

Greece - Guidance clarifies that review of transfer pricing documentation is part of “tax audit certificate” program

Recent guidance clarifies that the scope of Greece’s “tax audit certificate” program applies to a taxpayer’s transfer pricing documentation files.

Background

This summer, new procedures established rules for the issuance of “tax audit certificates.” Under this program, one of two certificates may be issued by a company’s certified auditor.

- A tax compliance report “without qualifications” (meaning that the tax authorities are notified, by the certified auditor’s letter, that there were no violations of tax law found)
- A tax compliance report with issues of emphasis, with qualifications, with a negative conclusion, or with an inability to come to a conclusion (meaning that in such instances, a tax audit mandate is issued for specific areas or for a “full scope” tax audit)

The tax audit certificate regime allows companies to finalize their tax obligations immediately (or at the most, within 18 months from the due date for filing the tax compliance report with the Ministry of Finance), thus removing the need to wait for tax audit clearance from the Greek tax authorities.

Under the program, it is anticipated that approximately 9% of companies will be selected for examination by the Greek tax authorities. In addition, the tax authorities may conduct regular tax audits of an additional number of companies.

New guidance

Recently, the Greek Ministry of Finance issued guidance providing the procedures for the issuance of an “annual tax certificate.” Decision no. 1159/22.7.2011 (published in the official government gazette, F.E.K. 1657B’/26.7.2011)

Under this guidance, the annual tax certificate applies to financial years ending on or after 30 June 2011, and must be issued by a certified auditor by the 10th day following the date on which the annual corporate income tax return is filed.

The recent guidance further clarifies that the tax audit certificate regime also includes a review of any intragroup transactions. Specifically, the certified auditor must verify:

- Whether a transfer pricing documentation file has been prepared in accordance with the provisions of the income tax law
- Whether, on the basis of such documentation, the transactions adhere to the arm’s length principle
- Whether any amounts falling outside the price range set in accordance to the arm’s length principle were adjusted for tax purposes

KPMG observation

With the new guidelines for the tax audit certificate, it is evident that companies participating in the tax audit certificate program must have prepared their transfer pricing documentation prior to the completion of the tax audit certificate review, so that certified auditors are able to evaluate the relevant data.

While there are certain remaining issues concerning the transfer pricing documentation to be resolved, prudent taxpayers would move to complete their transfer pricing documentation as soon as possible following the end of the relevant financial year and, in any case, prior to the filing of the corporate income tax return so as to provide sufficient time for the review of the file by certified auditors.