

TAX ALERT

New statement on TP documentation

We would like to draw your attention to the upcoming deadline for submission of a statement on transfer pricing documentation for FY 2018. The deadline expires by the end of September 2019.

The manner of submission, scope of the statement and potential sanctions depend on the choice of applicable regulations to FY 2018 (the taxpayer may choose between new provisions from 2019 or regulations in force in 2018).

In case the provisions from 2019 are chosen:

- the statement needs to confirm **satisfaction of arm's length principle** and is not limited to simple confirmation that the transfer pricing documentation is completed,
- the statement must be signed by **every member of the Management Board** in an electronic form,
- if the conformity with the arm's length principle is questioned by the tax authorities, the members of the Management Board may incur **penal fiscal liability** for submission of incorrect statement.

Prior to submitting the statement it is therefore crucial to make sure that:

- the transfer pricing documentation comprise description of all obligatory transactions and meets formal requirements (note that transfer pricing documentation should comprise, among others, payments made to **members of the Management Board** and **suppliers established in tax heavens**),
- the transactions satisfy arm's length principle and the prepared benchmarking studies are accurate and confirm the prices applied (note that benchmarking studies should be verified in terms of **compliance with the official guidelines issued by the Minister of Finance on 18 June 2019**),
- all MDR reporting obligations related to transactions carried out with associated enterprises have been fulfilled (note that it should be verified whether the interest rate applied to intra-group loans does not fall within *safe harbor*),
- the choice of provisions applicable to FY 2018 has been made in a **valid manner**.

We are happy to assist you in the above process. If you have any questions or doubts please do not hesitate to contact us.



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