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By Hamza Ali
March 25, 2021, 6:15 AM

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Bloomberg Law News 2021-03-25T07:38:15299-04:00
U.K. Mulls Stricter Tax Document Requirements for Multinationals

By Hamza Ali 2021-03-25T02:15:49000-04:00
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Multinational companies would be required to give more details on their cross-border tax arrangements under a proposal being considered by the U.K. tax office.

The proposal, released earlier this week during the government's so-called tax day, is aimed at making multinational companies provide more documentation on how they value internal transactions, moving the U.K. closer to international standards created by the Organization for Economic Cooperation and Development and potentially deterring aggressive tax planning.

Companies would be required to "produce promptly upon request, specific documentation to articulate and support the transfer pricing positions taken in their tax returns as described in the OECD standardised approach," the government said in its consultation.

Historically, Her Majesty's Revenue and Customs hasn't required specific documentation that companies must retain as part of the transfer pricing rules—rules that govern the prices a multinational sets for intracompany transactions that companies could use to reduce taxes.

"Basically, the requirements at the moment are quite vague," Sarah Gabbai, senior associate at McDermott Will & Emery UK LLP, said. "They don't necessarily give businesses the kind of certainty or reassurance that they need, so I think if this measure does go ahead that it could ultimately be a net benefit to multinationals."

But there would be some pain in implementing the new requirements at first, she added.

OECD Norm

HMRC is proposing the government adopt the OECD's minimum transfer pricing documentation standards.

The OECD standards are part of the global organization's 2015 Base Erosion and Profit Shifting Action Plan 14. At the time the plan was shaped, the U.K. adopted the minimum standards for country-by-country reporting but decided not to opt for the master file, local file documentation standard recommended by the OECD for transfer pricing.

"It is probably no coincidence that this coincides with an increasing focus by HMRC on transfer pricing and an increasing number of transfer pricing inquiries and potentially disputes," said Dominic Stuttford, head of tax for Europe, Middle East, and Asia at Norton Rose Fulbright LLP. "HMRC do want to see how these disputes could be shortened and streamlined."

The U.K.'s compliance efforts in transfer pricing in over the past five years have picked up, with HMRC bringing in an additional 6 billion pounds (\$8.2 billion).

The requirements will be easier for companies to meet if they have already done the work to meet country-by-country reports, Stuttford said.

"It is not necessarily the case that these changes will be beneficial to all businesses; larger businesses may already have the information to hand while others may not," he said.

The amount of additional burden depends on how much evidence is required for the local file and how much detail is required for the international dealings schedule, according to Stuttford.

If a business is engaged in international dealings with related parties, and has more than a certain threshold in revenue, under the proposal it could be required to complete an international dealings schedule and file it with the income tax return for that year, according to the consultation.

—With assistance from Sam Edwards.

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