



Meijburg & Co
Tax & Legal

Transfer Pricing Documentation in the Netherlands: Master File & Local File

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Are your processes still in compliance with Dutch Transfer Pricing Documentation requirements?

Transfer Pricing Documentation

Having adequate and robust Transfer Pricing documentation has become increasingly important in order to meet local annual compliance obligations, while also describing and substantiating the arm's length nature of the applied Transfer Pricing policies. Since the introduction of the Master File, Local File and Country-by-Country reporting concepts, the compliance requirements of multinational groups have increased considerably. Multinational groups are faced with questions like how to set up this documentation as efficiently as possible, how to keep the documentation up-to-date and consistent across the group, and how to ensure it is prepared and filed in time.

All Dutch entities, that transact with related parties, are obliged to prepare Transfer Pricing documentation that describes how transfer prices have been established and substantiate the at arm's length nature of the transfer prices.

Master File and Local File

For internationally operating businesses (MNEs) with a consolidated group turnover of at least EUR 50 million, such documentation must consist of the Master File and the Local File. If the group meets this turnover threshold, the Master File and Local File requirements apply, regardless of the size of the Dutch business or volume of its intercompany transactions.

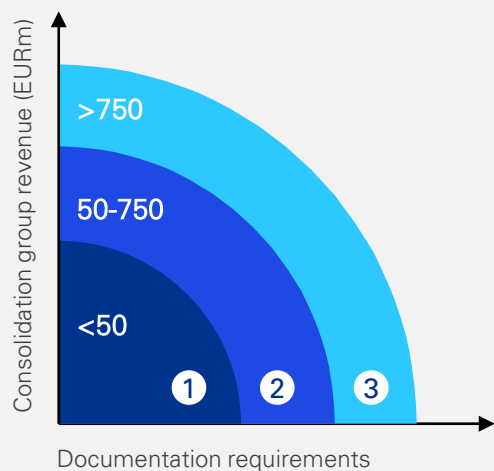
In case a group does not meet the Master File/Local File thresholds, local documentation should still be prepared based on the general Transfer Pricing Documentation requirements in the Netherlands.

Country-by-Country reporting

In addition, MNEs with a consolidated turnover exceeding EUR 750 million are obliged to file an annual Country-by-Country (CbC) report with the Dutch Tax Authorities within 12 months after the reporting year.

Dutch statutory transfer pricing documentation requirements

1. Contemporaneous transfer pricing documentation required
2. Master File and Local File
3. Master File and Local File, Country-by-Country Report



Deadlines

The Master file and the Local file/ General Transfer Pricing Documentation must be included in the administration of the taxpayer and be filed with the Dutch Tax Authorities upon request.

Both the Master File and the Local File of a group member, that is subject to tax in the Netherlands, must be available at the moment the Dutch taxpayer is required to file its corporate income tax return for the same year. Many Dutch taxpayers receive an extension on filing of their income tax returns, thereby also receiving an extension for the preparation of the Master File and the Dutch Local File as well.

Taxpayers are required to prepare Transfer Pricing documentation contemporaneous with the annual corporate income tax return to ascertain that the correct positions in terms of Transfer Pricing are taken in the corporate income tax return. An incorrect corporate income tax return may result in reversal of the burden of proof regarding that tax return.

Content of the general Transfer Pricing Documentation

The form of the General Transfer Pricing Documentation is free but its content must follow the guidance of the OECD Transfer Pricing Guidelines. Transfer pricing method selection, industry, functional, comparability and company analyses are recommended to evaluate the arm's length nature of the transfer prices applied between related parties.

Content of the Master File and the Local File

The content of the Master File and the Local File according to Dutch standards is generally in line with the OECD requirements for Master File and Local File.

The information required is reflected further in this publication. MNEs may or may not have these data items readily available, and direct availability per item is likely to vary from taxpayer to taxpayer. The data items have been colour coded by likely availability based on our experience.

