

Transfer Pricing Documentation Guidelines: Master File & Local File data

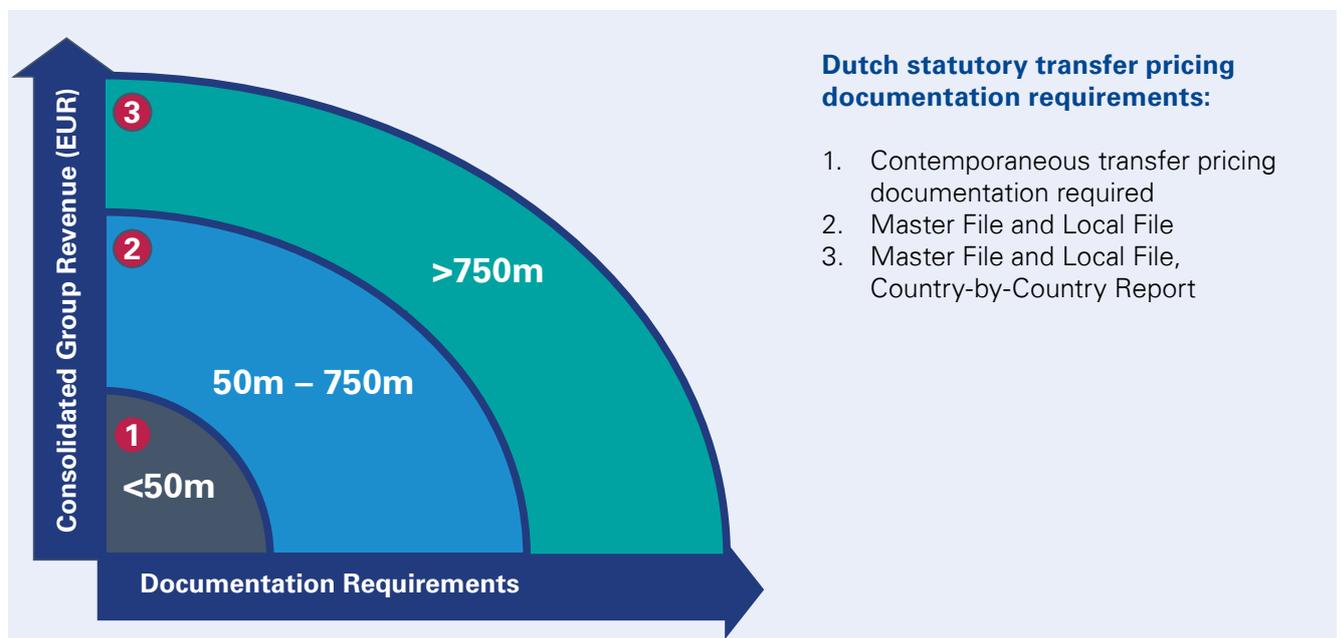
HOW READILY AVAILABLE ARE THESE
DATA ITEMS AT YOUR COMPANY?



Groups with cross-border operations will have to amend their transfer pricing documentation in order to comply with the new Dutch and international requirements. For many, this will be a significant and fundamental change from their historic transfer pricing practices.

As of January 1, 2016 a new Chapter has been added to the Corporate Income Tax Act 1969 (CITA) entitled 'Additional Transfer Pricing Documentation Requirements'. The new requirements extend the current documentation requirements of Section 8b CITA. The new Chapter covers Country-by-Country Reporting and Transfer Pricing documentation requirements. As of 2016, the documentation maintained by internationally operating businesses (MNEs) with a consolidated group turnover of at least EUR 50 million must consist of a Master File and a Local File.

The tables on the following pages provide an overview of all the information necessary to prepare the Master File and the Local File as laid down in the Regulation governing Additional Transfer Pricing Documentation Requirements. MNEs may or may not have these data items readily available, and specific item availability is likely to vary from taxpayer to taxpayer. The data items have been color coded by likely availability based on the experience of our Global Transfer Pricing Services professionals. A separate column has been included to provide you with a starting point for evaluating your company's readiness to meet the Master File and Local File requirements.



Color key

- Data items that are likely already available for many companies
- Data items that may be available or partially available for many companies
- Data items that are likely unavailable at present (new information requests that go beyond traditional documentation requirements) for many companies

