Ireland tax authorities outline transfer pricing compliance review program

The Irish Revenue has issued guidance on its new Transfer Pricing Compliance Review (TPCR) program. Ireland introduced a formal transfer pricing regime for companies within the charge to tax in Ireland on their trading activities for accounting periods beginning on or after 1 January 2011. The first corporate tax returns for companies subject to the new regime were filed in September. It is expected that the reviews will commence with immediate effect. Companies will be selected for review from across a wide range of industries and it is not believed that Irish Revenue is focusing on a particular industry segment or type of transaction.

Overview of TPCR program

Under the TPCR, it is intended that authorized officers from Irish Revenue will send out notifications to selected taxpayers inviting them to self-review their transfer pricing and report back to the tax authorities within three months. The self-review will be for a specific accounting period and the report to be prepared for Irish Revenue will need to include information on the following:

- Group structure;
- Details of transactions by type and associated companies involved;
- Pricing and transfer pricing methodology for each transaction or group of transactions;
- Functions, assets and risks of the parties involved;
- List of documentation available/reviewed by the taxpayer; and
- The basis for establishing if the arm’s length standard is satisfied.

In most circumstances, an existing transfer pricing study should be adequate. Under the Irish transfer pricing regime, counterparty documentation can suffice where it contains sufficient information relating to the Irish operations and transactions undertaken.

Once the TPCR report is submitted to the Irish authorities, a post-review letter will be issued: either that no further enquiries will take place or issues will be identified that require further consideration and discussion within the TPCR process. The fact that further inquiries are to be addressed within the TPCR process should mean that a formal audit still will not have begun and any additional tax liability will be treated as arising from an unprompted disclosure carrying only mitigated penalties. An audit may be initiated where the outcome of the TPCR is not satisfactory from the perspective of the Irish Revenue.

Comments

The new TPCR process should not be a significant additional burden on taxpayers within the remit of Ireland’s transfer pricing regime, in particular where transfer pricing documentation addressing the requirements outlined above already is in place. In addition, the three-month time frame should provide taxpayers with adequate time to ensure that the information required can be gathered and made available.

It should be noted that the TPCR process is not a formal tax audit and that a taxpayer will have the opportunity to make a tax disclosure before it is notified of a formal audit.

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