

Taxpayers under obligation to the Transfer Pricing regime and corresponding due dates – Fiscal Year 2022

The Colombian Transfer Pricing (TP) regime is aligned with the 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**:

1. Local File or TP Report
2. TP Return
3. Master File of the Multinational Group
4. Country by Country Report or the associated notification

Taxpayers subject to the TP regime		
Requirements	TU (Taxable Units)	Amount in COP and USD
Income taxpayers with gross equity for fiscal year 2022 equal to or greater than:	100.000	COP\$ 3.800.400.000 (Approx. USD\$800,000)
Or income taxpayers with gross incomes for fiscal year 2022 equal to or greater than:	61.000	COP\$ 2.318.244.000 (Approx. USD\$490,000)

If the taxpayer meets any of the above requirements, and carried out intercompany transactions by type of operation (*type of operation refers, for example, to the accumulated purchases of inventories for distribution*) in fiscal year 2022 (FY22) equal to or greater than 45.000 TU, equivalent to COP\$ 1.710.180.000 (Approx. USD\$ 360,000), with:

- Foreign related parties;
- Local related parties located in free trade zones;
- Between permanent establishments (branches) and related parties/head office;
- Existing partnerships, joint ventures, trusts and other forms of association that do not lead to the creations of any legal entity.

Then, the taxpayer must file before Local Tax Authorities the formal duties 1 thru 4, mentioned at the beginning or 2 and 4 only if the amount of the transactions per type of operation is less than 45.000 TU.

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 thresholds stated on the table above.

Local File

The Local File must contain the backup studies, research, surveys, and any other supporting documents with which the income taxpayer can prove that its incomes, costs, deductions, assets and liabilities acquired in the respective FY22 complied with the Arm's Length principle.

TP Return

The TP return contains a list of operations carried out with foreign related parties together with the results of the TP analyses reported in the Local File.

Master File

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

Companies that are required to submit a Local File and belong to a Multinational Group must also submit this report.

Country by Country Report

Beginning in fiscal year 2016, taxpayers subject to TP regime who fulfill the assumptions of numeral 2, section 260-5 of the Colombian Tax Code (CTC), must submit the Country-by-Country Report. However, this assignment is normally the responsibility of headquarters.

Attribution of Profits Report for Permanent Establishments

On the other hand, Permanent Establishments must consider the formal duties to be completed in Colombia as taxpayers of income tax relating to its attributable local and foreign sources of income.

To determine those incomes, they must be carried out based on criteria of functions, assets, risks, and personnel involved defined with an Attribution of Profits 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

The companies that must submit the TP Return and the Local File, should file them using the virtual channels previous validation of the last digit of the Tax ID considering the following due dates:

Last digit of Tax ID (Without considering check digit)	Date
1	September 7, 2023
2	September 8, 2023
3	September 11, 2023
4	September 12, 2023
5	September 13, 2023
6	September 14, 2023
7	September 15, 2023
8	September 18, 2023
9	September 19, 2023
0	September 20, 2023

On the other hand, the companies that must submit the Master File, should file them using the virtual channels previous validation of the last digit of the Tax ID considering the following due dates:

Last digit of Tax ID (Without considering check digit)	Date
1	December 11, 2023
2	December 12, 2023
3	December 13, 2023
4	December 14, 2023
5	December 15, 2023
6	December 18, 2023
7	December 19, 2023
8	December 20, 2023
9	December 21, 2023
0	December 22, 2023

Finally, the companies that must submit the Country by Country Report, should file them using the virtual channels previous validation of the last digit of the Tax ID considering the following due dates:

Last digit of Tax ID (Without considering check digit)	Date
1 – 2	December 11, 2023
3 – 4	December 12, 2023
5 – 6	December 13, 2023
7 – 8	December 14, 2023
9 – 0	December 15, 2023

Should you need any kind of assistance, please contact us at your earliest convenience; we are at your disposal. Please keep in mind that the TP Penalties Regime is an onerous and laborious process (section 260-5 of the CTC), therefore, we strongly recommend completing the TP formal duties process on time.