

# Taxpayers forced to the Transfer Pricing regime and corresponding due dates

January 15, 2019

The Transfer Pricing (TP) regime is aligned with the new international standards established by Action 13 of the BEPS OECD / G20 project, adapting the scope of the supporting documentation and defining the following formal duties:

- I. Local File (same TP study prior to tax reform of 2016)
- II. TP Informative Return
- III. Master File
- IV. Country by Country Report or the associated notification

## Taxpayers subject to the TP regime

| Requirements   | TUV<br>(Tax Unit<br>Value) | Amount                                    |
|--|----------------------------|---|
| If your gross equity of the respective fiscal year is equal to or greater than:    | 100.000                    | COP 3.315.600.000 (Approx. USD 1.070.000) |
| Or if your gross income of the respective fiscal year is equal to or greater than: | 61.000                     | COP 2.022.516.000 (Approx. USD 652.000)   |

If the taxpayer complies with any of the above requirements, and also performed transactions with:

- Foreign related parties;
- Local related parties located in free trade zones;
- Permanent establishments;

then, taxpayers must submit to DIAN (local tax authority) the formal duties listed above.

If the company carries out transactions with **enterprises located in tax havens**, whether they are related parties or not, it must comply with the fulfillment of the formal TP obligations regardless of the gross equity and gross income caps of the table above.

## Local file

The Local File must contain the studies, documents and other supports with which the taxpayer of income tax prove that its incomes, costs, deductions, assets and liabilities acquired in the respective fiscal year complied with the Arm's Length principle.

# Informative return

The informative return contains a list of operations carried out with foreign related parties together with the results of the TP analyses.

## Master file

The Master File should provide an overview of the business of the Multinational Group including the nature of its worldwide economic activities, its general TP policies and its global allocation of revenues, risks and costs.

## Country by country report

Since fiscal year 2016, taxpayers subject to TP regime who fulfill assumptions of numeral 2, section 260-5 of the Tax Code, must submit the Country by Country Report. However, this obligation is commonly in the head of the headquarters or corporate.

## Permanent establishments and attribution report

On the other hand, the Permanent Establishments must take into account the formal duties that must be accomplished in Colombia when they are taxpayers of the income tax with respect to the national source incomes that are attributable to them.

For the determination of said charges, it must be carried out based on criteria of functions, assets, risks and personnel involved defined with a Revenue Attribution Report.

The law considers Permanent Establishments to be any type of business vehicle of foreign companies such as branches, agencies, offices, factories, workshops, mines, quarries, oil and gas wells, or any other place of extraction or exploitation of natural resources.

## Due dates

| Last digit of the tax code | Last digit of the tax code |
|----------------------------|----------------------------|
| 0                          | July 9, 2019               |
| 9                          | July 10, 2019              |
| 8                          | July 11, 2019              |
| 7                          | July 12, 2019              |
| 6                          | July 15, 2019              |
| 5                          | July 16, 2019              |
| 4                          | July 17, 2019              |
| 3                          | July, 18, 2019             |
| 2                          | July, 19, 2019             |
| 1                          | July 22, 2019              |

## Your Key Contacts



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