The Master file and the Local file / General Transfer Pricing Documentation may be prepared in Dutch or English language.

Non-compliance Transfer Pricing documentation

For the Master File, the Local File and the General Transfer Pricing Documentation, non-compliance may ultimately result in a reversal of the burden of proof regarding the at arm's length nature of the transfer prices applied by the taxpayer. In certain cases of non-compliance with applicable Transfer Pricing requirements, monetary fines and other sanctions may be imposed.

A sound process, including good planning and oversight is therefore necessary in order to avoid penalties or other adverse consequences.

Country-by-Country reporting

MNEs with a consolidated turnover exceeding EUR 750 million are obliged to file an annual CbC report with the Dutch Tax Authorities within 12 months after the reporting year. The filing obligation rests with the ultimate parent company, a designated surrogate parent company or in exceptional cases the respective local entities. The CbC report contains an overview per country of aggregate information relating to the amount of revenue, profit (or loss) before income tax, income tax paid, number of employees, etc. The report should be submitted electronically in XML format.

Please note that there are also upcoming initiatives on public CbC reporting. We will gladly inform you of these initiatives separately.

There is an annual requirement to notify the Dutch tax authorities about the group entity that will submit the CbC report for the group.

Not meeting the CbC reporting requirements may result in significant administrative penalties.

How Meijburg & Co can help

Our Transfer Pricing Documentation services range from identifying potential risks and shortcomings when reviewing documentation prepared inhouse, to complete documentation management where we relieve the in-house team and assist in meeting the documentation requirements while using technology where this adds value.

In collaboration with you, we will assess which parts of the documentation process you would like to take care of yourself, and which parts can be handled by our dedicated transfer pricing experts. This integrated approach results in compliant Transfer Pricing documentation, which combines your business know-how and market intelligence with our professional knowledge and experience.

Network and experience beyond borders

Many jurisdictions implemented deadlines for (preparing and submitting) the Master File, Local File and/or General Transfer Pricing Documentation as well as CbC reporting obligations. For certain countries, there are additional local Transfer Pricing documentation or disclosure requirements to be met.

Meijburg & Co can assist you with planning and preparing Transfer Pricing documentation for the Netherlands and abroad. Depending on your needs, we can work together with foreign transfer pricing specialists of KPMG's Global Transfer Pricing Services network to ensure compliance with local requirements.

Transfer Pricing Documentation Technology

Meijburg & Co can support you with preparing Transfer Pricing documentation by using tools or automation options that fit your needs. We can use our own KPMG tax technology tools, tax technology tools developed by our partners or assist you with Transfer Pricing documentation add-ons for the technology that your business already uses. Next to technology for efficiently preparing Transfer Pricing documentation, we can also supply a platform to visualize the documentation requirements and status and monitor deadlines. Data gathering and data processing for the Transfer Pricing documentation can also be facilitated with the use of technology and automation opportunities.

Our tax technology approach is scalable and can be adjusted depending on your needs and the size of your business.



Information necessary for Master File and Local File (1)

- Data items that are likely already available for many companies
- Data items that may be available or partially available for many companies
- Data items that are likely unavailable at present (new information requests that go beyond traditional documentation requirements) for many companies

