. Nevertheless, the countries that make the current list are the following: Anguilla, Botswana, Burkina Faso, Curacao, Ecuador, Gabon, Ghana, Guatemala, Kazakhstan, Kenya, Lesotho, Liberia, Marshall Islands, Mauritania, North Macedonia, Paraguay, Philippines, Sint Maarten, Trinidad and Tobago, and Vanuatu.

Furthermore, in Ministerial Decision A. 1186/2021, Greece updated the list of jurisdictions that have a preferential tax regime for the fiscal year 2020. Greece considers a country to have a preferential tax regime when a country does not have a CIT rate r when the tax rate is equal to or lower than 14.4%. This is also highlighted in the Greek Income Tax code article 65(6b) L.4172/2013. In essence, amounts paid to countries with a preferential tax regime are prima-facie considered to be non-deductible. Accordingly, the countries that have a preferential tax regime are the following: Albania, Andorra, Anguilla, Bahrain, Barbados, Belize Bermuda, Bonaire, Bosnia-Herzegovina, British Virgin Islands, Bulgaria, Cayman Islands, Cyprus, Gibraltar Guernsey, Hungary Ireland, Isle of Man Jersey, Kosovo Kyrgyzstan, Liechtenstein Macau, Marshall Islands, Monaco, Mongolia, Montenegro, North Macedonia Paraguay, Qatar, Republic of Maldives, Republic of Moldova, Saba, Saudi Arabia Sri Lanka, St. Eustatius The Bahamas, Timor-Lest, Turkmenistan, Turks and Caicos, United Arab Emirates, Vanuatu

e) Advance Pricing Agreement (APA)

Greece implemented law 4174/2013, and also issued a Ministerial Circular (POL 1284/2013). Accordingly, the GDTAPR (General Directorate of Tax Audits and Public Revenues) is responsible for the examination of the of APAs. Nonetheless, the programme has not been used systematically so far. APAs can be agreed to be multilateral, unilateral and/or bilateral, and they address highly complex TP cases. APAs can only be entered at the discretion of the tax authorities and they have the right to decline a taxpayer an APA application. APAs in Greece have a maximum application of 4 years and during the time that they are in effect, the taxpayer avoids double taxation and the obligation to document APA transactions is lifted. Law 89/1967 provides incentives for the creation of Shared Services Centers in Greece. It refers to companies that offer exclusively support services to their headquarters, whilst having at the same time a predetermined mark-up that has been checked and approved by the Ministry of Development & Investment. The mark-up is re-examined every 5 years and it cannot be less than 5%. All the expenses being covered by the mark-up are deductible for CIT purposes.

f) Audit Practice

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

3. Transfer Pricing Documentation

a) Level of Documentation

As previously mentioned, Greece follows the three-tiered approach and requires the taxpayer t prepare 3 files for TP documentation. Consequently, the taxpayer must prepare:

- A Master file consistent with Annex I (Chapter V) of the Transfer Pricing Guidelines

- A Local (Greek) file consistent with Annex II (Chapter V) of the Transfer Pricing Guidelines
- Country-by-Country Report consistent to Annex III (Chapter V) of the Transfer Pricing Guidelines
- Finally, the taxpayer is required to submit a Summary Information Table that must contain all the relevant information regarding the MNE they belong to, the functions that are being performed, as well and the risk assumed. The TP documentation method shall also be specified.

