



Philippos Aristotelous

# Changes to tax rulings procedure

October 30 2015 | Contributed by Andreas Neocleous & Co LLC



Corporate Tax, Cyprus

- Introduction
- Time limits
- Ruling requests
- Validity of rulings
- Tax rulings on past transactions

## Introduction

The Tax Department provides written replies to requests for guidance on the interpretation of tax law. While this practice is not incorporated in tax legislation and is not an official ruling regime, as used in other EU member states, the department nevertheless regards itself as bound by its rulings if the full facts were disclosed on the ruling request.

In anticipation of changes at the EU level regarding the automatic exchange of cross-border rulings, and recognising the usefulness of tax rulings in eliminating uncertainty, the department has issued Circular 2015/13 formalising the procedures for obtaining advance tax rulings and setting out the terms on which they are binding. The new procedures took effect on October 1 2015.

## Time limits

Via its tax rulings division, the department will issue advance tax rulings regarding transactions (or series of transactions) relating to tax years for which the due date for filing a return has not yet passed and transactions proposed to be undertaken by new or existing companies. For example, ruling requests for transactions concluded in 2015 will be accepted up to March 31 2017, the statutory deadline for filing 2015 tax returns.

## Ruling requests

Requests for tax rulings must be in writing and addressed to the tax commissioner. They must include:

- the name and tax identification code of the parties involved in the relevant transaction and the name of any group of companies of which any parties are members;
- confirmation that all parties have filed all tax returns due;
- a description of the circumstances, giving a sufficient explanation of the tax issue under consideration;
- detailed factual analysis of the transaction or transactions relating to the request;
- the question or questions on which a ruling is required;
- references to the relevant tax legislation, circulars or practices of the department and to any relevant case law; and
- the applicant's opinion regarding the appropriate tax treatment.

The department may request further information, evidence or clarification and the applicant must provide these within a reasonable time, failing which no ruling will be issued.

Requests will be dealt with in the order in which they are received, unless the tax commissioner is satisfied that there are reasonable grounds for issuing an expedited ruling on a particular matter at the taxpayer's request.

The department may include in its response any tax consequences that, it believes, derive from the transactions specified in the ruling request, even though the applicant may not have requested an opinion on these matters.

## Validity of rulings

Rulings will be binding with regard only to the taxpayers specifically mentioned in the ruling request, to the extent that the facts and circumstances presented in the request continue to be applicable and provided that there is no subsequent change in the tax law which renders the ruling inapplicable. The rulings division will express an opinion on the applicable tax treatment of the hypothetical transaction that is presented to it and will not be responsible for verifying the facts that the applicant presents.

In the event of any discrepancy that subsequently emerges between the scenario presented in a tax ruling request and the transactions undertaken, the relevant district tax office may decline to apply the tax ruling or inform the tax rulings division of the facts, asking it to confirm or modify the previous version of the tax ruling.

The department reserves the right to set aside or modify a tax ruling based on an incorrect understanding of the facts presented. However, before setting aside or modifying a tax ruling, it will take into consideration potential consequences to the taxpayer from any actions that took place after the issuance of the tax ruling, in line with the principles of good administration.

## Tax rulings on past transactions

Other than in cases where there are special circumstances according to the commissioner of taxes, the tax rulings division will not deal with any requests that relate to tax years for which tax returns have been or ought to have been filed. These cases will be handled by the relevant district tax office and the tax rulings division will become involved only at the request of the district tax office concerned, and only after all due tax returns have been submitted.

Unlike the tax rulings division, district tax offices are expected to investigate and verify the facts in question, given that the relevant transactions have been undertaken. This may require the provision of additional information.

*For further information on this topic please contact Philippos Aristotelous at Andreas Neocleous & Co LLC by telephone (+357 25 110 000) or email (aristotelous@neocleous.com). The Andreas Neocleous & Co LLC website can be accessed at [www.neocleous.com](http://www.neocleous.com).*

The materials contained on this website are for general information purposes only and are subject to the disclaimer.

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription.