

Tax Pills

# Transfer pricing: the Revenue Agency provides new guidance on documentation

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Basically the clarifications provided by the financial administration concern the documentation appropriate for verifying compliance with the principle of free competition of the transfer prices applied by multinationals in transactions with associated companies. Particularly, the Circular Letter n. 15/E published on November 26th, following the Provision of the Director of the Revenue Agency of 23 November 2020, takes into account the numerous contributions sent by economic and professional operators as part of the public consultation that closed on 12 October.

**Structure of the suitable documentation** - The Circular examines the needed documentation, with regard to its contents, particularly looking at MasterFile and National Documentation. At the same time, it illustrates the aspects concerning the documentation relating to permanent establishments, the one considered suitable for small and medium-sized enterprises and the documentation to be prepared if taxpayers choose the simplified approach to enhance an intra-group transaction consisting in the provision of low added value services.

**MasterFile** - In addition to a general set of information to be included in the MasterFile, the Circular Letter clarifies that this document must also include a set of information related to transaction flows, including for example a detailed recap of the amounts relating to the top five products and/or services in terms of the group's overall turnover. The same for the loan agreements, with respect to which must be indicated either the terms related to the main contracts stipulated with independent lenders including type of contract, lender, beneficiary, date of stipulation, duration, amount, currency, conditions, interest rate, or any guarantees given.

**The case for penalty protection** - Taxpayers can benefit from the non-application of the

administrative sanction for unfaithful declaration but only in the event that the documentation required is made available to the Financial Administration and it's deemed suitable by the staff in charge of the control activities. It is also clarified that the penalty protection provided by the TP documentation must be tested against each single transaction and not as a whole.

**Timing submission and PEs** - The Circular also illustrates the aspects concerning the communication of the possession of suitable documentation. To this end, the Agency clarifies that the communication can also be made with the declaration presented within 90 days from the expiry of the ordinary submission deadline, be it late or supplementary / replacement of the one already submitted. In addition, if the conditions are met, the possession of the appropriate documentation can be communicated even late by making use of the institute for remission *in bonis*. Finally, it's useful to point out that in relation to the description of Italian head quarter/PE dealings, according to the new rules Italian companies must now describe any internal dealings with their foreign PEs in regime of branch exemption.

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