Transfer Pricing

documentation requirements in Europe



ANDERSEN

Foreward



Over the last months, the field of transfer pricing compliance in Europe has become very active: several jurisdictions have introduced transfer pricing documentation requirements and reporting obligations or have modified thresholds and penalties for non-compliance (i.e., Malta, Hungary, Poland, Denmark), some have launched public consultations on soon-to-be implemented transfer pricing rules (i.e., the U.K.), some others have provided additional guidance on specific intragroup transactions (i.e., the Netherlands) or on the application of the OECD TPG (i.e., Italy, Portugal, Germany).

Evidently these changes determine a direct impact on MNEs which are constantly committed in demonstrating that intragroup transactions are undertaken in compliance with the arm's length principle. Likewise, defending transfer pricing positions in an ever more enhanced transparency remains the main objective for administrative departments.

This guide has been prepared by the Andersen European Transfer Pricing Team with the aim to provide a quick overview of the most relevant compliance items and deadlines that MNEs need to focus on today.

Please do not hesitate to reach out to our local experts with any inquire you may have, we look forward to get in touch with you!

With kind regards,

Stefano Rossi
Partner – EU Transfer Pricing Coordinator

Austria

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

Annual entity turnover in the immediately 2 preceding years of EUR 50 million or more.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

TP documentation is part of a taxpayer's records that generally needs to be kept for tax purposes. The violation of this requirement can be prosecuted with a penalty of up to EUR 5,000.

05 | Language in which Master File needs to be prepared/filed

German, English.

06 | Additional requirements

At the request of the tax authorities the files must be submitted within 30 days. This request cannot be made until the corporate income tax return has been filed. Therefore, the tax returns should be filed in such a manner that the 30-day deadline could be met.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

Annual entity turnover in the immediately 2 preceding years of EUR 50 million or more.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

TP documentation is part of a taxpayer's records that generally needs to be kept for tax purposes.

The violation of this requirement can be prosecuted with a penalty of up to EUR 5,000.

05 | Language in which Master File needs to be prepared/filed

German or English.

06 | Safe harbour

N/a.



Belgium

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes. A specific Master File form (275 MF) should be completed and provided to the Belgian tax authorities.

02 | Monetary threshold for requiring a Master File

At least one of the following criteria for the local entity is exceeded (statutory accounts - in the year prior to the reporting year):

- combined operating and financial income above EUR 50 million; or
- total balance sheet above EUR 1 billion; or
- annual average number of FTEs above 100.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File form should be submitted no later than 12 months after the last day of the financial year concerned.

04 | Penalties for failure to file or provide the Master File

Penalty ranging from 1,250 to 25,000 euro.

05 | Language in which Master File needs to be prepared/filed

French, Dutch, German and English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes. A specific Local File form (275 LF) should be completed and provided to the Belgian tax authorities.

02 | Monetary threshold for requiring a Master File

At least one of the following criteria for the local entity is exceeded (statutory accounts - in the year prior to the reporting year):

- combined operating and financial income above EUR 50 million; or
- total balance sheet above EUR 1 billion; or
- annual average number of FTEs above 100.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File form should be filed together with the corporate income tax return.

04 | Penalties for failure to file or provide the Master File

Penalty ranging from 1,250 to 25,000 euro.

05 | Language in which Master File needs to be prepared/filed

French, Dutch, German and English.

06 | Safe harbour

N/a.



Bulgaria

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

At least two of the following three thresholds is exceeded in the year prior the reporting year:

- BGN 38 million (approximately EUR 19 million) net book value of assets;
- BGN 76 million (approximately EUR 39 million) net sales revenue;
- average number of the personnel for the reporting period of 250.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

No.

04 | Penalties for failure to file or provide the Master File

EUR 5,000 - EUR 10,000.

05 | Language in which Master File needs to be prepared/filed

Bulgarian.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

At least two of the following three thresholds is exceeded in the year prior the reporting year:

- BGN 38 million (approximately EUR 19 million) net book value of assets;
- BGN 76 million (approximately EUR 39 million) net sales revenue;
- average number of the personnel for the reporting period of 250.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

Fine of up to 0.5% of the volume of the related-party transactions that should have been documented could be imposed in the case of non-compliance and/or lack of TP documentation.

05 | Language in which Master File needs to be prepared/filed

Bulgarian.

06 | Safe harbour

N/a.





MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes. Master File forms a part of the whole File which toghether with Local File and CBCR report.

02 | Monetary threshold for requiring a Master File

As such no monetary border is set but rather in Art. 13. of the Profit Tax Act and Art. 40 of the Income Tax Ordinance one defines who is a related party and such a taxpayer is obliged to provide documentation on transfer pricing at the request of the Tax Administration, in which he inter alias explains the connection in the group - functional analysis - choice of TP method, the method itself and its application, and the method of invoicing and payment. All resident companies which have transactions with non-resident related parties should on request of TA hand in TP documentation. Also, according to law resident parties which are in a special tax position (tax losses carried forward, lower tax ratesetc.) should prepare TP documentation with other resident related parties.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

General provisions on penalties in the Tax Administration Act would be applicable in case of non-compliance as well as an increase of the tax base if tax auditors decide during tax audit that the prices between related entities are not at arm's length.

05 | Language in which Master File needs to be prepared/filed

Official language is Croatian so that the tax authorities can ask for an official translation of the Master File.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

N/a.

02 | Monetary threshold for requiring a Master File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

N/a.

05 | Language in which Master File needs to be prepared/filed

N/a.

06 | Safe harbour

N/a.

07 | Additional requirements (e.g. materiality, etc.)

Tax audit procedures In Croatia, in order to be fully recognised for tax purposes, all costs incurred between two companies must meet the following conditions:

- they should be proven as necessary and provided for the benefit of the local company;
- the description of the services on the invoice must correspond to the services actually provided;
- the invoice must be supported with documentation of services provided (e.g. in case of consulting or advisory activities, this may include various correspondence, emails, reports, projects, etc.);
- the value on the invoice should be an arm's-length price.

Cyprus

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes, effective from 1 January 2022.

02 | Monetary threshold for requiring a Master File

The legislation provides for the following exemptions from the master file requirements:

- taxpayers will be exempt from maintaining a master file if the actual aggregate value or aggregate value based on the arm's length principle of controlled transactions per particular category (e.g., goods, services, intellectual property-related income, financial transactions) does not exceed EUR 750,000 per tax year; and
- a taxpayer which is not part of a multinational enterprise (MNE) group subject tocountry-by-country (CbC) reporting (i.e., is not part of a group with consolidated group revenues exceeding EUR 750 million), will not be required to maintain a master file. Even where a taxpayer is a member of an MNE group subject to CbC reporting, it will be exempt from the obligation to maintain a master file if it is not the ultimate parent entity (UPE) or the surrogate parent entity (SPE) of the group for CbC reporting purposes.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The regulations provide that the master file for a particular year should be prepared no later than the due date for submitting the taxpayer's income tax return for that year. Based on the current deadlines for filing corporate income tax returns, this would mean companies would have 15 months after the end of the tax year to compile the master file.The TIS should be prepared for each separate tax year and be submitted to the Cyprus Tax Department (CTD), along with the taxpayer's corporate income tax return for that tax year.

04 | Penalties for failure to file or provide the Master File

Failure to provide TP documentation upon request: where a taxpayer has received a notice from the CTD to provide transfer pricing documentation (i.e. Master File) and fails to do so within the required timeframe of 60 days, penalties of between EUR 5,000 and EUR 20,000 will apply depending on the length of the delay. Non submission of TIS: where a taxpayer fails to submit a SIT, a penalty of EUR 500 will be imposed.

05 | Language in which Master File needs to be prepared/filed

The Master File may be kept in an internationally accepted language, preferably English, when it is a foreign group, with an obligation to be translated into the Greek language upon request of the tax authorities.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes, effective from 1 January 2022.

02 | Monetary threshold for requiring a Local File

The legislation provides for the following exemptions from the local file requirements:

- Taxpayers will be exempt from maintaining a local file if the actual aggregate value or aggregate value based on the arm's length principle of controlled transactions per particular category (e.g., goods, services, intellectual property-related income, financial transactions) does not exceed EUR 750,000 per tax year.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The regulations provide that the Local File for a particular year should be prepared no later than the due date for submitting the taxpayer's income tax return for that year.

