



TRANSFER PRICING UPDATE

BDO International Tax Webinar Series

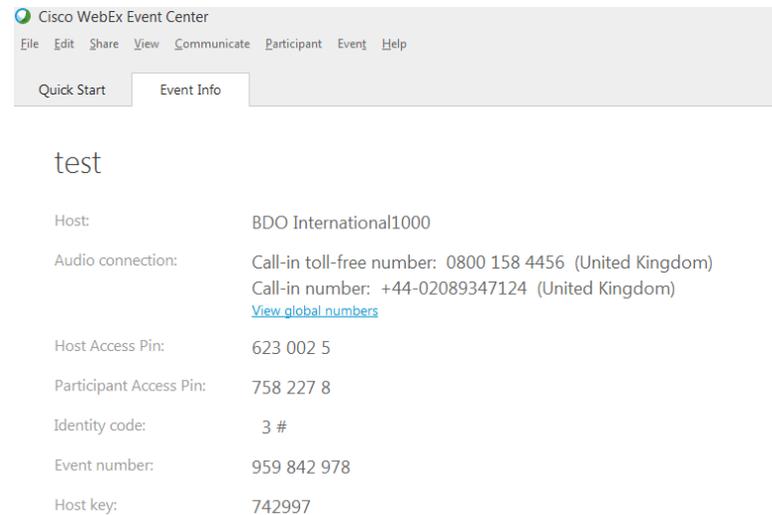
10 October 2017



AUDIO BROADCAST WEBINAR

- ▶ This event uses audio broadcast technology which requires only the speakers in your PC. Please ensure upon joining the conference that you have a pair of earphones plugged into your PC and that your audio volume is turned up
- ▶ Teleconferencing details are available for those who experience difficulties with audio broadcast, and for this a telephone line is required
- ▶ To request teleconferencing details, please click the  button on the right hand side of your screen. A pop-up window with details and instructions for joining the teleconference will be displayed

International Numbers at a lower rate
Please click on Event Info tab and View Global Numbers.



The screenshot shows the Cisco WebEx Event Center interface. The top navigation bar includes 'File', 'Edit', 'Share', 'View', 'Communicate', 'Participant', 'Event', and 'Help'. Below this, there are two tabs: 'Quick Start' and 'Event Info'. The 'Event Info' tab is active, displaying the following information:

Host:	BDO International1000
Audio connection:	Call-in toll-free number: 0800 158 4456 (United Kingdom) Call-in number: +44-02089347124 (United Kingdom) View global numbers
Host Access Pin:	623 002 5
Participant Access Pin:	758 227 8
Identity code:	3 #
Event number:	959 842 978
Host key:	742997

CPE AND SUPPORT

CPE Participation Requirements:

To receive CPE credit for this webcast;

- ▶ Be responsive to at least 75% of the polling questions
- ▶ The WebEx mobile app does not support polling functions. For best results, sign-in to WebEx using a computer.

Certificate of Attendance:

If you are logged in the entire time and respond to the requisite polling questions, you will be notified via email when your certificate is available.

Group Participation:

Sign-in sheets must list a Proctor name and CPA license number.

- ▶ **Clients & BDO Alliance USA:** Email sign-in sheets to cpe@bdo.com within 24 hours
- ▶ **BDO International:** Unfortunately, we cannot currently support group CPE for International Firms. Those wanting CPE must register and log in on their own computer
- ▶ **BDO USA:** Submit your sign-in sheets using a General Learning & Development Request in BDO Service Now found at: <https://apps.bdo.com>

Q&A: Submit all questions using the Q&A feature on the lower right corner of the screen. Please send any follow-up questions to cecilia.carrington@bdo.co.uk

Technical Support: If you should have technical issues, please email cecilia.carrington@bdo.co.uk

PRESENTERS



MALCOLM JOY

Partner,
International Tax Services
BDO UK
malcolm.joy@bdo.co.uk



PAUL DALY

Partner,
International Tax Services
BDO UK
paul.daly@bdo.co.uk



ILONA ORBOK

Partner,
International Tax Services
BDO Hungary
ilona.orbok@bdo.hu



MARK SCHUETTE

Partner,
International Tax Services
BDO USA
mschuette@bdo.com

AGENDA

1	Introduction
2	Recent Developments
3	BEPS Action 13 - Documentation Requirements
4	Managing Transfer Pricing Compliance



