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TRANSFER PRICING – Will the deadlines related to taxpayers' obligations be postponed?

The current situation on the economic market caused by the COVID-19 pandemic entails numerous difficulties for entities conducting business activity in Poland. Therefore, the lawmakers are working on the Anti-Crisis Shield, which is to include a package of facilitations for both legal and natural persons. The latest draft of the act (the so-called Shield 4.0) provides, among others, for postponing the deadlines for fulfilling documentation and information obligations in the area of transfer pricing.

It can therefore be concluded that the proposed changes are beneficial to taxpayers. At the same time, it should be remembered that the Act does not exempt taxpayers from the above mentioned obligations, and fulfilling them may turn out to be exceptionally demanding due to the regulations in force as of January 1, 2019. These regulations introduce, among others, the obligation to provide a rationale for all documented transactions in the market as well as to prepare a TPR form in which the actual results in the documented transactions are to be benchmarked against market analysis results. Therefore, taxpayers for whom the deadline for preparing transfer pricing documentation is likely to be extended should not postpone the related work until the "last minute".

Legal basis: The entire draft act (Government draft act on interest rate subsidies on bank loans granted for providing financial liquidity to entrepreneurs affected by COVID-19 and amending certain other acts) can be found at: <https://www.sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?nr=382>




The draft act provides for (as of now) a postponement of the deadlines to fulfil the following obligations:

Local transfer pricing documentation (Local File)

The new regulations would extend the deadlines for submitting a statement of documentation:

- until December 31, 2020 – where that deadline expires between March 31, 2020 and September 30, 2020
- by 3 months, where that period expires between October 1, 2020 and January 31, 2021

In practice, for many taxpayers (whose financial year ended on December 31, 2019) the changes would mean postponing the deadline until **December 31, 2020**. Nevertheless, it should be remembered that the new statement template to be signed and submitted by the entity's management board includes a point confirming that prices in transactions with related parties are at arm's length. In order to ensure that this condition is met, it is advisable to carry out a detailed analysis of intragroup settlements, perform benchmarking and, perhaps, make appropriate adjustments, and in this respect there should be no delays on the part of taxpayers.

Group transfer pricing documentation (Master File)	<p>In the case of taxpayers who will benefit from the extension of the time limit for submitting a statement on having drawn the Local File, the time limit for submitting a Master File is to be extended until the end of the third month following the day on which the time limit for submitting this statement has expired.</p> <p>In practice, for the majority of taxpayers (whose tax year ended on December 31, 2019) this means an extension of the deadline until the end of March 2021.</p>
TPR Form (TPR-C and TPR-P)	<p>The deadlines for the preparation of the TPR form are also to be postponed in analogy with those for the preparation of local transfer pricing documentation, i.e.:</p> <ul style="list-style-type: none"> ■ until December 31, 2020 – where that deadline expires between March 31, 2020 and September 30, 2020 ■ by 3 months, where that period expires between October 1, 2020 and January 31, 2021 <p>Therefore, for taxpayers who were required to submit the form by the end of September 2020, the deadline will most likely be extended to December 31, 2020.</p> <p>Again, please note that the introduced TPR form is intended to show the pricing or profitability of the entity by transaction, with reference to the results of benchmarking. The correct completion of the form, therefore requires appropriate analyses, which should not be postponed until the “last moment”.</p>
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