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Global Tax Alert

News from Transfer Pricing

Qatar introduces transfer pricing documentation requirements

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Executive summary

Qatar's General Tax Authority (GTA) published Executive Regulations (ER) relating to the implementation of Income Tax Law No. 24 of 2018 (Income Tax Law) which included transfer pricing provisions. The ER, published on 11 December 2019, is effective from 12 December 2019.

The ER contains specific transfer pricing (TP) compliance and documentation requirements for entities in Qatar. Specifically, Qatar-based entities with related-party transactions exceeding a prescribed revenue/asset threshold will need to file a TP form/questionnaire, master TP file and local TP file by the tax return filing deadline. Although the GTA has not yet specified the threshold, Qatar-based entities should prepare for the possibility that they will need to comply with the TP requirements by the tax return due date for the 2019 tax year.

Detailed discussion

Background

In November 2017, Qatar joined the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on base erosion and profit shifting (BEPS), which was established to allow interested countries and

jurisdictions to participate in the development of standards on BEPS-related issues. In doing so, Qatar committed to aligning with the emerging global consensus on shared international tax rules. The Inclusive Framework now has more than 135 members.

In 2018, Qatar introduced country-by-country reporting (CbCR) rules, to meet one of the minimum standards for members of the Inclusive Framework.

On 13 December 2018, Law No. 24 of 2018 was issued to promulgate a new income tax law. The new law replaces Law No. 21 of 2009 and is effective from 14 December 2018.

On 11 December 2019, the GTA published the ER to implement the Income Tax Law. In line with Qatar's membership in the Inclusive Framework, the ER includes provisions on such issues as the permanent establishment definition and TP documentation requirements.

Key developments

The ER includes detailed provisions on TP documentation and compliance requirements for Qatar-based entities undertaking transactions with nonresident related parties. The TP rules apply to all entities in Qatar. The key TP requirements are:

- ▶ **Arm's-length principle and TP methodology:** The ER adopts the arm's-length principle and identifies the comparable uncontrolled price (CUP) method as the primary method for determining the arm's-length price for transactions between related parties. Entities must apply to the GTA to use another method approved by the OECD if they are unable to apply the CUP method.
- ▶ **TP disclosure and documentation:** Qatar-based entities must:
 - Conduct a functional analysis to describe the entities' relationship and economic role in transactions with related parties as well as a benchmarking analysis and update the financial data related to the comparable transactions annually.

- Submit to the GTA, on or before the income tax return filing deadline, if they breach the revenue/asset threshold (to be announced by the GTA):

- ▶ A TP master file and TP local file
- ▶ A TP form providing details about its related party transactions. This form must be attached to the annual income tax return, along with the audited financial statements
- ▶ **Advance pricing agreements (APAs):** The ER refers to APAs and indicates that detailed guidance/procedures and regulations for bilateral APAs will be issued later.
- ▶ **Thin capitalization:** The ER limits the deductible interest on related-party loans to three times the shareholders equity recorded in the financial statements for the accounting period. The entities may also be required to substantiate that the loan advanced by the related parties provides economic benefits. The ER also indicates that interest paid by a permanent establishment to its headquarters or an affiliate is non-deductible.

Implications

The new ER requires Qatar-based entities to comply with several new TP requirements and the GTA is still expected to issue more guidance on these requirements and the timing around the submission of TP documentation. However, given that the ER has been released and is therefore already in effect, it establishes a compliance obligation that Qatar-based entities must undertake the required TP analysis to support their intercompany transactions. Consequently, Qatar-based entities need to start reviewing their TP policies and related party pricing/arrangements to ensure that they are able to comply with the new TP requirements once the deadline for submission is announced, which could be as early as 30 April 2020. Failure to comply with the new TP rules may result in the imposition of penalties in accordance the Income Tax Law.

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