



# UK transfer pricing documentation Consultation outcome and next steps

## In brief

On 23 March 2021 HMRC released a [public consultation document](#) setting out some proposed changes to UK transfer pricing documentation requirements. The stated objectives of the proposed changes were to:

- provide greater certainty for UK businesses around documentation requirements for transfer pricing;
- provide HMRC with better quality data to enable more efficient and targeted compliance interventions; and
- align the UK's practice more closely with the documentation requirements of other jurisdictions and with the [BEPS Action 13 Report](#).

Two main changes were put forward:

- the introduction of mandatory Master File and Local File requirements (in line with the BEPS Action 13 Report) for UK multinational enterprises (MNEs) within the scope of Country by Country (CbC) reporting requirements, with the possible inclusion of an “evidence log” in the Local File; and
- the introduction of additional disclosures about cross border transactions with associated enterprises to be included in an International Dealings Schedule (IDS).

On 30 November 2021 HMRC published its [consultation outcome](#), summarising the representations it received, providing government comments and setting out a way forward for transfer pricing documentation in the UK:

- for larger taxpayers, the maintenance of Master File and Local File format documentation will become a legal requirement in 2023;
- the “evidence log” has been replaced with a “Summary Audit Trail” document; and
- the introduction of an IDS has been put on hold but will be kept under review.

HMRC will move forward with consultation on draft legislation and guidance in 2022, with new rules taking effect from April 2023 (presumably for accounting periods beginning on or after 1 April 2023).

## In detail

### *Master File and Local File requirements*

In line with HMRC's initial proposals, the Master File requirement will apply in line with the CbCR threshold (i.e. a group with consolidated group revenues over €750 million). For the Local File, whilst reference is made to “the largest customers” needing to maintain such a file, it is not explicit that this will also be based on the CbCR threshold. The Files would not be submitted to HMRC as a matter of course, but should be prepared in advance of the annual filing of a return, and would need to be provided within 30 days on request. All taxpayers that are required to apply transfer pricing are encouraged by HMRC to take the same approach to documentation, reflecting HMRC's view that the Master File and Local File approach represents best practice.

There is a clear expectation on the part of HMRC that a Master File can be provided, notwithstanding the questions of whether one is already prepared elsewhere in the group and if so, whether it is in the power or possession of the UK taxpayer. The Master File information is viewed as a necessary element of the application of the arm's length principle, and that its absence would suggest that "the entity may not have been able to establish that it has made a correct return".

HMRC has said that it will "closely align the requirements and guidance to the OECD standard" for Master File and Local File, with the addition of a "Summary Audit Trail" requirement.

#### *"Summary Audit Trail" requirement*

The Summary Audit Trail (SAT) is presented as a more limited requirement compared to the evidence log, and will be required by law, with supporting guidance. HMRC has stated that in practice, the SAT will be "a short, concise document summarising the work already undertaken by the customer in arriving at the conclusions in their transfer pricing documentation".

The dual purpose of the SAT is to provide encouragement for "sufficient" work to be undertaken to support transfer pricing arrangements, by increasing the level of transparency around process and evidence; and to provide better HMRC focus in enquiries, through high level quality assurance.

#### *International Dealings Schedule*

HMRC has reiterated the benefits it sees from the collation and provision of data which is of high quality and would support data-led risk assessment and tax compliance. At the same time, there is strong acknowledgement of the challenges of making any IDS proportionate and meaningful, without excessive cost, systems requirements and administrative burden. HMRC will not implement or consult further on an IDS at present, but this will be kept under review.

#### *Legislation and guidance*

HMRC intends to consult on draft legislation in 2022, with new rules coming into force in 2023 (presumably for accounting periods beginning on or after 1 April 2023). There are also repeated references to the need for updated and more detailed guidance in a number of areas, with HMRC noting that this may be the first time that a number of taxpayers have prepared documentation in Master File and Local File format, that the introduction of the SAT element to the Local File is a new and unfamiliar concept, and that there are issues of materiality and administrative burden still to be addressed.

### **The takeaway**

This is a thoughtful and measured response to the consultation and the commitment to the further involvement of external stakeholders in the process of producing legislation and guidance is very welcome. It is key that businesses take the opportunity to make further representations where appropriate. Businesses should continue to assess their transfer pricing reporting systems and processes, but it is encouraging that HMRC are thinking about materiality, cost and administrative burden to taxpayers.

The confirmation of OECD-format master file and local file requirements for larger groups in the most part brings the UK into alignment with many other territories. The SAT will need clear guidance on expectations with regard to the "sufficiency" of process and the documentation of the audit trail itself to ensure this can be prepared in a pragmatic and cost effective manner.

### **Further information**

For further information, please get in touch with your usual PwC transfer pricing contact.

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