Based on the current deadlines for filing corporate income tax returns, this would mean companies would have 15 months after the end of the tax year to compile the Local File. The TSI should be prepared for each separate tax year and be submitted to the Cyprus Tax Department (CTD), along with the taxpayer's corporate income tax return for that tax year. The regulations also require a person who holds a professional practising certificate from the Institute of Certified Public Accountants of Cyprus or any other similar recognized body in Cyprus, to undertake an assurance quality review of the Local File no later than the due date for submitting the taxpayer's income tax return for the year to which the Local File relates.

04 | Penalties for failure to file or provide the Local File

Failure to provide TP documentation upon request: where a taxpayer has received a notice from the CTD to provide transfer pricing documentation (i.e. local file) and fails to do so within the required timeframe of 60 days, penalties of between EUR 5,000 and EUR 20,000 will apply depending on the length of the delay. Non submission of TIS: where a taxpayer fails to submit a SIT, a penalty of EUR 500 will be imposed.

05 | Language in which Local File needs to be prepared/filed

The Local File may be kept in an internationally accepted language, preferably English, with an obligation to be translated into the Greek language upon request of the tax authorities.

06 | Safe harbour

N/a. Safe harbor (simplification method) on intra-group financing transactions was abolished with effective date 1 January 2022.

Denmark

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

Exemption for SME's with i) less than 250 employees and ii) a balance sheet of less than DKK 125 million or turnover of less than DKK 250 million. However, the SME exemption does not apply to controlled transactions with related parties in countries outside of EU/EEA and which does not a double tax treaty with Denmark.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File must be submitted within 60 days after the deadline for filing the corporate income tax return. The filing date of the annual tax return is six months following the end of the relevant income year, e.g., 30 June if the income year follows the calendar year. In a sheet annexed to the tax return, companies must provide standardized information on the nature and extent of their commercial or economic transactions with related parties.

04 | Penalties for failure to file or provide the Master File

The penalties for failure to comply with the submission deadline and/or transfer pricing documentation requirements can amount to DKK 250,000 (~EUR 33,600) per company per year, plus an additional amount equal to 10% of income adjustments related to non-compliance with the arm's length principle for the fiscal year.

Furthermore, the burden of proof shifts to the taxpayer in transfer pricing cases, where the required transfer pricing documentation has not been submitted before the deadline.

05 | Language in which Master File needs to be prepared/filed

Danish, Norwegian, Swedish, English.

06 | Additional requirements

A temporary Master File may be submitted if it is not possible to finalize the Master File in time.

The temporary Master File must be less than one year old, it must be stated when the Master File will be submitted and it must be described if significant changes will be affecting Danish taxpayers for the income year in question that are not disclosed in the Local File.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Exemption for SME's with i) less than 250 employees and ii) a balance sheet of less than DKK 125m or turnover of less than DKK 250m. However, the SME exemption does not apply to controlled transactions with related parties in countries outside of EU/EEA and which does not a double tax treaty with Denmark.

Domestic transactions are exempted from the documentation duty if subject to ordinary corporate taxation and taxpayers have no foreign ownership.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

In principle, the documentation must be prepared on an ongoing basis as documentation for the completed controlled transactions. From income year 2021 and onwards, the Local File must also be submitted within 60 days of the filing of the corporate income tax return.

04 | Penalties for failure to file or provide the Local File

The penalties for failure to comply with the submission deadline and/or transfer pricing documentation requirements can amount to DKK 250,000 (~EUR 33 600) per company per year, plus an additional amount equal to 10% of income adjustments related to non-compliance with the arm's length principle for the fiscal year.

Furthermore, the burden of proof shifts to the taxpayer in transfer pricing cases, where the required transfer pricing documentation has not been submitted before the deadline.

05 | Language in which Local File needs to be prepared/filed

Danish, Norwegian, Swedish, English

06 | Safe harbour

N/a.



Finland

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

A legal entity belonging to a group of companies must prepare a transfer pricing documentation if at least one of the following criteria applies:

- the group has 250 or more employees; or
- the group's consolidated net sales reaches EUR 50 million and its consolidated balance-sheet total is EUR 43 million or more; or
- the group cannot be regarded as a "Small or medium-sized enterprise, SME" as referred to in the Recommendation no 2003/361/EC of the EU Commission.

Further, if dealings with associated entities are small in scale (total transactions conducted in accordance with the arm's length principle between two parties during a fiscal year are not more than EUR 500,000), no Master File level information is required.

The EUR 500,000 threshold limits the contents of the transfer pricing documentation in case of transactions of small scale.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Contemporaneous (preparation); explanation of Transfer Prices (form 78) is filed as an annex of the corporate income tax return which must be filed within 4 months from the end of their accounting period. The form 78 may be filed in English, Finnish or Swedish.

Note: there is no need to submit transfer pricing documentation with the annual income tax return.

04 | Penalties for failure to file or provide the Master File

Penalty for non-compliance with the requirement to submit documentation could be charged up to EUR 25,000.

In addition to that, should the Finnish Tax Administration determine that the intercompany prices are not in accordance with the arm's length principle and as such an adjustment takes place, an additional tax increase of up to 30% of the added income plus penalty interests may be imposed.

05 | Language in which Master File needs to be prepared/filed

Finnish, Swedish, English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Turnover or gross assets on the balance sheet of at least EUR 400 million (unconsolidated basis)

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Local File to be presented upon request during a tax audit, which could be the first day of the audit. Within 30 days upon request

04 | Penalties for failure to file or provide the Local File

For not filing the document: the maximum tax penalty amounts to EUR 25,000.
For non-timely filing: the maximum tax penalty amounts to EUR 25,000.
According to administrative guidance the penalty for late filing is between EUR 1,000 and EUR 5,000.
For incomplete or error filig: the maximum tax penalty amounts to EUR 25,000.
According to administrative guidance the penalty for significantly incomplete filing is between EUR 5,000 and EUR 10,000.

05 | Language in which Local File needs to be prepared/filed

Finnish, Swedish, English.

06 | Safe harbour

N/a.



MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.
However, minor adjustments are required.

02 | Monetary threshold for requiring a Master File

Turnover or gross assets on the balance sheet of at least EUR 150 million. In addition to the Master File and Local file reporting obligations, Companies whose turnover (before VAT) or balance sheet assets are at least EUR 50 million must prepare and file, every year, a simplified version of their transfer pricing documentation.

This simplified documentation must be submitted to the French tax authorities within 6 months after the corporation tax (CIT) return has been filed by the company using a dedicated form (i.e., form no. 2257-SD).

For example, last year, French entities which closed their fiscal year on December 31, 2022, had until May 3, 2022, to file their CIT return. Hence, a company that filed its CIT return on May 3, 2022, had until November 3, 2022, to file its simplified TP documentation with the French tax authorities.

In addition to the Master file and local file reporting obligations and on top of the simplified transfer pricing doucmentation (form n°2257-SD), French entities holding foreign subsidiaries or branches whose consolidated turnover amounts to at least €750million and which, according to a legal requirement, establish consolidated accounts, must file a specific return (n°2258-SD) when they are not held by a French or foreign entity subject itself to this requirement.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Contemporaneous (preparation).
Tax returns due date. No requirement to report its preparation.

The French tax authorities' doctrine (BOI-BIC-BASE-80-10-40 n° 570, 18 July 2018) in respect of the master file and the local file provides that "The required documentation must be made available to the administration on the date the general, one-off or simple accounting audit is initiated, i.e. on the date of the first on-site intervention as indicated on the notice of accounting audit".

Hence, there is no specific deadline to meet. The Master File and the local file must be available at all time and regularly updated, and it is not required to submit it to the French tax authorities.

04 | Penalties for failure to file or provide the Master File

Yes. The penalty amounts to the highest of the three following amounts:

- 0.5% of the non-properly documented transactions; or
- 5% of the TP adjustments; or
- a minimum penalty of EUR 10,000 per audited year.

05 | Language in which Master File needs to be prepared/filed

French. However, English may be accepted upon courtesy of the FTA. Regarding the language the FTA guidelines provide as follows: "In principle, it is drafted in French. In accordance with the provisions of article L 123-22 of the French Commercial Code and article 54 of the French Tax Code, the administration may request that documents written in a foreign language be translated into French".

