



Keeping it at arm's length

Proposed changes to the Irish transfer pricing rules

The Irish Department of Finance have published a **feedback statement** following a public consultation (earlier this year) regarding a proposed update of Ireland's transfer pricing rules.

The **feedback statement** sets out a summary of the views expressed in the responses to the public consultation and the proposed changes to the Irish transfer pricing rules, including the requisite draft legislative changes.

A summary of the key changes proposed in the feedback statement is set out below:

- Irish transfer pricing rules will be extended to certain cross border non-trading transactions.
- Transactions agreed before 1 July 2010, will come within the ambit of the Irish transfer pricing rules, whereas previously these were out of scope.
- In line with the 2017 OECD Transfer Pricing Guidelines, enhanced transfer pricing documentation requirements will apply. However, particular revenue thresholds have been proposed to reduce the compliance burden on smaller taxpayer groups. Where the group revenue is less than €50 million in the relevant period there will be no requirement to prepare a local file and where the group revenue is less than €250 million in the relevant period there will be no requirement to prepare a master file.
- Irish transfer pricing rules will be extended to SMEs. However, small enterprises (ie a company with staff headcount of less than 50 and either turnover or balance sheet total of less than €10 million) will be exempt from transfer

pricing documentation requirements. Medium enterprises (ie a company that is not a small company with staff headcount of less than 250 and either turnover of less than €50 million or balance sheet total of less than €43 million) will be exempt from transfer pricing documentation requirements where one party to the transaction is not within the charge to Irish tax and the total transaction consideration in the chargeable period is €1 million or less. Simplified documentation requirements will apply where the medium enterprise is not exempt.

- Transfer pricing rules will apply to capital transactions where the market value of the asset exceeds €25 million.
- However, an extension of transfer pricing rules to branch profit attribution has been postponed.

While the consultation process is still on-going, it is expected that the process will be completed shortly and the requisite changes will be included in Finance Bill 2019. The changes will therefore generally take effect from 1 January 2020, other than for SMEs which could be made subject to a Ministerial Commencement Order.

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