

TRANSFER PRICES FOR 2019

THE DEADLINE
FOR SUBMISSION
OF THE TRANSFER
PRICING INFORMATION
AND THE STATEMENT
ON PREPARATION
OF A LOCAL FILE IS
31 DECEMBER 2020.



**PREPARATION
OF COMPLETE
TRANSFER PRICING
DOCUMENTATION**

Dear Sir or Madam,

Starting from the settlements for 2019, transactions between associated enterprises are subject to **new rules** of documenting, based on the OECD Guidance.

The new regulations set out comprehensive terms and conditions for preparation of transfer pricing documentation, and provide for a number of essential changes compared with the solutions applicable to date.

Starting from 2019, **management boards in companies** are responsible for accurate preparation of the documentation and for compliance with the arm's length principle with respect to the transactions they conclude.

The deadline for submission of the transfer pricing information and the statement on preparation of a local file is 31 December 2020.*

CONDITIONS FOR PREPARATIONS OF TRANSFER PRICING DOCUMENTATION

Based on the new regulations, the obligation to prepare transfer pricing documentation arises if the following conditions are met:

- the taxpayer has executed transactions with associated enterprises within the meaning of the Act,
- the transactions have exceeded the threshold value specified in the Act (new value thresholds),
- there are no premises to apply one of the exemptions which would exclude the obligation to prepare transfer pricing documentation for individual controlled transactions (the exemptions are also a novelty which can be used by certain taxpayers).

ASSOCIATED ENTERPRISES

The legal regulations in force since 2019 introduce a broad definition of associated enterprises, which includes not only capital and personal links, but also **the actual ability of persons to take business decisions for a given entity, namely:**

- holding, either directly or indirectly, at least 25% of shares in capital or voting rights in control, decision-making or managing bodies, or shares or participation rights in profits or assets or their expectative, including participation units and investment certificates, or
- the actual ability of a natural person to influence the key business decisions by a legal person or an entity without legal personality, or
- family relations, i.e. marriage and consanguinity or affinity up to the second degree.

*The deadline of 31 December 2020 applies to entities whose tax year overlaps with the calendar year.

CONTROLLED TRANSACTIONS

The obligation to prepare the local file arises in a situation where homogeneous transactions exceed specified statutory threshold values. The threshold values differ depending on the type of a transaction and are as follows:

- **PLN 10,000,000** for transactions involving tangible goods and financial transactions,
- **PLN 2,000,000** for service transactions,
- **PLN 2,000,000** for transactions other than listed above.

ANALYSIS OF TRANSFER PRICES MANDATORY EXTENSION OF THE LOCAL FILE

- ▶ An essential change introduced by the amended act is the inclusion of the transfer price analysis as a mandatory element **of each** local transfer pricing documentation, irrespective of the taxpayer's income or costs. The analysis of transfer prices may take the form of benchmarking or compliance analysis of comparable data.
- ▶ The purpose of transfer pricing analysis is to prove the arm's length of the prices applied by associated enterprises in controlled transactions by reference to internal or external comparative data concerning comparable transactions between unrelated parties.

OBLIGATORY TPR-C/TPR-P

- ▶ So far, taxpayers who exceeded the value of EUR 10 million of income or costs were obliged to submit annual CIT-TP/PIT-TP reports. Said reports were replaced with new and much more detailed ones starting from 1 January 2019. These are TPR-C and TPR-P reports, which are intended to make it easier for the tax authorities to select taxpayers for inspections.
- ▶ TPR-C and TPR-P reports are primarily required from those taxpayers who are obliged to prepare transfer pricing documentation*, and the first report of this sort will be filed for the tax year commencing after 31 December 2018, i.e. it will include transactions made in 2019.

COVID-19 IMPACT ON TRANSFER PRICES

- ▶ The epidemic may result in the necessity to update the outcome of the analysis performed for transactions with associated enterprises in 2019 or in previous years, compared with the same transactions made in 2020, due to significant changes in the economic environment.
- ▶ Given the preventive measures taken by taxpayers in connection with COVID-19, there may be a need to review the supply chains, functions, assets and risks incurred by associated enterprises in connection with their role within a capital group.

*The obligation also applies to taxpayers who benefit from the exemption to document transactions between Polish entities, but the scope of the required information is significantly reduced.

THE SCOPE OF SUPPORT OFFERED BY ANDERSEN:

- Local and group transfer pricing documentation
- Analysis of transfer prices using internal and external comparables for all types of transactions
- Completing the TPR-C and risk assessment



ABOUT ANDERSEN

Andersen Global is an international association of consulting companies and law firms with over 6,000 specialists from member and cooperating law firms in over 202 locations.

Andersen in Poland is a team of nearly 70 experienced experts, including advocates, legal advisers, tax advisers, economists and accountants. We provide legal, tax, transfer pricing, accounting outsourcing and compliance services, and our offices are located in Warsaw, Katowice and Toruń.

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Michał Wilk

partner, Katowice

M: michal.wilk@pl.Andersen.com

T: +48 500 023 685



Arkadiusz Żurawicki

partner, Warsaw

M: arkadiusz.zurawicki@pl.Andersen.com

T: +48 508 092 989

