

Transfer Pricing Alert

KPMG in Poland

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The decree on information to be included in the transfer pricing documentation came into force

On 18th September the Minister of Economic Development and Finance published in the Journal of Laws the decree on information which should be included in the statutory transfer pricing documentation. The decree will have significant implications for entities concluding related party transactions. It specifies a detailed content that will have to be included in the transfer pricing documentation according to the amended regulations (effective from 1 January 2017). The decree came into force on 3rd October.

What is the legal basis and the role of the decree of the Ministry of Economic Development and Finance?

The amended provisions of the Corporate Income Tax Act referring to the transfer pricing documentation empowered the minister responsible for public finance matters in **Article 9a, section 8¹** to issue a decree specifying the scope of information to be included in the statutory transfer pricing documentation. The wording of the act itself provides only general items that taxpayers concluding transactions with related parties are obliged to include in their documentation.

What are the basic components of the decree?

The decree published on 18th September indicates specific information that taxpayers will have to include in the relevant part of the transfer pricing documentation, i.e. in:

- Local File,
- Benchmarking Study,
- Master File.

In response to the objections raised during public consultations regarding the ambiguity and lack of precision of some terms used in the earlier draft decree, the "new" version of the decree introduces certain changes.

In particular, the published decree establishes legal definitions of concepts such as "functional analysis", "functional profile" and "value-added chain", which are further used to describe the formal requirements for the Local File, the Benchmarking Study and the Master File.

The decree in the current form emphasizes among others the issue of a value chain in transactions concluded between related parties that create added value – this item appears in the functional analysis (constituting the obligatory part of Local File and Benchmarking Study).

Moreover, the decree indicates the necessity to present additional descriptions concerning, among others, related party transactions of an intangible nature.

In addition, the published decree provides an obligation to include the description of a transfer pricing policy applied by the group of related entities in the Master File.

A wide range of information to be provided by taxpayers in their transfer pricing documentation aims to increase the transparency of their business activity.

We would also like to remind you about the introduction of an additional tax declaration (filed on a CIT-TP form) into the Polish tax regulations. The form will have to be filed by entities whose revenues or costs exceed the equivalent of EUR 10 000 000 in a given year.

We encourage you to contact us should you have any questions or concerns regarding the issues described above.

¹ Act of 15 February 1992 on Corporate Income Tax (consolidated text of 26 October 2016 – Journal of Laws of 2016, item 1888)

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