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines at paragraph 1.51.

e) Choice of Transfer Pricing Method

Nevertheless, POL 1097/2014, which was amended by POL 1144/2014, states that the traditional TP methods shall be above the transactional methods. The comparable uncontrolled price (CUP) method, is considered to be the most accurate method. This was ruled in The Decision No POL. 1097/9.4.2014.
Transactional profit methods are only taken into account when the traditional methods do not lead to reliable results. The taxpayer needs to provide a justification on why he decided to apply the transactional profit methods instead of the traditional methods. To be exact, where information is limited or non-existent, transactional methods have been considered to be the most appropriate TP method, by Greek Courts.

f) Economic Analysis – Benchmark Study

If the tested party is located in Greece, there is a preference for a Greek comparable. However, Greek Tax Authorities accept the use of pan-European comparable. The taxpayer shall use any available database to perform comparable company search and must include the details in the Transfer Pricing file submitted to the tax authorities. The comparable data that is derived from the benchmark study can be utilized for the next 2 years, whilst all the financial data has to be updated every year. In doing so, the taxpayer must check every year whether the comparable companies in the benchmark remain independent and comparable.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the ''conduct of parties'' the prevailing concept.

h) Financial Statements

Taxpayers are required to submit their financial statements.

i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold * (Yes/No)	Local Language (Yes/No) *(If "No", it can be filed in English)
Corporate Income Tax	File	E-Form	June, 30th.	No	No	No
Master File	Prepare	OECD Guidelines	June, 30th.	No	Yes	Yes
Local File	Prepare	OECD Guidelines	June, 30th.	No	Yes	Yes
CbCR	File	OECD Guidelines	December, 31st.	Yes	No	Yes
Local Form	File	Legislation 1 – Law 4172/2013	June, 30th.,	No	No	Yes
Annual Accounts	File	Law 4172/2013	June, 30th.	No	No	No
Segmented P/L	File	Law 4172/2013	June, 30th.	No	No	No
*Greece has signed the MCAA agreement for the filing of CBCR.						
* Greece does not request as much and detailed information from smaller and less complex enterprises (SME's included) than it does from large and complex enterprises.						

j) Mandatory Language

The transfer pricing file shall be written in an internationally accepted language. Most commonly English is used but the tax authorities can request a Greek translation. In that case, the taxpayer must translate the TP file in Greek within 30 days. Also, Documentation related to the local entities and the financial analysis of related party transactions must be submitted in Greek.

k) Notification Requirement

In case the Tax Authorities request the file, the taxpayer must provide it within 30 days.

l) Record Keeping

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

m) Penalties and Interest Charges

The Greek Tax Procedure Code (L.4174/2013, Article 56), Decision No POL. 1252/20.11.2015, and L.4484/2017 all articulate the penalties that can be imposed, in case of late filing or failure to file or when the information of the file is inaccurate.

- Late filing or inaccurate filing of the Summary Information Table, a fine shall be imposed on the amount to one thousandth of the transactions of the taxable person for which there was a documentation obligation. This fine can range between 500 (minimum) and 2,000 (maximum) euros. In any case this fine can only be imposed when there are changes to the amounts of the transactions and the overall differences amount to more than 200,000 euros.
- In case of inaccurate filing the said fine is calculated based on the amounts related only to the inaccuracy and it can only be imposed when the inaccuracy is higher than 10% of the overall transactions for which there was a documentation obligation.
- Failure to provide the Summary Information Table, may bring the imposition of a fine amounting to one thousandth of the transactions for which there was an obligation for documentation. The fine shall not be lower than 2.500 (minimum) nor higher than 10.000 (maximum) euros.
- In case the TP documentation file is sent to the Tax authorities late a fine is applicable depending on when the File is actually sent. Namely, if the file is sent to the Authorities from the 31st day from the notification until the 60th day, a fine equal to 5000 euros given. If it is sent from the 61st day until the 90th day, a fine equal to 10.000 euros is given. Lastly, if the file is not available after the 90th day a fine of 20.000 euros is imposed to the taxpayer.
- When in the context of an audit, it is discovered that the same violation has been occurred more than once within 5 years from the issuance of the initial act, then the fines mentioned previously are to be doubled. When the same violation is committed more than twice at any time, then the fines imposed are four times the original fine.
- When the Country-by-Country report is not filled, a fine amounting to 20.000 euros is imposed. In case the report is filled late or is inaccurate, then the fine drops to 10.000 euros