

## Circular

Istanbul, 4 April 2018

Circular No: 41

**Subject: Documentation liability for 2017 in the implementation of transfer pricing.**

Corporation Tax Law's Article 13 contains a provision indicating that the income will entirely or partly be considered as disguisedly distributed through transfer pricing in the circumstance that corporate taxpayers bought or sold goods or services to the related parties over costs or prices detected as contrary to the arm's length principle.

Pertaining to the same article; records, statements and documents concerning the calculations for costs or prices detected in line with the arm's length principle are required to be preserved by the taxpayers as probative documents.

Liabilities of the taxpayers for documentation on transfer pricing have been indicated in the General Communique on Disguised Profit Distribution through Transfer Pricing series no.1.

Accordingly, the existing regulations on transfer pricing impose a quite detailed and two staged documentation liability on the taxpayers. The documentation liabilities of corporate taxpayers for 2017 regarding their transactions with related parties are provided below:

### **I. The form concerning transfer pricing, examined foreign company and disguised capital**

Regarding the transactions with related parties for goods or services bought or sold within an accounting period, corporate taxpayers are required to fill in the form concerning transfer pricing, examined foreign company and disguised capital and send it to the affiliated tax office as attached to the corporation tax return.

Through the aforementioned form, corporate taxpayers declare the related parties that they performed transactions during the concerning accounting period, total amount of those transactions and the transfer pricing methods used in pricing the transactions.

### **II. Annual Transfer Pricing Report**

#### **A. Taxpayers required to submit a report**

##### **1. Taxpayers registered to the large-scaled taxpayers office**

Taxpayers registered to the large-scaled taxpayers office should prepare an annual transfer pricing report concerning the domestic and foreign transactions they performed with the related parties in an accounting period in line with the format indicated in the General Communique.

The annual transfer pricing report should also contain the transactions with related parties in free zones and branches abroad (including the branches in free zones).

## **2. Corporate taxpayers dealing with activities in free zones**

For the corporate taxpayers dealing with activities in free zones, it's mandatory to prepare an annual transfer pricing report for their domestic transactions with related parties and submit it to the Revenue Administration or to the ones authorized for handling a tax inspection if case it's demanded.

However, the branches of corporate taxpayers dealing with activities in free zones are not required to prepare a report separately.

## **3. Other corporate taxpayers**

Other corporate taxpayers should prepare an annual transfer pricing report for their overseas transactions with the related parties in an accounting period in line with the format indicated in the General Communique.

The annual transfer pricing report should also contain the transactions with the branches abroad and related parties in free zones (including the branches in free zones).

### **B. Report's format, mandatory information and documents**

Pertaining to the terms of concerning General Communique, annual transfer pricing reports should be styled in line with the format provided below:

#### **I. GENERAL INFORMATION**

Information about the taxpayer's field of activity, performing functions, risks undertaken, and assets owned, economic conditions, market conditions and business strategies.

#### **II. INFORMATION ON THE RELATED PARTIES**

Information on the related parties' tax identity numbers, address, phone number and detailed information about their field of activity, economic conditions in that sector, market conditions, legal arrangements, business strategies, functions performed by related parties, risks undertaken, assets owned.

#### **III. INFORMATION ON THE DETAILS OF THE TRANSACTIONS WITH RELATED PARTIES**

Detailed information on all transactions and contracts between the related parties.

#### **IV. INFORMATION ON TRANSFER PRICING ANALYSIS**

Details about comparability analysis and criteria applied in choosing comparable transactions, detailed information if any correction is made during the detection of comparability, the reasons for using the preferred transfer pricing method after comparing with the other methods, information, document and calculations to prove that the method used is the most appropriate one, detailed information on calculations used in detecting the arm's length price/value or profit margin, detailed information about the calculations if a range for the arm's length price was set.

## **V. CONCLUSION**

### **III. Documentation calendar**

#### **A. The form concerning transfer pricing, examined foreign company and disguised capital**

The forms to be prepared regarding the transactions with related parties in 2017 should be sent to the affiliated tax office as attached to the corporation tax return until 25 April 2018 the latest.

#### **B. Annual Transfer Pricing Report**

The transfer pricing reports to be prepared for the transactions with related parties in 2017 should be completed until 25 April 2018 at the latest and following the deadline, it's mandatory to submit it to the Revenue Administration or to the ones authorized for tax inspection if demanded.

### **IV. Other important matters**

#### **A. Penal sanctions concerning transfer pricing transactions**

In terms of the implementation of income and corporation tax laws, the income disguisedly distributed through transfer pricing entirely or partly is considered as distributed dividend or amount transferred to the headquarters for limited taxpayers as of the last day of the accounting period in which the conditions within this item materialized.

#### **B. Protection ensured by transfer pricing documentation**

Provided that the documentation liabilities for transfer pricing are fulfilled completely and on time, tax loss penalty for the taxes that are not accrued on time or taxes under-assessed concerning the profit disguisedly distributed is applied with 50% deduction.

*Our explanations provided above include general information on the issue. No responsibility can be claimed against EY and Kuzey YMM ve Bağımsız Denetim A.Ş. due to the implications arising from the context of this document or emerging with respect to its context.*

Best Regards,

KUZEY YMM VE BAĞIMSIZ DENETİM A.Ş.