INTRODUCTION

MALCOLM JOY



RECENT DEVELOPMENTS

ILONA ORBOK

BACKGROUND - OECD RECENT DEVELOPMENTS

In relation to Transfer Pricing

- ▶ Globalization = profit into low tax jurisdictions
- ▶ G20 reaction: OECD action plans = BEPS
- ▶ BEPS effects and recent OECD developments:
 - 2017 OECD released new TP Guidelines implementing BEPS Action plans, CbCR Guidance
 - OECD has published BEPS discussion drafts on attribution of profits to permanent establishments and transactional profit splits
 - A toolkit has been introduced to help developing countries addressing lack of comparables for transfer pricing analyses has been delivered by The Platform for Collaboration on Tax
 - The BEPS project initiated a discussion draft on the Implementation Guidance on Hard-to-Value Intangibles
 - OECD has issued documents setting out the basis for a Mutual Agreement Procedure (MAP) peer review and monitoring process by reference to an agreed-upon minimum standard

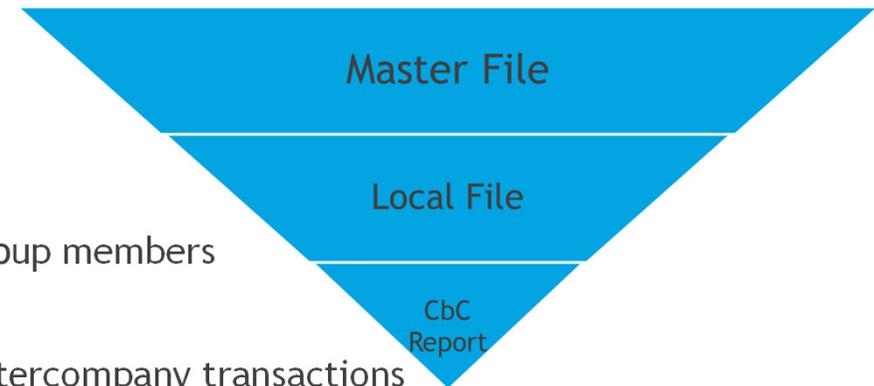
CHANGES IN THE TRANSFER PRICING DOCUMENTATION REQUIREMENTS

OECD Chapter V.

- ▶ Previously, no detailed requirements and clear guidance
- ▶ Now:
 - Countries transfer pricing rules have changed
 - Increase in the volume and complexity of inter-company dealings
 - Three goals were identified by the OECD :
 - Taxpayer's assessment regarding arm's length principle compliance
 - Transfer pricing risk assessment
 - Transfer pricing audit



THREE-TIERED STRUCTURE



1. Master file
 - ▶ standardised information relevant for all MNE group members
 2. Local file
 - ▶ more detailed information relating to specific intercompany transactions
 3. Country-by-country report
 - ▶ information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group
 - ▶ which companies required to prepare the CbCR? Revenue threshold 750 million EUR
 - ▶ when does it start? 2017!!!
 - ▶ what should be reported? Revenue, profit, tax paid, stated capital, assets, employees, etc.
 - ▶ Penalty
-

RECENT DEVELOPMENTS AROUND THE WORLD

- ▶ Many countries have adopted the CbCR recommendations into their local transfer pricing rules (Argentina, USA, Germany, Lithuania, Taiwan, UK, Bulgaria, Greece, Latvia, India and Romania, Hungary)
- ▶ Hong Kong plans to implement new transfer pricing regime by end of 2017
- ▶ Ireland's government will broaden the scope of transfer repricing regime and will implement changes for intangible assets
- ▶ Spain will require reporting related party transactions involving locations identified as tax havens
- ▶ Australia raised \$4billion in total assessments against large public groups and multinationals last year. Following the Chevron case, ATO confirmed to review significant quantum of debt of foreign-held debt
- ▶ UK has published statistics on transfer pricing enquiries and adjustments, and diverted profits tax (DPT)

OUTLOOK

- ▶ Increased scrutiny by tax authorities
- ▶ Companies should understand and examine local requirements and review their transfer pricing policies and documentations
- ▶ BDO is well prepared for all the questions in relation to the correspondence to the CbCR filing



