
Final Russian rules adopt three-tier transfer pricing documentation

December 11, 2017

In brief

Federal Law No. 340-FZ of November 27, 2017, “On Amending Part One of the Tax Code of the Russian Federation in Connection with the Implementation of the Common Reporting Standard and Documentation on Multinational Enterprises” ([the Law](#)), was published on November 27, 2017 on the official Internet portal of legal information (the text of the Law is in Russian). The Law came into force from the day of its official publication.

The Law obliges members of multinational enterprise (MNE) groups with annual consolidated group revenue over RUB 50 billion (approximately USD 856 million) in the preceding fiscal year to submit to tax authorities a three-tier documentation, including a Country-by-Country (CbC) Report, global documentation (Master File), and national documentation (Local File), as well as a notification on their membership in an MNE group (Notification).

In detail

The Law took effect on the date of its official publication (November 27, 2017), and its provisions will apply to fiscal years starting in 2017 (except for the provisions regarding Local File).

Note: The changes and amendments to the Russian Tax Code (RTC) introduced by the Law do not abolish local transfer pricing (TP) documentation requirements that already are part of the current legislation, as per Article 105.15 of the RTC.

General requirements

Russian taxpayers that are members of an MNE group will have to file a Notification, a CbC

Report, and a Master File for the fiscal year starting January 1, 2017. At the same time, taxpayers that are members of an MNE group will be required to prepare a Local File starting from 2018. The Local File must contain information required by the current TP documentation rules, as per Article 105.15 of the RTC, as well as additional information required by the Law.

Russian taxpayers also can voluntarily submit Notifications and CbC Reports pertaining to fiscal years starting in 2016. Thus, if an MNE group with a Russia-based parent company has not yet decided whether to file a CbC Report in a foreign jurisdiction where its subsidiary is located for the reporting

period starting in 2016 (assuming the foreign jurisdiction already has CbC reporting requirements), then such MNE voluntarily may file its CbC Report in Russia as allowed by the Law. At the same time, the Russian Federal Tax Service will yet have to approve and publish a respective format for providing information electronically for these purposes.

The Law introduces the concept of a “reporting period” for the purposes of a three-tier documentation. Such period constitutes “a financial year following the financial year in which the consolidated group revenue of an MNE group, as per its consolidated financial

statements, exceeded the revenue specified in sub-clause 3, clause 6 of Article 105.16.3 of the RTC” (i.e., RUB 50 billion).

According to the Law, the Local File should be prepared and submitted using a calendar year as a reference period, while the reporting period for the rest of the documents (i.e., Notification, CbC Report, and Master File) is the fiscal year of the respective MNE group.

Below is an overview of the obligations set out by the Law for Russian taxpayers – members of an MNE group with an annual consolidated group revenue over RUB 50 billion, depending on the location of the ultimate parent entity of the MNE group.

Notification

Notification must be filed not later than eight months after the final day of a respective reporting period. One Notification can be filed for all Russian entities.

CbC Report

The ultimate parent company is not a Russian entity: Russian taxpayers that are members of an MNE group file this report upon the request of tax authorities. However, Russian taxpayers that are members of an MNE group will be exempt from an obligation to file a CbC Report if the ultimate parent company of the MNE group or its authorised member submits a CbC Report, provided there is an automatic exchange arrangement between the Russian Federation and the relevant jurisdiction. Tax authorities will set the submission deadline, which cannot be less than three months after the date of receiving the request.

The ultimate parent company is a Russian entity: An ultimate parent company of an MNE group or an

authorized member must file the CbC Report not later than 12 months after the end of the reporting period.

Master File (Global documentation)

Tax authorities can request the Master File not earlier than 12 months after and not later than 36 months after the end of the reporting period. The Master File cannot be requested from a taxpayer if the tax authorities already received it from another Russian taxpayer participating in the same MNE group.

Local File (National documentation)

The Local File can be requested by the tax authorities only on or after June 1 of the year following the calendar year in which the controlled transactions were performed.

Transitional period

The Law sets a transitional period for the calendar years 2018-2019. Tax authorities may request the Local File from taxpayers not earlier than December 31 of the year following the calendar year in which the income and/or expenses pertaining to controlled transactions were recognised (i.e., not earlier than December 31, 2019 and December 31, 2020, respectively). However, the transitional period provisions will not affect local TP documentation requirements under Article 105.15.1 of the RTC.

Other changes

The Law contains a number of other important amendments:

Notification also must contain information on the inclusion (or non-inclusion) of a taxpayer in the list of strategic enterprises and strategic joint-stock companies, or on whether the taxpayer is a subsidiary of such an enterprise or a joint-stock company.

The Law contains concepts such as “material agreements between MNE group members,” “material agreements,” and “material transactions” (specification on information on such transactions must be included in the Master File). Nevertheless, the particular meaning of materiality for the purposes of a three-tier documentation has not been specified in the Law.

The new amendments modify provisions pertaining to the applicable currency exchange rate when converting value indicators for the purposes of the CbC Report and Master File. The Law provides that conversion of the currency used for accounting by MNE group members (when such currency differs from the currency of the ultimate parent entity) can be done in accordance with the rules for preparing the parent entity’s consolidated financial statements. Information on the currency exchange rates should be specified in the notes to the Master File and CbC Report.

The Law clarifies that Notification and country information (Master File, Local File and CbC Report) should be submitted by taxpayers that are members of an MNE group, except for non-resident entities that do not have a permanent establishment in Russia and receive income only from sources in the Russian Federation specified in Article 309 of the RTC (e.g., dividends, royalties, and lease income).

The takeaway

The Law introduces new obligations for submitting information to the Russian tax authorities for MNE group members with ultimate parent companies located in Russia or in other countries. MNEs need to assess their readiness to comply and prepare a plan for compiling and filing the respective files and reports.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Transfer Pricing

Andrey Kolchin, *Moscow*
+7 495 967 6197
andrey.kolchin@pwc.com

Svitlana Kozhushko, *New York*
+1 646 335 4262
svitlana.m.kozhushko@pwc.com

Transfer Pricing Global and US Leaders

Isabel Verlinden, *Brussels*
Global Transfer Pricing Leader
+32 2 710 44 22
isabel.verlinden@be.pwc.com

Horacio Peña, *New York*
US Transfer Pricing Leader
+1 646 471 1957
horacio.pena@us.pwc.com

Stay current and connected. Our timely news insights, periodicals, thought leadership, and webcasts help you anticipate and adapt in today's evolving business environment. Subscribe or manage your subscriptions at: pwc.com/us/subscriptions

Tune into **TP Talks**, PwC's global Transfer Pricing podcast series. Listen to PwC professionals sharing perspective and the latest insights on today's key transfer pricing developments around the world.

SOLICITATION

© 2017 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

PwC helps organisations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 195,000 people who are committed to delivering quality in assurance, tax and advisory services. Find out more and tell us what matters to you by visiting us at www.pwc.com