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Business and Consulting Company
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Transfer pricing - important changes from the 1st of January 2017

In 2017 the rules of documentation of transactions between related parties have changed.

The modification of the definition of related parties

Related parties are considered only those whose share in the capital of another company is not smaller than 25%, and not as it was before: only 5%.

New rules for transfer pricing documentation

The documentation will contain:

- ✓ transactions with related parties
- ✓ other events included in the books in a given fiscal year with a significant impact on income (loss) of the taxpayer

carried out by the taxpayer in the fiscal year in question.

The requirement for documentation depends on:

- ✓ **the amount of revenues and expenses** in accordance with accounting rules, generated by the taxpayer in the previous fiscal year and determined on the basis of accounting kept;
- ✓ the excess of the thresholds of the value of transactions/ events of one type, determined according to the revenues.

In the case of taxpayers whose income in the previous fiscal year should exceed the equivalent of:

- **€ 2 million** but not more than the equivalent of **€ 20 million** - transactions and events with significant impact on income (loss) of the taxpayer shall be deemed the transactions or events of one type the value of which in the fiscal year exceeds an amount equivalent to € 50 thousand increased by € 5 thousand for every million of revenues in excess of € 2 million;

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- **€ 20 million** but not more than the equivalent of **€ 20 million** - transactions and events with significant impact on income (loss) of the taxpayer shall be deemed the transactions or events of one type the value of which in the fiscal year exceeds an amount equivalent to € 140 thousand increased by € 45 thousand for every 10 million of revenues in excess of € 20 million;
- **€ 100 million** - transactions and events with significant impact on income (loss) of the taxpayer shall be deemed the transactions or events of one type the value of which in the fiscal year exceeds an amount equivalent to € 500 thousand

The obligation to keep the records **does not apply to** entities whose revenues or costs have not exceeded in the previous fiscal year the equivalent of **€ 2 million**.

Taxpayers **commencing their activity** and making transactions or other events with significant impact on their income (loss) in the fiscal year in question, will be required to prepare transfer pricing documentation starting from the month following the month in which revenues or costs exceeded the equivalent of € 2 million.

The law provides for three stages of transfer pricing documentation, which consists of:

- ✓ **local file** - aimed at presenting by a domestic related party of detailed information on the transactions or other events included in the books, between said party and other entities within the group
- ✓ **master file** - in which the group-level information will be presented
- ✓ **country-by-country reporting** – the CbC report shall contain the statements of income, taxes paid and the premises of foreign branches and structures within the group in a given tax year.



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Taxpayers with income or expenses **from € 2 million to € 10 million** are obliged to submit the local file only.

Taxpayers with income or expenses **exceeding € 10 million** are also required to submit a benchmarking study and to submit, along with the tax return, a simplified report on the transactions and other events with related parties.

Taxpayers with income or expenses in **exceeding € 20 million** are also required to submit a master file.

Taxpayers with consolidated revenue **exceeding € 750 million** are required to prepare (in addition to local file and master file) a group report (country-by-country reporting).

The deadline for submission of tax documentation

The legislator imposes the obligation to produce the documents **no later than the date of submission of the tax return for a given tax year.**

A member of the board of a domestic entity will be required to sign and attach to his tax return a statement on the preparation of a comprehensive document in accordance with the law.

The benchmarking study must be updated **at least once every 3 years.**

The taxpayer will continue to be required to submit a complete documentation within **7 days** from the request by a tax authority.

Together with the Income Tax Declaration (CIT-8) the taxpayer must file a **declaration** on transactions with related parties (**CIT-TP**).



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Sanctions

In case of a tax audit, the transfer pricing documentation (in Polish, prepared in accordance with detailed Polish formal requirements) must be provided to the tax authorities within seven days. The lack of TP documentation **implies risk for people in charge of the company of being subject to tax penalties and additional 50% tax penalty fee** (instead of 19%).

For further information please contact us via e-mail: info@investmentsgroup.net

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