

Transfer pricing, the master file has become always mandatory

It is more complicated to find the information if the holding company is a foreign group. The documentation must be compliant with the Italian Tax law.

Following Italian Revenue Agency's order dated 23 November 2020, the transfer pricing documentation has undergone an extensive restyling to the extent that holding companies and their advisors are now dealing with 30 November 2021 deadline to submit their 2020 annual tax return.

Starting with the master file, it is important to point out the complexity of filling in the document's new version which in fact requires further details about the group's trends from multiple perspectives. It is clear, therefore, that if the corporation has an Italian holding company, access to information will be much easier.

If, on the other hand, the head of the group is abroad, the documentation to be provided by the Italian branch may be found with major troubles due a series of company group's dynamics that the individual entity may not be aware of or may not have easy access to. This aspect creates difficulties which are even more evident if one looks at the **measure** of 23 November 2020.

This document, in fact, unlike its former version dated 2010, still requires the preparation of the master file. While in the past, the master file was only required if the entity was classified as a holding or sub-holding company (both in the case of subsidiaries and in the more demanding case of branches), but all the so-called controlled companies were excluded. Now, however, the logic is reversed in the sense that the master file is always required. This means that each group company will need access to a range of group information.

In multinational corporate groups it is often thought that this can be overcome by producing the master file provided by the foreign headquarters. However, the solution is not so easy because, if it is true that the new measure allows to produce a document in English, the problem consists in the fact that it is often based on information that, as required by Italian tax law, are not sufficient and do not reflect the actual requirements of the measure.

Genova

Piazza G. Alessi 2/7
16128 Genova
Tel. +39 010 8183250
Fax. +39 010 566758

Milano

Via Conservatorio 15
20122 Milano
Tel. +39 02 92854246
Fax +39 02 92854287

Roma

Largo Torre Argentina 11
00186 Roma
Tel: +39 06 86358612
Fax: +39 06 86358623

studiotcl@pkf-tclsquare.it
www.studiotcl.com
www.pkf.com

C.F./P.IVA02373300991

This is a recurring problem therefore it will be necessary to take the information produced by the head office and other data will have to be added trying to be compliant with the Italian standard requirements.

In general, unlike its former version, the new master file template, aims at framing a series of information concerning the holding, in line with the function of the document itself. The information required, however, appears more logical than the one demanded in the previous version. In the old framework, in fact, the requirements set in paragraphs 4 (Transaction flows) and 5 (Intra-group transactions) often resulted in a brief summary of the subsequent Country File. Paragraph 6 regarding "Functions performed, assets used and risks taken" imply considerable problems in finding the information for the whole group. This is still the case in the new paragraph 2.5, although it appears more concise.

The new measure focuses on five macro information.

Firstly, information about the corporate structure, which was also included in the previous document and represents an essential basis.

Second one concerns the activities carried out, it is required to clarify: how value is generated in the group, which are the five products/services with the most significant turnover (or at least above 5%), agreements for the provision of intra-group services with an indication of the reasons why certain head office become so-called hubs, the main markets, the value chain and any corporate restructuring operations.

The third section covers the description of intangible assets (i.e. trademarks and patents) and how they are charged under transfer pricing rules, with a focus on research and development.

The fourth section concerns financial assets, in fact, when money is collected from third parties, it is not unusual for groups to then circulate liquidity under cash pooling agreements, which are relevant from a transfer pricing perspective.

Finally, the fifth section relates to the financial relationships of the group, with the need to attach on the one hand the consolidated financial statements and on the other hand the advance agreements (Apa) and advance rulings.

Wider scope

The difference with the past.

The Italian Revenue Agency's November 2020 measure still requires the master file to be prepared. In the past, however, this document was only required if the entity was classified as a holding or sub-holding company (both in the case of subsidiaries and in the more demanding case of branches), however all controlled companies were excluded.

Content

The document in English.

Master file of the foreign parent company may not always be used. The provision allows for a document to be produced also in English, but often the foreign master file is drawn up according to logic and information which are not sufficient and not compliant with the Italian tax requirements.

Adjustment

Supplements, if any

If it is necessary to make the master file of the overseas holding company fully compliant with the domestic rules, it becomes necessary to take the information produced by the head office and add other data in the attempt to make it compliant with the requirements of the domestic transfer pricing legislation.

The five categories

Macro information

Five macro information are required. The first one concerns an indication of the corporate structure. The second one relates to the activities carried out. The third concerns the description of the intangible assets and how they are charged under the transfer pricing rules. The fourth concerns the financial assets. The fifth relates to financial relationships.