

ADVANCE TAX RULINGS PROCEDURE ON DIRECT TAX MATTERS

Introduction:

An advance ruling system on the interpretation of law is used extensively by an increasing number of taxpayers worldwide. Irrespective of whether the Tax Department may have made available Interpretive Circulars or Guidance in the application of the law, grey areas may still exist in the application of real-life business scenarios.

It is the responsibility of the Commissioner of Taxation, who heads the Tax Department (within the Ministry of Finance) to administer the enforcement of the tax legislation in Cyprus. Hence, taxpayers may apply to the Commissioner of Taxation for an advance tax ruling in order to confirm their interpretation on certain provisions of the tax law.

Advance tax rulings are issued by the Commissioner with respect to future transactions, or transactions for years for which the submission deadline of the income tax return has not lapsed, after the relevant application submission by the taxpayer.

Content of the Tax Ruling requests:

Requests for advance tax rulings should be submitted in writing confirming all relevant information of the taxpayer. Such information includes:

- Full name and Tax Identification Code (TIC) of the relevant taxpayer and taxpayers involved in the transaction(s) along with the group name if exists.
- Confirmation as to whether the income tax returns for which the deadline has elapsed have been submitted
- The subject matter for which an advance tax ruling is requested
- Full disclosure of the facts and circumstances around the subject
- Detailed request for ruling
- Relevant extracts of the Tax Legislation and relevant case law, circulars or other practices of the Tax Department
- Justification of the interpretation of the applicant taxpayer

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Effect of the Advance Tax Rulings:

An advance tax ruling issued by the Commissioner binds the Tax Department, as long as:

- all facts are accurate, and no relevant facts have been left out, and
- no changes in tax policy have been adopted after the issuance of the ruling, affecting its application.

In case a change in the facts and circumstances described arises that may impact the ruling, the taxpayer should consider applying for an updated tax ruling. Also, an advance tax ruling is only relevant to the taxpayer who has applied for the tax ruling and the specific transactions to which it refers.

However, taxpayers may receive an advance tax ruling/reply which extends to matters that have not been specifically requested in their ruling request/application, but these may have been considered relevant and necessary to be clarified by the Tax Department.

The Commissioner retains the right to revoke or amend a tax ruling in case he identifies an omission/error in the facts and circumstances, even after its issuance. Tax rulings are generally not binding on the taxpayer or on the courts.

Administration fee:

As provided in the Assessment and Collection of Taxes Law, the Council of Ministers may determine the fees for the issuance of advance direct tax rulings by the Commissioner through the issuance of a decree. As per the issued [Decree](#), (Κ.Δ.Π. 130/2016), the Council of Ministers has decided that:

- the fee for the issuance of a direct tax ruling amounts to €1.000 and
- the relevant fee for the issuance of an expedited tax ruling amounts to €2.000.

Expedited tax rulings are usually issued within 21 working days as per the relevant Circular [2016/13](#).

It should be noted that the Tax Department may request further information, evidence and/or clarifications with respect to the subject matter which are expected to be provided within a reasonable timeframe, without which the Tax Department delay the issuance of the tax ruling.

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The obligation for payment of the administration fees can be executed either via online banking of a Cyprus Banking Institution (after the relevant record is submitted through the taxpayer's Tax Portal account) or via JCC Smart under code (0911).

All tax ruling requests should be submitted together with a specific form T.D.219/2016 (both pdf and word format) completed and accompanied by the payment receipt of the fee prescribed above via email to the Tax Department, as clarified within the Circular 2016/13.

Exchange of information:

As per the amended Directive 2011/16/EE Advance Cross Border Rulings shall be exchanged between the Member States. The Circular 2016/12 provides for the conditions on the exchange of such and details on what may be deemed as cross border arrangement for the purpose of the exchange.

Remarks:

In cases where the tax implications of a transaction are uncertain/subjective, obtaining a tax ruling is one of the most reliable ways to determine the potential tax consequences of the transaction. It provides taxpayers with clarity and certainty on the application of the law before any tax consequences occur.

Furthermore, rulings can also lead to a reduction of legal disputes and to the improvement of the legal relationship between the tax administration and the taxpayers.

Our team of experts remains at your disposal for assistance for the above. For tax matters, please contact tax@hlb.com.cy.

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