

'SME' in Transfer Pricing

Definition of SME, as intended in the Transfer Pricing Rules

Transfer Pricing was introduced in Malta through Subsidiary Legislation 123.207 'Transfer Pricing Rules', targeting arrangements between associated enterprises, entered into (or materially altered) on or after 1st of January 2024.

The Rules provide that companies falling within the definition of 'micro, small or medium-sized enterprise' are **excluded from the scope** of the Transfer Pricing Rules, on the basis of size, making reference to Annex I of Commission Regulation (EU) No 651/2014 of 17 June 2014.

An SME is an entity that has:

- Less than 250 employees; **and**
- Either an annual turnover of up to €50m or a balance sheet total of up to €43m

When assessing whether an enterprise exceeds the above SME threshold, there must be taken into consideration:

- ✓ In full the figures of linked enterprises (50% + 1 control);
- ✓ In proportion, the figures of associated enterprises (25% or more control but not a linked enterprise).

When making the SME size calculations, you should use the data contained in the approved annual accounts of the relevant financial year. Newly established enterprises that do not yet have approved annual accounts should make a declaration that includes a bona fide estimate (in the form of a business plan) made over the course of the financial year. This business plan should cover the entire period (financial years) until the entity will generate turnover.