

Transfer pricing: New law introducing transfer pricing documentation requirements and country-by-country reporting ('CbCR')

In July 2017, A Program Act introduced a statutory transfer pricing documentation requirement applicable as from accounting year started on or after 1st of January 2016. The law introduced a three-tier documentation approach:

- **Country-by-country report:** applicable to groups with a consolidated gross turnover exceeding EUR 750 million EUR (gross turnover includes gross operating revenues, gross financial revenues and gross extra-ordinary revenues). The report needs to be submitted within 12 months after the closing of the consolidated financial statements of the group of the reporting period concerned. Belgian entities have to identify the reporting entity for the country-by-country report to the Belgian tax authorities.
- **Master File & Local File:** applicable to Belgian company or permanent establishment that meets one of the following thresholds (to be assess on a stand-alone basis):
 - 1) Operating and financial revenues of 50 million EUR;
 - 2) Total balance sheet total of 1 billion EUR;
 - 3) Annual average of full time equivalents of 100.

The models of the forms Belgian entities need to use in order to submit the Master File, the Local File (part 1 and 2) and the country-by-country report as well as guidance on how to use the forms were published on 2nd December 2016 through Royal Decree in the Belgian official gazette.

The requirement for the country-by-country report and the Master File are applicable as from accounting year starting on or after 1st January 2016. The filing of the notification form identifying the reporting entity for the country-by-country reporting purposes has been postponed to end September 2017 for accounting year starting on or after 1st January 2016. This notification needs to be send to a dedicated unit within the SPF Finances.

For the Local File, part 1 (detailed general information including a.o. information on the management structure, the legal ownership structure, international reporting flows, description of the main activity, list of competitors etc.) and 3 (optional documents), the requirement is applicable as from accounting year starting on or after 1st January 2016. Part 1 and 3 have to be provided with the corporate income tax return i.e. in the summer of 2017!

For the Local File, Part 2 (detailed information on intra-group cross border transaction per business unit including a.o. detailed description of the business unit activities, list of cross border intercompany transaction for goods, services, financial and other transactions, the sale/gross and operating margins earned over the past 3 years (related and third party information) etc) is applicable as from accounting year starting on or after 1st January 2017. Part 2 will have to be provided with the corporate income tax return (assessment year 2018).

Our transfer pricing team stays at your disposal to analyze your case and advice you on the steps to be taken.
