The Platform for Collaboration on Tax (PCT)

TOOLKIT TO SUPPORT THE SUCCESSFUL IMPLEMENTATION BY DEVELOPING COUNTRIES OF EFFECTIVE TRANSFER PRICING DOCUMENTATION REQUIREMENTS

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The Platform for Collaboration on Tax (PCT)

- PCT is a collective effort to strengthen collaboration on domestic resource mobilization (DRM), including by providing joint support to countries with addressing challenges in international taxation.

- This is the fourth toolkit published by the PCT—a joint initiative of the IMF, OECD, UN and WBG.

- The toolkit takes into account extensive comments received from countries and stakeholders during the public consultation process in 2019.

www.tax-platform.org
TP Documentation toolkit - Overview

- This Toolkit aims to provide a resource for tax administrations considering introducing or updating their transfer pricing documentation requirements.
- It documents, and discusses, various approaches to transfer pricing documentation that are adopted by tax jurisdictions.
- Information has been collected by over 30 jurisdictions through a survey, interviews with tax administrators from Inclusive Framework members as well as experience gained from PCT members’ engagements with developing countries. The toolkit also benefited from input of OECD Working Party 6 delegates.
- This Toolkit is intended as a resource – a reference document – for tax jurisdictions. It neither implies, nor creates, standards or norms.
This Toolkit covers the measures typically employed by tax administrations to access information and data from taxpayers.

**From the tax administration perspective**, this information is required for:

- use in risk assessment
- selecting cases for audit
- use in audits

... transfer pricing documentation rules encourage taxpayer compliance.
Implications for taxpayers

- **For taxpayers**, TP documentation:
  - Provides a means to describe and justify transfer pricing policies
  - .. and demonstrate how those policies meet transfer pricing requirements set in law
  - Provide some protection against penalties, and reduce the risk of audit.
  - can be **resource intensive and costly**

- **Always a balance between:**
  - Information and data needs of the tax administration
  - And minimising the compliance costs of taxpayers
Scope of the toolkit

- **Transfer pricing studies**, required to be maintained by taxpayers, normally contemporaneously, and submitted to the tax administration on request (e.g. the local and master file in OECD/G20 BEPS Action 13 Report).

- **Transfer pricing schedules** – high level information and data required to be submitted to the taxpayer – often with, or part of, the annual tax return

- **Country by Country Reports** – global allocation of revenue, profit and income tax across jurisdictions. It also requires MNEs to report number of employees, stated capital, retained earnings and tangible assets in each tax jurisdiction.

- **Questionnaires/information requests**

- **Information and documentation requests** made in the course of an audit.
Country practices described in the toolkit

For each of the documentation elements within scope, the report describes country practices regarding:

- **Regulatory framework**, including the balance between primary, secondary law and guidance
- Maintaining **confidentiality**
- **Timing issues** – when need to be in place, when submitted
- **Enforcement and compliance** – penalties, shifting burden of proof, penalty protection/incentives
- Accessing information that may be held **outside the local jurisdiction**
- **Simplification and exemptions**
Issues for discussion and further work

- **International or regional alignment of approaches.** BEPS Action 13 provides a framework for international consistency of approach. Is there scope to extend to, say, transfer pricing schedules also?

- Impact of **simplified or formulaic transfer pricing approaches on documentation** (e.g. safe harbours, fixed margins, Amount B). Do simplified/formulaic approaches also have the capacity to reduce the burden of maintaining TP documentation?

- How can **costs** of maintaining TP documentation be reduced? Exemptions or simplifications for smaller taxpayers or low-value transactions? Revisit annual documentation requirement where little has changed?

- How can **quality of transfer pricing documentation be improved**? Sometimes just a process – box ticking?

- **Access to transfer pricing documentation and CbC reports.** Are low-capacity tax administrations accessing CbC reports?

- **What further work is needed in this area?**
THANK YOU