



Tax&Legal Highlights

Bulgaria

Bulgaria introduces mandatory transfer pricing documentation

The new law introduces mandatory transfer pricing (TP) documentation in Bulgaria and transposes the European Union Directive that implements the Mutual Agreement Procedure as a mechanism for dispute resolution with regard to the international double taxation.

Law for amendments and supplements of the Tax and Social Security Procedure Code (TSSPC) was promulgated in Issue 64 of State Gazette dated 13 August 2019. The Law transposes the European Union (EU) Directive that implements the Mutual Agreement Procedure (MAP) as a mechanism for dispute resolution with regard to the international double taxation.

The Law also introduces mandatory transfer pricing (TP) documentation in Bulgaria. The requirements for preparation of TP documentation will apply for transactions concluded after 1 January 2020.

Taxpayers that as of 31 December of the prior year do not exceed the following thresholds: (a) BGN 38M asset net book value, and (b) BGN 76M net sales, or (c) an average number of 250 personnel for the reporting period, are exempt from obligation to prepare local file.

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Entities that perform only domestic controlled transactions are also exempt from the obligation to prepare local file.

Scope

Companies that are exempt from corporate taxation or those that are subject to alternative taxation under the Corporate Income Tax Act (CITA) are exempt from obligation to prepare local file.

There is no obligation to prepare local file for controlled transactions with individuals except for sole traders.

The local file should be prepared only for transactions exceeding the following monetary thresholds per annum:

- BGN 400,000 for sale of goods,
- BGN 200,000 for all other transactions,
- Loans with principal of over BGN 1M or interests and other revenues and expenses related to the loan of over BGN 50,000.

The listed thresholds are calculated separately for each controlled transaction.

An exception is made when two or more transactions with one or more related parties are concluded under comparable conditions. In this case, the thresholds are calculated as the total value of those transactions. The local file should be prepared only for transactions exceeding the thresholds, although the obliged taxpayer may be a party to other controlled transactions.

Entities that are part of multinational groups should have a master file for the respective year, prepared by the ultimate parent entity (UPE) or another entity from the group.

Deadlines

The local file should be prepared by 31 March of the following year, whereas the master file should be available by 31 March of the year after. If there are no significant changes in the comparability factors, the analysis could be updated once every three years, whereas the financial data for the comparable transactions or entities should be updated annually.

There is no requirement to submit the TP documentation with the tax authorities. The TP documentation (both local file and master file) should be kept by the taxpayer and provided to the tax authorities upon request.

Sanctions

The law imposes sanctions for non-compliance with the requirements for preparation of the documentation. The taxpayer that is obliged to prepare local file and lacks to do so, can be imposed with a penalty of 0.5 percent of the total value of the transactions that should have been documented. For the loans granted or received, the total value of the transaction is the amount of the principal.

An obliged entity that does not have a master file can be imposed with a penalty between BGN 5,000 and BGN 10,000.

For presenting incorrect or incomplete data in the TP documentation, the obliged entity can be imposed with a fine between BGN 1,500 and BGN 5,000. The amount of the penalties could be doubled in case of repeated failure to meet the requirements for preparation of the TP documentation.

Comments

Despite the reduced scope of entities obliged to prepare mandatory TP documentation, the general requirement for the taxpayers to prove the market nature of their transactions with related parties during tax checks and audits remains.

The tax authorities already have a licensed access to Bureau Van Dijk's specialized database TP Catalyst that allows them to make additional inquiries about the comparable transactions or companies, as well as to conduct their own analyses. In this regard, we observe higher scrutiny in the review and analysis of the transfer prices by the tax authorities during tax checks and audits.

Therefore, preparation of TP documentation will help businesses to manage the risk of adjustments to the tax result and accordingly, to reduce the risk of penalty interests and sanctions.

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