

TAX NEWS NO: 2020/2

February 28th, 2020.

Subject: Turkey Adopts OECD Transfer Pricing Reporting Standards.

Presidential Decree no. 2151 has been promulgated in the Official Gazette dated February 25th, 2020.

1. Turkey Adopts OECD Transfer Pricing Reporting Standards

With the **Presidential Decree no. 2151** announced on **February 25th, 2020** Turkey adopts the transfer pricing documentation standards under the OECD's Base Erosion and Profit Shifting (BEPS) Action 13 recommendations, among other changes.

The aforementioned Decree frames a **three-tier transfer pricing documentation approach**:

- 1) **A Master File** with global information about a multinational enterprise (MNE) group, including specific information on intangibles and financial activities;
- 2) **A Local File** with detailed information on all relevant intercompany transactions of the particular group entity in Turkey; and
- 3) **A Country-by-Country** (CbC) Report of income, earnings, taxes paid, and certain measures of economic activity.

The goal of the CbC reporting requirement is to make the global allocation of income among legal entities belonging to an MNE more transparent, and to make the exchange of information among tax authorities easier, to support them in the evaluation of the appropriateness of intercompany transfer prices and in their risk assessment activities.

1.1. Master File

Turkish corporate income taxpayers that are members of a multinational group **with assets and net revenues of TL 500 million or more** in the previous year (i.e. 2018) will be required to prepare a master file to be submitted to the Turkish Tax Authority for the fiscal year in 2019 and for the following fiscal years. The master file must be prepared by the end of the next fiscal year following the current fiscal year. For example, a taxpayer with a calendar year end must prepare the master file pertaining to the 2019 fiscal year by December 31st, 2020. Taxpayers having special accounting period (e.g. special accounting period ending on 31 March 2019 or 30 June 2019 etc.) shall prepare the first master file for their special accounting period that starts after January 1st, 2019. For example, a corporate taxpayer with special accounting period starting on 1 April 2019 and ending on 31 March 2020 shall be

required to prepare the first master file for this special accounting period ending on 31 March 2020 until 31 March 2021 (i.e. by the end of the next special accounting period). The master file should be kept on file and submitted to the authorities upon an official request.

The required information in the master file can be grouped into five broad categories:

- The MNE’s organizational structure;
- A description of the MNE’s business or businesses;
- The MNE’s intangibles;
- The MNE’s intercompany financial activities; and
- The MNE’s financial and tax positions.

1.2. Local File/Annual Transfer Pricing Report

Corporate Taxpayers shall continue to prepare an annual transfer pricing documentation report pertaining to their related party transactions according to the status and coverage summarized in the following table (as they have been doing since the introduction of annual transfer pricing documentation report preparation obligation in Turkey):

Taxpayer Status	Transactions to be Covered
Taxpayers registered to the Large Taxpayers’ Tax Office (LTTO)	Domestic and cross-border related party transactions
Other corporate taxpayers	Cross-border related party transactions
Corporate taxpayers operating in Free Trade Zones (FTZ)	Domestic related party transactions
All corporate taxpayers	Related party transactions with affiliates in FTZs and their foreign branches outside Turkey

There is no change with regard to the deadline for preparation of the annual transfer pricing documentation report which corresponds to Local File under OECD’s three-tier transfer pricing documentation approach. The local file (annual transfer pricing report) must be prepared by the time the filing of corporate tax returns is due (i.e. by April 30th of the following year for corporate taxpayers that have calendar year - based accounting period) and submitted to the authorities upon an official request.

The Decree also describes in detail the required content of the annual transfer pricing report. There are a few additions with regard to the documents/information to be included in the reports.

1.3. Country-by-Country Report

The Country-by-Country (CbC) reporting requirement applies to **MNEs whose consolidated group revenues are €750 million or more**. The CbC report is to be prepared by the Turkish ultimate parent entity (or another reporting entity if there exist multiple Turkish entities). The revenue threshold is determined according to the figures reported in consolidated financial statements pertaining to the previous fiscal year. If the consolidated financial statements are in a different currency than the Euro

they should be converted utilizing the average of the forex buying rates announced by the Central Bank of the Republic of Turkey pertaining to the previous fiscal year. For the purpose of CbC Reporting for 2019, this means that the average of the forex buying rates announced by the Central Bank of the Republic of Turkey pertaining to 2018 shall be utilized.

The MNEs subject to CbC reporting, might file the report under “ultimate parent entity” or “surrogate entity” status.

The Turkish ultimate parent entities of MNE groups are required to file **the first CbC reports for the 2019 fiscal year until December 31st, 2020.**

For taxpayers having special accounting period (e.g. special accounting period ending on 31 March 2019 or 30 June 2019 etc.); the first CbC reports shall be prepared for the special accounting periods that start after January 1st, 2019 and filed electronically with the Turkish Revenue Authority (TRA) by the end of the following special accounting period. For example, a corporate taxpayer with special accounting period starting on 1 April 2019 and ending on 31 March 2020 shall be required to prepare and file the first CbC Report with the TRA for the special accounting period ending on 31 March 2020 by 31 March 2021 (i.e. by the end of the next special accounting period).

1.3.1. Notification Obligation

The CbC reporting obligation also includes a notification requirement. Accordingly, taxpayers should report to the TRA the following:

- a) whether they are an “ultimate parent entity” or a “surrogate entity”,
- b) which entity is responsible for reporting on behalf of the group, and
- c) the reporting period.

The notification periods for taxpayers are as follows:

For taxpayers with calendar year based accounting period;

- August 31st, 2020 for 2019 CbC reporting; and
- End of June for all subsequent years.

For taxpayers with special accounting period;

- August 31st, 2020 for the first CbC reporting; and
- Although it is not clearly indicated in the Decree with regard to the following special accounting periods, it could be interpreted that the deadline would be by the end of the sixth month of the special accounting period (considering that it is by the end of June for those having calendar year-based accounting period).

The above-mentioned thresholds may be revised by accounting period, deadlines may be extended up to six months by the TRA. Additionally, TRA is also authorized to postpone reporting obligations under certain conditions for those MNEs whose ultimate parent entity is not resident in Turkey.

1.3.2. Content of the CbC Report

The CbC report will include the global allocation by country of key variables for the MNE, including

- Revenue, profit, tax paid, stated capital, accumulated earnings, number of employees, and tangible assets data pertaining to each country in which the MNE operates;
- The names and main activities of each of the MNE group entities pertaining to each country in which the MNE operates.

All the above-mentioned documentation must be prepared in the Turkish language.

2. Other Issues Regulated by Decree No. 2151

In addition to changes related to transfer pricing documentation standards, some other changes have been made by the Decree as follows:

- Change in related party definition,
- Changes related to some revisions in APAs,
- Explanations related to retroactive applications in APAs,
- Explanation with respect to priority in TP method selections,
- Change in naming of TNMM Method,
- Introducing “Partial Penalty Protection Regime”, where taxpayers would be able to benefit a penalty reduction of 50%, on full and timely preparation of transfer pricing documentation.

Yours sincerely,
Deloitte Turkey

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