

אם אינך רואה מייל זה לחץ כאן


MOORE STEPHENS

LION, ORLITZKY & CO.
 Certified Public Accountants

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Dear customers and friends,

[Israeli Tax Authority publishes circulars dealing with Transfer Pricing Issues, addressing business model restructuring of Multinational Entities](#)

The Israeli Tax Authorities (“ITA”) has published a circular concerning business model restructuring of Multinational Entities (“MNE”), circular 15/2018, which joins two previous circulars published recently by the ITA in 2018. These circulars come amid Israel’s deposit of its instruments of ratification for the Multilateral Convention to implement tax treaty related measures to prevent BEPS (“MLI”) and a new law, containing anti-BEPS provisions, passing a first hearing in the Israeli Parliament (pending two more rounds of hearings). once approved, the new law will incorporate BEPS Action 13 requirements into the Israeli legislation (i.e. introducing CbC, Master-file and Local-file compliance requirements).

Circular 15/2018, together with circular 11/2018 and circular 12/2018, came after a long 10 years “silence” since the ITA last published its guiding lines on Transfer Pricing. These circulars are based on the ITA’s case to case learning, recent court ruling dealing with aggressive TP practices in the course of a business model restructuring and, nonetheless, on OECD rules.

- **Circular 11/2018** - Contains instructions as to the proper TP methods to be used in connection with marketing and distribution functions provided by an Israeli subsidiary which is part of an MNE. It also distinguishes between different types of distribution functionalities: e.g. Full-Fledged

Distributor; Low Risk Distributor and marketing agent.

- **Circular 12/2018** - Presents the ITA's acceptable TP markups for several types of transactions (e.g. Low-Value-Added services; Distributorship services; and marketing services). For those MNEs who are willing to oblige to the ITA's accepted markups, the ITA offers a relaxed documentation and report procedure.
- **Circular 15/2018** - Concerning business and financial models restructuring within MNEs. This topic was dealt with, comprehensively, in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax administrations, which are reiterated in that circular. Its purpose is to define pricing safe harbour rules for shares acquisitions transactions and for the acquisition of Israeli subsidiaries' business activity by MNE according to arm's length rules. In addition it highlights a range of FAR - Functions, Assets and Risks - which are commonly transferred in the course of a business model restructuring (e.g. intangibles, skilled work force, etc') and distinguishes, with regard to each one, between its sale or grant of use permit (and therefore, determining its proper pricing allocation).

It should be noted: ITA's circulars reflects its position only; affected tax payers are, therefore, not bound by it and may well choose to apply lower markups and different TP methods, based upon applicable TP Study and supportive intercompany agreements.

Lion, Orlitzky & Co. cpa, member of Moore Stephens, a global accountancy and consultancy network, is proud to announce the establishment of a Transfer Pricing department. We now join the prestigious "club" of firms offering boutique professional TP services. Our professional services include: planning, defending, negotiating with the ITA, preparing TP studies, preparing Master-Files, drafting intercompany agreements and making TP due diligence reports on targets.

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