Master File

Your company's readiness	Data item/description*
1. Organisational structure	
	Chart illustrating the MNE's legal and ownership structure and geographical location of operating entities.
2. Description of MNE's business(es)	
	a. Important drivers of business profit.
	b. A description of the supply chain for the group's five largest products and/or service offerings by turnover plus any other products and/or services amounting to more than 5 percent of group turnover. The required description could take the form of a chart or a diagram.
	c. A list and brief description of important service arrangements between members of the MNE group, other than research and development (R&D) services, including a description of the capabilities of the principal locations providing important services and transfer pricing policies for allocating services costs and determining prices to be paid for intra-group services.
	d. A description of the main geographic markets for the group's products and services that are referred to in the second bullet point above.
	e. A brief written functional analysis describing the principal contributions to value creation by individual entities within the group, i.e., key functions performed, important risks assumed, and important assets used.
	f. A description of important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year.
3. MNE's intangibles (as defined in Chapter VI of these Guidelines*)	
	a. A general description of the MNE's overall strategy for the development, ownership and exploitation of intangibles, including location of principal R&D facilities and location of R&D management.
	b. A list of intangibles or groups of intangibles of the MNE group that are important for transfer pricing purposes and which entities legally own them.
	c. A list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and licence agreements.
	d. A general description of the group's transfer pricing policies related to R&D and intangibles.
	e. A general description of any important transfers of interests in intangibles among associated enterprises during the fiscal year concerned, including the entities, countries, and compensation involved.
4. MNE's intercompany financial activities	
	a. A general description of how the group is financed, including important financing arrangements with unrelated lenders.
	b. The identification of any members of the MNE group that provide a central financing function for the group, including the country under whose laws the entity is organised and the place of effective management of such entities.
	c. A general description of the MNE's general transfer pricing policies related to financing arrangements between associated enterprises.
5. MNE's financial and tax positions	
	a. The MNE's annual consolidated financial statement for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes.
	b. A list and brief description of the MNE group's existing unilateral advance pricing agreements (APAs) and other tax rulings relating to the allocation of income among countries.

Local File

Your company's readiness	Data item/description*
1. Local entity	
	<p>a. A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.</p>
	<p>b. A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.</p>
	<p>c. Key competitors.</p>
2. Controlled transactions <i>For each material category of controlled transactions in which the entity is involved, provide the following information:</i>	
	<p>a. A description of the material controlled transactions (e.g., procurement of manufacturing services, purchase of goods, provision of services, loans, financial and performance guarantees, licences of intangibles, etc.) and the context in which such transactions take place.</p>
	<p>b. The amount of intra-group payments and receipts for each category of controlled transactions involving the local entity (i.e., payments and receipts for products, services, royalties, interest, etc.) broken down by tax jurisdiction of the foreign payor or recipient.</p>
	<p>c. An identification of associated enterprises involved in each category of controlled transactions, and the relationship amongst them.</p>
	<p>d. Copies of all material intercompany agreements concluded by the local entity.</p>
	<p>e. A detailed comparability and functional analysis of the taxpayer and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes compared to prior years. (To the extent this functional analysis duplicates information in the master file, a cross-reference to the master file is sufficient.)</p>
	<p>f. An indication of the most appropriate transfer pricing method with regard to the category of transaction and the reasons for selecting that method.</p>
	<p>g. An indication of which associated enterprise is selected as the tested party, if applicable, and an explanation of the reasons for this selection.</p>
	<p>h. A summary of the important assumptions made in applying the transfer pricing methodology.</p>
	<p>i. If relevant, an explanation of the reasons for performing a multi-year analysis.</p>
	<p>j. A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for independent enterprises relied on in the transfer pricing analysis, including a description of the comparable search methodology and the source of such information.</p>
	<p>k. A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested party, the comparable uncontrolled transactions, or both.</p>
	<p>l. A description of the reasons for concluding that relevant transactions were priced on an arm's length basis based on the application of the selected transfer pricing method.</p>
	<p>m. A summary of financial information used in applying the transfer pricing methodology.</p>
	<p>n. A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party and which are related to controlled transactions described above.</p>
3. Financial information	
	<p>a. Annual local entity financial accounts for the fiscal year concerned. If audited statements exist they should be supplied and if not, existing unaudited statements should be supplied.</p>
	<p>b. Information and allocation schedules showing how the financial data used in applying the transfer pricing method may be tied to the annual financial statements.</p>
	<p>c. Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.</p>

* Source: OECD (2017), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris.

<http://dx.doi.org/10.1787/tpg-2017-en>

How Meijburg & Co can help

The proposed transfer pricing documentation requirements will impact MNEs with a consolidated group turnover of EUR 50 million or more. It is our experience that especially for medium and small sized MNEs, the proposed requirements will be a considerable increase in administrative burden as compared to the current transfer pricing documentation requirements. In order to provide cost effective, yet value adding insights and support to this group, as well as all MNEs subject to these proposed documentation requirements, Meijburg & Co has developed service offerings which suit the individual situation of the MNE, based on documentation and knowledge already available.

Basic review

Meijburg & Co can assist in developing a Master File and Local File structure that fits to your business. Furthermore, Meijburg & Co can perform a review on the transfer pricing documentation prepared by MNEs to address any gaps, risks and 'do's and don'ts'.

Modular approach

Together with the MNE it will be determined which parts of the documentation can be prepared by the MNE and which parts should be conducted by Meijburg & Co. This cooperative approach will result in documentation which combines in-house knowledge with professional experience.

Full Documentation Management

Meijburg & Co will take care of the entire project, making sure the documentation meets all requirements and the MNE will be relieved as much as possible.

Network and experience

Meijburg & Co has an experienced team of tax professionals who can provide clients with transfer pricing documentation and other BEPS-related services. Our worldwide network of local professionals, combined with extensive experience with operational transfer pricing has resulted in a worldwide roadmap that considers local requirements, materiality of transactions etc. This knowledge can be used to design an individual MNE transfer pricing roadmap taking into account individual exposures and materiality of the intercompany transactions.

Contact

For more information about these services or assistance with assessing your company's readiness in meeting OECD Master File and Local File transfer pricing documentation requirements, please contact your regular Meijburg & Co contact.

meijburg.com

Tax is our business

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