



Global Business Tax Transfer Pricing Alert | Belgium

First penalty notifications for late filing of or failure to file transfer pricing forms issued

The Belgian tax authorities have sent out the first penalty notifications for the late submission of or failure to submit transfer pricing (TP) forms, seemingly for infringements committed from the 2019 financial year onwards.

Where companies have already received a penalty notification and fail to comply with their subsequent TP form obligations, this will be treated as a second infraction and a penalty will be payable, provided there is no intention of tax evasion.

Scope of penalties for noncompliance

Compliance with the Belgian TP documentation requirements (i.e., local file, master file, and country-by-country (CbC) reporting or CbC notification obligations) is mandatory for Belgian entities exceeding the respective thresholds, and penalties may apply for noncompliance.

Companies are at an increased risk of receiving a penalty notification in the following cases:

- **No TP form has been filed:** The Belgian entity is required to file a TP form but fails to do so.
- **An incomplete TP form has been filed:** The TP form does not include all the necessary information (e.g., part A only of the local file form has been completed when the entity also was required to complete part B of the form).
- **Late filing of the TP form:** Applicable deadlines are not met.

Penalties imposed

The administrative penalty for the first infraction without the intention of tax evasion is set at nil.

However, as from the second infraction, the penalties for noncompliance with the TP documentation requirements range from EUR 1,250 to EUR 25,000.

The Belgian tax authorities allow a period of one month for companies to explain why the TP documentation has not been filed, or has been filed late.

Upcoming local file form deadline for tax year 2022

Bearing in mind the potential penalties, companies are strongly recommended to ensure that they have complied with all relevant TP documentation preparation and filing requirements. This is particularly relevant with regards to the upcoming local file forms which are due by 17 October 2022 for companies with financial years ending from 31 December 2021 through 28 February 2022.

As the first penalty notifications were sent out before 17 October 2022, a failure to meet the 17 October 2022 deadline for filing the local file form for such financial years will constitute a second infraction, automatically leading to a penalty.

Contacts

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