

# Rödl & Partner

## EXPERT ADVICE

TRANSFER PRICING 2024



*Dear Sir or Madam,*

We present to you a brief study on documentation and reporting obligations and sanctions related to transfer pricing.

We have described the key requirements and measures necessary to fulfil the transfer pricing obligations for 2024 and to take into account new laws.

Due to the statutory deadlines for preparing transfer pricing documentation and fulfilling other reporting obligations, we recommend planning an analysis of the obligations and preparing for their fulfilment well in advance.

If you would like to know more on that subject, please do not hesitate to contact us.

Yours faithfully

Rödl & Partner

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# 1. Important dates

## DEADLINE FOR PREPARING



### THE LOCAL FILE

The Local File must be prepared **by the end of the 10th month** of the end of the tax year.

If the tax year of your company is the same as the calendar year, the transfer pricing documentation must be prepared by **31/10/2025**.

### THE TPR FORM

The information return on transfer pricing must filed in electronic form **by the end of the 11th month** of the end of the tax year.

If the tax year of your company is the same as the calendar year, the TPR-C form must be filed by **30/11/2025 (as it is on a weekend, the deadline is actually on 1 December 2025)**.

For more details on the filing procedure go to sec. 5.

### THE MASTER FILE

The Master File must be prepared by the end of the 12th month of the end of the tax year. For most taxpayers, the deadline for preparing the Master File will be **31/12/2025**.

## DEADLINE FOR PREPARING AND SUBMITTING CBC-P AND CBC-R

### CBC-R

The CBC-P form must be filed **by the end of the 12th month** of the end of the group's reporting period.

### CBC-P

Entities obliged to submit the CBC-P form to tax authorities should do so within **3 months** of the end of the group's reporting financial year.





# 2. Local file

## ENTITIES CONCERNED



Taxpayers carrying out transactions with associated enterprises or entities from tax havens must prepare the Local File once the value of their transactions exceeds the statutory thresholds for 2024.

## DOCUMENTATION THRESHOLDS



The Local File is prepared for uniform controlled transactions whose net value exceeds the following documentation thresholds in the financial year:

Transaction involving goods	Financial transaction	Transaction involving services	Other transactions
10,000,000 zloty	10,000,000 zloty	2,000,000 zloty	2,000,000 zloty

In the case of transactions carried out with entities from tax havens, the following documentation thresholds apply:

Financial transaction	Other transactions
2,500,000 zloty	500,000 zloty

## IMPORTANT!



In the case of financial transactions involving the granting of a loan, we have noticed that the revenue authorities have taken a taxpayer-friendly approach. In line with this approach, it is the value of the capital disbursed and not the maximum value of the loan specified in the contract that is relevant for determining the documentation obligation.



