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## Issuance of new interpretative circular regarding transfer pricing

**This is part of our continuous effort to keep you updated on current tax developments.**

The Ministry of Development issued interpretative circular A2-2233/7.5.2009 which we have already sent to you, regarding the enforcement of transfer pricing documentation rules. The most important issues addressed by the circular are the following:

### Preparation of Documentation Files

- A Group with a Greek parent company and Greek/foreign subsidiaries must file one Basic Documentation File, whereas its subsidiaries must submit sections of the Basic File that relate to their transactions.
- When a Group has a foreign parent company and Greek subsidiaries, each one of the Greek subsidiaries must file a separate Greek Documentation File.
- Clarifications are provided regarding the threshold of EUR 1 000 000 of turnover giving rise to the obligation

to submit the list and the Documentation File.

### Submission of List of Inter – company transactions

- The list of inter-company transactions must include all inter-company transactions irrespective of their value whereas only those exceeding EUR 200 000 yearly must be documented in the Documentation File.
- If there is a change in the capital structure of a company within the year under review, the list of inter-company transactions and the Documentation file must be submitted by the Greek or foreign Group that owned the capital up to the moment of the change and thereafter by the new Greek or foreign owner group.
- Inter-company transactions must be recorded in the list by counterparty and transaction category, that is purchase or sale of goods (goods, products, raw materials etc), receipt and provision of services (including rentals of movable and immovable property), receipt or provision of

royalties or other intangibles and financial transactions (loans, debit and credit accounts, time deposits etc).

- The lists of inter-company transactions and the Documentation Files (if such Files are requested by the Ministry) must be submitted together with a cover letter of the Company, either by hand or via a registered letter only within the deadline provided by the law.

### Affiliated companies

Clarifications are provided with respect to the conditions according to which companies are considered affiliated under article 42e of Law 2190/1920. Regarding the condition of dominant influence this is defined by the Ministry as the legal status according to which the “dominant” company has the same influence capability over the dependent company as in the other cases of article 42e (majority of capital, appointment of management etc). The exercise or the capability of exercising “dominant” influence must be in relation to a number of basic sectors for the operation of the subsidiary, as those of

investments, financing, commissions, sales and personnel.

## Special cases

- The relationship of franchisor – franchisee or exclusive distributor relationship does not create any transfer pricing documentation obligations, if the other conditions of article 42e do not apply.
- Transactions between companies of a joint venture under the joint venture contract are not considered inter-company transactions.
- The endowment of a branch by its head office is not considered an inter company transaction.

## Loans and Derivatives

- With respect to loans (including bonds), the list of inter-company transactions should include not only the capital of the loan but also the interest accrued within the year under review. An obligation to document the loan will depend on the total amount of loan capital plus the accrued interest within the year under review.
- With respect to derivatives, the List of inter-company transactions must include not only the exchanged claims/liabilities but also the profits/losses and the relevant fees arising from these contracts.

## Update

The Documentation File must be updated if there are important changes with respect to the nature and manner of

carrying out the inter-company transactions or the benchmarking. However, it is pointed out that according to international experience, an update of the documentation files is expected to be necessary at least every three years.

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In view of the above, we recommend that legal entities and individuals consult with their tax advisors regarding developments on the above matters.

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This Newsflash aims to provide the reader with general information on the above mentioned matters. No action should be taken without first obtaining qualified professional advice specifically relating to the factual circumstances of each case.

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