

International Taxation of Associated Enterprises

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Introduction

The taxation of associated enterprises represents a fundamental challenge in international tax law. Article 9 of the OECD Model Tax Convention on Income and on Capital (the “**OECD Model**”) addresses this issue by providing that where conditions between associated enterprises in their commercial or financial relations differ from those that would be agreed between independent enterprises, the resulting profits must be adjusted as if the parties were acting as independent entities at arm’s length.

The allocation of profits between associated enterprises directly affects the tax revenues of the states concerned, and raises complex issues in determining the appropriate taxable base of each entity. Transfer pricing rules offer a key mechanism by which governments protect their corporate tax base. This essay examines the principal tax challenges arising from cross-border activities of associated enterprises, outlines the core principles of transfer pricing, analyses Article 9 OECD Model, illustrates its application through practical examples, and concludes by examining the implementation of these standards in Greek law.

I. Tax Issues Arising from Cross-Border Activities of Associated Enterprises

A. The Economic Reality of Intragroup Transactions

In open market transactions, buyers and sellers pursue opposing economic interests: buyers seek to minimise prices whereas sellers seek to maximise them. This dynamic changes significantly where the parties are associated enterprises, as they typically pursue common objectives such as maximising overall group profit, optimising internal processes and achieving strategic market advantages. From a tax perspective, this alignment of interests creates incentives to set prices so as to minimise the group’s overall tax liability.

The relationship within multinational enterprise (“**MNE**”) groups allows the establishment of intra-group conditions that diverge from those prevailing in open markets. Competitive forces governing the open market have a limited impact on intragroup transactions, which may be carried out under terms unacceptable between unrelated parties, including the use of internal transfer prices¹.

While the term “transfer pricing” is neutral and merely refers to the price established in transactions between related persons, in international taxation, it commonly denotes the artificial manipulation of such prices, with the aim of gaining a tax advantage² by shifting profits to jurisdictions with more favourable taxation.

Accordingly, transfer pricing in international tax law concerns the determination of taxable profits attributable to each entity, with the aim of countering abusive tax avoidance arrangements.

B. Profit Shifting and Base Erosion

Associated enterprises may engage in practices aimed at exploiting differences between national tax systems to achieve base erosion and profit shifting. Common mechanisms include pricing manipulation for goods, services, or intangibles to shift profits from high-tax to low-tax jurisdictions, excessive debt placement in high-tax jurisdictions (known as debt loading) to generate deductible interest payments to low-tax affiliates, the relocation of valuable intangibles to low-tax jurisdictions combined with royalty charges to operating companies in

¹ Marjaana Helminen, *EU Tax Law – Direct Taxation* (IBFD 2022), p. 325.

² Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), p. 315.

high-tax jurisdictions³, and the contractual allocation of economically significant risks to low-tax entities to justify higher profit allocations.

C. Challenges for Tax Authorities

Once the tax liable entities within a jurisdiction have been identified, the subsequent challenge is to determine how group profits should be allocated between them. Transfer pricing rules require intra-group transactions to be priced at arm's length. In practice, however, determining an appropriate market price is complex. Governments must ensure that the profits declared by MNEs correspond to a reasonable level of commercial activity, while avoiding excessively stringent rules that could deter foreign investment.

MNEs usually operate through complex, highly-integrated corporate structures, compartmentalising expertise, types of resources and knowledge. Multinational corporate groups are formed precisely in order to benefit from efficiencies and synergies among the affiliated entities, such as centralised service functions. Over time, such internalised functions may become highly specialised that external providers are no longer capable of offering comparable services, rendering the application of the arm's length principle particularly challenging.

D. Double Taxation Risks

Adjustments made to the taxable profits attributable to an enterprise (in accordance with Article 9(1) OECD Model) may give rise to economic double taxation, as the same income may be taxed in two different jurisdictions in the hands of distinct legal entities. This may occur where two jurisdictions make inconsistent determinations of the price for the same transaction, when one jurisdiction makes a primary adjustment to increase the taxable profits of a local entity and the other jurisdiction refuses to make a corresponding adjustment, or when differences in domestic law definitions lead to overlapping tax claims. The states are obligated to eliminate double taxation either by inclusion of profits in the computation of taxable profits in one state only (exemption method) or by reduction of the tax chargeable on those profits in one state by an amount equal to the tax chargeable on them in the other state (credit method), and, where applicable, through corresponding adjustments under Article 9(2) OECD Model.

