



GENERAL

As per 1 January 2016, the Netherlands implemented (additional) new standards for transfer pricing documentation in the Corporate Income Tax Act ("CITA"). These new compliance standards are in line with the OECD report 'Transfer Pricing Documentation and Country-by-Country Reporting'. Besides Country-by-Country Reporting' (which is not addressed in this letter) part of this new standard is the obligation for certain companies to include in their administration a 'local file' and a 'master file'. These files may be prepared in both Dutch and English.

WHICH COMPANIES HAVE TO INCLUDE A MASTER FILE AND LOCAL FILE IN THEIR ADMINISTRATION?

In brief, the obligation to include a Master File and Local File in the administration applies to companies which are subject to tax in the Netherlands, and:

- o which form part of a group of at least two entities, that reside in different States; or
- o which form part of a group that contains a company that has a permanent establishment in a different State.

The obligation only applies to companies forming part of a group which, in the fiscal year preceding the reporting fiscal year for which the documentation requirements apply, has consolidated revenues of EUR 50 million or more (i.e. irrespective of the amount of revenues attributable to the Dutch group company).

MASTER FILE

The Master File contains an overview of the business of the multinational enterprise ("MNE"). This overview includes a description at a group-level of the nature of the business activities, the general transfer pricing policies and the worldwide allocation of income and economic activities. More specific, the master file contains information on:

- o the organizational structure;
- o MNE's business(es);
- o MNE's intangibles;
- o MNE's intercompany financial activities; and
- o MNE's financial and tax positions.

LOCAL FILE

The Local File contains information which is relevant for the transfer pricing analyses in relation to cross border intragroup transactions of a Dutch taxpayer. Furthermore, it contains information to

substantiate in more detail that the profit allocation to a permanent establishment of the Dutch taxpayer is at arm's length. More specific, the Local File contains information on:

- o the local company (or permanent establishment);
- o controlled transactions; and
- o financial information.

TIMELINE

The Master File and Local File of a certain year must be included in the taxpayer's administration within the period which is legally set for submission of its CIT return. For example, with regard to the year 2016 (the first year to which the new standards apply), the Master File and Local File must be included in the administration no later than the date the 2016 CIT return must be submitted. Extension granted by the Dutch tax authorities to submit the tax return is taken into account.

RISKS

If a company that is required to include a Master File and/or Local File in its administration fails to do so, it can be confronted with sanctions. Moreover, it could lead to a reversal of the burden of proof.

Should you have any questions on the above, please contact your regular advisor at Hamelink & Van den Tooren at + 31 70 310 50 70 or + 31 20 333 92 80.