

TRANSFER PRICING DOCUMENTATION AFTER CHANGES PROPOSED BY OECD

This newsletter presents changes which the Organisation for Economic Cooperation and Development (OECD) has been planning for Chapter Five of *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (rev. 22 Jul 2010) in relation to the **transfer pricing documentation of transactions with related parties**.

The work on these changes proceeded as part of Action 13 of the Base Erosion and Profit Shifting (BEPS) Project and culminated with the publication of Action 13 Report on 16 September 2014.

OECD proposes a new approach to transfer pricing documentation so that group entities will be required to have the following documents in place:

- **Master File.** This document, which will have to be issued by the parent for all of the group entities, will set out the group's transfer pricing policy.
- **Local File.** This document, to be issued by each group member, will contain information specific to related-party transactions in a specific country and proving that the transactions are at arm's length.
- **Country-by-Country Report.** This report, to be issued by the parent, will give information on group members operating in local tax jurisdictions, setting out on a per-member basis such data as functional profile, tax residence, the amount of tax paid, pre-tax profit, share capital and fixed assets, and the size of workforce.

For Polish taxpayers, what OECD proposed in terms of changes to transfer pricing documentation requirements is a revolution. This is especially true for the following changes:

- The burden of proving the arm's length terms will be shifted from tax authorities onto taxpayers, who will be required to provide benchmarking studies for their related-party transactions.
- The Master File/Local File disclosures on the group and the transactions will be much broader than those required under Polish transfer pricing documentation regulations (Article 9a CIT Act / Article 24a PIT Act).
- Tax administrations will gain a deeper insight into multinationals' taxes through the required Country-by-Country Reports and treaty-based exchange of taxpayer information between tax jurisdictions.

With Polish lawmakers' desire to make the Polish tax system ever tighter and Finance Ministry's recent statements suggesting that work on changes to transfer pricing documentation regulations is already underway, we should expect prompt implementation of OECD's guidance in Polish tax law.

We will keep you up-to-date with those regulatory changes in Poland in our subsequent newsletters.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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