E. Transfer Pricing Documentation

A further challenge lies in information asymmetry: most of the detailed evidence concerning the pricing lies with the taxpayer, meaning that the tax authority is at a considerable disadvantage. This disparity creates opportunities for manipulation and has led states to impose documentation requirements to substantiate compliance with the arm's length principle.

II. Taxation of Associated Enterprises

A. Basic Principles

Article 7 OECD Model establishes the basic principle that business profits are generally subject to tax in the state where the enterprise is resident. However, the economic reality of cross-border transactions between associated enterprises leads to the implementation of a different set of rules pursuant to Article 9 OECD Model. The tax authorities of a state may re-write the

³ For example, in *Italy v. Dolce & Gabbana S.r.l.*, the Italian tax authorities alleged that the transfer of ownership of the founders' trademarks to a Luxembourg holding company was structured to avoid taxation on royalties in Italy by exploiting Luxembourg's lower tax rates. Although the founders were initially convicted at lower instances, they were ultimately acquitted by the Italian Supreme Court. Domenico Busetto and Paolo Sella, *Italy: Supreme Court finds Dolce & Gabbana not guilty of tax evasion* (Tax Alert – KPMG in Italy 2015) <https://assets.kpmg.com/content/dam/kpmg/pdf/2015/11/tmf-italy-nov23-2015.pdf> Accessed: 27 December 2025.

accounts of the resident enterprise if, as a result of the special relations between associated enterprises, the accounts do not show the true taxable profits arising in that state⁴.

Article 9(1) provides a broad definition of “associated enterprises” by covering both direct participation in the management, control or capital of another enterprise and enterprises under common control.

It should be clarified that this essay does not address permanent establishment (“**PE**”) situations. Pursuant to Article 5(7) OECD Model, a subsidiary company does not constitute a PE of its parent company, merely by virtue of ownership⁵. The subsidiary will be considered a PE where it acts as a dependent agent of the parent or its premises are “at the disposal of” the parent establishing a fixed place of business for the parent under Article 5 OECD Model⁶. This is a separate issue and Article 9 does not apply.

B. Article 9(1) OECD Model and the Arm’s Length Principle

Article 9 OECD Model permits profit adjustments for tax purposes where transactions entered into between associated enterprises deviate from arm’s length conditions. Detailed information and guidelines on the application of Article 9 are set out in a report by the OECD entitled *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (the “**OECD Guidelines**”), which articulates internationally accepted principles.

By seeking to adjust profits by reference to conditions between independent enterprises in comparable transactions and comparable circumstances, the arm’s length principle follows the approach of treating MNE members as separate entities rather than as inseparable parts of a single unified business^{7 8}. A major reason for the adoption of the arm’s length principle is that it is argued to provide broad parity of tax treatment for members of MNEs and independent enterprises, avoiding the creation of tax advantages or disadvantages that would otherwise distort the relative competitive positions of either type of enterprise⁹.

The provisions of Article 9(1) apply only if special non-arm’s length conditions have been made or imposed between the associated enterprises, and no profit adjustment is to apply where the transactions have taken place on normal open market commercial terms.

B. Comparability Analysis

The first step for application of the arm’s length principle is the evaluation of the internal pricing with the use of a comparability analysis between controlled and uncontrolled transactions. Controlled are the transactions between associated entities, whereas uncontrolled are the dealings between unrelated parties. This analysis requires an examination of the commercial and financial relations between the parties and the identification of any material differences between the different transactions. Key considerations include the functions performed, assets used and risks assumed, as well as the contractual terms, market conditions and business strategies. The OECD Guidelines outline a structured, multi-step framework to

⁴ OECD, *Commentary on the OECD Model Tax Convention on Income and on Capital* (OECD Publishing 2017), Article 9 p. 226 para. 2.

⁵ OECD, *Commentary on the Model Tax Convention* (OECD Publishing 2017), Article 5 p. 150 para. 115.

⁶ Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), p. 212.

⁷ OECD, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (OECD Publishing 2022), p. 31.

⁸ There are two basic possibilities for allocating taxable profit to individual entities within a multinational enterprise: (a) unitary taxation (top down) – take the profit of the whole group and divide it between the individual entities and (b) separate entity (bottom up) – look at each entity separately and calculate its profit as if it were an independent entity. The “separate entity” approach is the one endorsed by the OECD and constitutes the norm governing the international taxation of MNEs, even though its effectiveness and validity are subject to challenges. Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), p. 316.

