



## Belgium gets ready for 2020 transfer pricing audit cycle

### Global Transfer Pricing Alert 2020-007

Belgium's tax authorities will launch the 2020 transfer pricing audit cycle in the coming weeks.

Given the recent Belgian transfer pricing developments (a new transfer pricing circular letter) this audit cycle will likely be significant from both a qualitative and quantitative perspective. Thus, taxpayers that receive a transfer pricing audit questionnaire should consider several key items relating to the 2020 cycle. (For prior coverage of the new transfer pricing circular letter, see [Global TP Alert 20-005](#)).

#### **Strengthened transfer pricing audit squad**

The transfer pricing audit cell has been significantly strengthened during the last few years, with more and more tax inspectors gaining in-depth transfer pricing knowledge.

Additionally, the transfer pricing audit team will join forces with the regional tax inspectors of the seven "large taxpayers" centers. In practice, the TP audit team will provide technical support on any transfer pricing issue detected during standard corporate tax audits, which could subsequently lead to an in-depth transfer pricing audit.

Taxpayers thus should be prepared for an increasing number of challenging questions from the tax authorities in the years to come.

## **Improved selection process**

Companies will be selected for the new transfer pricing audit cycle 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, it may be reasonable to assume that indicators such as volatile sales or profit margins, structural loss-making positions, significant carry-forward losses, high debt-equity ratios, and important year-end adjustments or business restructurings, among others, would lead to an increased likelihood of becoming subject to a transfer pricing audit.

Additionally, compliance with the new documentation requirements -- local file, master file, country-by-country (CbC) report, and CbC report notification -- will now be used in the audit selection process. Non-compliance with these documentation requirements will dramatically increase the risk of selection. However, taxpayers that do not reach the documentation thresholds are not necessarily precluded from receiving a transfer pricing audit questionnaire.

## **Standard TP audit questionnaire**

Selected companies will receive the standard transfer pricing questionnaire, which typically consists of 30 questions. The 2020 version of the questionnaire is expected to be similar to the 2019 edition, with some minor modifications to reflect lessons learned during previous transfer pricing audit cycles.

It is important to confirm consistency between past or pending transfer pricing reporting to the Belgian tax authorities (for example, in the local file, master file, or CbC report) and the answers provided to tax inspectors during the 2020 audit. Since a new TP circular letter was published on 25 February 2020, tax inspectors will refer to it during the 2020 audit cycle.

Given that a significant amount of information is requested in the standardized transfer pricing audit questionnaire, a taxpayer may opt to request a pre-audit meeting. During this meeting with the tax inspector, the scope of the audit questionnaire can be redefined by targeting certain questions.

## **Long process often leading to double taxation**

On average, a transfer pricing audit in Belgium takes about 18 months to settle, from the date of receipt of the standard transfer pricing audit questionnaire.

This settlement is often the result of extended negotiations that may lead to double taxation. Double taxation can occur when (i) the same revenue is included in the taxable basis of two related entities located in different countries and (ii) the country in which the counterparty is located is under no obligation to adjust the taxable basis in accordance with the

Belgian transfer pricing audit results. To eliminate double taxation, international instruments should be considered.

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