

Difficulties in preparing transfer pricing files for transactions with unrelated parties in Russia and other tax havens 3/27/24



Director, Transfer Pricing, PwC Latvia
Tatjana Koncevaja

In our Flash News edition of 22 November 2023 we wrote that a Latvian company doing business with unrelated parties that are based, formed or established in low-tax or tax-free jurisdictions ('tax havens') may be liable to prepare and submit to the State Revenue Service (SRS) a local file and a master file describing the transfer pricing (TP) methods applied in controlled transactions made by the Latvian company and by the group. With Russia added to the blacklist of tax havens on 1 July 2023, Latvian taxpayers might face difficulties in preparing their TP files because the TP analysis of their transactions is hindered by a lack of information on the unrelated party. In this article we look at the difficulties and possible solutions.

The difficulties in preparing local and master files for transactions with unrelated parties in tax havens stem from the fact that the Latvian company's obligation to prepare a TP file does not make the foreign unrelated party liable to provide the Latvian company with any publicly unavailable information on its business, pricing policy or financials. The scope for conducting a TP analysis and applying TP methods is limited because only the Latvian company can be chosen as the tested party for the resale price method, the cost-plus method or the transactional net margin method.

And, if the Latvian company is not part of a multinational enterprise (MNE) group and the obligation to prepare a master file arises only from its transactions with unrelated parties in tax havens, the company is not sure what disclosures it should be making in that file, since all the information to be disclosed relates to the group description.

At an SRS meeting with Latvian TP consultants that PwC initiated to address important TP issues, the consultants asked the SRS what information has to be disclosed in a master file. The SRS answered that if the Latvian taxpayer is not part of an MNE group and made controlled transactions in the financial year with entities or persons that are based, formed or established in tax havens, the Latvian taxpayer has to submit a master file with a sentence confirming that he is not part of an MNE group with the entities or persons in tax havens he did business with in the financial year.

Based on this answer, we understand that in this case the Latvian company has to submit a document titled 'Master File' which includes confirmation that the taxpayer is not part of an MNE group with the entities or persons in tax havens he made transactions with in the financial year.

The SRS also said that section 15.2(13) of the Taxes and Duties Act requires the taxpayer to prepare a TP file based on information that is 'reasonably available' during the financial year. Taxpayers can rely on this statement when preparing a local file and analysing their transactions with entities or persons in tax havens, explaining their TP methods and limited access to data, as well as defending their choice of tested party and the comparables used.