⁹ OECD, *Transfer Pricing Guidelines* (OECD Publishing 2022), p. 32.

select appropriate comparables and transfer pricing methods¹⁰. Given the complexity of comparability analyses, the OECD also recognises the use of safe harbour rules¹¹ to simplify compliance and reduce disputes.

C. Transfer Pricing Methods

The OECD recognises two broad categories of applicable methods: the traditional transaction methods and the transactional profit methods. Transaction methods are based on transaction-level comparisons attempting to match the controlled transaction to similar arrangements among independent parties, with the argument that any difference in the price of a controlled transaction and a comparable uncontrolled transaction can normally be traced directly to the commercial and financial relations between the parties. The transactional profit methods look at the profits that arise from a particular controlled transaction. The traditional transaction methods are generally preferred by the OECD, but the OECD Guidelines recommend the selection of the “most appropriate” method in light of the particular circumstances of each transaction¹².

The transaction-based methods are the comparable uncontrolled price method (“CUP”), the resale price method, and the cost plus method. The CUP method compares the actual transfer price in an associated-party transaction against the pricing of a comparable uncontrolled transaction, provided firstly, that any differences in the transactions cannot materially affect the open market price and secondly, any existing differences may be eliminated by reasonably accurate adjustments. The resale price method is used where a group company resells goods to independent customers with little or no value added. The arm’s length price is determined by deducting an appropriate gross margin from the resale price, which should cover the reseller’s operating costs and provide a reasonable profit, with adjustments made where necessary to ensure comparability with independent transactions. The cost plus method determines an arm’s length price by adding an appropriate profit mark-up to the supplier’s production cost and is commonly used for services or contract manufacturing. It focuses on the seller’s gross margin and is particularly relevant where each group company adds significant value (e.g., by further processing), even though reliable market comparables may be limited.

The transactional profit methods for the purposes of the OECD Guidelines are the transactional profit split method and the transactional net margin method. The transactional net margin method (“TNMM”) involves a comparison of the earnings before interest and tax (“EBIT”) of a company suspected of having depressed profits due to manipulative transfer pricing practices with that of unrelated companies in the same industry¹³. The profit split method seeks to establish arm’s length prices for controlled transactions, by first identifying the profits generated by the associated party transactions and then splitting them between the associated enterprises on an economically valid basis that approximates the division of profits that would have been agreed at arm’s length. The main strength of this method is that it can offer a realistic solution for cases where both parties to a transaction make unique and valuable contributions,

¹⁰ For more details, see OECD, *Transfer Pricing Guidelines* (OECD Publishing 2022).

¹¹ Safe harbour provisions offer a simple set of prescribed transfer pricing rules in connection with clearly and carefully defined transactions. For example, such a provision could allow taxpayers to establish transfer prices in a specific way (e.g. by applying a simplified transfer pricing approach) or could exempt a defined category of taxpayers or transactions from the application of certain general transfer pricing rules. Often, eligible taxpayers complying with such provisions will be relieved from burdensome compliance obligations, including the related documentation requirements. OECD, *Transfer Pricing Guidelines* (OECD Publishing 2022), p. 204-205.

¹² OECD, *Transfer Pricing Guidelines* (OECD Publishing 2022), p. 93-96.

¹³ Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), p. 330.

where allocating most of the profit to one entity¹⁴ would not represent actual commercial practices.

Further, the comparable profits method (“**CPM**”), widely used in the United States, compares the operating profit of a company engaged in controlled transactions with that of functionally similar independent companies, using profit level indicators such as operating margins or returns on capital. Although not endorsed by the OECD, CPM is generally considered to produce results similar to TNMM. Its popularity stems from the availability of public financial data and non-reliance on evidence produced directly by the taxpayer, and its relative ease of application for tax authorities, particularly in audits and advance pricing agreement negotiations.

D. Corresponding Adjustments under Article 9(2)

Following the adjustment of profits using the most appropriate transfer pricing method, Article 9(2) OECD Model seeks to mitigate potential double taxation by providing that where a state adjusts and taxes accordingly profits of an enterprise that have already been charged to tax in the other state, that other state should make an appropriate corresponding adjustment to the amount of the tax charged¹⁵. An adjustment is not automatic and is to be made only where the “primary” adjustment is justified meaning that the other state considers that the figure of adjusted profits both in principle and as regard to the amount correctly reflects arm's length conditions¹⁶.

