



## Austria's Transfer Pricing Documentation Act officially published

Global Transfer Pricing Alert 2016-030

The Austrian Transfer Pricing Documentation Act was announced in the Federal Law Gazette on August 1, 2016. The act is based on the three-tiered standardized approach to transfer pricing documentation under action 13 of the OECD's BEPS project, and requires the submission of a country-by-country (CbC) report, as well as the preparation of a master file and a local file if certain requirements are fulfilled. This means that for the first time, standardized transfer pricing documentation becomes mandatory for the majority of Austrian enterprises that are part of a multinational group.

### Reporting requirements

**CbC report:** Under the Transfer Pricing Documentation Act, and in line with the OECD recommendations, an Austrian resident ultimate parent company of a multinational group will be required to submit a CbC report to the tax authorities if, in the preceding fiscal year, the consolidated group revenue was at least EUR 750 million. Even if the ultimate parent company is not resident in Austria, an Austrian group company may be required to file the CbC report in exceptional cases, for instance, when (1) the country in which the ultimate parent is resident does not require the submission of CbC reports; (2) there is no agreement to exchange CbC reports with the country of residence of the ultimate parent company; or (3) there is a systematic failure of the ultimate parent or its state of residence to provide CbC reports. The content requirements for the CbC report are consistent with the recommendations under BEPS action 13.

**Master file/local file:** Some Austrian entities of multinational groups will have to submit a master file to the Austrian tax

authorities that provides high-level information about the enterprise's global business operations and transfer pricing policies. A local file also must be submitted that provides more detailed information on related-party transactions and amounts involved.

An Austrian member of a multinational group is subject to the master file and local file requirements if its turnover exceeds EUR 50 million for two consecutive fiscal years; conversely, if revenue falls short of the threshold for two years in a row, the documentation obligation ceases. Regardless of whether the threshold is met, the competent authorities could request the master file when the ultimate parent company is required to prepare master file documentation under its local legislation. Smaller companies that are not covered by this rule continue to be subject to the general documentation requirements under Austria's domestic law, and could be required to provide documentation to the tax authorities upon request.

The content for the master file and the local file will be set forth in a decree; a draft decree has been published that follows the requirements proposed in the relevant OECD reports.

All documentation must be prepared in German or English.

Penalties will be imposed for failure to file a CbC report or for late filing, or when information is missing or incorrect. While the maximum fine for intentional violations of the requirements will be EUR 50,000, grossly negligent violations could lead to penalties of up to EUR 25,000. It should be noted that the penalty can be imposed per perpetrator; thus, the total amount of the penalties in an individual case may be substantially higher than EUR 50,000. A merely negligent submission of incorrect data is not subject to penalties.

### **Entry into force and deadlines**

In general, all documentation requirements are effective for fiscal years starting on or after January 1, 2016. In cases when an Austrian entity assumes the filing responsibility for its foreign ultimate parent company, the CbC report must be submitted only for fiscal years starting on or after January 1, 2017. Austrian ultimate parent companies must file the CbC report electronically via "FinanzOnline" within 12 months after the last day of the relevant fiscal year. The master file and local file must be submitted only upon request from the tax authorities after the corporate income tax return is filed. The taxpayer will need to submit documentation in response to such a request within 30 days.

### **Comments**

The Transfer Pricing Documentation Act is closely based on the recommendations of the OECD BEPS project and effectively provides for documentation requirements for all Austrian companies that conduct cross-border intragroup transactions. Because the first half of the 2016 reporting year has already passed, preparations for documentation and the coordination within MNE groups should commence without delay.

[Back to top](#)

## Contacts

Andrea Lahodny (Vienna)  
Partner  
Deloitte Austria  
[alahodny@deloitte.at](mailto:alahodny@deloitte.at)

Gabriele Holzinger (Vienna)  
Partner  
Deloitte Austria  
[gholzinger@deloitte.at](mailto:gholzinger@deloitte.at)

[Back to top](#)

## Useful links

### Resources

- [2016 Global Transfer Pricing Country Guide](#)
- [Arm's length standard](#)
- [Transfer pricing alerts](#)

### Get Connected

- [Deloitte tax@hand](#)
- [Join Dbriefs](#)
- [Follow @Deloitte Tax](#)
- [www.deloitte.com/tax](http://www.deloitte.com/tax)

[Back to top](#)



Get in touch



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 <http://www.deloitte.com/about> for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related 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 220,000 professionals are committed to making an impact that matters.

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. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

30 Rockefeller Plaza  
New York, NY 10112-0015  
United States



Official Professional Services Sponsor

Professional Services means audit, tax, consulting, and advisory.

Copyright © 2016 Deloitte Development LLC. All rights reserved.  
36 USC 220506