

Three-tier documentation of OECD with Russian specifics | What you need to know

Russia has adopted a federal law which can rightly be considered a step towards increasing the level of international tax relations transparency.

WHAT DOES THE LAW COVER?

WHAT DOCUMENTS DO I HAVE TO SUBMIT?

According to the provisions of the law, the taxpayer must submit the following documents to the tax authorities:

- **NEW** Notification of participation in the IGC (hereinafter – the “Notification”);
- **NEW** Country-by-country report (hereinafter – the “Report”);
- **NEW** Global documentation (“Masterfile” in OECD terminology);
- National documentation (“Local file” in OECD terminology).

The first three documents are fundamentally new, and the national documentation largely repeats the documentation for transfer pricing common to most Russian taxpayers.

Together, the Report and both documents form the so-called three-tier documentation developed by the OECD.

The Notification was not foreseen by the OECD; it is part of the Russian

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specifics. In particular, it reflects the information on whether the taxpayer is on the list of strategic enterprises or strategic joint-stock companies.

NOTIFICATION □

The Notification must be submitted no later than 8 months from the end-date of the reporting period, that is, in terms of the law, the fiscal year following the fiscal year in which the consolidated income of the IGC exceeded 50 billion rubles. In other words, the first Notification in the new format must be submitted **no later than August 31, 2018**.

It will be submitted electronically; the form itself is currently being developed by the Federal Tax Service (hereinafter – the “FTS”).

The **penalty** for failing to submit the Notification, or filing it with inaccurate information, will amount to 50,000 RUB.

The Notification may not be submitted by the company if it has already been submitted on its behalf by another participant of the IGC.

COUNTRY-BY-COUNTRY REPORT □

The Country-by-country report is a statistical form in which information on the number of employees of IGC participants, the financial result of the activity, the value of the assets, as well as the performance of their settlements with the budgets, are subject to disclosure.

The Report is submitted at the request of the FTS no later than 12 months from the end-date of the reporting period, that is, for the first time it should be submitted **no later than December 31, 2018**.

It can be submitted by another participant of the IGC instead of the Russian taxpayer. It is submitted on exceeding the threshold for consolidated revenue of 50 billion RUB for the IGC.

The penalty for failing to submit the Report, or filing it with inaccurate information, will amount to 100,000 RUB.

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GLOBAL DOCUMENTATION □

Global documentation is a document made in no particular format that, unlike the national documentation, describes the context of a controlled transaction, i.e., it gives an overview of the IGC, including, for example, its structure, business strategy, main competitive advantages, intangible assets, and describes its key products and markets.

Global documentation can be claimed no earlier than 12 months and no later than 36 months after the end of the corresponding reporting period, that is, in relation to 2017, the document can be requested **no earlier than December 31, 2018** and **no later than December 31, 2020**.

It is submitted on exceeding the threshold for consolidated revenue of 50 billion RUB for the IGC.

The penalty for failing to submit the Global documentation, or filing it with inaccurate information, will amount to 100,000 RUB.

NATIONAL DOCUMENTATION □

National documentation, as before, is prepared for controlled transactions. But if it is prepared by a participant in the IGC, whose consolidated income exceeds 50 billion RUB, then it implies the disclosure of additional information. In particular, information on the structure of management bodies, persons who are provided with management reporting, must be disclosed.

National documentation must be prepared for the periods beginning in 2018 and can be claimed **no earlier than December 31, 2019** for this reporting period, and for 2019 **no earlier than December 31, 2020**.

In the future, National documentation can be claimed no earlier than June 1 of the year following the year of the transaction, as was stipulated before the signing of the law.

The penalty for non-submission of National documentation has significantly increased, and amounts to 100,000 RUB.

It should be specifically mentioned that although the law has created the obligation to prepare and submit documents, for the periods 2017, 2018 and 2019, fines are not applied. This provision of the transitional period does not

apply to **National documentation**.

Is your group making over 50 billion RUB?

If your company is a member of an international group whose consolidated turnover exceeds 50 billion RUB, we recommend that you pay special attention to the preparation of the three-level documentation.

Symmetric requirements gradually arise in the laws of other states; therefore, these documents can be prepared at group level.

We will be glad to assist you with the preparation of the documentation or to analyse if previously prepared documentation is in line with the new requirements.



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