The timing and method of the corresponding adjustment are not specified, and states are free to agree in their bilateral treaty, the time period during which the other state is obligated to make a corresponding adjustment, and the method to be implemented for such adjustment. The Commentary on Article 9 OECD Model suggests that a corresponding adjustment may be made either by reopening the relevant tax assessment in the other state and adjusting the taxable profits accordingly, or by granting additional relief under Article 23 OECD Model for income actually taxed in the first state.

It is important to note that Article 9(2) does not address “secondary” adjustments. Even after an appropriate corresponding adjustment has been made, the tax outcome may not fully reflect arm's length pricing because the profits remain with a different enterprise than would have occurred naturally. Secondary adjustments, such as treating the transferred profits as dividends, royalties, or loans, may be required to correct this, potentially triggering additional tax consequences (e.g., the operation of a withholding tax), and are permitted if allowed under domestic laws¹⁷.

E. Practical Difficulties

A practical difficulty in applying the arm's length principle is that associated enterprises may engage in transactions that independent enterprises would not undertake. As a result, the arm's length principle is difficult to apply where no comparable transactions exist.

The arm's length assumption ignores that one of the reasons that corporate groups arise is precisely to avoid the inefficiencies of arm's length transactions. The existence of MNEs allows them to organize their production and distribution in a way non-achievable in the open market by internalising transaction costs which subsequently increases efficiency *inter alia* in raising capital and advertising products. The income allocation inherent with transfer pricing actually distorts economic reality because it separates something which is only achieved due

¹⁴ OECD, *Transfer Pricing Guidelines* (OECD Publishing 2022), p. 128-129.

¹⁵ Roy Rohatgi, *Roy Rohatgi on International Taxation – Volume 1: Principles* (IBFD 2018), p. 200.

¹⁶ OECD, *Commentary on the Model Tax Convention* (OECD Publishing 2017), Article 9 p. 227 para. 6.

¹⁷ OECD, *Commentary on the Model Tax Convention* (OECD Publishing 2017), Article 9 p. 228-229 paras. 8-9.

to the integration¹⁸. However, the mere fact that a comparable uncontrolled transaction may not be identified does not of itself mean that the controlled transaction is not arm's length.

Further, the effectiveness of the corresponding adjustment mechanism of Article 9(2) OECD Model relies on the cooperation between tax administrations. In practice, disputes often arise about whether the “primary” adjustment is justified and, if so, what the appropriate corresponding adjustment should be, with the Mutual Agreement Procedure available to resolve such disputes.

IV. Practical Examples of Transfer Pricing Adjustments

1. Margin Adjustment Using the Transactional Net Margin Method (TNMM)

Company C is a routine distributor in State Z, performing basic distribution functions (such as warehousing, marketing and sales) without owning any valuable intangibles or assuming significant commercial risks. Due to this limited role, Company C is expected to make only a routine return, but that return should still be consistent with open market practice. Company C reports an operating margin of 1% on sales to group companies, whereas a benchmarking study of comparable independent distributors shows an arm's length range of 3%–5%, with a median of 4%. The tax authority adjusts Company C's taxable profits to reflect a 4% operating margin. This adjustment aligns Company C's profit level with that of independent enterprises performing comparable functions.

2. Cost Plus Adjustment for Intragroup Services

Company E provides back-office and administrative services (such as accounting, HR, IT support and invoicing) to affiliated companies. These services do not involve valuable intangibles or the assumption of commercial risks, but third-party service providers would not normally provide such services at cost alone, but rather they would charge a mark-up to earn a profit. Company E charges costs without any mark-up resulting in no profit, whereas comparable independent service providers earn a cost-plus mark-up of 8%. Since the intragroup service fee is proven to be below arm's length, the tax authority adjusts Company E's service fee by applying an 8% mark-up to its cost base.

This adjustment reflects the arm's length remuneration for routine services within a multinational group.

3. Adjustment for Intragroup Financing (Interest Rate)

Company F grants a loan to its subsidiary at an interest rate of 1%. Comparable loans between independent parties with similar credit risk carry interest rates between 4% and 6%. The tax authority adjusts the interest income of Company F to 5%, the median of the arm's length range, to ensure that intragroup financing reflects market-based pricing.

