

Rödl & Partner

Circular No: 2019 / 66
Subject: Transfer Pricing Documentation Requirements

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As known, one of the regulations is the documentation of the transactions regarding transfer pricing. The purpose of the regulation is ensuring entire and correct declaration of income of the fully responsible and limited corporation or natural person taxpayers also, preventing erosion of the tax base by transfer pricing.

Information about the annual transfer pricing documentation which shall be prepared by the taxpayers are summarized below:

❖ Is the annual transfer pricing documentation mandatory?

The annual transfer pricing documentation is mandatory with the publication of Disguised Profit Distribution Through Transfer Pricing Communiqué No. 1 as of November 18, 2007 in the official gazette numbered 26704. The annual transfer pricing report should be prepared until the submit of corporate income tax declaration which is effective with the regulations in the decisions of the council of ministers numbered 2007/12888 as of December 6, 2007, which is also published in official gazette numbered 26722. (The deadline is 30rd April for the taxpayers whose accounting period is calendar year, 30rd day of the succeeding 4th month after the closing of accounting period for the taxpayers who has special accounting period)

❖ Who is obligated to prepare the transfer pricing documentation?

All fully and limited responsible corporation or natural person taxpayers are in the scope of the applications of transfer pricing. The taxpayers who are mandated to prepare the annual transfer pricing report may either prepare the report by themselves or outsource the preparation of the report from CPAs or Sworn-in CPAs.

The requirements for the preparation of transfer pricing report is provided below.

Taxpayer	Transaction
The taxpayers who are registered to the tax office "Büyük Mükellefler"	<ul style="list-style-type: none">- Domestic transactions- Foreign transactions- Domestic transactions with taxpayers operating in the free trade zone
Other corporate taxpayers	<ul style="list-style-type: none">- Foreign transactions- Domestic transactions with taxpayers operating in the free trade zone
Corporate taxpayers operating in the free trade zone	<ul style="list-style-type: none">- Domestic transactions

❖ **What are the consequences of not preparing or late submission of the transfer pricing report?**

As the report is requested from tax administrations or customs directorate, it is not possible to obtain necessary information from abroad, performing economic analysis and eliminating the existing risks for a report which has not been prepared yet. This is going to leave the taxpayers in trouble against tax administrations or customs directorates. Furthermore, the reports, which is requested by the authorities and could not be submitted or prepared with insufficiencies, is going to increase the risk of possible tax inspections. Within this case, the commands of the special irregularity which are documented in 335th clause of tax procedure law, are applied about the taxpayers.

In addition, if the obligations for the documentation of the transfer pricing is fully and on time and if the detection of the hidden income of the taxpayers, the penalty for the loss of tax are applied with discount of 50% rate for the taxes which are not accrued.

According to the above information, the annual transfer pricing report should be prepared in advance and should be kept. The submit of the report when requested is going to eliminate the criticisms within possible tax or transfer pricing inspections and the consequent penalty risks.

Kind Regards