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Global Tax Alert

News from Transfer Pricing

Turkey issues guidance on transfer pricing documentation requirements

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Executive summary

On 1 September 2020, the Turkish Government published *The General Communiqué on Disguised Profit Distribution through Transfer Pricing (Series No:4)* (the Communiqué) in the *Official Gazette*. The Communiqué provides detailed information regarding the new transfer pricing documentation requirements (i.e., Country-by-Country Reporting and the Master file) in accordance with Action 13 of the Base Erosion and Profit Shifting (BEPS) initiative of Organisation for Economic Co-operation and Development.

Additionally, the Communiqué contains additional explanations and examples regarding the "10% share of partnership" requirement for the related-party status and also a lower threshold of TRY30k for the related-party transactions that will be included in the documentation.

Detailed discussion

Filing the Country-by-Country Report

The Turkish resident ultimate parent entity (UPE) or surrogate entity of a multinational enterprise (MNE) group with consolidated group revenue of €750 million or above 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 Turkish Revenue Administration (TRA) electronically. Currently the deadline for CbC reporting (CbCR) filing for 2019 fiscal year is 31 December 2020.

The Turkish subsidiaries of multinationals (i.e., Turkish companies whose UPE or surrogate entity is located outside Turkey) should not file a CbC report in Turkey if Turkey has a Qualifying Agreement with such country/countries.

However, for the time being there is no Multilateral Competent Authority Agreement on CbCR signed by Turkey and if the Agreement is not signed by the deadline (i.e., 31 December 2020), Turkish subsidiaries of an MNE will be required to locally file a CbC report in Turkey.

Under the Communiqué, the Turkish UPE of an MNE group may assign surrogate entities abroad, however it is still mandatory for the MNE group to file a CbC report with the TRA as well.

The CbC report must be submitted through the TRA Information Transfer Platform (BTRANS) in XML format. Corporate taxpayers who will submit the CbC report are required to get their user code and password from their registered tax offices.

CbCR notification

Turkish subsidiaries of an MNE group eligible for reporting must notify the TRA electronically regarding the reporting entity of the group and the jurisdiction where the CbC report has been filed.

The deadline for submission of the “Country-by-Country Reporting Notification Form” for the period of fiscal year (FY) 2019 has been postponed to 31 October 2020. The CbCR notification will be submitted electronically via the Online Tax Office. Corporate taxpayers are required to get their user code and password from their registered Tax Offices.

Master file

It is compulsory to prepare a Master file for the corporate taxpayers which are part of an MNE group and whose net assets and net sales are both TRY500 million and higher. The deadline for the preparation of the Master file is 31 December 2020 for FY2019, and the file should be prepared and ready to submit upon the request of the TRA or those authorized to conduct a tax inspection.

Under the Tax Procedural Code, late filing, incomplete or inaccurate filing of reports are subject to a procedural tax penalty. Additionally, a “Penalty Protection Regime” applies where taxpayers may get a penalty reduction of 50% in the case of full and timely preparation of transfer pricing documentation.

Implications

In conclusion, Turkish taxpayers that are part of an MNE group should analyze the requirements for CbCR and the Master file and take action accordingly. Particularly, Turkey’s status in signing the Multilateral Competent Authority Agreement should be monitored closely, since there is a short deadline to comply with the CbCR filing.

For additional information with respect to this Alert, please contact the following:

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