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Reporting obligations regarding transfer pricing in Poland

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CIT 8 declaration –

Statement on the amount of income achieved by a taxpayer of corporate income tax*

- One of the reporting obligations in the scope of transfer prices of entities, who are corporate income tax payers, is to include required information in the CIT 8 declaration;
- The taxpayers must disclose whether they are required to prepare transfer pricing documentation and comparability analysis.

* Act on CIT - The Act of February 5, 1992 on Corporate Income Tax. Journal of Laws 1992 nr 21 item 86 (as amended).

CIT 8 declaration*

26. Podatnik był obowiązany do sporządzenia dokumentacji podatkowej, o której mowa w art. 9a ust. 1 pkt 1 ustawy (zaznaczyć właściwy kwadrat):	
<input checked="" type="checkbox"/> 1. tak	<input type="checkbox"/> 2. nie
27. Podatnik był obowiązany do sporządzenia dokumentacji podatkowej, o której mowa w art. 9a ust. 1 pkt 2 lub 3 ustawy (zaznaczyć właściwy kwadrat):	
<input type="checkbox"/> 1. tak	<input checked="" type="checkbox"/> 2. nie
28. Podatnik był obowiązany do sporządzenia elementu dokumentacji podatkowej, o którym mowa w art. 9a ust. 2d ustawy ⁴⁾ (zaznaczyć właściwy kwadrat):	29. Podatnik był obowiązany do sporządzenia elementu dokumentacji podatkowej, o którym mowa w art. 9a ust. 2b pkt 2 ustawy (zaznaczyć właściwy kwadrat):
<input type="checkbox"/> 1. tak	<input checked="" type="checkbox"/> 1. tak
<input checked="" type="checkbox"/> 2. nie	<input type="checkbox"/> 2. nie

CIT-8₍₂₆₎

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- Point. 26 refers to Local file obligation
- Point 27 refers to transactions with entities form tax havens
- Point 28 refers to Master file obligation
- Point 29 refers to Obligation of preparing Comparability analysis

* *The Act of February 5, 1992 on Corporate Income Tax. Journal of Laws 1992 nr 21 item 86 – in force until the end of 2018*

Two additional reporting obligations in Poland since 2017

- The first obligation applies to providing local tax offices with a **statement on the preparation of tax transfer pricing documentation**(Act on CIT, Art. 11m par. 1.)
- The second reporting obligation is an **Information on transfer prices** submitted to the Head of the National Tax Administration (Act on CIT Art. 11t)



Statement on the preparation of tax transfer pricing documentation

- Statement includes the information, that taxpayer has prepared required transfer pricing documentation
- Since 2019, the statement should also include the information that "the transfer prices of controlled transactions covered by local transfer pricing documentation are set on terms that would be agreed between unrelated entities"
- Deadline of the statement: by the end of the ninth month after the end of the financial year.

Information on transfer prices submitted to the Head of the National Tax Administration

- **For the years 2017 and 2018**, corporate income tax payers submitted a CIT TP declaration, according to Regulation of the Minister of Finance of July 2, 2018 on the establishment of a simplified model of the corporate income tax report (CIT-TP) (Journal of Laws 2018 item 1300).
- **Since 2019**, new regulations for corporate income tax payers came into force:
Regulation of the Minister of Finance of December 21, 2018 regarding information on transfer prices in the scope of corporate income tax (Regulation of MF, 2018c) (Journal of Laws 2018 item 2487) along with an Annex containing explanations as to how to prepare information about transfer prices



Requirements

- Related entities obliged to prepare local transfer pricing documentation - in the scope of controlled transactions covered by this obligation, provide the Head of the National Tax Administration, by the end of the ninth month after the end of the tax year, by means of electronic communication, information on transfer prices for the tax year, prepared on the basis of a template of an electronic document included in the Public Information Bulletin on the Ministry of Finance website (Act on CIT art. 11t par. 1)



- Since 2019, taxpayers of corporate income tax should submit declaration called TP-R C
- Information on transfer prices will be submitted to the Head of the National Tax Administration for the first time by 30 September 2019
- Interactive form for information on transfer prices has not yet been agreed and was subject to tax consultations until October 21, 2019

Information on transfer prices includes in general

- 1) the purpose of submitting information and the period for which it is submitted
- 2) identification data of the entity submitting the information and the entity for which the information is submitted;
- 3) general financial information of the entity for which the information is submitted;
- 4) information on related entities and controlled transactions;
- 5) information on transfer methods and prices;
- 6) additional information or explanations regarding the data or information referred to in items 2 to 5.

Details

- Information on transfer prices should first contain information about the purpose of submitting information (whether the information is submitted for the first time or is a correction) and the tax year to which it relates as well as entity identification data together with the type of predominant activity.

- The information should also include *"general financial information of the entity for which information on transfer prices is submitted, including the values of financial indicators measuring the financial situation of that entity,"*
- The Annex to Regulation contains indicators, the values of which should be provided in information submitted by entities other than banks and insurance companies:
 - 1) operating margin,
 - 2) gross profit margin,
 - 3) return on assets,
 - 4) return on equity

- Taxpayer should provide information on controlled transactions assigning them to the individual categories listed in the table in the Annex.
- For each of controlled transactions, the code of the country of the contractor's seat from the ISO 3166 alpha 2 Country Code classification should be provided as well as information on possible exemptions from the need to prepare tax transfer pricing documentation.
- In addition, the value of the controlled transaction should also be provided.

- Another reporting obligation is to provide information on the transfer price verification method one of the following:

Codes of transfer price verification method

MW01 Comparable uncontrolled price method

MW02 Resale price method

MW03 Cost plus method

MW04 Profit distribution method

MW05 Net transaction margin method

MW06 Another method - independent specialist valuation

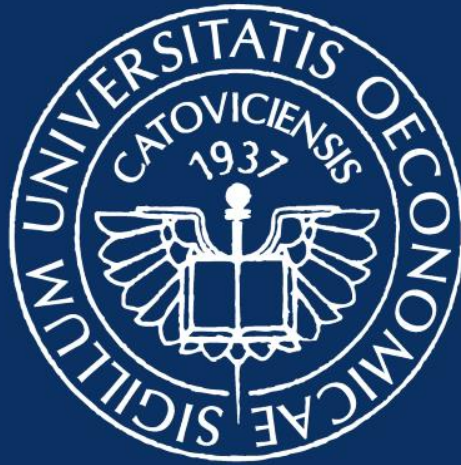
MW07 Another method - other

- Pursuant to legal regulations, the information should also include the values of the transfer prices used, appropriate for each of the selected methods. For example, for the method of comparable uncontrolled price – the value of the minimum price and maximum price used for a given transaction during the year.
- In the case of the resale price method, the cost plus method or the net transaction margin method – the value of the profitability index used, in line with the profitability index used in the transfer price comparability analysis.



- The description of the comparability analysis for each of the transactions specified is also subject to separate presentation in the information. It should include, inter alia, sources of comparative data, how to verify the market price level and a description of the comparability criteria used.
- Information reported to Head of the National Tax Administration should also include any possible transfer price adjustments, if they took place in a given tax year, and additional explanations.
- It should be noted whether the "safe harbor" mechanism according to the Act on CIT art. 11.f and 11g was used.





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