BEPS ACTION 13

MARK SCHUETTE

BEPS ACTION 13: TRANSFER PRICING DOCUMENTATION

Pre BEPS

- ▶ Limited transparency into how company operates globally
- ▶ Individual reports for each country focused on local rules
- ▶ One sided analysis focused solely on results of single entity

Post BEPS

- ▶ CbC Report / Master File
- ▶ Local File provided along with CbC and Master File
- ▶ Value chain analysis / profit split

FY 2016 IS A TRANSITION YEAR

- ▶ Some countries have adopted all three tiers while others only CbC
- ▶ Some differences in MF/LF requirements (e.g., China requires Value Chain Analysis, many countries in Latam require filing with tax return)
- ▶ Currently over 55 jurisdictions have adopted CbC reporting
- ▶ Over 65 countries have signed the Multilateral Competent Authority Agreement (MCCA) allow for automatic exchange of CbC data
- ▶ As of Sept 2017 US had completed 20 bilateral Competent Authority Agreements (CAA) and negotiating 20 more

PRACTICAL CONSIDERATIONS: MASTER FILE

- ▶ This is opportunity to tell your story to taxing authorities. Should complement local files. May need to reconcile to existing local reports.
- ▶ Consider preparing master file in Power Point slides which allows for presentation internally to executive team and can be used to kick off local audits. We have seen this strategy reduce the number of info requests as opposed to solely providing transfer pricing reports.
- ▶ Less is more? Master file will be provided to numerous local country auditors. Consider risk of leaks when determining what information to include.

PRACTICAL CONSIDERATIONS: LOCAL FILE

- ▶ May need to revise existing reports to include additional information now required. Review reports to ensure consistency with master file.
- ▶ Centralized approach allows company to control the process and produce local reports efficiently. Modular approach employed with specific inputs from local countries. If most of the intercompany transactions are with a certain country, prepare that report first and use as template along with master file in preparing other local files.
- ▶ Value chain analysis (VCA) looks at the relative value of the functions, assets and risks by legal entity. It is discussed within BEPS but not explicitly required as part of master file or local file. Exception is China where VCA is required to be included in local file.

PRACTICAL CONSIDERATIONS: CBC REPORT

- ▶ Companies below the threshold are using CBC report as internal TP risk assessment tool and/or planning tool. Can also be used in outlining overall TP landscape with financial auditors
- ▶ Consider pulling data for filing year, one year prior, and one year after given there is some flexibility in assumptions used which will need to remain consistent going forward
- ▶ Use comments section to explain assumptions applied. Leave explanations on anomalies within the data to the local files as CbC will be shared with multiple tax jurisdictions



MANAGING TRANSFER PRICING COMPLIANCE

PAUL DALY

MANAGING TRANSFER PRICING COMPLIANCE

The nature of transfer pricing compliance is changing - volume and complexity is increasing

3 key elements to compliance management

- 1) Clarity on local requirements and filing deadlines
- 2) Workflows to enable local requirements to be met
- 3) Managing data access and documentation storage

and this raises the question - is technology based management inevitable?



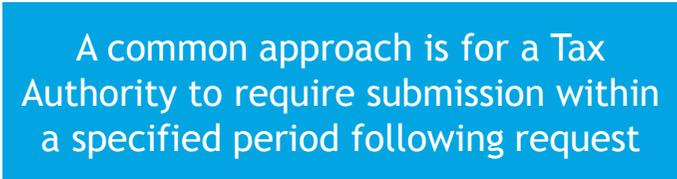
CLARITY ON LOCAL REQUIREMENTS AND FILING DEADLINES

1) Disclosures required (often in the corporate income tax return) that the entity has entered into intra-group transactions

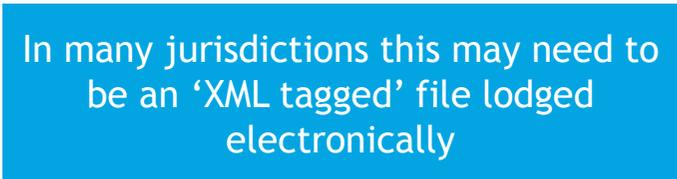
2) Transfer pricing documentation supporting the arm's-length nature of transactions

3) Country by Country Reporting - notification that an country by country report is to be filed by (or on behalf of) the entity

