Transfer Pricing

Country Summary

Finland

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1. Introduction

Finland is a member of the OECD. The country has implemented all BEPS Action 13 requirements into the tax legislation. The local files and master files are covered in compliance with the OECD guidelines.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

Transfer pricing legislation is laid out in the Act on Assessment Procedure. Article 31 refers explicitly to the arm's length principle. Transfer pricing documentation requirements are set out in Articles 14a, 14b and 14c of the above-mentioned Act.

In January 2018, the Finnish tax authorities published new Guidance No. A129/200/2017 on Transfer Pricing documentation, replacing the guidance from 2007. The documentation follows OECD's BEPS Action 13 and adds sections on a Master File and a Local File. Taxpayers are required to prepare annual documentation and to provide additional explanatory notes.

b) Definition of Related Party

According to the guidance issued by the National Board of Taxes, to be associated means the no independent, non-arm's-length relationship between the taxpayer and the associated company within the meaning of§ 31.2 (and § 31.3), Act on Assessment procedure. This relationship exists: if the taxpayer company has an ownership interest exceeding 50% of either the shares and votes of another enterprise, or has direct or indirect rights to nominate more than half of the members of the board of directors of another enterprise, or is having a powerful position in respect of the other enterprise due to other circumstances.

Documentation is required for transactions between domestic companies and foreign related parties and between a foreign company and its permanent establishment in Finland. The documentation is not required for domestic transactions or transactions between a domestic company and its foreign permanent establishment.

c) Nature of Transfer Pricing Documentation

Related party transactions must be specified on form 78 on the corporate income tax return.

d) Tax Havens & Blacklists

There is no official list of non-cooperative jurisdictions, however national legislation is directly linked to the list provided by the EU.

e) Advance Pricing Agreement (APA)

There are no specific rules concerning APAs. However, an advance ruling can also be applied for transfer pricing purposes in certain cases. The rules concerning applying an advance ruling are laid out in Articles 84 and 85 of the Act on Assessment Procedure.

f) Audit Practice

Transfer pricing may be considered part of a regular tax audit or the sole audit focus area. Large companies are generally audited at least once every five years. The selection process is based on the company's line of business or specific tax risk criteria. Some focus areas include high-risk and/or loss-making companies, business restructurings, intangibles, and intra-group financing.

3. Transfer Pricing Documentation

a) Level of Documentation

The transfer pricing documentation should include:

- Description of organizational and managerial structure,
- Description of business,
- Description of associated enterprises,
- Information on transactions between associated enterprises,
- Functional analysis of transactions between associated enterprises
- Comparability analysis, including information on comparables
- Description of transfer pricing method
- Financial statements
- Advanced pricing agreements

When transactions do not exceed EUR500,000, there is no requirement to prepare functional analysis, comparability analysis or financial analysis.

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity, including an indication of whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines in paragraph 1.51.

e) Choice of Transfer Pricing Method

All methods recommended by the OECD may be applied.

f) Economic Analysis – Benchmark Study

There are no specific rules regarding acceptable comparables. However, OECD guidelines are followed.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalises the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the ''conduct of parties'' the prevailing concept.

h) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No) *(If "No", it can be filed in English)
Corporate Income Tax	File	Electronic	April, 30th.	N/A	N/A	No
Master File	Prepare	Electronic	June, 30th.	No	Yes	No
Local File	Prepare	Electronic	June, 30th.	No	Yes	No
CbCR	File	Electronic	December, 31st.	Yes	Yes	No
Local Form	File	E-Form 78	June, 30th.	No	Yes	No
Annual Accounts	File	IFRS	April, 30th.	No	No	No
Segmented P&L	Prepare	Excel/Other	April 30th.	No	No	No

* Finland has signed the MCAA agreement for the filing of CBCR on 27 January 2016.

For small and medium-sized enterprises, transfer pricing documentation obligations are waived. Entity is considered to be an SME when all of the following criteria are fulfilled:

- The number of employees remains below 250;
- Net sales are below €50 million, or balance-sheet total is below €43 million; and
- SME criteria as enumerated in Recommendation 2003/361/ECare applicable to the enterprise.

According to Article 14(c) of the VML, the taxpayer should present the documentation within 90 days upon a request of the tax authorities. However, the documentation regarding the master and local files for the tax year is not required earlier than 6 months after the end of the accounting period.

The statute of limitation is generally 5 years after the end of the calendar year during which the tax assessment has been conducted. Thus, if a financial year corresponds to a calendar year, the statute of limitation is 6 years after the end of the financial year.

i) Mandatory Language

Documents written in English, Finnish or Swedish are accepted. If necessary, the taxpayer should provide a Finnish/Swedish translation.

j) Notification Requirement

In case another entity files the CbCR on behalf of the subsidiaries, the following information must be provided by the relevant non-filing entity to the tax authorities:

- the name and TIN number of the entity providing the notification,
- the role of the entity providing the notification,
- the accounting period;
- the jurisdiction, TIN number, and name of the reporting entity,
- the jurisdiction of the CbCR submission;
- the role of the entity reporting the notification;
- the names and TIN numbers of any additional Finnish organisations on whose behalf the notice is lodged,
- the name and phone number of the company officer who can provide extra information

k) Record Keeping

No specific rules apply. However, due to the statute of limitations, the documentation should be kept for at least 6 years following the end of the fiscal year to which the documentation relates.

l) Penalties and Interest Charges

For non-compliance with documentation requirements, the tax authorities may impose a penalty of up to €25,000. The penalties for the faulty documentation may be imposed even if there is no need for transfer pricing adjustments.

Also, Country-by-country (CbC) reporting was modified by the tax administration in Guidance No. A71/200/2018, which governs the reporting of fines. A penalty ranging from EUR 150 to EUR 25,000 can be levied starting in 2018 if no reports are provided or if reports are erroneous or incomplete.