

**OBLIGATION TO COMMUNICATE TO THE TAX AUTHORITIES THE DOCUMENTATION  
RELATED TO THE TRANSFER PRICING**

The article 26 of the Law Decree No. 78, dated May 31, 2010, containing the rules regarding the transfer pricing, introduces the obligation, in order to avoid the penalties about the incorrect tax return, to communicate by electronic means to the Italian tax Authorities the production of the documentation about the transfer pricing.

Starting from 2010, the communication will have to be submitted with the same recurrence of the submission of the annual income tax return, 30th September of each year, instead, for the previous years it will have to be submitted within the 28th December 2010 (the communication can be submitted also after December, 28 2010 as long as a tax assessment has not begun yet).

According to the above rule, the controlling or controlled companies of a multinational group and the permanent establishment of non-resident company have to submit, within 10 days from the request of the Italian Tax Authorities, the documentation defined by the tax Authorities provision dated September 29, 2010.

The adequate documentations, in order to proof the correctness of the transfer price, is the follow:

**Master file** which contains the information related to the group, divided into the following chapters:

1. general description of the group (history, business sector and business market);
2. the structure of the organization (organization chart and the related distribution of shares, description of the function of each associated companies);
3. business strategies;
4. business transactions (how the product or service that is the subject of the controlled transaction in question flows among the associated companies, invoicing terms and the related amount);
5. transactions between the associated companies (description of the transactions, information about the agreement regarding the distribution of the cost on the associated entities);
6. function of the companies, tangible assets involved in the transactions and risk

assumed;

7. intangible property (the intangible assets detained by the associated companies involved in the controlled transactions);
8. information on pricing (information on which the transfer pricing is based and showing that this determination are consistent with the arm's length principle);
9. advance price arrangements (description of the APA and the ruling signed with the foreign tax Authorities).

**Country file** which contains the information about the associated entities, divided into the following chapters:

1. general description of the company (history, business sector and business market);
2. business sector of the company (general commercial and industry conditions);
3. operating structure of the company (description of the function performed by the company in the business);
4. business strategies;
5. transactions between the associated companies (description of the transactions, indication of the entities involved in the controlled transactions, features of goods and service, analyses of the function and the business risk assumed by the company, nature and terms of the transactions, economic conditions, tangible assets involved, description of the method selected for the determination of the price);
6. transactions between the associated companies (agreement regarding the distribution of the cost on the associated entities).

**Annex 1** – transactions flow chart;

**Annex 2** – the copy of the transaction agreement.

Moreover, the documentations have to be filled in in Italian, but the master file related to the entire group can be presented in English.

Furthermore, the controlled companies and the permanent establishment, qualified as a controlled company, can provide to the Italian Tax Authorities only the country file contained the information indicated above.

Finally, the company can submit only the master file if it contains all the information required for the country file.

Best regards

**STUDIO LEGALE E TRIBUTARIO**

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