

SUMMARY



TRANSFER PRICING OVERVIEW IN HUNGARY



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Member of  Nexia

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HUNGARIAN LEGAL BACKGROUND

Legislation related to transfer pricing from 2023:

- NGM Decree (X. 18.) 32/2017 on the obligation to transfer pricing documentation in connection with the determination of the arm's length price. (hereinafter: "NGM Decree");
- Act LXXXVI of 1996 on corporation income and dividend tax (hereinafter: "Act on CIT");
- Act V of 2013 on the Civil Code;
- Act CL of 2017 on the order of taxation; and indirectly
- The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Authorities (2022 Edition).

Related party definition

Pursuant to the provisions of the CIT Act the taxpayer and another person should qualify as related parties if (non-exhaustive list):

- A third party has majority control in both of them, whether directly or indirectly. Close relatives should be considered as one person.
- Under the provisions of the Hungarian Civil Code, the majority control should mean over 50% voting rights or a dominant influence. Dominant influence should mean a right to appoint and recall the majority of the Board;
- Alternatively, if between them dominating influence is exercised relating to business and financial policy having regard to the equivalence of management.

The taxpayer must report the data of the company that qualifies as an affiliated enterprise to the Tax Authority.



A taxpayer is obliged to prepare a transfer pricing documentation if any **transactions** with (at least) one of its related parties **reached a value of HUF 100 million (appr. EUR 260,000)** – calculated without VAT, - for the given financial year.

Although there are some cases when the taxpayer has no liability for preparing Master file or Local file:

- the value of the transaction does not reach HUF 100 million within the tax year;
- recharge of consideration for the sale of a product or service in the same amount to a related party (or parties), if the seller or party bearing the cost is not a related enterprise;
- the transaction was made based on an agreement with an individual;
- the enterprise is considered small-sized;
- medium-sized companies for certain transactions;
- transfers to the State specified by law;
- the arm's length price was determined by the tax authority in an Advance Pricing Agreement;
- free cash transfer;
- transactions on a stock exchange or fixed price specified by law.

However, any transactions that should be aggregated under the Hungarian transfer pricing requirements, should be taken into account for the threshold calculation purposes at their aggregated value.

The above entails only an exemption from the TP documentation requirement. The arm's length price should still be applied to the transactions.



Arm's length range

From FY2022, in determining the arm's length price, it is **mandatory to use the interquartile range**.

The following transactions should be aggregated under the Hungarian transfer pricing requirements:

- that have the same subject matter and all the material terms and conditions of their performance are fixed in advance and identical or the differences between the terms and conditions are not material; or
- are closely related.



Transfer pricing adjustments

If the price applied by the taxpayer falls outside of the arm's length range (i.e. outside the inter-quartile range) and, therefore, the taxpayer makes a transfer pricing adjustment, or during a tax audit, the tax authority adjusts the tax base of the taxpayer regarding the transfer prices, the **adjustment must be carried out for the median value of the arm's length range**.

However, it is also important to mention that if the price applied by the taxpayer is within the arm's length price range, no adjustment to the transfer price will be approved.

LOCAL FILE

If the taxpayer had a transaction subject to the documentation obligation in the financial year under review, **Local File should be prepared as part of the transfer pricing documentation.**

In Hungary, the obligatory content of the transfer pricing documentation (Local File and also Master File) and the deadline for the preparation are currently set out by **Decree 32/2017 of the Hungarian Ministry of National Economy.**

Transfer pricing documentation and supporting documentation may be compiled in languages other than Hungarian, but the taxpayer is liable to present a Hungarian translation of documentation prepared in languages other than English, French, and German at the request of the tax authority.

Transfer pricing documentation does not have to be submitted to the tax authority; it should be provided upon request. **The deadline for the preparation of the Local File is the filing date of the corporate tax return** (usually May 31 – the end of the fifth month after the end of the given company's financial year).

Related to the determination of the arm's length price and the breach of the obligation to prepare and keep transfer pricing documentation, the **maximum amount of the default penalty is HUF 5 million per record and HUF 10 million in case of recurring breaches.**



Reporting obligations

Taxpayers subject to transfer pricing documentation requirements **should provide in their corporate income tax declaration data concerning the determination of the arm's length price.**

The content of the reporting obligation is based on the content of the Local File prepared.

Provided that the balance sheet date corresponds to the end of the calendar year, the deadline for submitting the new reports for the tax year 2023 is 31 May 2024, at the latest, as part of the corporate tax return.

MASTER FILE

According to Section 4 (1) of the NGM Decree, **the transfer pricing documentation should also consist** of the Master File in addition to the Local File.

The Master File should provide an overview of the MNE group business, including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activity in order to assist tax administrations in evaluating the presence of significant transfer pricing risk. In general, the master file is intended to provide a high-level overview in order to place the MNE group's transfer pricing practices in their global economic, legal, financial, and tax context.

According to the Hungarian legislation, the Company is required to have Master File until the filing date of the corporate tax return or at the **Master File preparation deadline for the group's ultimate parent company, but no later than the end of the 12th month following the balance-sheet date.**

If the Company is not able to share the Master File with the Tax Authority during a tax investigation, **the default penalty is up to HUF 5 million, and in case of repeated violation up to HUF 10 million (for FY2023).**

CbC reporting and notification obligation

Multinational enterprises are obliged to submit CbC reporting that have achieved at least an annual consolidated group revenue of EUR 750 million in the financial year preceding the reporting financial year.

A Hungarian tax resident entity of a multinational enterprise might file a CbC report if it is the ultimate parent entity of the group, or it is assigned to file the CbC reporting within the group by the ultimate parent company.

In the case of the taxpayer does not have an obligation to report due to the obligation of another member company, the taxpayer must only fulfill the notification obligation.

Failure to comply with the reporting or notification obligation might result **in a default penalty of up to HUF 20 million (approx. EUR 50,000).**

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For more detailed information, please contact us, the tax experts of VGD Hungary will be pleased to assist you. This document provides general information and does not constitute advice.