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Global Tax Alert

News from EY Americas Tax and Transfer Pricing

Chile's IRS establishes new transfer pricing documentation requirements

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The Chilean Internal Revenue Service (SII) has published Resolution No. 101, which establishes new Transfer Pricing Informative Sworn Statements No. 1950 (Annual Master File Affidavit) and No. 1951 (Annual Local File Affidavit).

These affidavits are complementary to Affidavits No. 1937 (Country-by-Country Report) and No. 1907 (Transfer Pricing). With the new affidavits, Chile is aligned with the reporting obligations recommended in the international guidelines for transfer pricing by the Organisation for Economic Co-operation and Development and BEPS¹ Action 13.

A summary of the information that must be included in the master and local files is in the Appendix below.

Which taxpayers must submit Annual Affidavit No. 1950 Master File?

This affidavit must be submitted by taxpayers with the obligation to submit the Country-by-Country Report, such as:

- i. Parent or controlling companies of groups of multinational entities (GEM for its Spanish acronym), with residence in Chile for tax purposes, to the extent that the group records consolidated income of more than € 750 million

OR

- ii. Entities belonging to the GEM, with residence in Chile for tax purposes, that have been designated by the parent or controlling entity of the group to file Affidavit No. 1937 (Country-by-Country Report) in Chile

Which taxpayers must submit Annual Affidavit No. 1951 Local File?

Taxpayers that meet all the following conditions must submit this affidavit:

- i. Belong to the large companies' segment, in accordance with the criteria established by the SII in Exempt Resolution No. 76 from 23 August 2017
- ii. Have a parent or controlling entity of the GEM that has submitted the Country-by-Country Report before the SII or another tax administration in the world
- iii. Have transactions with related entities abroad that exceed CLP 200 million

These requirements are different from those for the submission of Affidavit No. 1907. Therefore, taxpayers subject to the submission of Affidavit No. 1907 must evaluate whether they are also subject to the submission of Affidavit No. 1951.

Due date

The due date for both affidavits is the last business day of June of each year. The due date may be extended once for up to three months upon request.

Penalties

Failing to file, late filing, erroneous or incomplete filing or intentionally filing false data are subject to a penalty that ranges from 10 to 50 Annual Tax Units (UTA²). The penalty, however, is limited to the higher of 15% of the equity or 5% of the taxpayer's capital.

What information should be provided to the SII?

Taxpayers must submit the completed affidavits to the SII with annexes including financial information and describing the GEM's activities, structure and value chain. They also must submit supporting documents, such as contracts, agreements and calculation tables, among other things.

What do these new obligations mean for taxpayers?

Taxpayers must provide more detailed information not previously required by an affidavit.

How to be prepared

Taxpayers should consider the effect the large volume of information required for the affidavits will have on their operations.

Endnotes

1. Base Erosion and Profit Shifting.
2. One UTA in August 2020 was CLP 603,264, which is approximately US\$777.49.

Appendix

Below is a summary of the requested information

Annual Affidavit No. 1950 Master File - Information regarding the Group of Multinational Entities (GEM):

- ▶ Description of activities carried out by the GEM
- ▶ Description of the value chain and contributions of each member of the GEM to the generation of value
- ▶ Company structure and percentages of direct and indirect participation
- ▶ Contracts between the members of the multinational group and Advance Pricing Agreements (APA)
- ▶ Agreements related to intangibles
- ▶ Business reorganizations or transfers of intangible assets
- ▶ Transfer pricing policies
- ▶ Description of the supply chain
- ▶ Description of the financing sources, among other things

Annual Affidavit No. 1951 Local File - Information regarding the local taxpayer:

- ▶ Results of the transfer pricing analysis:
 - Market value range
 - Comparable set information
 - Methodology selection
 - Comparability adjustments
 - Conclusions
- ▶ Details of the profitability calculation
- ▶ Amortization table for financial transactions
- ▶ Financial statements of the local entity
- ▶ Intercompany agreements and annexes
- ▶ APAs
- ▶ GEM corporate structure
- ▶ Internal organizational structure (number of employees and areas) and description
- ▶ Business reorganizations or transfers of intangible assets
- ▶ Description of the activities carried out by the entity
- ▶ Competitors, among other things

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Transfer Pricing Group

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