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SUBJECT:

OECD RELEASES COUNTRY-BY-COUNTRY REPORTING IMPLEMENTATION PACKAGE FOR UNDER ACTION 13 OF BEPS ACTION PLAN

The OECD has announced a Base Erosion and Profit Shifting (BEPS) project in February 2013. Action plan with 15 key points regarding the BEPS project has been announced on July 19, 2015. Action 13 of the said BEPS Action Plan is Transfer Pricing Documentation and Country-by-Country Reporting”.

Action 13 of the BEPS Action Plan has been prepared in order to change the OECD Transfer pricing guidelines for MNEs and tax authorities and offer suggestions to tax authorities about how to adjust the local legislations. Accordingly, Section V of the said guide is expected to be revised with this action plan in order to provide international and comprehensive information to Tax Authorities. The aim of the study can be summarized as;

- ✓ To provide all the necessary information to tax authorities for risk assessments regarding transfer pricing; and
- ✓ To guide tax authorities in exercising the necessary care and attention while determining and documenting transfer prices of controlled transactions based on the arms’ length remuneration of the transaction.

September 2014 report regarding the action plans mentions the Action 13 and country-by-country (CbC) reporting. The action plan induces a revision of the section V of the OECD Transfer Pricing Guideline titled as “Transfer Pricing Documentation” in order to ensure unity regarding different and various ways and methods for transfer pricing application and documentation. Based on the said study, documentation liability of MNEs has been realized in three stages:

- Master File (main documentation file)
- Local File (country specific documentation)
- CbC Report (country-by-country reports)

In February 2015, the OECD released a guideline regarding transfer pricing documentation for MNEs; in line with the said guideline, the implementation package for the CbC reporting has been announced in February 2015.

The implementation package consists of information regarding the country based transfer pricing documentation such as the schedule, content and details while providing sample agreements for tax authorities in order to simplify the CbC reporting process. The said package includes detailed information regarding the content and format of the agreements which are prepared in order to prevent double taxation and encourage the process of mutual information sharing between different tax authorities.

The main points of the implementation package would be as follows:

- ✓ CbC reporting ensures that tax authorities get the correct information as quickly as possible while assuring accuracy and privacy of the information.
- ✓ According to the package, if the parent company does not have an obligation to prepare the CbC report, then another company, with the obligation to prepare the CbC, is appointed instead.
- ✓ CbC reporting requires an obligation of an agreement between Tax Authorities in order to ensure the information sharing. The model agreements are based on the Multilateral Convention on Administrative Assistance in Tax Matters, bilateral tax conventions and Tax Information Exchange Agreements.

Looking at the Turkish Tax Legislation, Article 7.1. of Transfer Pricing General Communiqué No: 1 states the documentation and information liabilities regarding the calculation of arms' length prices. In this regard taxpayers should prepare annual transfer pricing reports and keep them ready to be submitted to the Ministry of Finance if requested by the tax authorities.

Turkish transfer pricing documentation obligations and 13th Action Plan of BEPS have differ with regard to documentation. Reforms based on BEPS are not reflected in the transfer pricing regulations in Turkey yet. However changes in line with BEPS and the OECD are expected.

For details of the discussion draft, please refer to <http://www.oecd.org/tax/transfer-pricing/>

Best Regards,

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