Considering the time it may take to translate the documentation in French, it may be preferrable to have it translated in French ahead of any request from the French tax authorities.

06 | Safe harbour

In the case of a tax audit, the tax inspector could request that all or part of the Master File be translated into French.

France

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

- Companies with a turnover or gross assets on their balance sheet of over EUR 150 million;
- Companies that directly or indirectly hold more than 50% of capital or voting rights of a company;
- Companies with more than 50% of their capital or voting rights held directly or indirectly by a company;
- Companies that are part of a French tax group in which at least one company of the tax group meets the requirements of all the above.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Mainly alligned with the OECD Guidelines. However,the French Local File requirements deviate from the OECD Local File on one topic: a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices is not required.

04 | Penalties for failure to file or provide the Local File

The highest of the following penalties for not filing, non-timing, incomplete or incorrect document may apply:

- 5% of the amounts reassessed by the French tax authorities with regards to these transactions;
- 0.5% of the amount of the transactions for which only partial or incomplete documentation has been provided to the French tax authorities; or
- EUR 10,000 per fiscal year audited.

05 | Language in which Local File needs to be prepared/filed

French. English is also accepted.

However, in the case of a tax audit, the tax inspector could request that all or part of the Local File be translated into French.

06 | Safe harbour

N/a.



Germany

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.
However, minor adjustments are required.

02 | Monetary threshold for requiring a Master File

If the resident company's revenues in the previous fiscal year are at least EUR 100 million.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

If the Master File is not submitted to the tax authorities within a set deadline the authorities are allowed to assess penalties (Administrative Principles 2020 dated 3 December 2020, sec. 60) to force the taxpayer to provide such document. In case of late filing of the Master File upon the request of the tax audit in the meaning of sec. 200 para.1 of the General Tax Code a delay penalty ranging from EUR 2,500 to EUR 250,000 can be assessed.

The submission of the Master File may also be enforced using coercive measures (coercive fine). The coercive measure shall be proportionate to its purpose and no individual fine may exceed EUR 25,000.

05 | Language in which Master File needs to be prepared/filed

German. Upon written request the taxpayer may be allowed to submit documentation in a foreign (typically English) language.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Taxpayers with limited cross border intercompany transactions are not obliged to prepare written transfer pricing documentation. If a taxpayer has in a specific tax year not more than EUR 6 mio. tangible goods transactions and not more than EUR 600,000 other transactions which are not tangible goods transactions (e.g., services, royalties, etc.) he is relieved from the preparation of a written transfer pricing documentation.

However, in a tax audit the taxpayer must be able to present existing transfer pricing documents to the tax authorities in order to demonstrate that the intercompany transactions follow the arm's-length principle.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File must be submitted within 60 days upon request from the tax authorities during a tax audit.

The documentation for extraordinary transactions (e.g., business restructurings) must be prepared no later than 6 months after the last of the reporting fiscal year and the information must be submitted within 30 days upon request from the tax authorities.

04 | Penalties for failure to file or provide the Local File

If taxpayers fail to provide Local File or in case the documents are qualified as not useable after being requested in a tax audit, German tax authorities could impose the following penalties: (i) Tax authorities would be authorized to assess additional income to the most disadvantageous point within the arm's length range; (ii) Penalties of 5%-10% of the income adjustment, but at least EUR 5,000 would be imposed; (iii) if documentation is prepared late by the taxpayer, there could be a fine of at least EUR 100 for each day of delay beyond the deadline set, though not more than EUR 1 million in total, depending on the discretion of the tax authorities. Penalties apply per transaction basis.

05 | Language in which Local File needs to be prepared/filed

German.
Upon written request the taxpayer may be allowed to submit documentation in a foreign (typically English) language.

06 | Safe harbour

N/a.



Greece

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

In general, documentation rules apply in case annual intercompany transactions exceed EUR 100,000 for small companies (turonver lower than EUR 5million) or EUR 200,000 for large companies (turnover higher than EUR 5million).

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Contemporaneous (preparation); tax returns due date.

04 | Penalties for failure to file or provide the Master File

Yes. The penalty rates for late disclosure of TP documentation file to the tax authorities in the course of a tax audit (given that it was not disclosed within the 30 days from the notification day deadline), are the following:

- disclosure between the 31st and the 60th day of the notification date, penalty equals to EUR 5,000
- disclosure between the 61st and the 90th day of the notification date, penalty equals to EUR 10,000
- disclosure after the 90th day of the notification date (equivalent to non-disclosure), penalty equals to EUR 20,000.

Penalty for non-disclosure to the tax authorities in case of a tax audit equals to EUR 20,000.

05 | Language in which Master File needs to be prepared/filed

The Master File may be kept in an internationally accepted language, preferably English, when it is a foreign group, with an obligation to be translated into the Greek language upon request of the tax authority within a reasonable timeline and not more than thirty (30) days from receiving the relevant request.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

No.

02 | Monetary threshold for requiring a Local File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Local File

N/a.

05 | Language in which Local File needs to be prepared/filed

N/a.

06 | Safe harbour

N/a.



Hungary

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

Transfer pricing documentation is required if the value of any intercompany transaction exceeds HUF 100 million (approx. EUR 250,000).

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Documentation does not have to be submitted to the tax authorities, however, it should be provided immediately upon request.

The statutory deadline for the preparation of transfer pricing documentation is the filing date of the corresponding year's corporate income tax return.

However in case of a foreign ultimate parent company its due date is the last day of the following year at the latest.

04 | Penalties for failure to file or provide the Master File

The default penalty for violating the TP documentation requirements is HUF 5 million (approxiamtely EUR 12,500). In the event of repeated infringements, the maximum default penalty is HUF 10 million (approxiamtely EUR 25,000).

05 | Language in which Master File needs to be prepared/filed

The documentation can be prepared in Hungarian, English, German of French language. If prepared in any other languages, translation should be provided.

06 | Additional requirements

Companies subject to TP documentation requirements have a new reporting obligation. They will be required to provide transaction-level details on their intercompany dealings in their annual CIT returns.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Transfer pricing documentation is required if the value of any intercompany transaction exceeds HUF 100 million (approx. EUR 125,000).

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Documentation does not have to be submitted to the tax authorities, however, it should be provided immediately upon request. The statutory deadline for the preparation of transfer pricing documentation is the filing date of the corresponding year's corporate income tax return.

04 | Penalties for failure to file or provide the Local File

The default penalty for violating the TP documentation requirements is HUF 5 million (approxiamtely EUR 12,500). In the event of repeated infringements, the maximum default penalty is HUF 10 million (approxiamtely EUR 25,000).

05 | Language in which Local File needs to be prepared/filed

The documentation can be prepared in Hungarian, English, German or French language. If prepared in any other languages, translation should be provided.

06 | Safe harbour

There are some cases when the company has no transfer pricing documentation preparation liability, even though there was fulfilment with related party:

- the transaction was made based on agreement with an individual; the company is considered as small-sized enterprise (according to the Act on CIT);
- the arm's length price was determined by the tax authority in the form of a resolution as provided by the Rules of Taxation (in the framework of the so called "Advance Pricing Agreement" (APA) – if there was no change in the facts fixed in the APA resolution;
- recharge of consideration for the sale of product or service in the same amount to related party or parties – if the seller or party bearing the cost is not affiliated company;
- free cash transfer and takeover between associated companies; transactions performed on stock exchange being subject to the Act on Capital Market, and for applying other official price or the fixed price specified by law;
- the arm's length value of the transaction (excluding VAT) between associated companies does not reach HUF 100 million (~EUR 250,000) within the tax year (the contracts which may be consolidated are to be considered together);
- for intercompany transactions between members of a Corporate Taxpayer Group, following the establishment of such a Group.

07 | Additional requirements (e.g. materiality, etc.)

Companies subject to TP documentation requirements have a new reporting obligation. They will be required to provide transaction-level details on their intercompany dealings in their annual CIT returns.

Ireland

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

EUR 250 milion consolidated turnover basis.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Contemporaneous requirement for Master File to be prepared at the time of filing of the annual income tax return which is approximately nine months after the end of the accounting period.

