
Cyprus tax authorities issue Circular on advance tax rulings

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In brief

A Circular has been recently issued by the Cyprus tax authorities which sets out imminent changes to their advance tax ruling practice. The Circular provides that, except in limited circumstances, advance tax rulings will only be issued with regards to:

- future actions or transactions regarding current or future taxpayers, and
- actions or transactions involving tax years for which the deadline of submission of the tax return has not lapsed

The Circular also sets out the information which a taxpayer will need to provide in order to support the ruling request. This includes, inter-alia, the name and tax identification code of the relevant parties.

Taxpayers who are not in compliance with the submission deadlines for their tax returns will, with certain exceptions, not be eligible to apply for an advance ruling request.

The Circular also describes the tax and administrative procedures to be followed.

The provisions of the Circular are applicable as from 19 October 2015 and we understand that they apply only to direct taxation advance tax rulings.

In detail

Recently the Tax Department issued a Circular setting out its new practice regarding advance tax rulings.

Starting on Monday 19 October 2015:

(a) The Tax Department will be issuing advance tax ruling replies with regards to:

- future actions or transactions regarding current or future taxpayers, and

- actions or transactions involving tax years for which the deadline of submission of the tax return has not lapsed

The advance tax ruling requests, which should be addressed to the Commissioner and submitted in hard copy form, should

include the following information, as a minimum:

- (i) Name and Tax Identification Code of all parties involved, and the name of the Group in case of company(ies);
- (ii) Whether all tax returns, the deadline of submission of which has lapsed, have been submitted;

- (iii) The subject matter, which should make clear what the issue at hand is;
- (iv) Full analysis of the facts;
- (v) The question(s);
- (vi) The relevant provisions of the Cyprus tax framework;
- (vii) The substantiated view of the applicant.

(b) At any stage of the examination of the advance tax ruling request, the Tax Department may request additional information/evidence/clarifications relevant to the subject matter, which must be submitted within a reasonable period of time, otherwise the Tax Department will not issue the advance tax ruling reply.

(c) In its reply, the Tax Department is entitled to address tax consequences that it considers arise out of the facts of the case, irrespective of whether or not the applicant requested a reply on those specific consequences.

(d) The advance tax ruling replies will be applicable for as long as the facts and conditions of the case remain applicable, and provided that there is no amendment in the relevant legislation after their issue. The advance tax ruling replies will apply exclusively to the specific parties and the specific actions or transactions to which they refer.

If the District Office finds that there is a discrepancy between the information quoted in the advance tax ruling request and the actual facts, then the District Office may either differentiate itself from the advance tax ruling reply or submit to the Rulings Division the actual facts together with its suggestion for

confirmation of the original advance tax ruling reply or its amendment.

The Commissioner reserves the right, if deemed necessary but always in the context of good administrative practice, to withdraw or amend an advance tax ruling reply in case it was issued inadvertently or was based on an incorrect appreciation of the facts, taking into account all the consequences on the taxpayer.

(e) Advance tax ruling requests concerning actions or transactions of tax years for which the deadline for submission of the tax return has lapsed will be addressed by the Rulings Division only if the District Office deems it necessary to submit the advance tax ruling request to it, and only after the relevant tax returns are submitted.

By exception, the Commissioner could issue advance tax ruling replies regarding actions or transactions of such past years, if he judges that the specific circumstances of a case demand it.

(f) The Tax Department will not proceed with the issue of an advance tax ruling reply in case the applicant has not submitted all income tax returns for which the deadline for submission has lapsed, except for the case mentioned above under (e).

(g) The advance tax ruling requests will be replied to in strict chronological order, unless the Commissioner is satisfied that there is reasonable cause for expedition. Expedition requests should be submitted in writing and be fully justified. Non-

expedited replies will be issued within a reasonable time frame.

By exception, advance tax ruling requests submitted by 18 October will be replied to as soon as possible, irrespective of whether they comply with (a) to (f) above.

The takeaway

Advance tax rulings can be valuable to taxpayers as they provide comfort on how the tax framework is applied to their particular transactions. With the issuance of this Circular taxpayers who wish to apply for advance tax rulings will, as from 19 October, generally need to ensure that they do so at the latest by the submission deadline of the tax return for the period the transactions relate to. As is currently the case taxpayers may continue to request an advance tax ruling prior to undertaking the relevant transaction(s).

Taxpayers will also need to ensure that they are up to date with their tax return compliance obligations before requesting an advance tax ruling and be prepared to be more transparent with tax authorities as anonymous ruling requests will not be accepted post 18 October 2015.

Let's talk

For an in-depth discussion of how this issue might affect your business, please contact:

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