

Circular

Istanbul, 25February2020

Circular No: 29

Subject: Transfer pricing documentation requirements have been revised to be effective from 2019.

Corporation Tax Law's Article 13 contains a provision indicating that the income will entirely or partly be considered as disguisedly distributed through transfer pricing in the circumstance that corporate taxpayers bought or sold goods or services to the related parties over costs or prices detected as contrary to the arm's length principle.

In line with the same article, it is mandatory to keep the records, tables and documents related to the calculations regarding the value or prices that are set as per the arm's length principle, as substantiating documents by the taxpayers.

The existing documentation requirement has been extended by the Presidential Decision no.2151, published in the Official Gazette dated 25 February 2020. Accordingly, corporate taxpayers are required to prepare "masterfile", "annual transfer pricing report" and "country-by-country report" for the 2019 accounting period within the scope of the explanations below.

a. Masterfile

The Masterfile will be prepared by the corporate taxpayers affiliated with a Multinational Enterprise (MNE) group (the group of two or more entities resident in different countries) with an asset size in the balance sheet and a net sales amount in the income statement attached to the corporate tax return for the previous accounting period both TRY500 million and above.

The concerning report should be prepared by the end of the accounting period following the relevant fiscal period and after this period ends, if requested it should be submitted to the Revenue Administration or those authorized to conduct tax inspections. The first Masterfile should be prepared for the 2019 accounting period and that subject to special accounting period should prepare the first Masterfile for the accounting period starting after January 1, 2019.

The Masterfile consists of five main categories, including MNE Group's organizational structure, definition of business activities, intangible rights owned, intra-group financial transactions, and financial and tax status. Details of the Masterfile are set by the Administration.

The Masterfile implementation defined by the OECD within the scope of BEPS Action Plan 13 has become effective in Turkey as well, and will be prepared for the first time for 2019 by taxpayers.

b. 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 to 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
- ç) Transactions of all corporate taxpayers with foreign branches and related parties located in free zones.

The annual transfer pricing report has to be prepared until the submission date of 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 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 in the Large Taxpayers Office and corporate taxpayers operating in free zones,
- b) Domestic and foreign related party transactions of income taxpayers.

c. Country-by-country report

The Turkish resident ultimate parent entity of a MNE Group having total consolidated group revenue of EUR750 million or above according to the consolidated financial statements the preceding reporting accounting period, should prepare a country-by-country report until the end of the twelfth month after the reporting accounting period and submit it to the Administration electronically. The country-by-country report includes the following information:

- a) Regarding 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 country-by-country report should be submitted to the Administration by 31 December 2020 for the 2019 accounting period. The Turkish resident ultimate parent company subject to special accounting period should prepare the first country-by-country

report for the accounting period starting after 1 January 2019 and will submit to the Administration electronically until the end of the twelfth month following the end of the relevant special accounting period.

Members of the MNE Group covered should notify the Administration on the information whether they are the ultimate parent or surrogate 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 country-by-country report and the required information about the subsequent years must be submitted to the Administration by the end of June every year.

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

With these changes in the transfer pricing documentation requirements, the implementation has been made compatible with the ones in the OECD, the taxpayer's and the Administration's emphasis on the transfer pricing documentation was once again highlighted by increasing information sharing and transparency.

Also, provided that the documentation liabilities for transfer pricing are fulfilled completely and on time, tax loss penalty for the taxes that are not accrued on time or taxes under-assessed concerning the profit disguisedly distributed is applied with 50% deduction.

The Presidential Decision no.2151 has been enacted as of its publication date (25 February 2020).

Our explanations provided above include general information on the issue. No responsibility can be claimed against EY and Kuzey YMM ve Bağımsız Denetim A.Ş. due to the implications arising from the context of this document or emerging with respect to its context.

Best Regards,

KUZEY YMM VE BAĞIMSIZ DENETİM A.Ş.