New disclosure requirements in annual income tax return form where taxpayer company is asked whether the company is within scope of Master File (and Local File) regime.

04 | Penalties for failure to file or provide the Master File

Penalty of EUR 4,000 plus EUR 100 for each day that the failure continues following a request from Revenue Agency.

05 | Language in which Master File needs to be prepared/filed

English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Consolidated group revenue exceeding EUR 50 million

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Local File

Penalty of EUR 25,000 plus EUR 100 for each day that the failure continues following a request from Revenue Agency.

05 | Language in which Local File needs to be prepared/filed

English.

06 | Safe harbour

Where a relevant person forms part of an MNE group and the total consolidated global revenue of the MNE group is or is likely to be at, or above, EUR 50 million ("Local File revenue threshold") in the chargeable period, the relevant person is required to prepare and have available a report containing the information specified in Annex II to Chapter V of the 2017 OECD Guidelines ("Local File").

In contrast to the master file, the Local File provides detailed entity-level information. This file is specific to the Irish operations, identifying related party transactions with associated persons in different countries, the amounts involved in those transactions, and the company's analysis of the transfer pricing determinations they have made with regard to those transactions.

07 | Additional requirements (e.g. materiality, etc.)

The Local File must contain information showing how the transfer pricing policy was actually applied in each period including a reconciliation with the financial results recorded on the income statement of the company (and/or tested party) and explaining how the actual consideration payable or receivable on each arrangement complies with the arm's length requirement under section 835C(2). The level of detail required on an annual basis to demonstrate compliance with transfer pricing documentation obligations will depend on the facts and circumstances of the arrangement.



Italy

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Masterfile is not mandatory in Italy, but strongly recommended to have access to the penalty protection regime.

02 | Monetary threshold for requiring a Master File

N/a.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

In order to benefit from the penalty protection regime, the availability of the transfer pricing documentation shall be indicated in the tax return and the TP documentation must be digitally signed through the posting of a timestamp (recording the time and date), within the deadline for the submission of the Income Tax Return.

04 | Penalties for failure to file or provide the Master File

Yes. But in the form of the loss of the penalty protection and of that of the applicability of ordinary tax penalties (90% to 180% of the additional tax assessed).

Penalties can be doubled in case lack of good faith is claimed by the tax office.

05 | Language in which Master File needs to be prepared/filed

Italian or English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Local File is not mandatory in Italy, but strongly recommended to have access to the penalty protection regime.

02 | Monetary threshold for requiring a Local File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

In order to benefit from the penalty protection regime, the availability of the transfer pricing documentation shall be indicated in the tax return and the TP documentation must be digitally signed through the posting of a timestamp (recording the time and date), within the deadline for the submission of the Income Tax Return.

04 | Penalties for failure to file or provide the Local File

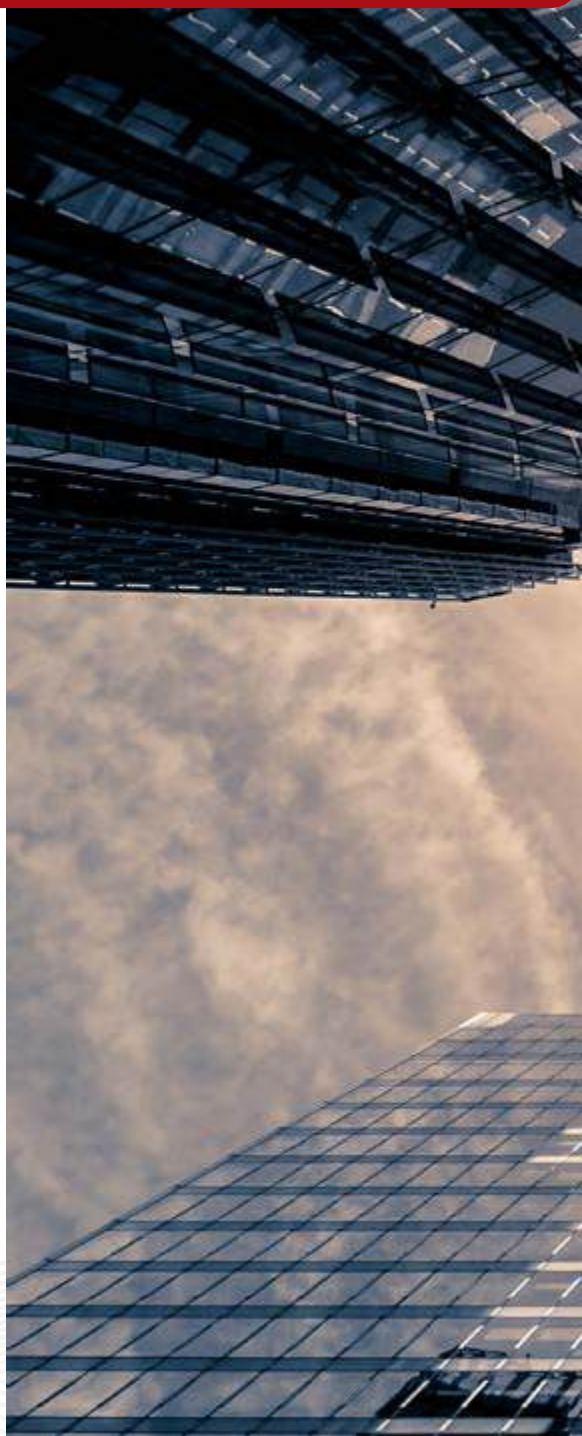
Yes. But in the form of the loss of the penalty protection and of that of the applicability of ordinary tax penalties (90% to 180% of the additional tax assessed). Penalties can be doubled in case lack of good faith is claimed by the tax office.

05 | Language in which Local File needs to be prepared/filed

Italian.

06 | Safe harbour

SMEs (companies with a consolidated turnover or revenues not exceeding EUR 50 million, except the ones directly or indirectly controlled by an entity not qualified as SME) are exempted from updating the benchmark analysis for IG transactions for the following two FYs, provided that the comparability analysis is based on publicly available sources and no significant changes occurred between the FYs.





07 | Additional requirements (e.g. materiality, etc.)

Materiality threshold: 5% of the overall amount of IG revenues and costs (absolute value)

- transaction amount exceeding the threshold must be analyzed, otherwise penalty protection is not applicable;
- transaction amount not exceeding the threshold can be exempted from the analysis, not compromising the application of the penalty protection on the overall TP Documentation.

Additional guidance on the definition of comparable transaction has been provided by the Italian Revenue Agency in the Procedure nr. 16/E dated 24/05/2022:

1. Comparability defects in the analysis: the extent of unidentifiable or unquantifiable defects in comparable transactions imply the selection of one of the following statistical methods:

a. Full-range approach: when the analysis carried out has a high degree of reliability and the transactions identified have the same degree of comparability, then the full range of values resulting from the application of the selected financial indicator may be taken as a reference.

b. Interquartile range approach: in case of unidentifiable or unquantifiable comparability defects which cannot be unadjusted, only those values within the interquartile range should be taken as reference.

2. Compliance of arm's length values: in the event that the tested PLI lies outside the applicable range and the taxpayer has not provided satisfactory evidence to prove compliance with the arm's length principle, then the Tax Authority will have the option of placing the financial indicator at the point that they deem to be in line with the arm's length principle, taking into consideration any point within that range (including the minimum and maximum), if there is a range with a high degree of reliability, or if there is no sufficient comparability, taking into account any point from the 25th to the 75th percentile, or to select the median, the simple average and the weighted average.

3. Loss-making transactions: because loss-making transactions exist, they cannot be disregarded per se. When loss-making transactions/companies do not reflect the market conditions or when the loss is not consistent with the deemed risk profile of the business, such transaction/company shall be rejected from the analysis.

Luxembourg



MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Luxembourg tax law does not explicitely specify transfer pricing documentation requirements. However, the Luxembourg legislator sets out to follow, in general, the OECD TP Guidelines and taxpayers are obliged by law to cooperate with and provide evidence to the tax authorities if requested.

02 | Monetary threshold for requiring a Master File

N/a.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Masterfile should be available upon request of the Luxembourg tax authorities.

04 | Penalties for failure to file or provide the Master File

Up to EUR 25,000.