4. Risk Reallocation Adjustment

Company G contractually assumes significant market and inventory risks but lacks the personnel and decision-making capacity to manage those risks. In practice, risk management is carried out by another group entity. The tax authority reallocates the risks based on the actual conduct of the parties and adjusts profits accordingly, allocating higher profits to the entity that effectively controls and manages the risks.

This reflects the OECD Guidelines that risk allocation must follow economic substance, not merely contractual terms.

¹⁸ Bruno Farinha Aniceto da Silva, *The impact of tax treaties and EU Law on group taxation regimes* (Universiteit van Amsterdam 2016), pp. 33-34.

5. Dual Unique Contributions and Profit Split

Company A and Company B co-develop a new digital platform for financial services, with Company A contributing proprietary algorithms and data analytics capabilities and Company B providing customer interface technology and regulatory compliance expertise. Both entities employ highly qualified personnel who work collaboratively on the platform development.

As both companies contribute unique intangibles and share economically significant risks, pursuant to the transactional profit split, the profits generated from the platform would be divided between the companies based on factors such as R&D expenses and key personnel contributions.

V. Transfer Pricing Administration

A. Documentation Requirements

As already mentioned, one of the key challenges faced by tax authorities is the information asymmetry since the evidence as to the pricing of the controlled transactions lies with the taxpayer. In view of this, the tax laws and/or tax practices of most states require that international groups provide the tax authorities annually with standardized information and documentation on internal transfer prices, with the extent and details of such requirements depending on national laws¹⁹. The European Union in order to standardize the national practices of Member States adopted the EU Code of Conduct, whose application by the MNEs is optional, whereas tax administrations should in principle accept documentation produced in accordance with the EU Code of Conduct²⁰. The documentation consists of: (a) the master file, which is produced by the parent company to provide a blueprint of the group and its transfer pricing practices and is available to all EU Member States, and (b) the country-specific file including country-specific information, available only to the tax authorities of the Member States concerned²¹.

Further, the OECD's BEPS Action 13 developed a three-tiered approach consisting of a master file, a local file and a Country-by-Country ("CbC") report, with the CbC report being divided into three tables providing an overview of income allocation, taxes and business activities by tax jurisdiction, a list of constituent elements of the MNE in each jurisdiction, and additional information²².

B. Advance Pricing Agreements

The Advance Pricing Agreement ("APA") is a binding arrangement between taxpayers and tax authorities that provide an advance ruling that transfer pricing policies will be regarded as being at arm's length. APAs may be unilateral (between the taxpayer and the tax administration concerned), bilateral (between each administration concerned), or multilateral (between all the administrations concerned), with bilateral and multilateral APAs naturally offering greater protection. The APA system enables transfer pricing issues to be identified in advance of the generation of taxable profits, giving greater certainty to MNEs. In certain cases, the APA may also provide for "roll-back" meaning that it shall apply to tax periods prior to the commencement of negotiations.

¹⁹ Marjaana Helminen, *EU Tax Law – Direct Taxation* (IBFD 2022), p. 327.

²⁰ Council of the EU, *Resolution of the Council and of the Representative of the Governments of the Member States meeting with the Council on a Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the European Union (EU TPD)* (20 June 2006), p. 4, <https://data.consilium.europa.eu/doc/document/ST-9738-2006-INIT/en/pdf> Accessed: 29 December 2025.

²¹ Marjaana Helminen, *EU Tax Law – Direct Taxation* (IBFD 2022), pp. 334-336.

²² Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), pp. 356-357.

While APAs significantly reduce the risk of subsequent transfer pricing disputes, they are resource-intensive, requiring substantial documentation, detailed functional and economic analyses, and prolonged engagement with tax authorities. Nonetheless, supporters of APAs consider that they are worth the cost and effort²³.

C. Dispute Resolution Mechanisms

C.1. Mutual Agreement Procedure (hereinafter “MAP”)

Transfer pricing disputes are common and may take years to resolve. Article 25 OECD Model provides that where a person considers that the actions of one or both of the states concerned result or will result in taxation contrary to the provisions of the Convention, he may present his case to the competent authority of his state of residence.

Article 25 provides a mechanism for competent authorities to consult with each other and reach an agreement on the elimination of double taxation having arisen in the context of transfer pricing, by determining whether a primary adjustment is justified and what corresponding adjustment is appropriate.

