



## Transfer Pricing Policy in Spain

The Royal Decree 1793/2008 states that the taxpayer must have following documentation to the Spanish Tax Authorities. Tax Authorities oblige taxpayers to produce documentation supporting their transfer prices, because Tax Authorities need to examine their transfer pricing policy and see how transfer prices are set. Otherwise taxpayers will be subject to penalties.

### Operations considered related-party transactions, that will need documentation:

All the economical operations done between:

- A company (or entity) and its partners
- A company and its Board of Directors or Administrators
- A company and its partners/Board of Directors/Administrators' spouse or relatives
- Two companies belonging to the same group.
- A company and the partners, Board of Directors or Administrators of other company if both companies belong to the same group
- A company and the partners/Board of Directors/Administrators' spouse or relatives of other company, if both companies belong to the same group
- A company and an indirectly affiliated company, with at least 25% of the share capital or of the equity.
- Two companies having some common partners or partners' spouse or relatives, participating, directly or indirectly with at least 25% of the share capital or of the equity.
- A resident company in Spain and its permanent establishments abroad.
- A non-resident company in Spain and its permanent establishments in Spain.

### Documentation:

A.- Documentation regarding the taxpayer (Spanish Company):

- All the transactions between associated companies and the taxpayer company
- a general description of the group's organizational, legal and operational structure, as well as any material change to it;
- first and last names or full corporate or business name, tax domicile and taxpayer identification number of the taxpayer and of the persons or entities with whom the transaction is performed, as well as a detailed description of the nature, characteristics and amount of the transaction;
- a comparability analysis following the legal methods.;
- an explanation of the selection of the transfer pricing method;
- the methods used to allocate services provided jointly to various related persons or entities, as well as the relevant agreements, if any, and cost contribution arrangements;

- any other information used by the taxpayer to price its related-party transactions, as well as any side agreements entered into with other members

B.- Documentation regarding the group to which the taxpayer company belongs

- (MASTER FILE) Information for following items:
- a general description of the business and business strategy, including changes in the business strategy compared to the previous tax year;
- a general description of the multinational group's organization, legal and operational structure (including an organizations chart, a list of group members and a description of the participation of the parent company in the subsidiaries)
- the general identification of the associated enterprises in controlled transactions involving enterprises in the EU
- a general description of the controlled transactions involving associated enterprises in the EU, i.e. a general description of flows of transactions, invoice flows and amounts of transactions flows.
- a general description of functions performed, risks assumed and a description of changes in functions and risks compared to the previous tax year.
- the ownership of intangibles and royalties paid or received
- the multinational group's inter-company transfer pricing policy or a description of the group's transfer pricing system
- a list of Cost Contribution Agreements, Advance Pricing Agreements and rulings covering transfer pricing aspects as far as group members in the EU are affected
- an undertaking by each domestic taxpayer to provide supplementary information upon request and within a reasonable time frame in accordance with national rules.

As an exception it is not necessary the above mentioned documentation to the following related party transactions:

- Transactions between entities belonging to the same consolidated tax group which has elected to apply the special consolidated tax regime.
- Transactions between economic interest groupings (EIGs), unincorporated joint ventures or regional industrial development companies and their members, provided that they are registered on the special register at the ministry of economy and finance.
- Transactions carried out in the context of public offerings or tender offers.

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*Notes to editors: The information in this publication should be used as a research tool only, and not in lieu of the tax professional's own research with respect to client matters. Readers are encouraged to consult with professional advisors for individualized advice concerning professional matters before making a decision. This document reflects information current at 1 January 2010 and is only for use by clients and professional staff.*