

BDO TAX BULLETIN



Bulletin Date : 28.02.2020
Bulletin No : 2020/002

NEW OBLIGATIONS FOR TRANSFER PRICING DOCUMENTATION HAVE BEEN INTRODUCED WITH THE PRESIDENTIAL DECREE NO.2151

[“Decree Regarding the Changes in the Decree about Disguised Profit Distribution through Transfer Pricing”](#) has been published in the Official Gazette dated 25.02.2020 and numbered 31050, and the regulations came into force as of the same date.

With the regulations, the three-tier reporting obligation regarding the Transfer Pricing stipulated in Action 13 within the scope of the OECD’s Base Erosion and Profit Shifting (BEPS) has been introduced to the Turkish Tax Legislation.

The important regulations introduced with the Decree are presented below for your information.

A- OBLIGATION OF THREE-TIER TRANSFER PRICING DOCUMENTATION HAS BEEN INTRODUCED

As of February 25th, 2020, the following obligations of Transfer Pricing documentation will apply.

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1- MASTER FILE

The obligation to prepare Master File has been newly introduced to our legislation. This report will generally consist of the information regarding the structure of a Multinational Entity (MNE) group and the group's overall transfer pricing policies. Master file will not include information of the members of the MNE individually.

Master File consists of five main categories: the MNE group's organizational structure, description of the entity activities, intangible rights owned, intra-group financial transactions and financial & taxation situation.

Master File	
Who are Obligated to File	Shall be prepared by the corporate income taxpayers affiliated with an MNE group and having an asset value stated in the balance sheet attached to the Corporate Income Tax (CIT) Return for the previous accounting period AND a turnover stated in the income statement both amounting to TRY 500 million or more.
Content	<ul style="list-style-type: none"> Organizational structure of MNE group, Description of the entity activities, Intangible rights owned, Intra-group financial transactions and financial & taxation situation
Deadline	It is mandatory for it to be prepared by the end of the accounting period following the relevant accounting period. After this period ends, it shall be obligatory to submit when requested by the Tax Authority.
Effective Date	The first Master File shall be prepared for the accounting period of 2019. Companies with special accounting period shall prepare the first Master File for the accounting period after January 1 st , 2019.

2- ANNUAL TRANSFER PRICING REPORT (LOCAL FILE)

The obligation to prepare Annual Transfer Pricing (TP) Report for the taxpayers listed below has been in force since 2007. No amendment was applied to this obligation in the regulation; only certain information was added to the content of the report.

Annual Transfer Pricing Report	
Who are Obligated to File	Taxpayers are required to prepare Annual TP Report for the below conditions: <ul style="list-style-type: none"> Corporate income taxpayers registered to the Large Taxpayers Tax Office (Büyük Mükellefler Vergi Dairesi) for their domestic and foreign related-party transactions,



Annual Transfer Pricing Report	
	<ul style="list-style-type: none"> Companies registered to other Tax Offices for their foreign related-party transactions, Corporate income taxpayers that are operating in Free Trade Zones (FTZ) in Turkey for their transactions with their related parties in Turkey, All corporate income taxpayers for their transactions with their foreign branches and their related parties in FTZ.
Content	<ul style="list-style-type: none"> Description of taxpayer’s activities, organizational structure (headquarter, branch) and shareholders, capital structure, industry that the taxpayer operates in, summary of its economic and legal history, definition of related parties (tax identification numbers, addresses, phone numbers, etc.) and property relations between related parties, All information regarding functions performed, risks borne and assets used, General information regarding product price lists related to the year that the transaction is performed (Detailed information and documents are not required to be included in the Annual TP Report but must be submitted upon request.), General information regarding production costs related to the year that the transaction is performed (Detailed information and documents are not required to be included in the Annual TP Report but must be submitted when requested.), The category of transactions with related and unrelated parties during the related year which the transactions are performed and the amount of these transactions on a country basis, All samples of contracts signed with related parties during the year that the transaction is performed, Summary of financial statements of related parties, Intercompany/intra-group pricing policy applied for transactions performed between related parties, Information about different accounting standards and policies, in the case that they are used by the related parties, Information regarding the ownership of intangible assets and intangible rights which are purchased or paid, Information and documents regarding the reason and application of the selected TP method (internal and/or external comparables), Detailed information regarding the calculations and assumptions which are made in determining the arm’s length price or profit margin, The method selected in determining arm’s length price range, Other documents required to determine the arm’s length price, Information regarding the reasons if multi-year analysis is made to determine the arm’s length price, A sample of each unilateral, bilateral or multilateral advance pricing agreements, Financial information used in the application of TP method.