4) Country by Country Reporting - filing of the report itself



A common approach is for a Tax Authority to require submission within a specified period following request



In many jurisdictions this may need to be an 'XML tagged' file lodged electronically

WORKFLOWS TO ENABLE MEETING OF REQUIREMENTS

Designing workflows to manage efforts around compliance is vital and can provide visibility over

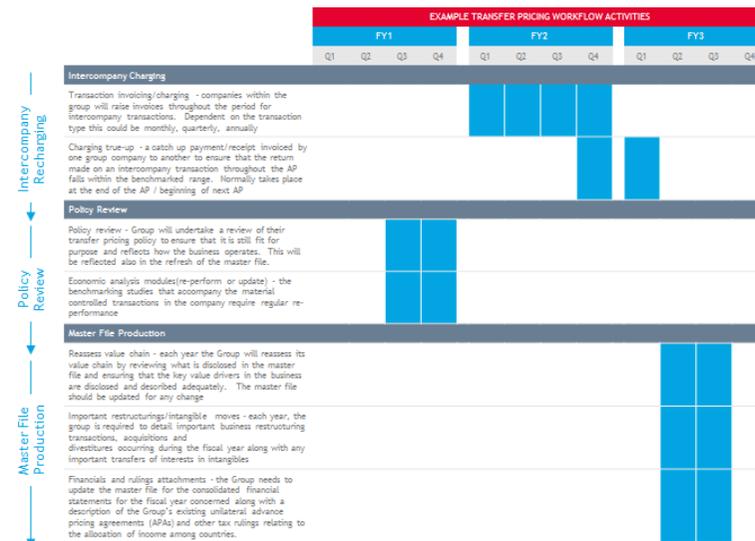
- ▶ Timing
- ▶ Ownership

Workflow design can also enable policy decisions to be clearly specified and acted on

- ▶ Will documentation be produced by the tax return filing or will a ‘wait to be asked’ policy be adopted?

The management of tax is tending towards a greater focus on the underlying attitude, governance and processes

- ▶ A specified workflow is a good answer where questions on governance are asked



MANAGING DOCUMENTATION AND DATA STORAGE

Transfer pricing can produce sensitive data

- ▶ Information on country or business unit performance which may be sensitive management information
- ▶ Information across territories which may be sensitive

Transfer pricing can produce documentation that needs robust management

- ▶ Volume of information
- ▶ Need to access possibly many years after the fiscal year
- ▶ The need for consistency of narrative

Master and local file approaches can help with the challenges but need management

TRANSFER PRICING DATA TYPES

Categorisation enables planning



IS TECHNOLOGY BASED MANAGEMENT INEVITABLE?

The answer is....

...it depends

- ▶ Size and complexity of the business
- ▶ Nature of the resource to support transfer pricing
- ▶ Nature of existing technology solutions in tax compliance
- ▶ Budget

The technology needs to be the right fit

- ▶ Document creation software
- ▶ CbCR data gathering and lodgement software
- ▶ Workflow management and document storage



PRESENTERS



MALCOLM JOY

Partner,
International Tax Services
BDO UK
malcolm.joy@bdo.co.uk



PAUL DALY

Partner,
International Tax Services
BDO UK
paul.daly@bdo.co.uk



ILONA ORBOK

Partner,
International Tax Services
BDO Hungary
ilona.orbok@bdo.hu



MARK SCHUETTE

Partner,
International Tax Services
BDO USA
mschuette@bdo.com



FOR MORE INFORMATION:

MALCOLM JOY

+44 (0)20 7893 3718
malcolm.joy@bdo.co.uk

This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO LLP to discuss these matters in the context of your particular circumstances. BDO LLP, its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against BDO LLP or any of its partners, employees or agents.

BDO LLP, a UK limited liability partnership registered in England and Wales under number OC305127, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. A list of members' names is open to inspection at our registered office, 55 Baker Street, London W1U 7EU. BDO LLP is authorised and regulated by the Financial Conduct Authority to conduct investment business.

BDO is the brand name of the BDO network and for each of the BDO member firms.

BDO Northern Ireland, a partnership formed in and under the laws of Northern Ireland, is licensed to operate within the international BDO network of independent member firms.

Copyright © [Month] [Year] BDO LLP. All rights reserved. Published in the UK.

www.bdo.co.uk