Where the competent authorities are unable to reach an agreement within two years, Article 25(5) states that the unresolved issues will, at the written request of the person who presented the case, be solved through an arbitration process²⁴.

C.2. EU Arbitration Convention

Disputes arising within the EU can also be resolved in accordance with the EU Arbitration Convention, which introduces a procedure for the elimination of double taxation caused by national transfer pricing adjustments. The Arbitration Convention has its own relevance, because most bilateral tax treaties concluded between Member States do not include provisions that would require the Member States to eliminate double taxation in a conflict situation where the states are not able to reach an agreement, unlike the Arbitration Convention²⁵.

In particular, where the competent authorities fail to reach an agreement within two years from when the case was first submitted to one of the authorities, they must set up an advisory commission charged with delivering its opinion on the elimination of double taxation. The advisory commission has six months to produce such opinion from when the matter was referred to it, adopting its opinion by simple majority; following this the tax authorities have six months to reach a final agreement. The tax authorities may deviate from the opinion of the advisory commission, but if, after six months, they have not yet resolved the matter, the states are bound to adopt the findings of the opinion.

VI. The Greek Legal Framework for Transfer Pricing

A. Article 50 of the Greek Income Tax Code

Article 50 of the Greek Income Tax Code (Law 4172/2013 as amended) directly implements Article 9(1) OECD Model into Greek domestic law, with Article 50(2) ensuring that Greek tax authorities and taxpayers are to apply the methodologies, principles, and guidance contained in the OECD Guidelines, as updated from time to time.

In particular, the tax authorities may adjust the profits of controlled transactions, insofar as any adjustment of the profits of domestic enterprises arising from controlled transactions, may not result in a reduction of the tax originally charged. However, where such transactions take place

²³ Lynne Oats PhD, *Principles of International Taxation* (8th edn, Bloomsbury Professional 2021), pp. 365-367.

²⁴ OECD, *Commentary on the Model Tax Convention* (OECD Publishing 2017), Article 25 p. 429 et seq.

²⁵ Marjaana Helminen, *EU Tax Law – Direct Taxation* (IBFD 2022), pp. 348 et seq.

between enterprises established in states that have concluded bilateral tax treaties, a reduction in the tax of the domestic enterprise whose income is adjusted cannot be excluded, since such treaties, by virtue of their constitutionally recognised supranational force, prevail over domestic statutory provisions²⁶.

Article 50(1A) provides for the domestic application of the corresponding adjustment of Article 9(2) OECD Model, where the resident enterprise may request a corresponding adjustment to its taxable profits by filing an amended tax return accompanied by a notice of the audit report of its associated enterprise whose profits were “primarily” adjusted²⁷.

B. Documentation Requirements under Greek Law

Article 25 of the Greek Code of Tax Procedure (Law 5104/2024) requires transfer pricing documentation aligned with the OECD BEPS Action 13 and the EU Code of Conduct. Specifically, all associated persons are to maintain a Documentation File, which consists of the Basic Documentation File and the Greek Documentation File as appropriate, is prepared by the deadline for submission of the annual income tax return and is accompanied by a Summary Information Table submitted electronically to the tax authorities within the same deadline.

C. Advance Pricing Agreements under Greek Law

Similar to global tax practices, APAs are also prescribed by Greek law. In particular, Article 26 of the Greek Code of Tax Procedure provides that domestic enterprises may submit to the tax authorities an application for pre-approval of the methodology for pricing of future controlled transactions. The tax authorities examine the application, with the relevant decision being issued within eighteen months from the submission of the application.

The unilateral APA does not apply to previous tax years. However, in case of an application for a bilateral or multilateral APA, the application may include a request for the agreement to apply to previous tax years, pursuant to a “roll-back clause”, provided that the facts and circumstances of the previous years are identical to those referred to in the application for the APA. Such retroactive application is subject to the cumulative conditions that the right of the tax authority to issue a tax assessment is not time-barred and no tax audit order is notified to the taxpayer for the prior tax years.

D. Controlled Foreign Company under Article 66 of the Greek Income Tax Code

Finally, Article 66 of the Greek Income Tax Code introduces Controlled Foreign Company (“CFC”) rules in accordance with EU Directive 2016/1164, which has adopted the OECD BEPS Action 3 into EU law. Together with Article 9 OECD Model, these provisions provide a comprehensive framework for preventing base erosion and profit shifting²⁸ between associated enterprises.