Annual Transfer Pricing Report	
Deadline	The Annual TP Report shall be prepared until the submission of CIT Return. After this period ends, it is mandatory to submit it to the Tax Authority, <u>when requested</u> .
Effective Date	It has been in force since 2007.

3- COUNTRY-BY-COUNTRY REPORTING (CbCR)

CbCR particularly applies to the MNEs headquartered in Turkey, and unlike the Master File and Annual Transfer Pricing Report, it is not a report but a table that should be completed and submitted to the Tax Authority

CbCR allows the MNE group to compare their activities on a country basis from certain perspectives (profitability, number of employees, capital, paid taxes, etc.). It is aimed that after the CbCR is assigned to a country, the relevant ministry of finance would share the report with the ministries of finance of all the countries where the MNE operates.

Country-by-Country Reporting	
Who are Obligated to File	MNE group's ultimate parent company resident in Turkey with annual consolidated group revenue amounting to EUR 750 million or more in the accounting period prior to the reported accounting period
Content	<ul style="list-style-type: none"> Income related to each country where the MNE operates, profit/loss before tax, income tax/CIT paid, income tax/CIT accrued, capital, retained earnings, number of employees, cash and tangible assets other than cash equivalents, Name/title of each MNE group company on country basis where they are resident, and if the country where the company is established is different from the country where the company is resident in terms of taxation, the name of each country and main activities of each company
Deadline	Prepared until the end of the 12th month following the accounting period and submitted to the Tax Authority electronically. It is not necessary to be requested by the Tax Authority.
Effective Date	The first CbCR related to the accounting period of 2019 shall be submitted to the Tax Authority until December 31 st , 2020. The ultimate parent company resident in Turkey subject to a special accounting period shall prepare the first CbCR for the accounting period starting after January 1 st , 2019 and submit electronically until the end of the 12 th month following the related special accounting period end to the Tax Authority.

4- CbCR NOTIFICATION

CbCR Notification is going to be concerning the most number of taxpayers in Turkey among the newly-introduced obligations. Accordingly, the companies those are member of an MNE that fall under the scope of CbCR obligation (consolidated group revenue of EUR 750 million and above) are required to notify Turkish Finance Administration regularly about the company and the country that the CbCR would be prepared by, **even though they are not the parent company.**

CbCR Notification	
Who are Obligated to Notify	Group members of an MNE that is within the scope of CbCR
Content	The information regarding which entity will be the reporting entity -whether it will be the ultimate parent entity or a surrogate entity- as well as the accounting period
Deadline	The mentioned information shall be notified to the Tax Authority by the end of June.
Effective Date	The first CbCR shall be notified to the Tax Authority until August 31, 2020.

B- OTHER REGULATIONS INTRODUCED WITH THE DECREE NO.2151

1- REGULATIONS REGARDING ADVANCE PRICING AGREEMENT (APA)

Advance Pricing Agreements (APAs), gives taxpayers the right to determine the price or cost to be applied in the purchase or sale of goods or services made with their related parties in advance by being in agreement with the Ministry of Finance therefore eliminates the risk of inspection within certain conditions. APA has been in force since Transfer Pricing regulations have entered into our legislation in 2007. With the Decree No.2151, the time limit for the effectiveness of the APAs has been increased from 3 years to 5 years.

Attidionally, the Decree states that an application for renewal of an existing APA can be made "at least 6 months prior", rather than "at least 9 months prior".

2- OTHER AMENDMENTS

The amendments other than the ones explained above consist of making the previously published Decree compatible with the current Transfer Pricing legislation.