05 | Language in which Master File needs to be prepared/filed

According to the law in one of the official languages i.e. French, German, Luxembourgish. However, often English is also accepted.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Luxembourg tax law does not explicitely specify transfer pricing documentation requirements. However, the Luxembourg legislator sets out to follow, in general, the OECD TP Guidelines and taxpayers are obliged by law to cooperate with and provide evidence to the tax authorities if requested.

02 | Monetary threshold for requiring a Local File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File should be available upon request of the Luxembourg tax authorities.

04 | Penalties for failure to file or provide the Local File

Up to EUR 25,000.

05 | Language in which Local File needs to be prepared/filed

According to the law in one of the official languages i.e. French, German, Luxembourgish. However, often English is also accepted.

06 | Safe harbour

2 simplification measures have been implemented in Luxembourg for intra-group financing transactions:

1. Group companies exercising a purely intermediary financing activity (having limited functional profile), such finance transactions will be considered as compliant with the arm's length principle if a minimum return on the assets financed of at least 2% after tax is achieved.
2. Companies having a functional profile comparable to the one of certain regulated entities (i.e. financial institutions). In such a case, a return on equity of 10% would be considered as compliant with the arm's length principle.

06 | Additional requirements (e.g. materiality, etc.)

N/a.

Malta

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Malta introduced its Transfer Pricing Regulations in November 2022. Specific transfer pricing documentation requirements have not been published yet. We expect further guidance from local tax authorities in their announced Transfer Pricing Guidelines. We expect the Guidelines to be published by the end of 2023.

02 | Monetary threshold for requiring a Master File

Further details expected by the end of 2023.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Further details expected by the end of 2023.

04 | Penalties for failure to file or provide the Master File

Further details expected by the end of 2023.

05 | Language in which Master File needs to be prepared/filed

Further details expected by the end of 2023.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Malta introduced its Transfer Pricing Regulations in November 2022. Specific transfer pricing documentation requirements have not been published yet. We expect further guidance from local tax authorities in their announced Transfer Pricing Guidelines. We expect the Guidelines to be published by the end of 2023.

02 | Monetary threshold for requiring a Local File

Further details expected by the end of 2023.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Further details expected by the end of 2023.

04 | Penalties for failure to file or provide the Local File

Further details expected by the end of 2023.

05 | Language in which Local File needs to be prepared/filed

Further details expected by the end of 2023.

06 | Safe harbour

Further details expected by the end of 2023.



Netherlands



MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

Consolidated MNE Group's revenue exceeding EUR 50 million.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File should be available upon request of the IRA. MF must be included in the administration of taxpayers and due date is the one related to submission of the corporate income tax return (May 1st of the following year).

04 | Penalties for failure to file or provide the Master File

Penalties may be levied up to EUR 5,278 and the burden of proof may shift to the taxpayer.

05 | Language in which Master File needs to be prepared/filed

English or Dutch.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes

02 | Monetary threshold for requiring a Local File

Consolidated MNE Group's revenue equal or higher than EUR 50 million.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File should be available upon request of the IRA. Local File must be included in the administration of taxpayers and due date is the one related to submission of the corporate income tax return (May 1st of the following year).

04 | Penalties for failure to file or provide the Local File

Penalties may be levied between EUR 9,000 and 22,500 or imprisonment of 6 months and the burden of proof may shift to the taxpayer.

05 | Language in which Local File needs to be prepared/filed

Dutch or English.

06 | Safe harbour

N/a.

Norway

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

No.
The Master File is supplemented with a Local File (as the specific Norwegian requirements are a mixture between the two).

02 | Monetary threshold for requiring a Master File

Enterprises are exempt from the obligation to prepare and file transfer pricing documentation if the group (as defined by law):

- has less than 250 employees in the accounting year, and
- has sales revenues of 400 million Norwegian kroner or less, or
- has a balance sheet total of 350 million Norwegian kroner or less.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

General provisions on penalties in the Tax Administration Act would be applicable in case of non-compliance.

05 | Language in which Master File needs to be prepared/filed

English, Norwegian, Swedish or Danish.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

No.

02 | Monetary threshold for requiring a Local File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Local File

N/a.

05 | Language in which Local File needs to be prepared/filed

N/a.

06 | Safe harbour

N/a.



Poland

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.
However, minor adjustments are required.

02 | Monetary threshold for requiring a Master File

MNE group's consolidated revenues exceeded in the previous financial year the amount of PLN 200 million or its equivalent.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Master File shall be prepared/possessed by the taxpayer within 12* months after the end of the tax year.
**COVID special (temporary) provisions extended this period to 15 months for MFs prepared for tax years 2019, 2020 and 2021.*

Filing of the Master File only upon tax authorities' request.

04 | Penalties for failure to file or provide the Master File

Penalties for the company – if tax inspectors decide during tax control that the prices between related entities are not arm's length and the taxpayer fails to provide TP documentation, an additional tax liability (in addition to standard tax rate) will amount to 20% of the sum of overstated loss or 20% of the sum of understated income. In certain cases, additional tax liability may reach up to 30%.

There are also personal penalties (penal fiscal sanctions) for representatives of the taxpayer responsible for its finance and tax settlements (in case of any irregularities, e.g. missing or inadequate contents of TP documentation).

05 | Language in which Master File needs to be prepared/filed

English, if that is convenient for the Polish taxpayer (however, the tax authority may require the submission of the Master File in Polish within 30 days upon the request).

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes. However, adjustments in the scope of the document are required. As a result Local File prepared solely based on OECD guidelines may be insufficient from the Polish perspective.

02 | Monetary threshold for requiring a Local File

The obligation to prepare a Local File arises for all taxpayers:

a) that engage in transactions with related parties that exceed statutory thresholds:
   - PLN 10 million: commodity and financial transactions;
   - PLN 2 million: service and other transactions;
b) that engage in transactions with related or unrelated entities from tax havens (with the value of transaction or event exceeding PLN 100,000*) - so called: direct tax haven transactions;
c) that engage in any transaction with related or unrelated entities where the beneficial owner has its place of residence, seat or management board in a tax haven (with the value of transaction or event exceeding PLN 500,000**) - so called: indirect tax haven transactions.

*Currently in the Polish parliament (Sejm) a draft bill is being proceeded that changes threshold to PLN 2.5 million for financial transactions and PLN 500k for other transactions. Legislative changes (if enacted) will apply retroactively (i.e., from 1 January 2021).
**Currently in the Polish parliament (Sejm) a draft bill is being proceeded that revokes provisions that impose documenting obligations for so called indirect tax haven transactions. Legislative changes (if enacted) will apply retroactively (i.e., from 1 January 2021).

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File should be available upon request during an audit. Upon filing the annual tax return, the taxpayer is bound to certify if an obligation to prepare a tax file exists (so called: TP statement). Within 9* (11 - applies to local file for 2022 and consecutive years) months from the end of the tax year the taxpayer must certify that the Local File is ready and available.

The taxpayer is also bound to provide tax authorities with TPR declaration within 9* (11 - applies to TPR for 2022 and consecutive years) months from the end of the tax year. Meeting the TPR reporting obligation requires the collection and reporting to the tax administration of a series of detailed data, linked to the content of the Local File prepared by the taxpayer. TPR for tax year 2022 and consequtive years will contain TP statement (no separate TP statement to be submitted).

**COVID special (temporary) provisions extended this period to 12 months for tax years 2019, 2020 and 2021.*

04 | Penalties for failure to file or provide the Local File

If Local File for periods ending prior to 31 December 2018 is not submitted upon request or is incomplete, the taxpayer may be subject to a higher tax rate of 50% on the adjustments made by the tax authorities. After that date, the failure to supply the documentation could entitle the tax authorities to issue a decision on additional tax liability (10% of the sum of overstated loss or 10% of the sum of understated income. In certain cases, additional tax liability may be doubled or tripled, and reach up to 30%).

The failure to present the Local File could also trigger penal fiscal sanctions to individuals responsible for it. The taxpayer is obliged to file statements that the Local File has been prepared within the statutory deadline and TPR. False declarations in this respect/ failure to meet the deadline to submit declaration/not preparing Local File despite the obligation to do so are subject to penalties.

05 | Language in which Local File needs to be prepared/filed

Polish.

