

# Tax Alert

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## Financial transactions in transfer pricing

### Obligation to Apply the Market Price

Intragroup financial transactions are subject to transfer pricing ("TP") regulations. This means they must comply with the arm's length principle, i.e. on terms that would be agreed upon by unrelated parties. Consequently, as a rule, financial transactions should involve **remuneration**. Arm's length prices must be applied regardless of the transaction value.

The same TP rules also apply to transactions with entities from tax havens.

### Local File – who is concerned?

Tax authorities pay particular attention to significant financial transactions, specifically:

1. PLN 10,000,000 – for transactions with related entities, and
2. PLN 2,500,000 – for transactions with entities in tax havens (both related and unrelated).

These transactions are subject to annual documentation requirements. The deadline for preparing a local file for 2023 is October 31, 2024.

### How to Determine the Transaction Value?

loan credit	the highest amount of principal made available that remains outstanding in a given year (excluding interest, margins, commissions, etc.)
bond issuance	the nominal value of the bonds
credit limit	the highest amount of principal utilized in a given year
cash pooling	the average daily level of actual liabilities or receivables from financing
guarantee surety	the guaranteed amount, the maximum value of the surety

### Comparative Analysis

In addition to the local file, taxpayers are also required to prepare a comparative analysis in order to demonstrate that the remuneration paid or received by the taxpayer for the transaction is at arm's length. In the case of loans, such an analysis should show that the interest rate and other fees associated with the loan reflect the creditworthiness of the borrower and are similar to what the taxpayer would receive from unrelated parties, such as independent banks.

The comparative analysis should be periodically updated, at least every 3 years.

### Reporting

As part of the TPR information, taxpayers report a range of transactional data (such as the principal amount, debt value, interest amount along with additional commissions or fees) and economic data (e.g. information regarding interest rate levels, pricing methods, indicators such as gross profit margin, operating margin, return on assets, and return on equity) to the tax authorities.

The deadline for submitting TPR information for 2023 is December 2, 2024.

### How Can We Help?

The process of preparing the local file and TPR is time-consuming. We are happy to help with:

1. Analyzing the market conditions of financial transactions, using the professional S&P database,
2. Determining whether the taxpayer is subject to TP documentation and reporting obligations,
3. Preparing a high-quality comparative analysis,
4. Preparing a local file,
5. Developing and implementing transfer pricing policies,
6. Defending settlements during tax audits and proceedings related to TP, and
7. Obtaining an APA (Advance Pricing Agreement).

Feel free to contact us!



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