



## Transfer pricing alert Belgium

### 2021 TP Audit wave underway

In line with previous years, the national TP audit team in Belgium released the first (standard) questionnaires to kick off the 2021 TP audit wave.

Selected companies will receive the standard TP questionnaire, which typically consists of approximately 30 questions and will likely be similar to the 2019 edition, albeit with minor modifications accounting for lessons learnt during previous TP audit waves. What follows is a summary of noteworthy attention points.

#### An improved selection process

Similarly to last year, companies will be selected for the new TP audit wave based on the outcome of a risk assessment analysis, performed by the so-called 'MANTRA' software.

Although the criteria used to perform the risk assessment remain confidential, one can reasonably assume that indicators such as volatile sales or profit margins, structural loss-making positions, significant carry forward losses, high debt-equity ratios, important year-end adjustments or business restructurings, among others, would lead to an increased likelihood of becoming subject to a TP audit.

Additionally, compliance with Belgian documentation requirements (i.e. Local File form ('LF'), Master File form ('MF'), Country by Country ('CbC') report or CbC notification) is taken into account in the selection process. Non-compliance with these TP documentation requirements will of course dramatically increase the likelihood of selection. However, it should be noted that this does not preclude companies that do not reach documentation thresholds from receiving a TP audit questionnaire.

## Consistency of information and importance of pre-audit meeting

The average audit process takes between 7 and 18 months, and can be time-consuming if TP documentation is not yet readily available. In this respect, it is crucial to ensure consistency between past or pending TP reporting to the Belgian Tax Authorities (i.e. LF, MF, CbC report) and the answers that will be provided to tax inspectors during the 2021 audit.

Given that a significant amount of information is requested in the standard TP audit questionnaire, a taxpayer may opt for a pre-audit meeting. During this (virtual) meeting with the tax inspectors, the audit questionnaire's scope can be narrowed down by focusing on certain questions.

## Effective tax cash out after tax adjustment

One of the measures introduced by the 2017 corporate tax reform (with effect as of tax year 2019), is the introduction of an effective cash taxation further to tax audit adjustments. Following this new rule, no tax attributes are allowed to be offset against the tax due on the result portion added following the adjustment, except for current year DRD that has not (yet) been (fully) claimed.

This rule is limited to assessments for which a tax increase has effectively been imposed by the tax authorities at a rate of 10% or more.

## Increased number of “unsettled” cases

Where in the past a majority of TP audit cases resulted in a settled outcome, an increasing number of audit cases have seen tax authorities sticking to a principled position or maintaining a proposed TP adjustment, triggering the start of the administrative appeal procedure.

At that moment, the taxpayer has the option to submit a formal tax protest, and to already initiate the mutual agreement procedure (MAP) intended to eliminate double taxation consequent to the transfer pricing adjustment. These procedures can be handled simultaneously and the taxpayer should investigate the benefits of doing so based on the merits of their case.

---

### 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:

- Philippe Dedobbeleer, [pdedobbeleer@deloitte.com](mailto:pdedobbeleer@deloitte.com), + 32 2 749 57 81
- Patrick Cauwenbergh, [pcauwenbergh@deloitte.com](mailto:pcauwenbergh@deloitte.com), + 32 2 600 69 27
- Jeroen Lemmens, [jlemmens@deloitte.com](mailto:jlemmens@deloitte.com), + 32 2 600 69 82
- Eric von Frenckell (Deloitte Legal), [evonfrenckell@deloitte.com](mailto:evonfrenckell@deloitte.com), + 32 2 800 70 61

For general inquiries, please contact:  
[bedeloittetax@deloitte.com](mailto:bedeloittetax@deloitte.com), + 32 2 600 60 00

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

## [Deloitte Academy](#)

## [Tax Tools and Publications](#)

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](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax & 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 and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte’s more than 330,000 professionals are 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.

© 2021 Deloitte Belgium

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