

# ***Proposed amendments to the Tax and Social Security Procedures Code – mandatory transfer pricing documentation for related party transactions/administrative penalties for application of Double Tax Treaties without grounds***

November 2018

## ***In brief***

The Ministry of Finance has published a draft bill for amendment of the Tax and Social Security Procedures Code for public discussion. The key items are outlined below.

### ***Transfer pricing documentation***

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

#### ***The documentation***

The transfer pricing documentation shall comprise:

- A local file and
- A Group master file (if the company is part of a multinational corporate group).

#### ***Companies subject to the documentation obligation***

Bulgarian entities, as well as foreign entities acting

through permanent establishments in Bulgaria, will be required to prepare transfer pricing documentation, if:

- They participate in related party transactions, and
- The balance sheet value of their assets exceeds BGN 8 million as at 31 December of the preceding year, or
- Their net sales exceed BGN 16 million as at 31 December of the preceding year.

Companies that are not subject to corporate income tax and companies that are subject only to alternative taxes under the Corporate Income Tax Act, will be outside the scope of the regime.

### ***Types of transactions***

The local transfer pricing file should cover those categories of transactions, that exceed for the respective year certain aggregated thresholds:

- Sale of goods – BGN 400 thousand,
- Provision of services – BGN 200 thousand,
- Transactions with intangibles – BGN 200 thousand,
- Transactions with financial assets – BGN 200 thousand,
- Loans received or granted exceeding BGN 2 million, or total amount of interest income or expenses above BGN 100 thousand.

### ***Deadlines***

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

The master file should be available not later than 12 months after the deadline for preparation of the local file.

The first year for which a local file should be prepared, is expected to be 2019 (i.e. the documentation should be prepared by 31 March 2020).

The penalty is double (10% of the non-paid tax but not more than BGN 30 thousand) in case of repeated violation.

This fine replaces the late payment interest that was applied until recently for late application of double tax treaties.

### ***Penalties***

In case a local file has not been prepared (or provided to the tax administration upon their request), a penalty of between 0.5% and 1% of the total value of the transactions that should have been documented, will apply.

A person who does not have available a required master file within the statutory deadline, will be subject to a penalty of between BGN 5 and BGN 10 thousand.

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

### ***Administrative penalty for wrongful application of double tax treaty relief***

A penalty fine for wrongful application of a double tax treaty relief is proposed at an amount of 5% of the withholding tax not paid to the budget, but not more than BGN 15 thousand.

***Let's talk!***

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

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