## CHANGES IN TRANSFER PRICING REGULATIONS AS OF 2016

We wish to alert you on a draft amendment to the Personal Income Tax Act and of the Corporate Income Tax Act published on 28 April 2015. The draft amendment in question provides significant alternations to the definition of a related party and to provisions on transfer pricing documentation requirements.

According to the draft amendment, the shareholding above which the shareholder is recognized a related party is to increase from 5% to 20%,

The draft amendment would also materially change circumstances which trigger transfer pricing documentation requirements. It is proposed that transfer pricing documentation should be prepared by those taxpayers whose accounting revenue or costs exceed the equivalent of EUR 2 million during the tax year. The value thresholds for specific transaction types would be abolished, except for the EUR 20,000 threshold for transactions with tax havens.

TP documentation would have to be prepared by the date on which the taxpayer files the annual income tax return. Moreover, for companies, the annual income tax return would have to be accompanied by a written statement of a member of the management board that the Transfer Pricing documentation is complete.

The proposed draft amendment also seek to refine the scope of TP documentation disclosures. Those taxpayers whose revenue or expenses exceed EUR 10 million during the tax year will have to make sure their documentation includes a benchmarking study demonstrating that their related party transactions comply with the arm's length principle. In practical terms the burden of prove will be shifted onto taxpayers.

Another important change would be the duty to hold a master file with major information on the organisation and activities of the group. Master files would have to be held by taxpayers who are members of MNC and whose revenue or expenses exceed the equivalent of EUR 20 million during the financial year. In addition, the holding companies for the Polish capital groups with consolidated revenues of more than the equivalent of EUR 750 million will have to report to the tax authorities on amounts of revenue and of tax paid and on places where their subsidiaries conduct business (this is the country-by-country reporting postulated under OECD's BEPS Action Plan).

The proposed changes are currently undergoing public consultations and opinion processes. They are expected to enter into force on 1 January 2016. Look to our subsequent Newsletters to keep abreast with further legislative developments in this area.

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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