



NEWS INTERNATIONAL

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Tightening under the guise of modernisation

Dear Sir or Madam,

Legislation that aims to modernise tax procedure law gives cause for hope. However, after a brief examination of these [new legal requirements](#) regarding the reporting of transfer pricing documentation, disillusionment quickly sets in.

Until now, enterprises were only required to present files on the documentation of transfer pricing upon request and usually only as part of a tax audit. The time limit for this was 60 days. Enterprises only needed to prepare records of extraordinary business transactions (for example reorganisations) in a timely manner and provide these upon request within 30 days.

Moreover, it was not necessary to provide the entire transfer pricing documentation. Rather, tax auditors were legally required to select the divisions and business relations which were to be subject to auditing. In practice, however, this demand was not always met.

In future, the tax authorities may demand the submission of documentation of transfer pricing at any time. In the case of tax audits, the 30-day time limit begins with the announcement of the audit instruction and without the need for a special request. Furthermore, the **entire** transfer pricing documentation (local file and, if applicable, master file) must always be provided.

This legislative change represents a **significant tightening** of the law for many

Now, this approach is not advisable. **Thirty days** will, generally speaking, not be sufficient to compile all the documentation or to document the supposedly less important transactions.

If an enterprise does not fulfil its obligations to cooperate, it will face sanctions as before. If the files are submitted late, a surcharge of up to EUR 1 million, but at least EUR 100 per day, may be payable. In the case of (final) non-submission of documentation, the tax bases may be estimated. In addition, a surcharge of 5% to 10% (but at least EUR 5,000) of the taxable gain may be due. In future, the surcharge per day may be imposed in partial amounts, even during an ongoing audit. Clearly, the intention is to encourage taxpayers to be punctual.

For enterprises that have not yet addressed the issue in detail, we **recommend** conducting a **comprehensive analysis** and **implementing processes** to guarantee full and prompt transfer pricing documentation. As the new rules apply to all audit instructions issued after 31 December 2024, **all open periods should be fully documented by the end of 2024.**

If you have questions on this topic, your usual contact partners at our group will be happy to help you.

enterprises. Often, no transfer pricing documentation was prepared or - in view of the legal selection obligation - only the most important elements of the documentation were prepared in a timely manner.

Best regards



Prof. Dr. René Schäfer



Dr. Bela Michael Berens

The Authors

Prof. Dr. René Schäfer

Tax Advisor, Specialist Advisor for International Tax Law, Of Counsel



Prof. René Schäfer completed his studies in Business Administration at Saarland University in 1999 and graduated with a master's degree. At the same time, he obtained a diploma from the École Supérieure de Commerce, Lyon, after a year of study in France.

After several years working as a research assistant at the Business Institute of Taxation and Entrepreneurship, Chair of Business Administration, in particular in the area of business taxation, as well as at the Institute for Start-Ups/SMEs of Saarland University (Director: Prof. Heinz Kußmaul), he obtained his doctorate in 2003 with a thesis titled 'Taxation of a German-French business'.

In 2005, he passed the tax consultancy examination. In 2008, he was awarded the title of Specialist Advisor for International Tax Law.

Since 2005, Prof. Schäfer has been working for DORNBACH GmbH in Saarbrücken and is currently employed there 'of counsel'. Additionally, he leads the DORNBACH Center of Excellence for International Tax Law.

In 2009, he took up a teaching post at Saarland University and lectures on the topic of international tax law. In July 2015, he was appointed Honorary Professor at Saarland University in the field of business administration. In addition, he is a member of the expert committee Specialist Advisor

Dr. Bela Michael Berens

Tax Advisor



Dr. Bela Berens studied business administration at Saarland University and graduated in 2015 as Master of Science.

Afterwards, he worked as a research assistant at the Business Administration Institute for Taxation and Entrepreneurship, Chair of Business Administration, in particular Business Taxation, as well as Institute for Start-ups/SMEs at Saarland University (Director: Univ.-Prof. Dr. Heinz Kußmaul). In 2019, he received his doctorate there on the topic of "Multilateral Instrument in the Context of Income Generation of Hybrid Entity Income".

In 2021, he was appointed as a tax advisor and has since worked for DORNBACH GmbH in Saarbrücken. In addition, he is a member of the DORNBACH Center of Excellence for International Tax Law.

Specialisation

International tax law / transfer pricing

Contact

DORNBACH GmbH, Saarbrücken

Fon +49(0)681 8 91 97 - 73

Mail bberens@dornbach.de

for International Tax Law of the Chamber of Tax Consultants in the German State of Hessen.

Specialisation:

International tax law / Cross-border restructuring/ Relocation of private individuals and entrepreneurs into and out of Germany / Cross-border employment

Contact

DORNBACH GmbH, Saarbrücken
Fon +49(0)681 8 91 97 - 14
Mail rschaefer@dornbach.de

Company presentation



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Anton-Jordan-Straße 1, 56070 Koblenz, Phone +49 (0) 261 94 31-0, Mail: international@dornbach.de

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