

Below we present an overview of the most relevant transfer pricing documentation rules for 2022.

Transaction thresholds for local file:

- **PLN 10 million** – regarding transactions involving physical assets and financing, and
- **PLN 2 million** – for service and other transactions.

In practice, the introduction of the above thresholds, compared to those previously in force, has led to a reduction in documentation obligations, particularly for small and medium-sized taxpayers. For transactions conducted with entities located in so-called tax havens, the documentation threshold is PLN 2 500 000 - in the case of a financial transaction and PLN 500 000 in the case of a non-financial transaction.

Group documentation (master file)

The obligation to prepare it applies to entities that fulfil three conditions cumulatively, i.e.:

- they are obliged to prepare local file,
- they belong to a capital group for which a consolidated financial statement is prepared,
- the consolidated revenues of the capital group exceeded the threshold of PLN 200 million in the previous financial year.

Deadlines for compiling the TP documentation

The Act specifies deadlines for the preparation of documentation:

- for local file - 10 months after the end of the tax year,
- for master file - 12 months after the end of the tax year.



Transactional thresholds



Exemptions from the documentation obligation



Safe harbor rules

Entities obliged to prepare local transfer pricing documentation (local file) shall submit a statement to the tax authorities on the preparation of such documentation by the end of the ninth month after the end of the financial year - in the case of entities with a financial year that is the same as the calendar year, the deadline is, as a rule, 31 October.

In addition, related parties that are obliged to prepare local transfer pricing documentation (local file) - to the extent of controlled transactions covered by this obligation, or that carry out controlled transactions - are obliged to submit to the head of the competent tax office (and not to the Head of KAS, as in previous years), by the end of the eleventh month after the end of the tax year, by means of electronic communication, information on transfer pricing for the tax year, prepared on the basis of a template of an electronic document placed in the Public Information Bulletin on the website of the office serving the minister competent for public finance (TPR-C or TPR-P).

No obligations to prepare documentation

Some transactions, despite exceeding the quota thresholds, i.e. **PLN 10 million** for transactions involving physical assets and financing and **PLN 2 million** for other transactions, remain exempt from the documentation obligation under local transfer pricing documentation. Thus, exemptions include among others:

- controlled transactions concluded exclusively by related parties having their place of residence, registered office or management in the territory of the Republic of Poland, provided that in the tax year for which the transfer pricing documentation is to be prepared, each of these related parties did not benefit from the exemption and did not show a tax loss,
- controlled transactions concluded exclusively by foreign permanent establishments, situated in the territory of the Republic of Poland, of related entities having their place of residence, registered office or management in the territory of a member state of the European Union or another country belonging to the European Economic Area other than the Republic of Poland - in the tax year in which the revenues or tax-deductible costs resulting from such controlled transactions were attributed to the foreign permanent establishment, provided that none of the related entities with respect to such revenues or costs attributed to the foreign permanent establishment benefits from the exemptions and has not shown a tax loss,
- controlled transactions concluded by a foreign permanent establishment, situated in the territory of the Republic of Poland, of an entity having its place of residence, registered office or management in the territory of a member state of the European Union or another country belonging to the European Economic Area other than the Republic of Poland, with a related entity having its place of residence, registered office or management in the territory of the Republic of Poland - in the tax year in which the revenue or tax-deductible costs resulting from such controlled transactions were attributed to the foreign permanent establishment, provided that none of the related entities with respect to such revenue or costs attributed to the foreign permanent establishment enjoys exemptions and has not shown a tax loss,

- controlled transactions concluded between entities forming a tax capital group,
- controlled transactions entered into between entities that have previously entered into a pricing or investment agreement,
- transactions concluded between entities, the relationship of which results exclusively from the relationship with the State Treasury or local government units (i.e. between entities, which would not be considered related, if their shareholder - directly or indirectly - was not the State Treasury or local government units),
- controlled transactions, the value of which does not fully and permanently constitute revenue or tax-deductible costs, with the exception of financial transactions, equity transactions and transactions concerning investments, fixed assets or intangible assets (this exemption does not apply to a situation in which tax-deductible costs are recognised at a time other than when the transaction is concluded).

The full list of services exempt from the obligation to prepare local transfer pricing documentation is contained in Article 11n of the CIT Act.

Safe harbour rules, i.e. so-called simplified settlement rules

Simplified settlement rules, meaning an assumption as to the confirmation of the market level of the agreed price - apply to certain low-value-added services, with a minimum margin of 5% for the provision of services and a maximum of 5% for the purchase of services.

A similar solution has been introduced for certain loan transactions. If the interest rate on a loan is set on the basis of a base rate plus a margin specified in a regulation issued by the Minister of Finance, upon meeting certain conditions regarding the term and value of the loan, taxpayers will be able to benefit from the „safe harbour” privilege.

The application of the above rates exempts the taxpayer from the preparation of a benchmarking analysis for these transactions. However, it must be remembered that the use of so-called „safe harbour” is only possible if the taxpayer has an extensive calculation presenting information on the type and amount of costs, and if the taxpayer applies appropriate allocation keys for all entities using the low-value-added service in question.

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