

## Transfer Pricing Reporting (TP-R) and voluntary disclosure

**With reference to the information posted on the website of the Ministry of Finance, we would like to remind you of the need to prepare and submit the so-called voluntary disclosure (notifying the tax authority of an offense) in case of a failure to timely submit transfer pricing information (TP-R).**

Performing the above requires fulfilling special conditions specified in the Act – Penal Fiscal Code, which we present below:

Due to the continuing COVID-19 pandemic and numerous difficulties for business entities, the lawmakers have again decided to extend the deadlines for fulfilling documentation and information obligations in the area of transfer pricing.

The extension of the deadlines for compliance in 2020 took place under the Act of March 30, 2021, amending the Excise Tax Act and certain other laws, signed by the President on April 8, 2021.

In practice, this change means that taxpayers have more time to prepare their transfer pricing documentation for 2020, and to prepare and submit the transfer pricing information (TP-R) and the local transfer pricing documentation statement.

**The deadline for the following obligations was postponed:**

### CONDITIONS FOR BENEFITING FROM THE INSTITUTION OF VOLUNTARY DISCLOSURE

In case of a failure to timely submit the transfer pricing information to the Head of the National Revenue Administration (KAS), the obliged taxpayer may submit a notice on committing a prohibited act (a voluntary disclosure).

Pursuant to Article 16 of the Polish Penal Fiscal Code, the effectiveness of such disclosure is subject to compliance with certain statutory conditions.

In principle, a voluntary disclosure should include:


- notification of the prohibited act in question (*in this case, a failure to timely submit transfer pricing information*)
- disclose the relevant circumstances of the prohibited act, in particular the persons who participated in committing it
- information about the loss of public law receivables as a result of the prohibited act committed, as well as information on payment of the required receivables in full (*this condition exists if the prohibited act committed involved the loss of such receivables*).

At the same time, together with submitting a voluntary disclosure, the taxpayer should meet the reporting obligation, i.e. provide the appropriate information on transfer prices (TPR) to the Head of KAS.

### COMPETENT AUTHORITY

A voluntary disclosure must be submitted to the head of the tax office competent with respect to the taxpayer.

The notifications shall be made in writing recorded on paper or electronic form or orally, recorded in the minutes.

<b>DEDICATED TOOLS FOR SUBMITTING VOLUNTARY DISCLOSURE</b>	<p>A voluntary disclosure can be submitted via electronic means of communication, including the e-PUAP mailbox of the relevant tax office via the 'general letter' function.</p> <p>At the same time, in order to facilitate submitting a voluntary disclosure, the Ministry of Finance has recently made the service available on the e-Tax Office website at <a href="https://www.podatki.gov.pl/e-urzed-skarbowy/">https://www.podatki.gov.pl/e-urzed-skarbowy/</a>.</p> <p>You do not need an electronic signature to use the service, logging in via login.gov.pl (i.e. trusted profile, e-card or e-banking) is sufficient.</p>
<b>OTHER TRANSFER PRICING REPORTING OBLIGATIONS AND VOLUNTARY DISCLOSURE</b>	<p>It should be emphasized that the cited regulations apply analogously to a failure to submit the following on time:</p> <ul style="list-style-type: none"> <li>■ a statement on having prepared local file</li> <li>■ notifications regarding the obligation to report information on a group of entities (CBC-P)</li> </ul> <p>information on a group of entities (CBC-R).</p>
<b>INEFFECTIVENESS OF VOLUNTARY DISCLOSURE</b>	<p>At the same time, we remind you that according to Article 16(5) of the Penal Fiscal Code, submitting a notice of voluntary disclosure <b>is ineffective if it has been submitted:</b></p> <ul style="list-style-type: none"> <li>■ at a time when the law enforcement agency already had clearly documented knowledge of committing a tax crime or a tax offense;</li> <li>■ after a law enforcement agency has taken up an official action, in particular a search, examination or control, aimed at disclosing an offence or a tax offence, unless this action has not provided grounds for instituting proceedings with respect to this prohibited act.</li> </ul>
<b>CONTACT US</b>	<p><b>This document has been prepared for information purposes only and covers general nature. Before taking any action based on the above information, we recommend that you obtain a valid opinion of TPA experts.</b></p> <div data-bbox="466 1037 643 1211">  </div> <div data-bbox="671 1055 1193 1187"> <p><b>Joanna Kubińska</b>  <i>Associate Partner, Head of Transfer Pricing</i>  +48 502 184 882  joanna.kubinska@tpa-group.pl</p> </div>

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