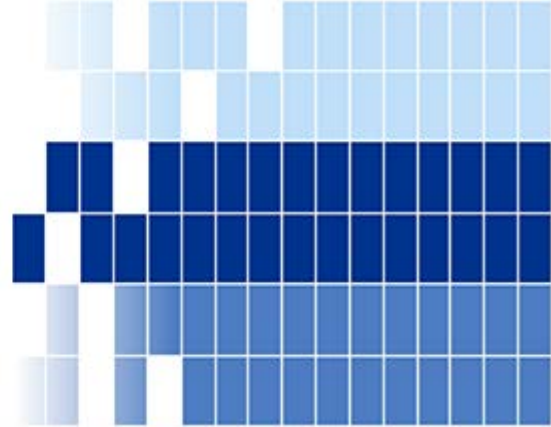




Tax News

KPMG in Bulgaria



Mandatory transfer pricing documentation introduced in Bulgaria

August 2019

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Mandatory transfer pricing (TP) documentation becomes effective in Bulgaria pursuant to the amendments to the Tax and Social Security Procedure Code (TSSPC) approved by the National Assembly on 31 July 2019. The first year for which the mandatory TP documentation, comprising a local file and a master file, will have to be prepared is 2020. Rules are also introduced to improve the mechanisms for tax dispute resolution and allow for more comprehensive and effective procedures.

[New rules for mandatory transfer pricing documentation](#)

Bulgarian taxpayers which, as of 31 December of the previous year, do not exceed the following thresholds: (i) BGN 38 million (approximately EUR 19 million) net book value of assets and (ii) BGN 76 million (approximately EUR 39 million) net sales revenue or (iii) average number of the personnel for the reporting period of 250, will not be obliged to prepare a local file. Entities which are not subject to corporate income tax (CIT) or which are subject to alternative taxes, as well as entities performing only related party transactions within Bulgaria, will also be exempt from the obligation to prepare a local file.

The local file will be prepared each year for related party transactions exceeding the following annual thresholds: (i) BGN 400,000 for sales of goods, (ii) BGN 200,000 for other transactions, (iii) BGN 1 million loan

principal or BGN 50,000 interest and other related to the loan revenue or expenses.

Taxpayers which are part of a multinational group of companies and are obliged to prepare a local file must also have available a master file prepared by the ultimate parent company or another member of the group.

The deadline for preparation of the local file is aligned with the deadline for submission of the annual CIT return for the respective year and the deadline for the master file is within 12 months after this term. By way of example, the local file for 2020 will be prepared as a rule by 31 March 2021 (with the option for an extension until 30 September 2021 in case of an amending CIT return), while the master file for 2020 has to be available by 31 March 2022.

The master file and the local file need to be updated on an annual basis. Benchmark studies can be updated as a rule every three years as a minimum, but the data on the identified comparable transactions and/or entities need to be updated annually.

The TP documentation will not be submitted to the revenue authorities but is to be kept by the taxpayer and may be required in the course of a tax inspection or a tax audit. Administrative sanctions are laid down for failure to present the TP documentation upon request and for presenting untrue or incomplete data and can be substantial.



New rules for tax dispute resolution

The amendments to the TSSPC also introduce rules on tax dispute resolution between Bulgaria and other member states of the European Union, based on the principles set out in the European Union Arbitration Convention, which are aimed to improve the existing mechanisms for tax dispute resolution through more comprehensive and effective procedures. The rules will be applied to tax disputes related to the interpretation and application of both (i) double tax treaties and (ii) the European Union Arbitration Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.



What can we expect?

While the new rules lay down an obligation for preparation of TP documentation for qualifying entities, they also provide an indication what the revenue authorities would expect from other taxpayers. Based on the existing tax legislation, all taxpayers have a general obligation to prove the

arm's length nature of their transactions which is done through the preparation of TP documentation.

In recent years, the Bulgarian revenue authorities have been building an administrative and technical capacity and practice in the area of transfer pricing. There has been a series of tax inspections with a focus on transfer pricing and a number of material tax assessments made in the course of transfer pricing audits. With transfer pricing identified as a top priority of the Bulgarian revenue authorities, even increased scrutiny may be expected in the near future.

Preparing a TP documentation requires taxpayers to articulate convincing, consistent and coherent TP positions which are subject to a detailed functional and economic analysis, taking into consideration a number of factors such as the overall position of the entity within the Group's value chain, the business value drivers and business cycle, the market, and the existing comparable data. The preparation of a contemporaneous TP documentation (the deadline for the preparation of the local file is the same as the CIT return filing deadline) is aimed to ensure the integrity of the taxpayer's position, which would entail that the taxpayer has already analyzed the arm's length nature of its related party transactions and, thus, the position it reports in its annual CIT return.

As far as the tax dispute resolution rules are concerned, the new provisions include setting out of clear mechanisms as to the taxpayer's access to the tax dispute resolution procedure, the duration of the procedure and the mandatory binding resolution of the dispute. This would allow for more effective resolution of disputes leading to double taxation.



How to prepare?

Join KPMG for a series of transfer pricing trainings starting in September 2019 and learn about the new requirements for preparation of the transfer pricing documentation, how they will affect your company and how to prepare for them. [Subscribe here](#) to receive invitations to KPMG trainings and events on tax topics.

We would be glad to discuss how your business will be affected by the new rules.



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