

Turkey revises transfer pricing documentation requirements to be effective from 2019

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Executive summary

Turkey's Corporation Tax Law's Article 13 requires related taxpayers to adhere to the arm's-length standard for intercompany transactions. Failure to do so may result in all or part of the additional income being treated as a disguised distribution. In addition, it is mandatory to keep the records, tables and documents related to the calculations regarding the values or prices that are set.

The existing documentation requirement has been expanded by Turkey's *Presidential Decision no.2151*, published in the *Official Gazette* dated and effective 25 February 2020 to include OECD documentation, that is, the master file, annual transfer pricing report and Country-by-Country report for the 2019 accounting period as summarized below.

Detailed discussion

New transfer pricing reporting requirements and conditions

Master file

The master file is to be prepared by corporate taxpayers affiliated with a multinational enterprise (MNE) group (a group of two or more entities resident in different countries) with an asset size on the balance sheet and a net sales amount in the income statement attached to the corporate tax return for the previous accounting period each at TRY500 million and above.

The report should be prepared by the end of the accounting period following the relevant fiscal period and after this period ends. The first master file should be prepared for the 2019 accounting period. Taxpayers with a special accounting period should prepare the first master file for their special accounting period that starts after 1 January 2019. The master file need not be filed with the corporate tax return, rather it must be submitted to the Revenue Administration or those authorized to conduct tax inspections upon request.

The master file consists of five main categories, including the MNE group's organizational structure, definition of business activities, intangible rights owned, intra-group financial transactions, and financial and tax status.

Annual transfer pricing report

Taxpayers are required to prepare an annual transfer pricing report for the following transactions:

- a) Domestic and foreign related-party transactions of taxpayers registered with the Large Taxpayers Office in an accounting period.
- b) Foreign related-party transactions made by the other corporate taxpayers in an accounting period.
- c) Domestic related-party transactions of corporate taxpayers operating in free zones.
- d) Transactions of all corporate taxpayers with foreign branches and related parties located in free zones.

The annual transfer pricing report must be prepared by the submission date of the corporate tax return and after that period ends, if requested, it should be submitted to the Revenue Administration or those authorized to conduct tax inspections.

Taxpayers do not have to prepare an annual transfer pricing report for the transactions listed below, however they are required to submit the information and documents that should be included in the relevant report to the Revenue Administration or those authorized to conduct tax inspections, if requested.

- a) Domestic related party transactions of corporate taxpayers other than the corporate taxpayers registered with the Large Taxpayers Office and corporate taxpayers operating in free zones.
- b) Domestic and foreign related-party transactions of income taxpayers.

Country-by-Country report

The Turkish resident ultimate parent entity (UPE) of an MNE group with total consolidated group revenue of €750 million or above according to the consolidated financial statements of the preceding reporting accounting period, should prepare a Country-by-Country (CbC) report by the end of the 12th month after the reporting accounting period and submit it to the Revenue Administration electronically. The CbC report includes the following information:

- a) A listing of each country in which the MNE group operates; revenue, profit/loss before income tax, income/corporate tax paid, income/corporate tax accrued, capital, accumulated earnings, number of employees and tangible assets other than cash and cash equivalents.
- b) The name/title of each entity of the MNE group in the relevant country, the name of the country if the country where the entity is established is different from the country of residence in terms of the taxation system and core business activities of each entity.

The first CbC report should be submitted to the Revenue Administration by 31 December 2020 for the 2019 accounting period. The Turkish resident UPE subject to a special accounting period should prepare the first CbC report for the accounting period starting after 1 January 2019 and submit it to the Revenue Administration electronically by the end of the 12th month following the end of the relevant special accounting period.

Members of the MNE group covered should notify the Revenue Administration regarding whether they are the UPE or surrogate parent entity that will be reporting, which entity will be reporting on behalf of the group and information for the accounting period, by the end of the sixth month following the publication of this Presidential Decision regarding the first CbC report. The required information about subsequent years must be submitted to the Revenue Administration annually by the end of June.

CbC reporting information may be shared with other countries' tax administrations within the framework of the international agreements which Turkey is a party to. The list of countries that are signatories of these agreements will be announced by the Revenue Administration.

With these changes (amendments) to the Turkish transfer pricing documentation requirements, the law has been made compatible with the OECD requirement and the importance given to the transfer pricing documentation by the taxpayers and the Administration is highlighted with increasing information sharing and transparency.

Also, provided that the documentation requirements for transfer pricing are fulfilled completely and on time, the tax loss penalty for taxes that are not accrued on time or taxes under-assessed concerning the disguised distribution of profits is applied with a 50% deduction.

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