

audit investigations in appropriate cases. A taxpayer should make reasonable efforts to reflect in its documentation an adequate transfer pricing analysis of its material transactions with associated enterprises in order to establish its good faith effort to apply the arm's length principle.

7.C.2.C.2.1.3. This chapter first summarises recent developments regarding the establishment of international guidelines on transfer pricing documentation. It then provides a more in-depth discussion on several topical issues that developing countries will need to address in adapting the international standards to their own needs. T

7.C.2.2.1.3. Master File. The master file is intended to provide a high level overview of the MNE's global operations. The new G20/OECD documentation standard calls for the following information to be included in the master file:

A chart illustrating the MNE's legal and ownership structure

E/C.18/2016/CRP.2

7.C.2.2.3. Implementation of Global Documentation Standards in Developing Countries

7.C.2.2.3.1. The international guidelines above were designed by the countries involved in the BEPS Project for adoption by them

increasing focus on local comparables. As many businesses do not undergo major changes and/or restructuring every year, the added value of an annual transfer pricing report may be open to question. It is recommended that transfer pricing documentation be periodically reviewed in order to determine whether functional and economic analyses are still accurate and relevant and to confirm the validity ditddd 0 1 90.024 616-22ppty6-2(f)-3(er)-13(el)-sfneng docum72()-4-42(f)-o1(o)-1oIJETBT

7.C.2.4.1.3. In countries where the burden of proof generally lies with the taxpayer, the burden of proof may shift to the tax administration if a taxpayer presents to the tax administration (or a court) a reasonable argument and evidence to suggest that the transfer pricing was at arm's length. Further, in some countries with specific documentation rules, the burden of proof shifts to the tax administration if a taxpayer has reasonably complied with the documentation rules.

7.C.2.4.1.4. Developing countries should ~~assure~~ensure that the relationships between

heavy involvement in international transactions can be exempted from the transfer pricing documentation requirements.⁴ The G20/OECD BEPS guidance on documentation exempts MNEs with global revenues of less than EUR 750 million from the obligation to file the CbC Report, but rules as to whether SMEs should prepare the local file and master file are left to local law.

7.C.2.4.4.2. The following countries have been selected as samples to demonstrate special considerations for Transfer Pricing documentation in the case of SMEs:

France

France has issued guidance for SMEs, with the effect that the mandatory transfer pricing documentation requirements in the legislative proposal will only apply to large enterprises.⁵ Thus, SMEs should only undertake submit transfer pricing documentation upon a specific request of the French tax authorities (FTA) in the course of a tax audit. In principle, such requests may occur only under exceptional circumstances if the FTA has gathered sufficient evidence suggesting a transfer of profit to related foreign entities. However, small companies are also encouraged to prepare contemporary transfer pricing documentation. (a)

Germany

SMEs⁶ do not have a duty to issue Transfer Pricing documentation. However, they are obliged to provide further information and documents about the fore

Spain

There could be several types of documentation compliance burdens depending on the characteristics of the parties involved. Relevant factors include a turnover of 8 ~~M~~million Euros or more, which may trigger a requirement to provide further and more thorough information. Another factor is whether transactions are undertaken with entities or individuals based in tax haven jurisdictions.

China

Under the new Public Notice 2016(42) China provides certain exceptions to documentation requirements that may apply to SMEs. The exceptions depend on the portion of the documentation in question. The local file is required if one of the following thresholds is exceeded for the year: (i) 200 million RMB of related party tangible asset transfers, (ii) 100 million RMB of related party financial asset transfers; (iii) 100 million RMB of related party intangible asset transfers; or (iv) 40 million RMB of other related party transfers. The local file is not required for transactions subject to an effective advance pricing agreement. The master file is required if the enterprise has conducted annual related party transactions exceeding 1 billion RMB. The country by country report is required if the MNE group has annual consolidated revenue exceeding 5.5 billion RMB. ~~(d)~~

Korea

The method used and the reason for adopting that particular method ~~for~~ ~~and~~ ~~to~~ ~~comply~~ ~~with~~ ~~the~~ arm's length principle ~~determination~~ must be disclosed to the tax authorities by a taxpayer in a report submitted along with the annual tax return. This is not the case, however, if the total value of cross-border transactions of goods and that of cross-border transactions of services of the taxpayer for the taxable year connn

78,000,000 (approx. USD 23,000,000) may opt for this system.

Footnotes:

- a A company with annual turnover or gross balance sheet assets of less than EUR 400 Mmillion Euros, which does not belong to an economic group, is exempted from documentation requirements.
- b A company with turnover in goods of less than EUR 5 Mmillion Euros or turnover in services of less than 500,000 Euros falls into this category.
- c. One Euro was worth approximately USD 1.13 in September 2016~~1.29 US\$ as of May 2013~~.
- d. ~~6.67~~ Yuan Renminbi (CNY) were worth approximately USD1 US\$ as of ~~May 2013~~ September 2016.
- e. ~~1.10~~ Korean Won (KRW) were worth USD1-US\$ as of ~~May 2013~~ September 2016.
- f. ~~66.69~~ Indian Rupees (INR) were worth approximately USD1 US\$ as of ~~May 2013~~ September 2016.

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