# 3. *Transfer pricing analysis*

## ENTITIES CONCERNED

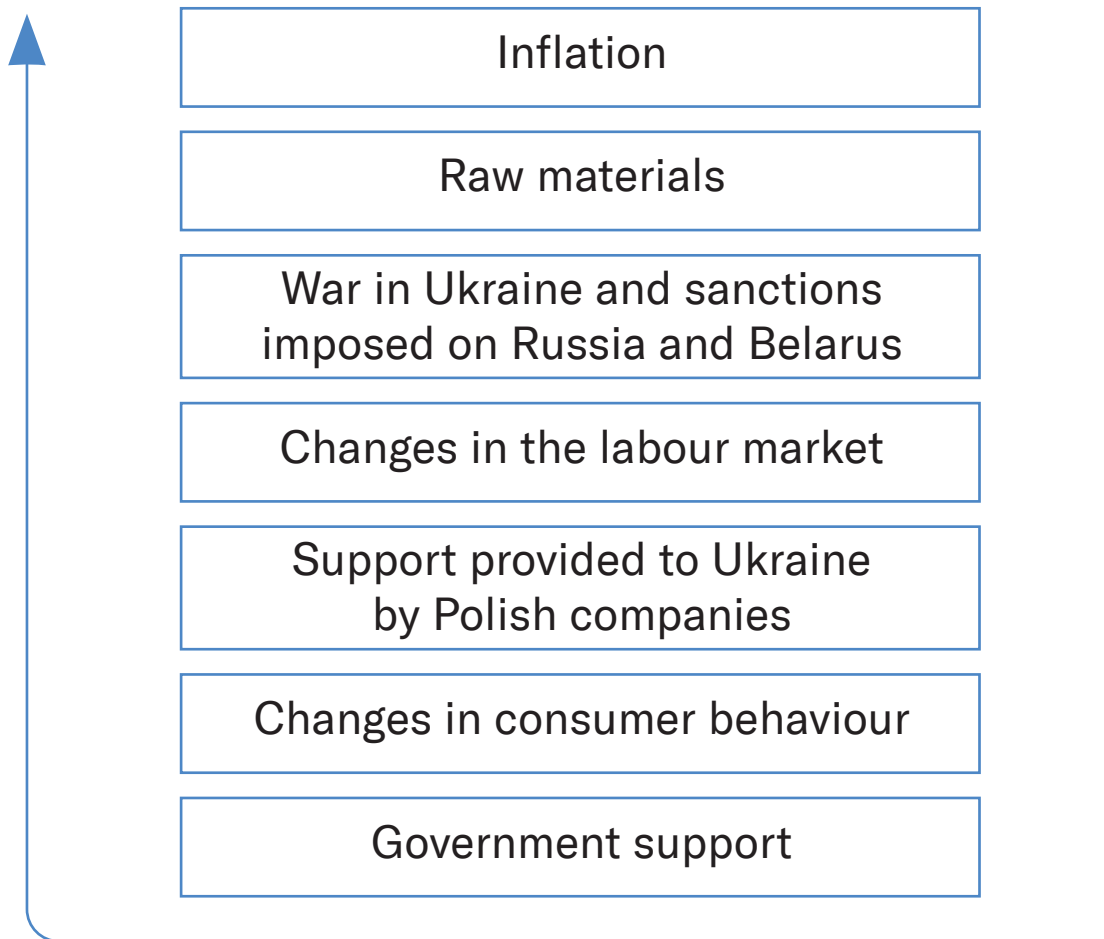


With regard to documented transactions, a transfer pricing analysis (benchmarking study or conformity analysis) must be updated at least once every 3 years, unless the economic circumstances change so much that the analysis has to be revised in the year in which the change occurs.

## IMPACT OF CRISIS FACTORS ON TRANSFER PRICING



The crisis factors affecting transfer pricing can be varied. They can overlap and interact with each other. The guidelines of the Transfer Pricing Forum list the following crisis factors:



## 4. *Documentation simplification*



Documentation simplification mainly includes partial or total exemption: the taxpayer may be exempt from the obligation to prepare transfer pricing documentation or a transfer pricing analysis. This often requires fulfilling additional statutory conditions.

TOTAL EXEMPTION NO OBLIGATION TO PREPARE TRANSFER PRICING DOCUMENTATION	PARTIAL EXEMPTION NO OBLIGATION TO PREPARE TRANSFER PRICING ANALYSIS
<ul style="list-style-type: none"><li>- Transaction carried out by associated entities based in Poland</li><li>- Transaction uses a simplification scheme classified as safe harbour<ul style="list-style-type: none"><li>- financial transactions</li></ul></li><li>- Transaction uses a simplification scheme classified as safe harbour<ul style="list-style-type: none"><li>- low value-added service</li></ul></li><li>- The transaction concerns recharge invoicing without margin/mark-up</li><li>- Transactions carried out by permanent establishments located in Poland</li><li>- Transactions covered by an APA</li></ul>	<ul style="list-style-type: none"><li>- Transactions made by micro or small enterprises</li><li>- Transactions made with independent entities from tax havens</li></ul>

The use of documentation simplifications does not exempt you from disclosing transactions in the TPR-C / TPR-P form.

# 5. *Information on transfer pricing (TPR-C / TPR-P forms)*

## WHO SUBMITS



### THE TPR FORM

TPR form should be submitted by entities:

- obliged to compile the Local File;
- carrying out transactions exempt from certain documentation obligations.



### INFORMATION COVERED BY TPR

- key financial figures presented in the transfer pricing documentation;
- statement confirming the preparation of the Local File and the arm's length nature of the applied prices.



### SIGNING THE TPR FORM

- the company's manager should sign the TPR form on the company's behalf;
- the TPR form may now be signed by the taxpayer's attorney holding the qualification of an attorney at law [adwokat, radca prawny], tax adviser or statutory auditor;
- in practice, therefore, a declaration by a management board member will be required; accountants will no longer be allowed to sign and submit the TPR-C form.



### TPR FILING

- a power of attorney to sign electronic tax returns (UPL-1 form) is necessary to sign the TPR form on behalf of the taxpayer;
- the certificate of a qualified electronic signature must include the signatory's PESEL or NIP number. The identifier used in the qualified electronic signature should match the identifier specified in a valid UPL-1 power of attorney;
- UPL-1 power of attorney cannot be arranged without a PESEL number, and thus a PESEL number cannot be added to the electronic signature's details.



### FILING METHOD AND FORM

- TPR forms may be filed exclusively by electronic means.
- TPR forms are filed via an e-Deklaracje (e>Returns) gateway.
- TPR forms are also available on the e-Urząd Skarbowy (e-Revenue Office) platform.



