

# Transfer Pricing Alert

## New French documentation rules January 2010

### Businesses need to be aware of new French transfer pricing documentation rules that take effect for financial years starting 1 January 2010.

The new law requires transfer pricing documentation to be prepared and available immediately upon request by the French authorities. This effectively means that it has to be compiled in advance of any possible request by the tax authorities or penalties will apply.

#### What documentation is required?

Formal and compulsory transfer pricing documentation is required. It should cover general information on the relevant French business and associated foreign companies and detailed information on the transfer pricing policy.

#### Who do these new rules apply to?

The French transfer pricing documentation requirements will apply to a French company with turnover or gross assets on the balance sheet over €400 million, or if it:

- holds greater than 50% direct or indirect ownership (by way of capital or voting rights) of such a company; or
- is more than 50% owned, directly or indirectly (by way of capital or voting rights) by such a company.

These rules will also apply to a company that:

- benefits from a ruling granting a worldwide tax consolidation regime; or
- forms part of a French tax group in which at least one company within the group satisfies the above criteria.

#### What are the consequences of non-compliance?

Under the new rules, French companies are required to submit transfer pricing documentation immediately upon request by the French tax authorities. Businesses will face a penalty of up to 5% in the event that the documentation is missing or incomplete.

#### What should businesses be doing?

Companies that are affected need to review their existing transfer pricing policy and documentation to see if they comply with the new requirements. If they do not then it is recommended that they are updated or compiled as appropriate so as to comply with the new rules.

#### How can Mazars help?

We can assist your business with the preparation of documentation and various other transfer pricing issues.

The Mazars' transfer pricing team includes specialists throughout Europe, the Americas, Asia and Africa which ensures that we provide our clients with truly global transfer pricing solutions.

Our experience includes many years working in the "Big 4" professional services firms and in the transfer pricing head office team at HM Revenue and Customs, dealing with clients on a range of issues, including transfer pricing assurance and documentation, audit defence, and thin capitalisation issues.

It should be noted that under the French Loi de Sécurité Financière (Law of Financial Security or "LSF") the restrictions on the non-audit services that can be provided to audit clients do not significantly impact upon transfer pricing assurance services. For example, transfer pricing comparable studies and benchmarking reports can be undertaken by the audit firm. These typically form the central part of the transfer pricing assurance evidence required to demonstrate compliance with regulatory requirements.

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