

Italy imposes new deadline for the preparation of transfer pricing documentation

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In brief

What happened?

Italy published Law No. 213 on December 30, 2023 (2024 budget law), enacting some tax measures and changes. Among these changes, the 2024 budget law changed the term of the yearly tax return filing, impacting the deadline for the preparation of transfer pricing documentation for penalty protection purposes. As detailed below, for taxpayers with a fiscal year ending on December 31, 2023, the new deadline is September 30, 2024 instead of November 30.

Why is it relevant?

Taxpayers are required to prepare, digitally sign, and electronically timestamp the transfer pricing documentation by the new tax return deadline to be eligible for penalty protection. This has an impact on the timing for the activities necessary to prepare the transfer pricing documentation, as taxpayers need to start the activities sooner.

Action to consider:

Taxpayers should take into account the new transfer pricing deadline (September 30, 2024) when planning for the necessary activities required to prepare transfer pricing documentation.

In detail

Deadline to file transfer pricing documentation

The newly approved 2024 budget law enacted new changes for the tax return deadline, having a significant impact on the deadline to prepare the transfer pricing documentation. Different timing can occur depending on whether the taxpayer has a calendar year-end.

Taxpayers having a calendar year-end

For taxpayers having a calendar year-end (i.e., fiscal year ending on December 31, 2023), the 2024 budget law provides that the ordinary deadline to submit corporate tax returns (IRES) and regional tax returns (IRAP) is September 30, 2024 (nine months after the year-end). Because taxpayers are required to prepare, digitally sign, and electronically timestamp the transfer pricing documentation at the time of the filing of the tax return, the new ordinary deadline also applies to the transfer pricing documentation.

Taxpayers not having a calendar year

For taxpayers that do not have a calendar year in 2023, the 2024 budget law included a specific provision applicable only for fiscal years ended before December 31, 2023. This provision provides that taxpayers can continue applying the previous deadline (i.e., eleventh month following the fiscal year-end) to submit the IRES and IRAP tax returns and to prepare, digitally sign, and timestamp the transfer pricing documentation. For the following fiscal years, the nine-month period applies.

Possibility of submitting a supplementary tax return

For taxpayers that are not able to prepare compliant transfer pricing documentation (i.e., properly digitally signed and timestamped) by the tax return ordinary deadline, a supplementary tax return may be filed within 90 days after the ordinary deadline, declaring the availability of the relevant transfer pricing documentation for penalty protection (properly signed and timestamped) by the date of supplementary tax return filing.

Italian transfer pricing rules and practical aspects

The 2024 budget law did not introduce additional changes to the Italian transfer pricing rules. Thus, for taxpayers that wish to continue benefiting from the penalty protection relief for fiscal year 2023, they must prepare compliant transfer pricing documentation — i.e., Master file (which also can be drafted in English) and Local file (which must be prepared in Italian).

From a formal perspective, the Local file (and related attachments) and the Masterfile must be digitally signed by the legal representative of the Italian entity, or by his/her delegate, by means of a digital signature with an electronic timestamp to be applied to each document by the date of filing the tax return. **Note:** The digital signature and the timestamp are necessary requirements for the Italian entity to be eligible for penalty protection regime.

Also, it is important to remember that, to benefit from the penalty relief, taxpayers that want to apply for the optional penalty relief are required to flag a dedicated box declaring the availability of the transfer pricing documentation. **The transfer pricing documentation must not be submitted, but must be provided within 20 days of a formal request by the Italian tax authorities.** Any additional related documents required by the Italian tax authorities generally should be provided within seven days of the relevant request.

Let's talk

For a deeper discussion of how Italy's new transfer pricing documentation requirements might impact your business, please contact:

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