# 6. Master file

## ENTITIES CONCERNED



The obligation to attach the Master File applies to taxpayers:

- obliged to compile the Local File;
- operating in a group of entities for which consolidated financial statements are prepared (using the full or proportional method);
- belonging to a group whose revenues for the previous year (2023) exceeded the equivalent of 200 million zloty.

Consolidated group revenue

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THRESHOLD: up to 200,000,000 zloty

## DOCUMENTATION PREPARED BY THE GROUP



- Group documentation may be prepared by another group entity, but must comply with Polish regulations.
- The taxpayer may have group documentation in English.

## NOTE!

Failure to prepare the Master File or preparing it after the deadline is subject to fiscal penalties, more details in section 10.



# 7. *CBC-R and CBC-P*

## **CBC-R FORM**

### ENTITIES CONCERNED



Parent companies which have their registered office or management in Poland and which belong to a group whose consolidated revenues following from the financial statements exceeded 750 million euro (3.25 billion zloty) in the previous year must submit a CBC-R form.

A non-parent entity is required to file a CBC-R information form if no other group entity files it.

Consolidated group revenue  
THRESHOLD: 750,000,000 euro

## **CBC-P NOTIFICATION FORM**

### ENTITIES CONCERNED



Members of groups whose consolidated revenues following from the financial statements for the previous year exceed 750 million euro (3.25 billion zloty) and which, at the same time, do not file an independent information return about the group (CBC-R) must submit a CBC-P notification form.

Consolidated group revenue  
THRESHOLD: 750,000,000 euro

## **FILING METHOD AND FORM**



The CBC-P notification form is submitted in electronic form only.

The CBC-P notification form can be submitted by an attorney holding a power of attorney to sign declarations/returns filed by means of electronic communication (UPL-1 form).

# 8. *Public CBC reporting* – *income tax report*

## INCOME TAX REPORT

### ENTITIES CONCERNED



Top-tier parent companies or standalone entities which have their registered office in the Republic of Poland and which belong to a group whose consolidated revenues disclosed in the financial statements exceeded 3.5 billion zloty in two consecutive tax years must prepare, publish and make available income tax reports.

Group's consolidated revenues  
THRESHOLD: PLN 3,500,000,000

The obligation applies also to members of corporate groups (subsidiaries and branches) whose consolidated revenues disclosed in the financial statements exceeded 750 million euro in two consecutive tax years if, among other things, the parent company does not prepare or does not submit the income tax report.

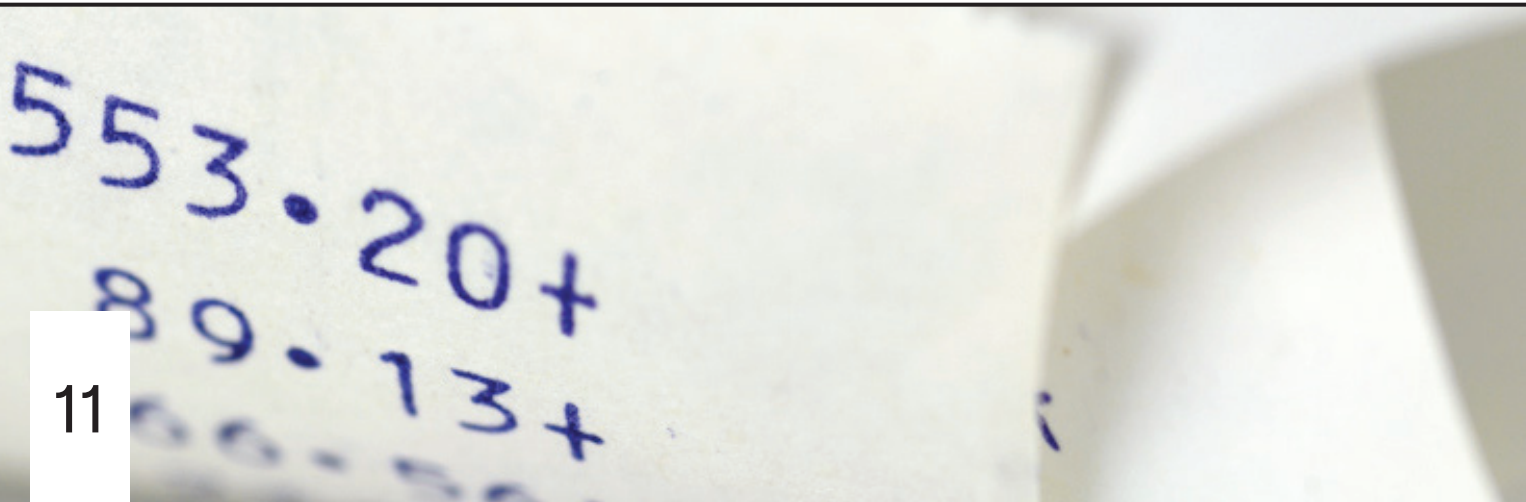
The obligation applies to selected taxpayers only. The lawmakers have set a number of conditions to enjoy an exemption from this obligation.

