



Taiwan to amend transfer pricing rules to adopt Action 13 concepts

Global Transfer Pricing Alert 2017-035

Taiwan's Ministry of Finance (MOF) on July 27 announced a draft amendment of the transfer pricing guidelines that would adopt the OECD's BEPS Action 13 guidance into domestic legislation. The MOF will collect public comments on the proposed amendment during August and September. The amendment is expected to be approved before the end of 2017.

The revised guidelines would introduce a three-tiered transfer pricing documentation regime that would be applicable to fiscal years beginning on or after January 1, 2017 (FY2017). Taxpayers that meet certain criteria would have to provide a country-by-country report (CbCR), a master file, and a local file. This documentation regime will provide the tax authority with a higher degree of transparency to review a taxpayer's transfer pricing documents and to evaluate whether any intercompany transactions have been arranged to avoid tax liability.

The timeline to prepare/submit the three-tiered transfer pricing documentation is illustrated below:



For calendar-year taxpayers, the FY2017 master file and local file should be ready by the income tax return filing deadline of May 31, 2018, and the FY2017 master file and CbCR should be filed before December 31, 2018.

Action required

CbCR

Although the CbCR is prepared by the ultimate parent entity of the MNE group, the local entity in Taiwan should be prepared for the parent entity's request to provide the local entity's financial information. In addition, the local entity in Taiwan should monitor the list to be released by the MOF of countries that have not entered into a competent authority agreement (CAA) with Taiwan, because the existence of a CAA between Taiwan and the ultimate parent entity's country of residence will determine whether or not the local entity in Taiwan is required to submit the CbCR to the Taiwan tax authorities.

Master file

The master file is also prepared by the MNE group's ultimate parent entity. However, it is recommended that the local entity in Taiwan take the initiative to follow up with the ultimate parent entity regarding the status of the master file, and to review whether the information in the master file is consistent with the Taiwan local entity's understanding. In addition, if the master file is prepared in a foreign language, the local Taiwan entity should arrange to have a Chinese translation prepared.

Local file

The draft amendment lists additional required content for the local file, including a description of the taxpayer's business strategy, business restructurings, transfers of intangible assets (if any), the management organization chart (or reporting line), the list of intercompany transactions by transaction type, and most importantly, disclosure of important intercompany agreements. The local Taiwan entity should examine and prepare these documents in advance.

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