



Transfer Pricing Switzerland Insights

Dear Sir or Madam,

We are pleased to present you the latest edition of Transfer Pricing Insights – Deloitte Switzerland’s bi-monthly newsletter focusing on ‘hot’ topics and economic related news.

France increases penalties for lack of compliance with documentation rules

France’s 2015 Finance Bill, enacted on December 29, 2014, increased the penalties applicable in cases of failure to comply with the French transfer pricing documentation rules.

According to newly drafted Article 1735 of the French Tax Code, companies that fail to provide sufficiently detailed documentation regarding their intragroup transactions following an official request by the French tax authorities will be subject to penalties equal to the higher of two amounts:

- 0.5 percent of the amount of the transactions for which insufficient documentation has been presented; or
- 5 percent of the transfer pricing reassessments related to those transactions.

The penalty amount cannot be less than €10,000 for each fiscal year under audit.

Further details about the definition of “lack of compliance” needs still to be defined by the French Tax Administration.

The new rule is applicable to any tax audit started after January 1, 2015.

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The U.K. and Spain implement Country-by-Country (CbC) reporting obligations

In December 2014, the UK Chancellor of the Exchequer announced that the Government will introduce legislation to give the U.K. the power to implement the OECD model for CbC reporting.

Similarly, on January 20, 2015, Spain's Secretary of State for Finance announced that Spain's coming corporate income tax regulations will include country-by-country reporting obligations for multinational enterprises.

The development proves that the recent changes of chapter V of the OECD Transfer Pricing guidelines, as part of the BEPS initiative, are very tempting for many tax administrations to initiate a change in local legislations in order to get access to the country based financial key data about MNCs as offered by the CbC reporting.

In order to avoid negative surprises, we recommend companies to prepare a CbC reporting and analyse the results before having to provide the respective information to tax administrations.

Transfer Pricing Considerations of the Appreciation of the Swiss Franc

On January 15, 2015, the Swiss National Bank, in a surprise move, abandoned the CHF-EUR floor of 1.20. The significant appreciation of the Swiss Franc that followed had important transfer pricing ramifications for many companies.

Given the significant impact of the Euro for many Swiss MNC's the appreciation of the Swiss Franc affects the profitability of many companies in a dramatic manner.

Depending on how intergroup pricing and affiliate remuneration had been set prior to the abandonment of the CHF-EUR floor, careful thought should be given as to which group entity/entities should bear this currency exchange impact (i.e., based on the function and risk profile), as well as to what extent the currency appreciation may affect pricing to the end customer. All of this is further complicated by where the CHF-EUR exchange rate will effectively stabilize, which may not be accurately predicted for some time to come.

Furthermore service charges made on an outbound basis will in local currency terms be substantially more expensive. MNCs should therefore review the situation in order to avoid later disputes with tax administrations in the accounts of the local subsidiaries. Deloitte may be in a position to identify mitigation strategies.

Singapore releases new transfer pricing guidelines

The Inland Revenue Authority of Singapore (IRAS) on 6 January 2015 released revised transfer pricing guidelines. The new, comprehensive guidelines replace the transfer pricing guidelines issued in 2006.

Key Changes

The most significant change in the revised guidelines is the new requirement that taxpayers prepare and maintain transfer pricing documentation on a contemporaneous basis.

What constitutes contemporaneous documentation?

IRAS requires taxpayers to prepare transfer pricing documentation on a timely basis, which is defined as no later than the tax return filing date for the financial year in which the transaction takes place. The guidelines require that the date of creation or update of each document must be stated in the document.”

The new guidelines include an expanded list of required information, particularly pertaining to information at the group level, which will require more time and effort by the taxpayers to document.

Group-Level Documentation

The new guidelines require more group-level details, which should provide “a good overview of the group’s businesses.” Specifically the following information needs to be included:

- A groupwide organizational structure chart;
- Description of the group’s business, including:
 - the group’s lines of business, products and services, geographic markets, and key competitors;
 - the industry dynamics, market, regulatory and economic conditions in which the group operates;
 - the group’s business models and strategies, including any recent restructuring, acquisition, or divestiture;
 - important drivers of business profits and a list of intangibles and the related parties that legally own them;
 - the principal business activities and functions of each group entity, including charts showing the supply chains of products and services; and
 - the business relationships (services provided, goods sold, development, ownership or exploitation of intangibles, financing arrangements, etc.) among all related parties.
- The group’s financial information
 - financial statements of the group relating to the lines of business involving the Singapore taxpayer

The expanded list of information required at the group level will require more time and effort from the taxpayer.

[Read more](#)

We hope you have enjoyed this edition of Transfer Pricing Switzerland Insights. If you have questions in relation to one of the above topics or you would like to discuss your situation and receive a professional opinion on any transfer pricing related topics, please feel free to contact us directly via phone or email.

Best regards,

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