



The recently published tax laws contain important changes regarding transfer pricing in Hungary. These legislative changes affect the corporate tax return and transfer pricing documentation prepared for the 2022 fiscal year, making it necessary to prepare the documentation taking these changes into account.

In the following we would like to summarize the most significant changes on the following key areas:

1. Details on New transfer pricing reporting obligation is introduced:

A **new transfer pricing reporting obligation has been introduced** to tax laws this summer, and the Minister of Finance's transfer pricing decree issued on 28 December 2022 provides details on the new transfer pricing reporting obligation, as well as which information must be provided **in the corporate tax return**.

- The reporting must be prepared on a **transaction-by-transaction** or a consolidated transaction basis.
- The information must include, among other things, **the characterization of the transaction, the most relevant NACE equivalent code, the transactional value, certain administrative data pertaining to the involved parties, the transfer pricing methodology and indicator selected, and the arm's length price or price range.**
- The transactions covered by the reporting obligation may be **broader** than those transactions with documentation obligation.
- The transfer pricing reporting obligation in the corporate income tax return **applies at the earliest to returns filed after 31 December 2022.**

The reporting obligation is expected to assist the tax authorities in more efficient and targeted transfer pricing and comprehensive tax audits, and therefore the accuracy of the data provided will be particularly important.

This change means it is particularly important that the necessary data for the preparation of the transfer pricing documentation be made available in sufficient time in order to fulfill the transfer pricing reporting obligation in the corporate income tax return.

2. Year-end transfer pricing adjustments:

The transfer prices applied between related parties and realized profit at year-end may differ from market conditions. In this case, a year-end adjustment may be required, the rules governing that have changed considerably:

- As a general rule, **the adjustment should be made to the middle (median) value of the range** when corporate tax base adjustments are made related to transfer pricing.
- **Deviations from the median are possible in very limited cases only** if the deviation from the median can be justified and supported from a transfer pricing perspective.
- Furthermore, **no adjustment is possible if the price applied is already within the arm's length range before the adjustment.**
- The above rules will apply for the first time when determining the tax liability for the tax year starting in 2022.

These changes increase the importance of using appropriate comparable analyses which must adhere to local Hungarian legal requirements; furthermore, the risks associated with using central- and group-level database searches without review is increasing significantly.

It is also important to point out that the year-end adjustment may raise issues in other tax areas beyond corporate tax, and the Hungarian tax Authority may pay the adjustment's professional handling and substantiation particular attention during tax audits.

3. Transfer pricing documentation related changes:

In addition to the above, significant changes to transfer pricing documentation rules are the following:

- The HUF 50 million (cca EUR 125,000) transfer pricing documentation threshold is increased **to HUF 100 million (cca EUR 250,000)**. The increased threshold is only applicable to financial years which started on or after 1 January 2022.
- The penalty for not preparing transfer pricing documentation or for incomplete transfer pricing documentation will be increased to **HUF 5 million (cca EUR 12,500) per transaction**, and an additional HUF 5 million (cca EUR 12,500) may be imposed for a missing or inadequate Masterfile.
- In the case of intra-group services, more detailed information should be presented regarding the pricing of such transactions than before (for example, on cost allocation methodology, cost allocation keys, etc).

The scope of the transactions which shall be documented will be in line with the documentation obligation in general. Parallel the increase of the documentation threshold, the non-compliance penalty will be increased as well.

4. Other significant changes:

We would like to draw your attention to the following important areas affected by the legislative change:

- **Mandatory use of the inter-quartile range:** The use of the inter-quartile range in determining an arm's length price has become more strict, i.e. its use has become more broadly mandatory. The entire existing minimum-maximum range may only be used in fewer cases than previously allowed by previous legislation, and therefore the transfer pricing and pricing methodologies used so far may need to be revised.
- **Increased procedural fees for APA:** The fee for the procedure aimed at advanced determination of the arm's length price has been amended to HUF 5 million (cca EUR 12,500) for a unilateral procedure and HUF 8 million (cca EUR 20,000) for bilateral or multilateral procedures.

Previously in limited cases the whole range could have been applied as market ranges. Due to the very recent changes the application of the inter-quartile range will be necessary.

For more information, contact a KPMG tax professional in Hungary. We will be happy to provide assistance if you have any questions regarding the impact of these changes.