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Tax Alert nr 249/14.03.2022



Beginning of a year brings (even more) obligations - 'to do' list for transfer pricing in Q1 2022

After a demanding December, **some taxpayers** will not rest at the beginning of the year.

Taxpayers will face these obligations in Q1 2022:

1. CBC-P notification

Who?

This obligation **applies to entities belonging to capital groups** that must submit CBC-R report in a country other than Poland. The obligation **is imposed when consolidated revenues of a capital group in the previous financial year exceeded PLN 3.25 billion (for consolidated statements in PLN) or EUR 750 million or the equivalent of this amount.**

What?

In the CBC-P notification, an entity from the capital group must state the reporting unit and the country where the CBC-R information on the group will be provided.

Until when?

Within 3 months after the end of the capital group's financial year.

For capital groups with the financial year from 1 January 2021 to 31 December 2021, the deadline for filing CBC-P notification will expire on **31 March 2022**.

How?

Both the CBC-P notification and the CBC-R report **must be filed electronically using the e-Deklaracje system**. The CBC-P notification template for 2021 has just been published by the Ministry of Finance [link: <https://www.podatki.gov.pl/media/5401/cbc-p-2- v1-0e.pdf>]

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2. Information on agreements made with non-residents – ORD-U form

Who?

The ORD-U form applies to legal persons, organizational units without legal personality and natural persons conducting business activity. It is related to the need to prepare and provide information on contracts made with non-residents within the meaning of the foreign exchange law.

What?

The obligation to file ORD-U information **applies to contracts (made in the tax year or implemented in the tax year and made in previous years)** with non-residents:

- related personally or by capital, where the share is at least 5%¹. Agreements that were made or implemented in the tax year with the same non-resident are taken into account, and the sum of receivables or the sum of liabilities resulting from these agreements exceeded the equivalent of EUR 300,000.
- with an enterprise, branch or representative office within the meaning of separate regulations on the territory of Poland. An agreement must be reported when the one-off value of receivables or liabilities resulting from it exceeds the equivalent of EUR 5,000.

Non-residents within the meaning of the Foreign Exchange Law are all foreign branches, representative offices and enterprises established by residents.

Until when?

Within **three months** from the end of a tax year.

Exclusions

Starting 1 January 2022, the obligation **does not apply to entities** that prepare information on transfer pricing [TPR].

This simplification, however, does not apply to taxpayers and companies that are not legal entities, which make transactions with tax havens, and at the same time meet the conditions set out in the Regulation of the Ministry of Finance on tax information.

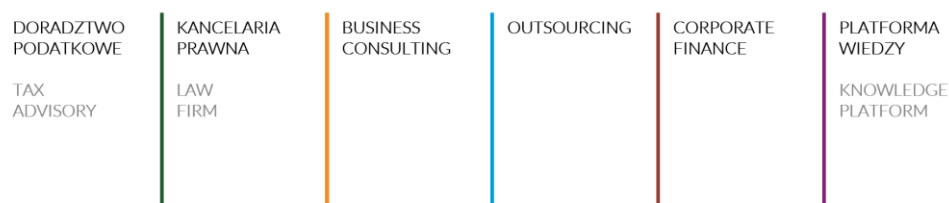
3. Group documentation - Master File

Who?

The obligation to prepare group documentation (Master File) applies to related entities which, in addition to **being consolidated using the full or proportional method** and belonging to capital groups, additionally meet **two conditions**:

- 1) are included in the consolidated financial statements,

¹ The difference compared to transfer prices where the threshold is 25%.





2) consolidated revenues exceeded the equivalent of PLN 200 million in the previous financial year.

There are no obstacles for this document to be prepared by any entity from the Group (it is acceptable to have documentation in English).

The documentation should be complete and contain all the items required by Polish tax regulations.

Until when?

The deadline expires at the end of the third month from the day following the day when the extended period for filing the declaration expires.

If the entity's financial year ends on 31 December, the deadline **for having group documentation in place is 31 March 2022.**

It is not necessary to file this information with the tax authority or to notify the authorities of holding it.

If you want more insights and information on the impact on your business, please contact:

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or your advisor from MDDP.

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