Transfer pricing documentation

New requirements in Germany

Summary

Significant new regulations for transfer pricing compliance will come into effect in Germany in 2025, introducing changes such as a shortened submission deadline of 30 days for transfer pricing documentation (local file incl. transaction matrix, master file and extraordinary transfer pricing documentation). This will also include a mandatory submission requirement during tax audits, introduced by the so-called Fourth Bureaucracy Relief Act (BEG IV) which was passed in October 2024.

From 1 January 2025, transfer pricing documentation must be submitted within 30 days of receiving a tax audit notification. Until now, full transfer pricing documentation only had to be submitted at the request of the tax audit (i.e. within 60 days). From 2025 onwards, an automatic submission obligation will be introduced. This means that a period of 30 days will automatically run from the start of the audit. In return, however, there will be significantly fewer documentation obligations to be met, at least initially. A newly introduced "transaction matrix" will form the core component of the reduced transfer pricing documentation.

The new submission deadline applies to transfer pricing documentation for all "open" fiscal years before 1 January 2025 if a tax audit notification for the relevant documentation period is issued after 31 December 2024.

Moreover, starting from 2025, the tax authorities will also be entitled to request transfer pricing documentation at any time, not solely during a tax audit. This means that German companies engaged in cross-border intercompany transactions must be prepared to submit this documentation within a 30-day notice period. The tax authorities may request the documentation, for example, as part of the annual corporate income tax assessment or during the application process for an Advanced Pricing Agreement (APA).

International operating groups with business links to Germany are therefore strongly advised to update their transfer pricing documentation in the upcoming months.

Reform of transfer pricing documentation in Germany

The German regulations on transfer pricing documentation can still be found in the now significantly amended and restructured Section 90 General Tax Code [Abgabenordnung; AO]. According to Section 90 (4) sentence 3 AO, the following documents must now be submitted within 30 days of notification of the audit order without any further request:

1. An overview of business transactions (transaction matrix)
2. The master file
3. All documentation pertaining to extraordinary business transactions

The local file of the business transactions can also be requested by the tax auditor and must be submitted within 30 days upon request.

In principle, this new regulation is intended to increase the efficiency of tax audits and reduce the administrative burden for companies. It is to be expected that the tax audit will use the transaction matrix to identify high-volume and/or complex intra-group transactions (e.g., transactions where the arm's length price or profit is difficult to determine or where the functional classification of the respective entities is not clear) and request further information. For more on this, see the example in the next section below.

Even if this reformation of German transfer pricing documentation is intended to simplify things, it should be noted that the short submission deadline of 30 days will require companies to ensure that they have the three documents listed above readily available months in advance. Ideally, they should be prepared at the latest shortly after the end of the respective financial year. If the documents have not yet been prepared when the audit order is announced, experience has shown that it is unlikely that this can be done within 30 days.

The transaction matrix

The transaction matrix should include the following content:

1. Subject and nature of transactions
2. Parties involved, identifying the recipient and provider
3. Volume and remuneration
4. Contractual basis
5. Transfer pricing method applied
6. Tax jurisdictions concerned
7. Indication whether transactions are not subject to standard taxation in the relevant tax jurisdiction

A transaction matrix might therefore look as follows (fictitious example for illustrative purposes):

#	1	2	3	...
Transaction	Delivery of goods	IT services	Brand licencing	...
Provider	B Co, Ltd	D Pty Ltd	E AG	...
Country	TH	AU	CH	...
Recipient	A GmbH	A GmbH	A GmbH	...
Country	DE	DE	DE	...
Volume (in EUR)	30,000,000	100,000	1,000,000	...
Contractual basis	Supply agreement	Service agreement	Licence agreement	...
TP method	R-	C+	CUP	...
Standard taxation?	Yes	Yes	Yes	...

In our example above, it would be expected that the tax audit would request further documentation on the first and third transactions (the intra-group deliveries of goods and intra-group brand licencing, respectively), but not for the second (the provision of intra-group IT services). This is due to the fact that the new regulations aim at making the audit process more efficient by focusing on transactions of a high volume and/or high degree of complexity.

The introduction of the transaction matrix is intended to promote a risk-oriented review of cross-border transactions by the tax authorities and increase transparency.

Refresher on German transfer pricing documentation requirements

In Germany, a local file has to be prepared if annual transaction amounts relating to the supply of tangible goods with foreign related parties exceed EUR 6 million or if annual transaction amounts in connection with other intercompany transactions (e.g., services, licences, financial transactions, etc.) exceed EUR 600,000.

A Group is only required to prepare a master file if the revenue of one German company exceeds EUR 100 million in the preceding fiscal year.

In addition, extraordinary transfer pricing documentation has to be prepared within six months following the end of the fiscal year in which the extraordinary transaction occurred. The following circumstances can be considered extraordinary transactions:

- The conclusion and modification of a long-term agreement that significantly affects the tax-payer's income from the intra-group business relationships (long-term loan agreements, for example)
- Asset transfers as part of business restructuring measures
- The transfer and provision of assets in connection with significant changes in functions and risks within the company
- Business transactions related to a significant change in business strategy relevant to transfer pricing
- The conclusion of cost allocation agreements

Penalties for non- and late submission

Furthermore, from 1 January 2025, a penalty of at least EUR 5,000 will be imposed for failure to submit the transaction matrix (cf. Section 162 (4) sentence 1 AO). If usable documents are submitted late, a late submission penalty of up to EUR 1 million can be imposed (at least EUR 100 per day, cf. Section 162 (4) sentence 4 AO). The exact amount of the penalty is within the discretion of the tax authorities.

This sanction previously only applied when documents were either not submitted or essentially unusable according to Section 90 (3) AO. The sanctions are intended to ensure that the new documentation obligations are taken seriously and fulfilled on time.

Conclusion and practical relevance

The new and shortened submission deadlines pose significant challenges in preparing sufficient documentation at short notice. Therefore, we recommend reassessing the transfer pricing documentation strategy for German companies for FY2025 and beyond.

This includes having the transaction matrix, the master file and records of extraordinary business transactions readily available for the next tax audit, as these documents must be submitted proactively within 30 days upon receiving the tax audit notification.

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

Contact

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