06 | Safe harbour

Safe harbour is provided for:

1. **low value adding services transactions:** all conditions set out in Article 11f of the Polish CIT Act have to be met i.a., the mark-up on costs of services has to amount to not more than 5% of the costs - in the case of service purchase and not less than 5% of the costs - in the case of service provision, catalogue of services that may benefit from safe harbour mechanism is set out in Appendix 6 to the Polish CIT Act - this mechanism might be applied to transactions concluded on 1 January 2019 or later;
2. **financial transactions (loans, bonds, credit facilities):** all conditions set out in Article 11g of the Polish CIT Act have to be met i.a., during the tax year, the total level of liabilities or receivables of the affiliated entity arising from the principal amount of loans with affiliated entities, calculated separately for granted and taken loans, does not exceed PLN 20 million or the equivalent of this amount, the annual interest rate on the loan as at the date of conclusion of the agreement is set based on the type of base interest rate and the margin specified in the announcement of the minister responsible for public finance valid as at the date of conclusion of that agreement.

The safe harbour regulation ensures that the tax authority will acknowledge the transfer price applied in the transaction as arm's length without any additional steps (i.e. no benchmarking study needed).

For tax years 2019-2021 it is obligatory to prepare a Local File for controlled transactions in which safe harbour mechanism was applied but there is no obligation to enclose benchmarking study to such a Local File. Since tax year 2022 no Local File will be required.



Portugal

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

The obligation to prepare the transfer pricing documentation file does not comprise any taxable person with net sales and other income in the previous fiscal year which is less than EUR 10 million.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Transfer pricing documentation must be prepared until the 15th day of the 7th month after the end of a taxation period. The documentation should be prepared in Portuguese, but other working languages may be accepted upon request.

04 | Penalties for failure to file or provide the Master File

The failure to present the transfer pricing documentation is punished Infringements General Law with a penalty of EUR 500 to EUR 10,000, with an additional of 5% of the fine for each day of delay.

The failure to present the transfer pricing return is punished with a penalty of EUR 500 to EUR 10,000. Any inaccuracies in the information provided in the TP documentation, in the TP returns or in CbCR are punished with a penalty of EUR 375 to EUR 22 500.

05 | Language in which Master File needs to be prepared/filed

Portuguese, but other working languages may be accepted upon request.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

EUR 10 million for the relevant financial year. Unless intercompany transactions are below EUR 100,000 per related party or below EUR 500,000 in the aggregate, taking into consideration fair market value. SMEs under the supervision of the Large Taxpayers Unit and not covered by the above-mentioned exceptions are subject to a simplified version of transfer pricing documentation.
The above-mentioned thresholds do not apply to intercompany transactions with residents in jurisdictions with a more favourable tax regime.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Should be available upon request during an audit and needs to be in place by the time the taxpayer files its annual tax and accounting information form. Taxpayers under the supervision of the Large Taxpayers Unit have to submit their transfer pricing documentation by the deadline for filing the IES, which is due on the 15th day of the seventh month after the end of the fiscal year or on 15 July, if the fiscal year coincides with the calendar year.

04 | Penalties for failure to file or provide the Local File

EUR 500 and EUR 10,000 + 5% for each day of delay may be charged in case the taxpayer fails to comply with the contemporaneous transfer pricing documentation requirements. In case a taxpayer intentionally refuses to present the transfer pricing documentation file, after having declared it in the annual tax return, the applicable penalty ranges from EUR 375 to EUR 75,000.

05 | Language in which Local File needs to be prepared/filed

Portuguese, but other working languages may be accepted upon request.

06 | Safe harbour

There is no specific safe harbor provision on the local file, so the general provisions contained in the Ministerial Order will apply, whereby the taxpayer is exempt from having organized information when, in the period to which the obligation relates, they have reached a total annual income amount of less than EUR 10,000,000.

07 | Additional requirements (e.g. materiality, etc.)

The exemption provision does not cover transactions carried out with individuals or legal entities resident outside Portuguese territory and subject there to a clearly more favorable tax regime, under the terms defined by the General Tax Law.

The exemption is not an obstacle to proving that the terms and conditions practiced in the transactions comply with the arm's length principle, whenever the taxpayer is notified to this effect.

Romania

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Formally, Romania did not implement the Master File concept as per Annex I to Chapter V of the revised Transfer Pricing Guidelines.

However, Romanian taxpayers are obligated to comply with the local regulations on transfer pricing documentation. As such, according to Order no. 442/2006 on the amount of transactions, deadline for preparation, content and conditions for requesting the transfer pricing file and procedure for adjusting/estimating transfer prices ("Order no. 442/2016"), the Local Transfer Pricing File must include a specific section regarding the Presentation of the Group. The information that must be presented within this section is mostly aligned with Annex I to Chapter V of the revised Transfer Pricing Guidelines.

As such, although the concept of Master File is not formally implemented, in substance, the Local Transfer Pricing File should include information similar to the one characteristic to the Master File.

02 | Monetary threshold for requiring a Master File

No monetary thresholds are applicable for specifically requiring the Master File.

However, the local transfer pricing provisions include specific thresholds applied to determine the taxpayers that have the obligation to prepare the Local Transfer Pricing File, which, as detailed previously, should contain a section related to the Presentation of the Group.

Thus, according to the provisions of Order no. 442/2016, in case of small and medium-sized taxpayers, the applicable materiality threshold are the following:

- EUR 50,000 in case of interest costs incurred in relation to financial services;
- EUR 50,000 in case of services provided/received;
- EUR 100,000 in case of transaction involving purchases/sales of tangible or intangible assets.

The taxpayers in the category above have the obligation to prepare the Local Transfer Pricing File (which includes the Presentation of the Group) based on the specific request of the Romanian tax payers, within a tax audit. For the large taxpayers, the applicable materiality threshold are the following:

- EUR 200,000 in case of interest costs incurred in relation to financial services;
- EUR 250,000 in case of services provided/received;
- EUR 350,000 in case of transaction involving purchases/sales of tangible or intangible assets.

The taxpayers in the category above have the obligation to prepare the Local Transfer Pricing File (which includes the Presentation of the Group) on an annual basis.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

No specific requirements for preparing/filing/reporting the preparation of the Master File are applicable.

However, large taxpayers with intra-group transactions above the aforementioned threholds have the obligation to prepare the Local Transfer Pricing File (which includes the Presentation of the Group) on an annual basis. The Romanian Tax Authorities are entitled to request the annual Local Transfer Pricing File starting 10 days after the deadline for submitting the annual corporate income tax return.

Medium and small taxpayers with intra-group transactions above the aforementioned thresholds and large taxpayers with intra-group transactions below the thresholds have the obligation to prepare the Local Transfer Pricing File (which includes the Presentation of the Group) based on the specific request of the Romanian tax authorities, within a tax audit.

04 | Penalties for failure to file or provide the Master File

No specific penalties are applicable for failure to file or provide the Master File.

In case of large and medium taxpayers, the failure to present the Local Transfer Pricing File (which includes the Presentation of the Group) may result in fines ranging from RON 12,000 up to RON 14,000 (i.e., approx. EUR 2,400 to EUR 2,800).

For the other categories of taxpayers, the failure to present the Local Transfer Pricing File (which includes the Presentation of the Group) may result in fines ranging from RON 2,000 up to RON 3,500 (i.e., approx. EUR 400 to EUR 700).

05 | Language in which Master File needs to be prepared/filed

Romanian.

Romania

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Romanian taxpayers are obligated to comply with the local regulations on transfer pricing documentation. As such, according to Order no. 442/2006 on the amount of transactions, deadline for preparation, content and conditions for requesting the transfer pricing file and procedure for adjusting/estimating transfer prices ("Order no. 442/2016"), the Local Transfer Pricing File must include specific sections regarding the Presentation of the Group and the Presentation of the Taxpayer. The information that must be presented within these sections is mostly aligned with Annex I to Chapter V of the revised Transfer Pricing Guidelines.

Practically, the concept of a Local Transfer Pricing File includes the OECD Master File and OECD Local File.

02 | Monetary threshold for requiring a Local File

The local transfer pricing provisions include specific thresholds applied to determine the taxpayers that have the obligation to prepare the Local Transfer Pricing File, which, as detailed previously, should contain a section related to the Presentation of the Group and a section related to the Presentation of the Taxpayer.