Master File – Your company’s readiness

Data item	Description
1 Organisational structure	a. Chart illustrating the MNE’s legal and ownership structure and geographical location of operating entities.
2 Description of MNE’s business(es)	a. Important drivers of business profit.
	b. A description of the supply chain for the group’s five largest products and/or service offerings by turnover plus any other products and/or services amounting to more than 5 percent of group turnover. The required description could take the form of a chart or a diagram.
	c. A list and brief description of important service arrangements between members of the MNE group, other than research and development (R&D) services, including a description of the capabilities of the principal locations providing important services and transfer pricing policies for allocating services costs and determining prices to be paid for intragroup services.
	d. A description of the main geographic markets for the group’s products and services that are referred to in the second bullet point above.
	e. A brief written functional analysis describing the principal contributions to value creation by individual entities within the group, i.e., key functions performed, important risks assumed, and important assets used.
	f. A description of important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year.
3 MNE’s intangibles (as defined in Chapter VI of these Guidelines)	a. A general description of the MNE’s overall strategy for the development, ownership and exploitation of intangibles, including location of principal R&D facilities and location of R&D management.
	b. A list of intangibles or groups of intangibles of the MNE group that are important for transfer pricing purposes and which entities legally own them.
	c. A list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and licence agreements.
	d. A general description of the group’s transfer pricing policies related to R&D and intangibles.
	e. A general description of any important transfers of interests in intangibles among associated enterprises during the fiscal year concerned, including the entities, countries, and compensation involved.
4 MNE’s intercompany financial activities	a. A general description of how the group is financed, including important financing arrangements with unrelated lenders.
	b. The identification of any members of the MNE group that provide a central financing function for the group, including the country under whose laws the entity is organised and the place of effective management of such entities.
	c. A general description of the MNE’s general transfer pricing policies related to financing arrangements between associated enterprises.
5 MNE’s financial and tax positions	a. The MNE’s annual consolidated financial statement for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes.
	b. A list and brief description of the MNE group’s existing unilateral advance pricing agreements (APAs) and other tax rulings relating to the allocation of income among countries.

Information necessary for Master File and Local File (2)

- Data items that are likely already available for many companies
- Data items that may be available or partially available for many companies
- Data items that are likely unavailable at present (new information requests that go beyond traditional documentation requirements) for many companies

Local File – Your company’s readiness

Data item	Description
1 Local entity	a. A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.
	b. A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.
	c. Key competitors.
2 Controlled transactions For each material category of controlled transactions in which the entity is involved, provide the following information:	a. A description of the material controlled transactions (e.g., procurement of manufacturing services, purchase of goods, provision of services, loans, financial and performance guarantees, licences of intangibles, etc.) and the context in which such transactions take place.
	b. The amount of intra-group payments and receipts for each category of controlled transactions involving the local entity (i.e., payments and receipts for products, services, royalties, interest, etc.) broken down by tax jurisdiction of the foreign payor or recipient.
	c. An identification of associated enterprises involved in each category of controlled transactions, and the relationship amongst them.
	d. Copies of all material intercompany agreements concluded by the local entity.
	e. A detailed comparability and functional analysis of the taxpayer and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes compared to prior years (to the extent this functional analysis duplicates information in the master file, a cross-reference to the master file is sufficient).
	f. An indication of the most appropriate transfer pricing method with regard to the category of transaction and the reasons for selecting that method.
	g. An indication of which associated enterprise is selected as the tested party, if applicable, and an explanation of the reasons for this selection.
	h. A summary of the important assumptions made in applying the transfer pricing methodology.
	i. If relevant, an explanation of the reasons for performing a multi-year analysis.
	j. A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for independent enterprises relied on in the transfer pricing analysis, including a description of the comparable search methodology and the source of such information.
	k. A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested party, the comparable uncontrolled transactions, or both.
	l. A description of the reasons for concluding that relevant transactions were priced on an arm’s length basis based on the application of the selected transfer pricing method.
	m. A summary of financial information used in applying the transfer pricing methodology.
n. A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party and which are related to controlled transactions described above.	
3 Financial information	a. Annual local entity financial accounts for the fiscal year concerned. If audited statements exist they should be supplied and if not, existing unaudited statements should be supplied.
	b. Information and allocation schedules showing how the financial data used in applying the transfer pricing method may be tied to the annual financial statements.
	c. Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.

Contact

For more information about these services or assistance with assessing your company's readiness in meeting the transfer pricing documentation requirements in the Netherlands and abroad, please contact your regular Meijburg & Co contact.

www.Meijburg.com

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