

## New rules for mandatory transfer pricing documentation

### In brief

The draft bill of the Tax and Social Security Procedure Code (TSSPC) introducing mandatory transfer pricing documentation requirements and dispute resolution rules has been adopted at the second reading by the National Assembly and would come into effect upon promulgation of the provisions in the State Gazette. The key changes are outlined below.

#### Transfer pricing documentation

The bill provides for mandatory preparation of transfer pricing (TP) documentation, justifying the arm's length nature of the related party transactions.

#### The documentation

The TP documentation shall comprise:

- a Local file and
- a Group Master file (if the company is part of a multinational group).

The contents of the documentation are explicitly listed in the TSSPC.

#### Companies subject to the documentation obligation

Bulgarian entities, as well as foreign entities acting through permanent establishments in Bulgaria, which participate in cross-border related party

transactions will be required to prepare TP documentation, if as at 31 December of the preceding year:

- the balance sheet value of their assets exceeds BGN 38 million, and one of the following thresholds are met:
- their net sales exceed BGN 76 million, or
- the average number of employees exceeds 250.

Corporate income tax-exempt companies as well as companies that are subject only to alternative taxes under the Corporate Income Tax Act (CITA) will not be subject to mandatory TP documentation. Exempt are also Bulgarian taxpayers participating in local inter-company transactions only.

#### Types of transactions

The Local TP file should cover transactions exceeding the following

thresholds on a stand-alone basis:

- sale of goods – BGN 400 thousand,
- all other transactions (e.g. royalty, service transactions, etc.) – BGN 200 thousand,
- received / granted loans over BGN 1 million or with an accrued interest and other related income/expense over BGN 50 thousand.

Under certain conditions transactions would be aggregated for the purpose of the threshold test.

#### Deadlines

The Local file should be prepared by 31 March of the following year.

If corrective CIT declaration has been submitted (Art. 75 (3) CITA), the Local file should be updated within the following 14 days, but not later than 30 September.

The Master file should be prepared not later than 12 months after the deadline for preparation of the Local file.

The first year for which a Local file should be available is 2020 (i.e. the documentation should be prepared by 31 March 2021).

Both, the Local and the Master file would be provided to the tax authorities upon their request.

### **Penalties**

In case a Local file has not been prepared (or provided to the tax administration upon request), a penalty up to 0.5% of the total value of the transactions that should have been documented, may be imposed.

Entities which do not have readily available Master file within the statutory deadline may be subject to a penalty

between BGN 5 thousand and BGN 10 thousand.

If the information in the TP documentation is incomplete or incorrect, the entity may be subject to a penalty between BGN 1.5 thousand and BGN 5 thousand.

A repeated violation of the regime will trigger penalties in double amount.

## Let's talk!

For a deeper discussion of how these issues might affect your business, please contact:

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