



Transfer pricing alert Belgium

Mandatory Transfer Pricing reporting requirements in Belgium

General

On 4 July 2016, the Program Law of 1 July 2016 introducing legislation implementing Action 13 of OECD's Base Erosion and Profit Shifting ('BEPS') project was published in the Belgian Official Journal ([Dutch](#) | [French](#)). As expected, the new transfer pricing documentation legislation does not deviate from the [draft program law](#).

The new transfer pricing documentation rules will be embedded in new articles 321/1 – 321/7 of the Belgian Income Tax Code.

In general, it can be concluded that Belgium follows OECD guidance. Consequently, the three-tiered approach to transfer pricing reporting (i.e. (1) Master file, (2) Local file and (3) Country-by-country reporting) will be mandatory going forward.

Master and Local file

In summary, a Belgian entity of a multinational group will need to compile (1) a Master file and (2) a Local file when it exceeds one of the following thresholds (on a non-consolidated basis) in the accounting year immediately preceding the last closed accounting year:

- Combined operating and financial income of EUR 50 million (excluding non-recurring income);
- A balance sheet total of EUR 1 billion;
- Annual average number of 100 FTEs.

Both the Master and Local files will have to be filed in specific forms, which still need to be published in a Royal Decree. The Master file form will have to be filed within 12 months after the reporting period of the multinational group with the Belgian tax authorities; the Local file form will need to be submitted together with the tax return.

Additional documentation needs to be provided in the Local file, including a comparability analysis, in case at least one 'business unit' of a Belgian group entity has cross-border, intra-group transactions of more than EUR 1 million in total during the last closed accounting year.

Country-by-country report

In line with OECD guidance, a Country-by-country ('CbC') report must be filed in Belgium within 12 months after the final date of the multinational group's reporting period, if the group's 'ultimate parent entity' is located in Belgium.

Even if the 'ultimate parent entity' is not located in Belgium, a Belgian group entity can be required to file a CbC report under certain circumstances (e.g. where the jurisdiction of the 'ultimate parent entity' does not require a CbC report to be drawn up). This however is not the case if the multinational group appoints a 'surrogate parent entity' within the group to file the CbC report in its tax jurisdiction, when certain conditions are fulfilled.

The CbC report is only due when the consolidated gross revenue exceeds EUR 750 million in the reporting period immediately preceding the last closed reporting period.

Entry into force and penalties

The new transfer pricing reporting rules will apply to reporting periods of multinational groups or accounting years starting as from 1 January 2016.

Non-compliance with the transfer pricing reporting requirements will trigger special penalties between EUR 1,250 to EUR 25,000 from the second violation.

Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium or:

- André Schaffers, aschaffers@deloitte.com, + 32 2 600 67 15
- Patrick Cauwenbergh, pcauwenbergh@deloitte.com, +32 2 600 69 27
- Rob Peeters, robpeeters@deloitte.com, +32 2 600 67 08
- Joachim Janssen, joajanssen@deloitte.com, +32 2 600 69 51

For general inquiries, please contact:
bedeloittetax@deloitte.com, + 32 2 600 60 00

Be sure to visit us at our website:
<http://www.deloitte.com/be/tax>



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax and legal, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 225,000 professionals, all committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2016. For information, contact Deloitte Belgium.

[Subscribe](#) | [Unsubscribe](#)