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The French transfer pricing annual report is no longer restricted to major international groups

Fighting against tax evasion has resulted in new reporting obligations for French companies, which are members of international groups. These obligations concern transactions with non-French companies of the same group. As a consequence, around 6,000 additional groups will have to report their transfer pricing policy every year.

Your company is concerned if it meets the following conditions:

- Its annual **turnover** or **gross assets** total is between €50,000,000 and €400,000,000;
- It is part of a group including **foreign** companies;
- It makes **transactions** with these companies (at least €100,000 per type of transaction).

1. Decrease of the threshold from €400M to €50M

Up to now only legal persons established in France with either a turnover or gross assets amounting to at least €400M were concerned by transfer pricing annual reporting.

The same was true for French companies:

- owning companies, whether directly or indirectly, reaching such threshold; or
- owned by a company, whether directly or indirectly, reaching such threshold; or
- members of a tax consolidation group with at least one member company reaching such threshold.

This threshold is now decreased to €50M.

2. What should be disclosed?

This new obligation concerns the simplified version of the documentation, which takes the form of a single one tax declaration (formula n° 2257-SD) to be filled annually within six months of the deadline for the submission of the annual tax result (i.e. end of November if the company closes its financial year on 31 December).

This documentation is simplified because companies only have to report flows exceeding the amount of €100,000 (threshold to be assessed by kind of flow) and mention the transfer pricing method used to demonstrate these flows are at arm's-length.

3. What stakes?

Although potential penalties are weak, a lack in returning transfer pricing may expose the concerned companies to a major risk of tax audit, leading the French tax administration to challenge not only the transfer pricing policy, but also the whole tax position of the company. We also recommend to all mid-cap companies to check the legal criteria and find out if they are ready to prepare such documentation.

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