

## Anticipated extension of deadlines for meeting transfer pricing obligations for 2021

The government's draft act on amendments to certain laws, dated April 4, 2022, including amendments to the COVID Act, providing for facilitations for taxpayers with respect to transfer pricing, has been published on the government's website.

The most important change from the taxpayers' point of view is the extension of the deadlines for filing the TPR form together with the statement on fulfilling the obligations related to local transfer pricing documentation.

In addition, the draft introduces the possibility of taking advantage of the exemption for domestic transactions concluded between foreign establishments which have incurred a tax loss (on the condition of total revenues at least 50% lower in a given tax year than the total revenues obtained in the corresponding period immediately preceding this year).

It is also worth noting that other reliefs for transfer pricing taxpayers have been upheld, e.g. it is not required to have a transfer pricing adjustment statement, extension of the deadline for the Master File, or extension of the catalog of persons authorized to sign the TP statement.

**Below are the key issues introduced in the draft.**

### DEADLINE FOR SUBMISSION OF TPR FORM AND TP STATEMENT

The draft provides for solutions corresponding with those from the previous year in terms of extending the deadlines for taxpayers to meet their obligations, i.e. submitting the TPR form and the TP statement – replacing the term of 9 months after the end of the tax year with a term:

- **until September 30, 2022** – where that deadline expires between January 31, 2022 and June 30, 2022;
- **of 3 months** – where that period expires between July 1, 2022 and December 31, 2022.

For **taxpayers whose tax year corresponds with the calendar year**, it means that the **deadline for preparing local transfer pricing documentation, submitting TPR and TP statement will be December 31, 2022**, instead of September 30, 2022 as per the current regulations.

### THE CONDITION OF TAX LOSS AND DOMESTIC TRANSACTIONS

Thanks to the COVID Act of 2020, Polish taxpayers making controlled transactions between themselves were able to benefit from an exemption from the documentation obligation for these transactions, even if they incurred a tax loss in a given tax year.

That applied to a situation in which an entity incurred a tax loss, but also obtained total revenues in a given tax year **at least 50% lower** than the total revenues obtained in the corresponding period immediately preceding that year. In this situation the exemption from Article 11n (1) of the CIT Act could still apply.

In the draft law of 4 April 2022, the exclusion from the tax loss condition was maintained for domestic transactions and also introduced for transactions between foreign establishments located in Poland (Article 11n (1a) of the CIT Act).

Thanks to the above solution, taxpayers with a tax loss and adequate level of revenues,

who meet other conditions specified in Article 11n (1) and (1a) of the CIT Act, will be exempt from the obligation to draw up local documentation for domestic transactions, including those between foreign establishments in Poland.

## OTHER FACILITATIONS FOR TAXPAYERS

In 2022, taxpayers will still be able to take advantage of the relief originally provided by the COVID Act. We recall their contents below.

- Extension of deadline for Master File – taxpayers will have until the end of the third month after the deadline to file the TP statement (for most taxpayers, this will be **March 31, 2023**).
- Exemption from having a transfer pricing adjustment statement during the COVID-19 epidemic.
- During the COVID-19 outbreak, the statement on having prepared local file can be signed by:
  - a natural person – if the related entity is a natural person
  - a person authorized by the foreign entrepreneur to represent them in the establishment – in case of an affiliated entity being a foreign entrepreneur having an establishment in the territory of the Republic of Poland
  - a person authorized to represent them – in case of other related entities

– with the condition remaining that is not allowed to have the statement submitted by a proxy.

## CONTACT US



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