



Poland amends draft bill on transfer pricing documentation requirements

Executive summary

On 18 June 2015, the modified draft Personal Income Tax (PIT)/Corporate Income Tax (CIT) Act (Bill) regarding documentation of intercompany transactions was published on Poland's *Government Legislation Centre* website. The revised draft bill takes into account comments submitted by taxpayers to the original version dated 27 April 2015 during the public consultation phase.¹

Detailed discussion

The main amendments to the draft bill in comparison to the original version are as follows:

- ▶ Clarification of the "events and transactions" definition that has significant impact on taxpayer's income:
 - Introduction of quantitative transaction thresholds² referenced to revenues
 - Simultaneously, for transactions that do not exceed these thresholds, tax authorities would be allowed to request the documentation within 30 days in the case of possible underestimation of the transaction value provided they raise the issue during tax audit that the value of the transaction was under the threshold to avoid the documentation obligation
- ▶ Clarification of Local File and Master File scope in the draft regulation:
 - The scope of the Local File and Master File are the same
 - Clarification relates to what should be understood under particular items
- ▶ Modification of the "related entities" definition increasing the capital threshold from 20% to 25%
- ▶ Revised effective date of the draft bill from 1 January 2016 to 1 January 2017

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- ▶ Introduction of a draft regulation setting out the Country by Country Reporting (CbCR) model and report on intercompany transactions

The revised draft bill still includes the amended format of transfer pricing documentation: Master File, Local File and CbCR.

Furthermore, the obligation to file a statement confirming the completeness of the transfer pricing documentation (i.e., Local File), as well as the additional simplified report on the intragroup transactions or events (CIT - TP form) was maintained. Both documents will be attached to the CIT report.

Despite the fact the Bill postpones the date of the draft bill entering into force to 1 January 2017, taxpayers must attach the CbCR report to the CIT report for 2016. In addition, the deadline for submitting a statement confirming the completeness of the transfer pricing documentation (and thus the deadline for drawing up the documentation) within three months from the end of the financial year was maintained.

Implications

The proposed legislation aims at increasing the transparency of information on intra-group transactions for tax authorities, which are to be used, among others,

to assess tax risk and select entities for conducting transfer pricing audits in an effective way. For this reason, it is worth in advance to prepare for the changes proposed, not only in terms of increased involvement in the preparation of transfer pricing documentation, but also in terms of addressing potential risks associated with ongoing intragroup transactions, as well as to define the appropriate transfer pricing policy and its justification.

Endnotes

1. See EY Global Tax Alert, [Poland amends transfer pricing documentation requirement as of 2016](#), dated 7 May 2015.
2. (a) For entities with revenues of €2m, but not more than the equivalent of €20m: significant transactions or events are regarded as transactions/events of value equivalent to €50,000 increased by €5,000 for each €1m of income above €2m.
(b) For entities with revenues of €20m, but not more than the equivalent of €100m: significant transactions or events are regarded as transactions/events of value equivalent to €140,000 plus €45,000 for each €10m of revenue in excess of €20m.
(c) For entities with revenues of €100m: significant transactions or events are regarded as transactions/events of value equivalent to €500,000.

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