Group's consolidated revenues  
THRESHOLD: EUR 750,000,000

### FILING METHOD AND FORM



Companies obliged to publicly disclose their income tax reports must file them with the National Court Register (publication) as well as upload them on their websites and ensure that they are accessible there for at least 5 years (making available).





# 9. *Transfer pricing adjustment*

Despite transfer pricing for the year being set at market level, unexpected material circumstances may arise in the course of the year which the taxpayer could have neither foreseen nor controlled, and which ultimately render the original terms and conditions non-arm's length.

- it is important to check after the end of an accounting period whether the above circumstances have occurred and whether they have affected the compliance of the accounts with the arm's length principle.

## TRANSFER PRICING NON-ADJUSTING EVENTS

price changes relating to  
future periods (not the past)

goods returns

changes in the number  
of services provided

changes due to calculation  
errors or other mistakes

changes caused by  
complaints, discounts/rebates,  
price reductions

adjustment in response  
to actions  
of tax administrations

## IMPORTANT!

Due to the separate regulations for transfer pricing adjustments, it is crucial to determine whether a given transaction fits the definition of a transfer pricing adjustment. This may have implications for:

- recognition of the adjustment in the correct period, which may affect the income tax liability;
- correct definition of VAT obligations.



# 10. Tax and fiscal crime penalties



## ADDITIONAL TAX LIABILITY UNDER THE POLISH TAX ACT (ORDYNACJA PODATKOWA)

10%

a tax liability arising as a result of, among other things, arrangements on transactions between associated entities

20%

if the basis for determining the additional tax liability exceeds 15 million zloty or the taxpayer fails to submit transfer pricing documentation

30%

if both above-mentioned premises  
(15 million zloty and missing documentation) are fulfilled



## FISCAL CRIME CODE – PERSONAL LIABILITY OF BOARD MEMBERS

Failure to prepare

Post-deadline preparation of  
Preparation of an untrue

Failure to include the Master

File in



Local File



is subject  
to fiscal crime liability

Failure to submit

Late submission of

Submission of data  
inconsistent with the Local  
File or with the facts in



a transfer  
pricing report (TPR)



is subject  
to fiscal crime liability

# 11. Contact

## GDANSK, WARSAW



**Marcin Jeliński**  
Tax Adviser (Poland)  
Associate Partner  
M +48 602 650 061  
[marcin.jelinski@roedl.com](mailto:marcin.jelinski@roedl.com)

## GLIWICE



**Marta Woźnik**  
Tax Adviser (Poland)  
Project Manager  
M +48 602 132 102  
[marta.woznik@roedl.com](mailto:marta.woznik@roedl.com)

## CRACOW



**Bartosz Fuchs**  
Senior Tax Consultant  
M +48 12 213 25 19  
[bartosz.fuchs@roedl.com](mailto:bartosz.fuchs@roedl.com)

## WROCLAW



**Dominika Tyczka-Szyda**  
Tax Adviser (Poland)  
Partner  
M +48 602 129 622  
[dominika.tyczka-szyda@roedl.com](mailto:dominika.tyczka-szyda@roedl.com)

## WROCLAW



**Daria Walkowiak-Dobner**  
Attorney at Law (Poland)  
Associate Partner  
M +48 539 191 048  
[daria.walkowiak-dobner@roedl.com](mailto:daria.walkowiak-dobner@roedl.com)

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## Rödl & Partner

### GDANSK

ul. Grunwaldzka 472B  
80-309 Gdańsk  
T: +48 58 582 65 82  
[gdansk@roedl.com](mailto:gdansk@roedl.com)

### CRACOW

ul. Mogińska 43  
31-545 Kraków  
T: +48 12 213 25 00  
[krakow@roedl.com](mailto:krakow@roedl.com)

### WARSAW

ul. Towarowa 7  
00-839 Warszawa  
T: +48 22 244 00 00  
[warszawa@roedl.com](mailto:warszawa@roedl.com)

### GLIWICE

ul. Zygmunta Starego 26  
44-100 Gliwice  
T: +48 32 330 12 00  
[gliwice@roedl.com](mailto:gliwice@roedl.com)

### POZNAN

ul. Wierzbicice 1a  
61-569 Poznań  
T: +48 61 864 49 00  
[poznan@roedl.com](mailto:poznan@roedl.com)

### WROCLAW

ul. św. Mikołaja 19  
50-128 Wrocław  
T: +48 71 606 00 00  
[wroclaw@roedl.com](mailto:wroclaw@roedl.com)

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