Thus, according to the provisions of Order no. 442/2016, in case of small and medium-sized taxpayers, the applicable materiality threshold are the following:

- EUR 50,000 in case of interest costs incurred in relation to financial services;
- EUR 50,000 in case of services provided/received;
- EUR 100,000 in case of transaction involving purchases/sales of tangible or intangible assets.

The taxpayers in the category above have the obligation to prepare the Local Transfer Pricing File based on the specific request of the Romanian Tax Authorities, within a tax audit.

For the large taxpayers, the applicable materiality threshold are the following:

- EUR 200,000 in case of interest costs incurred in relation to financial services;
- EUR 250,000 in case of services provided/received;
- EUR 350,000 in case of transaction involving purchases/sales of tangible or intangible assets.

The taxpayers in the category above have the obligation to prepare the Local Transfer Pricing File on an annual basis.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Large taxpayers with intra-group transactions above the aforementioned threholds have the obligation to prepare the Local Transfer Pricing File on an annual basis. The Romanian Tax Authorities are entitled to request the annual Local Transfer Pricing File starting 10 days after the deadline for submitting the annual corporate income tax return.

Medium and small taxpayers with intra-group transactions above the aforementioned thresholds and large taxpayers with intra-group transactions below the thresholds have the obligation to prepare the Local Transfer Pricing File based on the specific request of the Romanian Tax Authorities, within a tax audit.

The Local Transfer Pricing File should be presented to the Romanian Tax Authorities based on their specific request.

04 | Penalties for failure to file or provide the Local File

In case of large and medium taxpayers, the failure to present the Local Transfer Pricing File may result in fines ranging from RON 12,000 up to RON 14,000 (i.e., approx. EUR 2,400 to EUR 2,800).

For the other categories of taxpayers, the failure to present the Local Transfer Pricing File may result in fines ranging from RON 2,000 up to RON 3,500 (i.e., approx. EUR 400 to EUR 700).

In addition, in case the Local Transfer Pricing File is not presented to the Romanian Tax Authorities as per their request, they are entitled to perform transfer pricing adjustments based on their own analysis.

05 | Language in which Local File needs to be prepared/filed

Romanian.

06 | Safe harbour

N/a.



MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.
However, minor adjustments are required.

02 | Monetary threshold for requiring a Master File

Revenues over EUR 8 million or value of transaction over EUR 1 million. Threshold does not apply to companies undertaking transactions with entities from non-treaty countries or companies utilizing tax reliefs. Benchmark study is only required if value of transaction exceeds EUR 10 million. For entities with obligation to follow IFRS and in some other specific cases the benchmark study is obligatory.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

No specific date for preparing the Master File. Documentation must however be presented to the Tax Authorities within 15 days after receiving a request for submission of the documentation which may not be received prior to the tax return due date.

04 | Penalties for failure to file or provide the Master File

EUR 3,000 repeatedly.

05 | Language in which Master File needs to be prepared/filed

Slovak.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

Revenues over 8 mil. EUR or value of transaction over 1 mil. EUR. Threshold does not apply to companies undertaking transactions with entities from non-treaty countries or companies utilizing tax reliefs.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

No specific date for prparing the Master File. Documentation must however be presented to the Tax Authorities within 15 days after receiving a request for submission of the documentation which may not be received prior to the tax return due date.

04 | Penalties for failure to file or provide the Local File

EUR 3,000 repeatedly.

05 | Language in which Local File needs to be prepared/filed

Slovak.

06 | Safe harbour

For companies below the monetary threshold it is sufficient to provide information on a prescribed simple form.



Slovenia

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Although Slovenia follows OECD Guidelines, Slovenian taxpayers are obligated to comply with the local pre-BEPS regulations on transfer pricing documentation with respect to Master File.

02 | Monetary threshold for requiring a Master File

According to Tax Procedure Act, all taxpayers performing transactions with associated companies are obliged to provide a Master File at the request of tax authorities.

There are no formal reduced requirements for small and medium-sized enterprises. However, in general, the smaller and less complex of the Slovenian enterprises (including small and medium-sized enterprises) are not required to produce the same amount of documentation of the same complexity as might be expected from larger and more complex enterprises. In relation to this, the principle of proportionality should be considered.

Therefore, among others, the relative size of a taxpayer, the level of complexity of the business of the taxpayer, the number of transfer pricing transactions as well as the influence of these transactions on the taxpayer's income statement should be considered when requesting the supporting documentation for transfer pricing purposes.

In practice, the Slovenian tax authorities do not impose unreasonable compliance costs or administrative burdens on enterprises in requesting documentation. They also do not request documentation that has no bearing on transactions under audit.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File has to be prepared by a taxpayer on a contemporaneous basis but no later than by the submission of the tax return. In case the transactions do not differ significantly, a taxpayer may provide the documentation for two or more transactions under the condition that adjustments are made for any kind of difference – if any – between these transactions.

Documentation is not submitted to the tax authorities together with the tax return, but the taxpayer maintains it and submits it upon request of the tax authorities at the initiation of the audit procedure (except annexes 15, 16 and 17, which must be attached to the tax return every year).

04 | Penalties for failure to file or provide the Master File

In practice, the financial administration does not apply penalties in transfer pricing cases (even when a primary adjustment has been made) if a taxpayer's intention was not to avoid or evade tax by using transfer pricing (e.g. there must be transactions with economic substance).

The behaviour of the taxpayer in the tax inspection procedure is especially important. Slovenian tax authorities usually do not impose the documentation-related penalty where taxpayers comply in good faith, in a reasonable manner and within a reasonable time with standardized and consistent transfer pricing documentation requirements, and apply their documentation and methods properly to determine their arm's length transfer prices.

05 | Language in which Master File needs to be prepared/filed

Slovenian. According to Tax Procedure Act, if Master File is not prepared in the Slovenian language, the taxpayer must translate it within 60 days at the request of the tax authorities.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Although Slovenia follows OECD Guidelines, Slovenian taxpayers are obligated to comply with the local pre-BEPS regulations on transfer pricing documentation with respect to Local File.

02 | Monetary threshold for requiring a Local File

According to Tax Procedure Act, all taxpayers performing transactions with associated companies are obliged to provide a Master File at the request of tax authorities. There are no formal reduced requirements for small and medium-sized enterprises.

In general, the smaller and less complex of the Slovenian enterprises (including small and medium-sized enterprises) are not required to produce the same amount of documentation of the same complexity as might be expected from larger and more complex enterprises. However, in relation to this, the principle of proportionality should be considered.

Therefore, among others, the relative size of a taxpayer, the level of complexity of the business of the taxpayer, the number of transfer pricing transactions as well as the influence of these transactions on the taxpayer's income statement should be considered when requesting the supporting documentation for transfer pricing purposes.

In practice, the Slovenian tax authorities do not impose unreasonable compliance costs or administrative burdens on enterprises in requesting documentation. They also do not request documentation that has no bearing on transactions under audit.

Slovenia

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File has to be prepared by a taxpayer on a contemporaneous basis but no later than by the submission of the tax return. In case the transactions do not differ significantly, a taxpayer may provide the documentation for two or more transactions under the condition that adjustments are made for any kind of difference – if any – between these transactions.

Documentation is not submitted to the tax authorities together with the tax return, but the taxpayer maintains it and submits it upon request of the tax authorities at the initiation of the audit procedure. Certain disclosures on related party transactions should be reported in Corporate income tax return for each taxable period.

04 | Penalties for failure to file or provide the Local File

In practice, the financial administration does not apply penalties in transfer pricing cases (even when a primary adjustment has been made) if a taxpayer's intention was not to avoid or evade tax by using transfer pricing (e.g. there must be transactions with economic substance).

The behaviour of the taxpayer in the tax inspection procedure is especially important. Slovenian tax authorities usually do not impose the documentation-related penalty where taxpayers comply in good faith, in a reasonable manner and within a reasonable time with standardized and consistent transfer pricing documentation requirements, and apply their documentation and methods properly to determine their arm's length transfer prices.

05 | Language in which Local File needs to be prepared/filed

Slovenian.

