

Global Transfer Pricing

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France Postpones Due Date of New Transfer Pricing Documentation



TP ALERT 2014-013
24 July 2014

The French Tax Administration (FTA) has announced that the transfer pricing documentation taxpayers must provide under the new requirement imposed by Article 223 *quinquies* B of the French Tax Code will be due November 20, 2014, for companies subject to the new requirement.

Initially, the requirement called for companies subject to this obligation to file the form within six months after the filing of the tax return. Thus, some companies would have had to file as early as July 2014. Now, all companies must file by November 20.

In addition, the FTA announced that it is preparing a specific form taxpayers would have to file to comply with their obligation. For now, the new form is being circulated as an unofficial draft. This draft form, which is clearly inspired by the current OECD work on country-by-country reporting, is a three-page document that would include information on the company, any intangible assets in use, and intercompany flows.

The main sections of the draft form call for:

- A short description of the company (name, identification number, address) and the activities of its corporate group;
- A list of the group's intangibles used by the French entity (stating the country of ownership of those intangibles);
- A general description of the taxpayer's group's transfer pricing policies;
- A list of all intragroup flows involving the French company, by nature of flows. For each flow, the information to be provided includes:
 - The nature of the transaction;
 - The aggregated amounts per type of transaction if they exceed €100 000;
 - A list of the countries involved in the transactions (according to ISO classification);
 - The transfer pricing method applied to the transactions; and
 - The royalty rates (paid or received) applicable to the transaction.

Taxpayers also must disclose whether any major changes in their transfer pricing policy occurred during the year, and provide enough details on the potential changes.

The form must be completed in French, and sent to the FTA in electronic format.

Administrative guidelines on the new obligation are expected to be published in the coming weeks to provide more information on the way the new transfer pricing documentation requirement should be dealt with by taxpayers, and on the form's specific format. Minor changes may therefore exist between the final form and the

draft that was circulated.

The fact that a specific form, to be filed in electronic format, is put in place will allow the FTA to perform automated analyses to identify potential discrepancies in the filings (errors, significant variations from past years, differences with peers). This will give the FTA a large database on flows and transfer pricing methods applied by international groups, as well as a tool to better prioritize audits.

Thus, taxpayers should be careful when filling out the new form, and should consider the potential consequences of their statements. We strongly suggest that transfer pricing documentation be prepared in advance to the filing of the form. Indeed, having the transfer pricing documentation will provide French taxpayers a full view of their transfer pricing situation, allowing them to fully anticipate and appreciate the consequences of the information provided in the Article 223 *quinquies* B form.

Penalties for noncompliance with this new requirement are €150 for failure to file and €15 per instance of missing or erroneous information, with a €10,000 limit.

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