Mexico implements transfer pricing documentation and country-by-country reporting requirements

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In brief

The Mexican government recently enacted the requirement to file a master information return (Master file), local information return (Local file), and Country-by-Country (CbC) report on a calendar-year basis, starting in FY2016 (due by December 31, 2017). These provisions are consistent with the OECD's Base Erosion and Profit Shifting (BEPS) initiative with respect to Action Plan 13: Guidance on the Implementation of Transfer Pricing Documentation and Country-by-Country Reporting.

The filing of a Master file and Local file is required by Mexican taxpayers exceeding the established threshold, while the CbC report is required only for Mexican multinational groups with group revenues in excess of the established limit. However, the tax authorities may also request a CbC report concerning foreign multinational groups. In both cases, a specific threshold for presenting documentation is established. The reporting must be filed electronically. Failure to file the reports is subject to fines and disqualification of the taxpayer from entering into contracts with the Mexican public sector.

In detail

The new requirements established an annual obligation for certain Mexican taxpayers to file three new information returns: a master information return (Master file); a local information return (Local file); and a CbC information return (CbC report). The existing local documentation requirements continue to apply in order to avoid penalties (and non-deductibility in some cases).

The Master file provides a complete picture of the group's global operations, including organizational structure, an analysis of profit drivers, supply chains, intangibles, intercompany financing, and certain financial and tax information.

The Local file provisions are essentially satisfied with existing requirements. The Local file specifically requires a description of the organizational structure, strategic and business activities, information on related-party transactions, and financial information pertaining to the Mexican taxpayer and the independent comparables used in the transfer pricing analysis.

Finally, the CbC report requires the submission of aggregated financial and tax data for all tax jurisdictions of the multinational group, including revenues from related and unrelated parties, profit (loss) before income tax, income taxes paid and accrued income tax, stated capital, accumulated earnings, number of employees, and tangible assets. In addition, the CbC report requires a listing of all the members and permanent establishments of the multinational group, describing their economic activities, place of incorporation, the place of tax residence if different than place of incorporation, in addition to any other information relevant to facilitate an understanding of the previously mentioned information.

The new transfer pricing reporting rules require the local taxpayer to provide a CbC report concerning foreign-related parties to the extent that information cannot be obtained by the tax authorities in the normal course of the treaties and other exchange of information agreements. The local taxpayer must comply with those information requests within 120 days after being notified of such requests.

Application

The filing of a Master file and Local file is required by legal entities with annual revenue higher than MXN 644,599,005 (approx. USD 37,368,058), entities subject to optional (new tax consolidation) fiscal regime, semi-official (state) entities, and permanent establishments.

The filing of the CbC report is required only for corporations that qualify as Mexican multinational holding companies or those designated by the parent company of a foreign multinational group as responsible for filing the CbC report with annual revenue higher than MXN 12,000,000,000 (USD 695,652,174) in the preceding year.

Timing

The Master file, Local file, and CbC report are required on a calendar-year basis, starting in FY2016 (due by December 31, 2017).

Penalties for non-compliance

The fines established for noncompliance with the above rules are in a range of MXN 140,540 (approx. USD 8,147) and MXN 200,090 (approx. USD 11,599). In addition, a failure to file or presenting incomplete or erroneous reports is penalized by disqualifying the taxpayer from entering into contracts with the Mexican public sector.

The takeaway

It is clear that Mexico is adopting the OECD's BEPS recommendations. New transfer pricing reporting rules require the placement of significant resources and forethought to ensure information meets the above requirements on an accurate and timely basis. It is also prudent to evaluate any pre-implementation concerns to ascertain how taxpayers can best minimize overall risks and costs for the group considering collection of financial information and availability of requested data through existing IT systems.

In practice, these new transfer pricing reporting requirements — together with already existing annual filing for "relevant transactions" included on Form 76 and modified Annex 9 of the annual information tax return — impose significant additional transfer pricing reporting burdens in Mexico and expose local entities to increased scrutiny by the tax authorities. Current documentation requirements continue to apply and are consistent with the requirements of the Local file.

The key challenge for Mexican taxpayers as a result of new transfer pricing reporting rules is to be in a position to comply with the additional requirements of the Master File and CbC report and minimize potential risks for the multinational group. The law requires the publication of general rules describing the reporting formats.

Let's talk

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

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