The Local File must be submitted in the Slovenian language pursuant to Tax Procedure Act. Even if documentation is drawn up in a foreign language, it must be prepared according to the Slovenian legislation and will need to be translated into Slovenian upon request from the tax authorities.

06 | Safe harbour

N/a.



MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.
However, minor adjustments are required.

02 | Monetary threshold for requiring a Master File

As stated in article 18.3 of the Spanish Corporate Tax Law, all associated persons and/or entities, must keep at disposal of the Tax Administration a specific documentation in order to justify that the transactions performed have been valued at their market value.

In addition, according to article 15 of the Spanish Corporate Tax Regulation, the Master File, which is an overview of the Group's buiseness, will only be requires if the revenue of the Group is at least 45 million euros.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File corresponding to a year should be at the disposal of the Tax Administration on the last day for submitting the tax returns for that year.

The Tax returns shall be filed within 25 calendar days following the sixth month after the end of the tax period. However, this information is provided to the Tax Administration only in case of a specific request to the taxpayer.

04 | Penalties for failure to file or provide the Master File

According to article 18.13.1 of the Spanish Corporate Tax, the sanction will be a fixed pecuniary fine of 1.000 euros for each piece of data and 10.000 euros for each set of data, omitted or false, referring to each of the documentation obligations established by the Regulation for the Group or for each person or entity in its capacity as taxpayer.

However, the penalty provided will have as maximum limit the lower of the following two amounts:

- 10% of the total amount of transactions subject to income tax in the corresponding period; or
- 1% of the net amount of turnover.

Furthermore, when corrections made by the Tax Administration are involved, the absence of contribution or the contribution of incomplete documentation or false documentation, as well as the existence of a discrepacy between the market value derived from the documentation and the value declared in the Tax Returns, will result in a serious infraction which shall be sanctioned with a proportional pecuniary fine of 15% of the amount of the quantities resulting from the corrections corresponding to each operation.

05 | Language in which Master File needs to be prepared/filed

Spanish and English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

As stated in article 18.13.1 of the Spanish Corporate Tax Law, all associated persons and/or entities, must keep at disposal of the Tax Administration a specific documentation in order to justify that the transactiones performed have been valued at their market value. According to article 15 of the Spanish Corporate Tax Regulation, only the Local File will be required by the Tax Administration when the revenue of the Group is lower than 45 milions of euros, and its content will be regulated by article 16 of the Corporate Tax Regulation.

However, when the revenue is lower than 45 millon, the content of the documentation could be simplified and will be regulated by article 16.4 of the Corporate Tax Regulation. Finally, when the revenue is lower than 10 milions, the documentation obligation may be fulfilled through the normalized documentation.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File corresponding to a year should be at the disposal of the Tax Administration on the last day for submitting the tax returns for that year.

The Tax returns shall be filed within 25 calendar days following the sixth month after the end of the tax period.

However, this information is provided to the Tax Administration only in case of a specific request to the taxpayer.

04 | Penalties for failure to file or provide the Local File

According to article 18.13.1 of the Spanish Corporate Tax, the sanction will be a fixed pecuniary fine of 1.000 euros for each piece of data and 10.000 euros for each set of data, omitted or false, referring to each of the documentation obligations established by the Regulation for the Group or for each person or entity in its capacity as taxpayer. However, the penalty provided will have as maximum limit the lower of the following two amounts:

- 10% of the total amount of transactions subject to income tax in the corresponding period; or
- 1% of the net amount of turnover.

Furthermore, when corrections made by the Tax Administration are involved, the absence of contribution or the contribution of incomplete documentation or false documentation, as well as the existence of a discrepancy between the market value derived from the documentation and the value declared in the Tax Returns, will result in a serious infraction which shall be sanctioned with a proportional pecuniary fine of 15% of the amount of the quantities resulting from the corrections corresponding to each operation.

05 | Language in which Local File needs to be prepared/filed

Spanish.

06 | Safe harbour

N/a.



Sweden

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Master File

No documentation required for companies that are parts of groups that in the year preceding the taxable year had: less than 250 employees and either a) a balance sheet not exceeding SEK 400 million or b) a turnover not exceeding SEK 450 million.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

Tax returns due date of the ultimate parent company. The Master File shall be prepared, at the latest, by the date when the parent company must file its income tax return.

The Master File should be prepared by the taxpayer but must only be submitted to the tax authorities upon request.

04 | Penalties for failure to file or provide the Master File

There are no specific penalties for not preparing transfer pricing documentation.

However, should the company's transfer pricing be subject to an audit by the Swedish Tax Agency, penalties may apply. Should the assessment by the result in additional tax, penalties of 40% of the additional tax imposed generally apply if insufficient/incorrect information has been provided in the company's tax return.

05 | Language in which Master File needs to be prepared/filed

Swedish, Danish, Norwegian or English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

Yes.

02 | Monetary threshold for requiring a Local File

The documentation requirements apply if:

- the group is employing 250 persons or more; or
- the group has an annual turnover of SEK 450 million (approximately EUR 43 million) or more, and a balance sheet value of SEK 400 million (approximately EUR 38 million) or more.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

Local File to be presented upon request after filing of the local entity's corporate tax return.

04 | Penalties for failure to file or provide the Local File

No specific penalties, but penalties of 40% of the additional tax imposed upon transfer pricing audit generally apply if insufficient/incorrect information has been provided in the company's tax return.

05 | Language in which Local File needs to be prepared/filed

Swedish, Danish, Norwegian or English.

06 | Safe harbour

N/a.

07 | Additional requirements (e.g. materiality, etc.)

Immaterial transactions do not need to be included in the Local File. If the sum of the transactions between the local entity and a specific foreign party is less than 5MSEK during the tax year, the transactions are always considered immaterial.

The 5MSEK-threshold is assessed based on the market value of the transactions. This means that a Swedish company may need to include transactions with certain parties but not others. This exception does not apply for intangible assets. If there are no material transactions, there is no requirement to make a Local File.



Switzerland

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

No. Switzerland does not require formal transfer pricing documentation except for the CbCR.

02 | Monetary threshold for requiring a Master File

N/a.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Master File

N/a.

05 | Language in which Master File needs to be prepared/filed

German, French, Italian, English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

No.

02 | Monetary threshold for requiring a Local File

N/a.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

N/a.

04 | Penalties for failure to file or provide the Local File

N/a.

05 | Language in which Local File needs to be prepared/filed

N/a.

06 | Safe harbour

N/a.



United Kingdom

MASTER FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Master File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

From 1 April 2023 relevant resident entities within a group that meets the CbCR threshold of €750mn group revenue will be required to prepare a Master File.

02 | Monetary threshold for requiring a Master File

Group revenue of at least €750mn.

03 | Contemporaneous requirement for preparing/filing the Master File or for affirmatively reporting the preparation of the Master File (e.g. on income tax return)

The Master File must be drawn up as part of the tax return preparation, i.e. within 12 months of the end of the relevant accounting period.
The Master File only needs to be submitted to HMRC upon request.

04 | Penalties for failure to file or provide the Master File

There are no specific penalties for the failure to provide the Master File, but standard Corporation Tax penalties may be charged depending on whether the failure comes from an information notice or as part of an enquiry.

05 | Language in which Master File needs to be prepared/filed

English.

LOCAL FILE REQUIREMENTS

01 | Are resident entities required to provide an OECD Local File (i.e. in accordance with Annex I to Chapter V of the revised Transfer Pricing Guidelines)?

From 1 April 2023 relevant resident entities within a group that meets the CbCR threshold of €750mn group revenue will be required to prepare a Local File.

02 | Monetary threshold for requiring a Local File

Group revenue of at least €750mn.

03 | Contemporaneous requirement for preparing/filing the Local File or for affirmatively reporting the preparation of the Local File (e.g. on income tax return)

The Local File must be drawn up as part of the tax return preparation, i.e. within 12 months of the end of the relevant accounting period. The Local File only needs to be submitted to HMRC upon request.

04 | Penalties for failure to file or provide the Local File

There are no specific penalties for the failure to provide the Local File, but standard Corporation Tax penalties may be charged depending on whether the failure comes from an information notice or as part of an enquiry.

05 | Language in which Local File needs to be prepared/filed

English.

06 | Safe harbour

UK to UK transactions may be excluded.





For more information about Transfer Pricing in Europe, please contact

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