

Tax & Legal Weekly Alert

10 – 14 July 2017

In this issue:

Transfer Pricing: OECD releases new edition of transfer pricing guidelines

An updated version of the OECD Guidelines - Transfer Pricing Guidelines for Multinational Companies and Tax Administrations was published on 10 July 2017 by the Organization for Economic Cooperation and Development (OECD). The previous version of the guidelines was issued in 2010.

The Romanian Fiscal Code recommends complying with the OECD Transfer Pricing Guidelines.

The impact for Romanian companies

- Focus will be placed on the economic substance of each intra-group transaction
- Increased transparency through supplementary reporting of the Multinational Enterprises' activities which will lead to a more in-depth tax analysis on how the revenues, profits and taxes were allocated globally

Deloitte Events

[The 4th Anti-Money Laundering Directive \(4AMLD\) will come into effect at 26th of June 2017](#) – business breakfast held at Deloitte' premises

Deloitte in mass-media

An article about creating digital link between banks and clients – Legal perspectives, by Lorena Butusina, Associate, Reff & Associates

The latest updates of the OECD Guidelines

The updated version of the OECD Guidelines includes a series of recommendations undertaken from the BEPS reports - Base Erosion and Profit Shifting. We reiterate the fact that Romania is an associated member of BEPS starting June 2017.

The main changes brought by the updated version of the OECD Guidelines are:

Actions 8-10 "Aligning Transfer Pricing Outcomes with Value Creation"	
<p>Chapter I, Section D ("The Arm's Length Principle")</p> <p><i>The provisions of this section are deleted in their entirety and replaced by new guidance.</i></p>	<p>Members of Multinational Enterprises will not be remunerated based only on the capital employed but rather on the control exercised in the process of decision making.</p>
<p>Chapter VI ("Special Considerations for Intangibles")</p> <p><i>The provisions of Chapter VI of the Transfer Pricing Guidelines and the annex to this Chapter are deleted in their entirety and replaced by new guidance and annex</i></p>	<p>The updated guidelines include information regarding the definition of the intangibles, principles of appropriate allocation of profits associated with the transfer and use of intangibles and transfer pricing rules or special measures for transfers of hard-to-value intangibles.</p> <p>Moreover, it must be assured that the profits associated to the transfer and use of intangibles are properly allocated, in correspondence with the process of present and future value creation.</p>
<p>Chapter VII ("Special Considerations for Intra-Group Service")</p> <p>The provisions of Chapter VII of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance.</p>	<p>The new provisions include guidance regarding low value-adding intra-group services and a simplified approach to such services.</p>
Action 13 "Transfer Pricing Documentation and Country-by-Country Reporting"	
<p>Chapter V („Documentation")</p> <p><i>The provisions of Chapter V of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance and annexes.</i></p>	<p>The transfer pricing documentation should comprise the following:</p> <ul style="list-style-type: none"> - A documentation which should include information regarding the Multinational Enterprises („Masterfile"); - A local documentation which should include information regarding intra-group transactions of the taxpayer („Local file"); - A documentation which should include information regarding the manner in which income, taxes are allocated and reporting of financial indicators („Country-by-Country Report").

Significant changes are also made in Chapters II ("Methods"), IV ("Administrative Approaches to Avoiding and Resolving Transfer Pricing Disputes") – revised guidance regarding safe harbours, VIII ("Cost Contribution Arrangements") and IX ("Transfer Pricing Aspects of Business Restructurings"). Some of the BEPS work streams have not been finalized in the 2017 transfer pricing guidelines, including the guidance on hard-to-value-intangibles and the attribution of profits to a permanent establishment.

For further questions, please contact us.



Ciprian Gavrilu
Director
+40 21 222 16 61
cgavrilu@deloittece.com



Alexandra Bunea-Oprisescu
Senior Manager
+40 21 207 56 96
aoprisescu@deloittece.com



Ioana Botez
Senior Manager
+40 21 222 16 61
ibotez@deloittece.com



Bogdan Barbu
Senior Manager
+40 21 207 56 51
bbarbu@deloittece.com



Adriana Neacsu
Manager
+40 21 207 98 26
adnitou@deloittece.com



Bogdan Constantinescu
Manager
+40 21 207 56 79
bconstantinescu@deloittece.com

Deloitte Events

Deloitte Romania is delighted to invite you to Banking Risk and Regulatory Roundtable, organised on July 26, starting 09:30, at Deloitte premises, 4-8 Nicolae Titulescu Road, East Entrance, 2nd Floor, District 1, Bucharest.

Agenda:

- The 4AMLD: what are the new challenges?
- Risk Based Approach: how banks should include money laundering and financing of terrorism risks within their overall risk management
- AML risk assessment tool: web based tool, our solution which answer to a key requirement of the 4th AMLD

Lectors:

Dimitrios Goranitis – Partner - Banking Risk & Regulatory Advisory, Deloitte Central Europe

Kaulins Janis –Forensic Leader, Deloitte Latvia SI

For more information and registration, please click [here](#).

Deloitte in mass-media

An article about creating digital link between banks and clients – Legal perspectives, by Lorena Butusina, Associate, Reff & Associates

http://www.hotnews.ro/stiri-specialisti_deloitte-21894034-credite-acordate-online-fara-prezenta-fizica-banca-cum-pot-inlaturate-impedimentele-juridice-din-calea-unei-relatii-electronice-clientii.htm



Deloitte.

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 www.deloitte.com/ro/about to learn more about our global network of member firms.

Deloitte provides audit, consulting, legal, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 244,000 professionals make an impact that matters, please connect with us on [Facebook](#) or [LinkedIn](#).

Reff & Associates SCA is a law firm member of Bucharest Bar, independent in accordance with the Bar rules and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.

This alert is offered as guidance and must not be considered a consultancy service. Before taking any action based on this document, you should ask for professional fiscal/legal advisory.

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 advisor. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017. For information, contact Deloitte Romania