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## The regulations on transfer pricing finally published

### Tax Alert

Dear Readers,

Recently, three important regulations concerning the reporting of related entities have been published. Namely:

- The Regulation of the Minister of Development and Finance of 13 June 2017 on the detailed scope of the data provided in the information on the group of entities and the method of its completion (Journal of Laws 2017, item 1176, hereinafter: CBCR Regulation);
- The Regulation of the Minister of Development and Finance of 8 June 2017 on the determination of the template of a summary report on the corporate income tax (Journal of Laws 2017 item 1190, hereinafter: CIT-TP Regulation);
- The Regulation of the Minister of Development and Finance of 8 June 2017 on the determination of the template of a summary report on the personal income tax (Journal of Laws 2017 item 1205, hereinafter: PIT-TP Regulation).

### The CBCR Regulation

The obligation of reporting on the group of entities results from the Act of 9 March 2017 on the exchange of tax information with other countries (Journal of Laws of 2017 item 648 consolidated text, as amended, hereinafter: the Act). Pursuant to Art. 83(1) of the Act, the parent company that has its registered office or management board in Poland shall be obliged to provide the Head of the National Fiscal Administration, by means of electric communication, information on the group of entities within 12 months from the end of the financial year. The published regulation specifies detailed elements that such information shall include, i.e.:

- the identification data of the entities composing the group (including name, tax identification number, address of the registered office, tax residence);
- information on the main types of business operations of the entities composing the group;
- data on the operations of the entities composing the group (including, among others, information on the revenues earned, the achieved profit (loss), the tax actually paid, the number of employees);
- additional information or clarifications.

The sample of such information in the form of an electronic document shall be included in the Public Information Bulletin of the Ministry of Finance.

Here, we would also like to remind you that the entities other than parent companies, which have their registered office or management board in Poland or which operate in Poland only through a foreign entity, may be also obliged to submit to the Head of the National Fiscal Administration the information on the group of

entities for the fiscal year starting after 31 December 2016. Such a situation will occur when:

- the parent company will not be obliged to submit the CBCR for a given fiscal year in the country or on the territory of the registered office (management board), or
- despite the conclusion of the agreement on the exchange of tax information between Poland and the country or the territory of the registered office (management board) of the parent company, no qualifying agreement between competent authorities was concluded within 12 months from the date of the end of the fiscal year, or
- the country or the territory of the registered office (management board) of the parent company suspended the automatic exchange of information or permanently failed to observe the obligation to provide the information to the Polish side, provided that the parent company was notified of the fact (through the publication in the Public Information Bulletin).

Nevertheless, despite the fulfilment of the aforementioned conditions, pursuant to Art. 84 (2 and 4) of the Act, the obligation to submit the CBCR will not occur in a situation when the group has already appointed a different entity from the group to comply with this obligation (subject to compliance with the additional conditions specified in the Act, e.g. collection by this entity of all the required data).

The general principles concerning CBCR reporting are presented in one of our previous tax alerts ([Tax Alert 11/2017](#)).

### **CIT-TP and PIT-TP Regulation**

Pursuant to Art. 27(5) of the CIT Act (Art. 45(9) of the PIT Act respectively), taxable persons obliged to prepare tax documentation, if their income or costs exceeded in the fiscal year the equivalent of EUR 10m, shall attach to their annual tax return a summary report on the transactions or other events that occur between the related entities or in connection with which the payment of receivables is made to the entity from the country that applies harmful tax competition. The issued regulations include templates of summary reports regarding corporate income tax ([CIT-TP](#)) and with respect to the personal income tax ([PIT-TP](#)). The information that is to be provided to the tax authorities with their use applies to:

- relationships of the taxable person;
- the line of business;
- performed restructuring processes;
- transactions or other events occurring between related entities or in connection with which the payment of receivables is made to the entity from the country applying harmful tax competition (including transactions or other events concerning the sales and purchase of goods and services, financial transactions, transactions or other events concerning assets or agreements on cost sharing).

The first such summary reports shall be prepared for the fiscal year starting after 31 December 2016 and attached to the tax return for that fiscal year.

### **Publication and what next?**

Given the complexity and comprehensiveness of the aforementioned reports, we encourage you to become acquainted with the scope of provided information and their details as soon as possible. We advise you not to wait until the submission of annual tax returns as it may turn out that in order to comply with reporting obligations it will be necessary to ask specialists in the field of transfer pricing for help.

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Should you wish to discuss the above mentioned amendments in detail, feel free to contact us:

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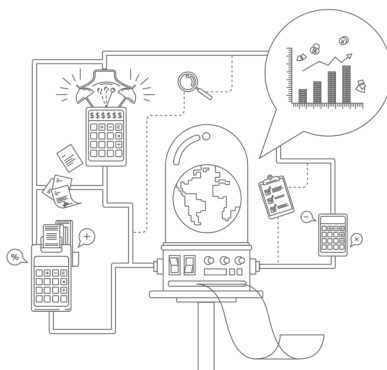
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