CFCs constitute a type of tax planning aimed at tax avoidance, according to which domestic taxpayers establish subsidiary companies in countries with preferential tax regimes to which they transfer assets that constitute passive sources of income (such as dividends, interest, rights

²⁶ Nikolaos Mparmpas, *Income Tax Code (L. 4172/2013)* (4th edn, Sakkoulas 2022), pp. 750-751.

²⁷ However, in case of an associated enterprise resident in another state, such a taxpayer-initiated adjustment may increase the profits of the Greek enterprise without an appropriate corresponding adjustment to the profits of the associated enterprise in the other state. The elimination of such double taxation falls within the scope of Article 9(2). OECD, *Commentary on the Model Tax Convention* (OECD Publishing 2017), Article 9 p. 228 para. 6.1.

²⁸ Transfer pricing rules aim to adjust the taxable profits of associated enterprises so as to eliminate distortions arising where the prices or other conditions of controlled transactions differ from those that would have been agreed between independent parties. Since controlled foreign company rules inherently apply to situation involving related parties, jurisdictions frequently rely on these rules as an additional tool to address the adjusted prices charged between related parties. OECD, *Designing Effective Controlled Foreign Company Rules – Action 3: Final Report* (OECD Publishing 2015), p. 14.

etc.)²⁹. Further, the domestic shareholders or partners ensure direct or indirect control (legal and/or economic) over the foreign subsidiary, especially with respect to decisions for distribution of profits, thereby achieving the indefinite tax deferral for income generated in these foreign jurisdictions given that the subsidiary constitutes a separate legal person, subject to independent taxation. Therefore, the profits generated are excluded from Greek income taxation which would normally follow, in accordance with the rule of worldwide income taxation in Greece³⁰.

Conclusion

The taxation of associated enterprises remains one of the most challenging areas of international tax law, requiring a careful balance between the separate entity principle and the economic reality of integrated multinational operations. Article 9 OECD Model provides the foundation of the international transfer pricing framework, complemented by mechanisms for dispute resolution and double taxation relief. Greece has effectively incorporated these standards into domestic law, ensuring alignment with international practices.

The success of the system ultimately depends on cooperation between jurisdictions, transparency from taxpayers, and a shared commitment to preventing both double taxation and double non-taxation. As MNEs become increasingly global and integrated, the continued development and refinement of Article 9 and the OECD framework remain essential for the functioning of the global economy.

However, beyond transfer pricing, there are also other international instruments aimed at regulating taxation between associated enterprises. For example, at EU level, the taxation of associated enterprises is governed *inter alia* by the Parent-Subsidiary Directive which addresses dividend distributions, while the Interest and Royalties Directive removes withholding taxes on cross-border interest and royalty payments between associated companies. The Tax Merger Directive facilitates tax-neutral cross-border restructurings within the EU, whereas a directive on a 15% minimum effective tax rate for large multinational groups has also been introduced³¹, based on the OECD's Pillar Two³² initiative to ensure that MNEs would be subject to tax on their global income at a minimum rate regardless of where they were headquartered³³.

²⁹ Such sources of income, by their nature, are easy to subject to foreign jurisdictions as they are not necessarily linked to the territory of the state in which they are located, but are generated automatically; as a result, the relocation of those sources to a state different from the investors' state of residence does not present any particular challenge. Nikolaos Mpampas, *Income Tax Code (L. 4172/2013)* (4th edn, Sakkoulas 2022), pp. 941.

³⁰ Nikolaos Mpampas, *Income Tax Code (L. 4172/2013)* (4th edn, Sakkoulas 2022), pp. 940-943.

³¹ Council of the EU, *International taxation: Council reaches agreement on a minimum level of taxation for largest corporations* (Press Release 2022) <https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/international-taxation-council-reaches-agreement-on-a-minimum-level-of-taxation-for-largest-corporations/> Accessed: 29 December 2025.

³² OECD, *Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy* (OECD Publishing 2019), p. 27.

³³ It should be noted that on January 2025, the Trump Administration has announced its abandonment of Pillar 2. The White House, *Memorandum: The Organization for Economic Co-operation and Development (OECD) Global Tax Deal* (20 January 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/> Accessed: 29 December 2025.

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