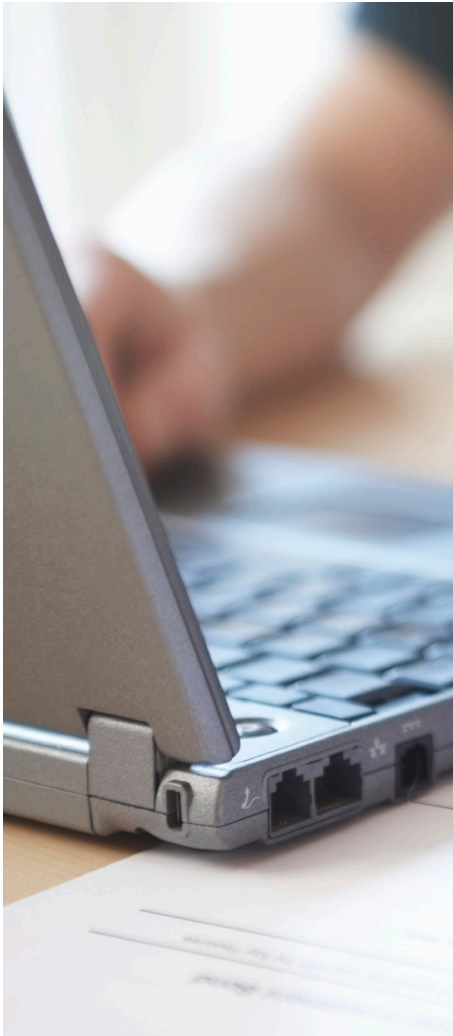


Relevant dates regarding Transfer Pricing for fiscal year 2017



Derived from the recent changes and in accordance with the requirements established in the Mexican legislation and the rules of information and presentation for fiscal year ("FY") 2017, the dates of presentation of the main requirements in terms of transfer pricing are the following:

I. Informative Tax Situation Return ("DISIF")¹

Article 32H of the Mexican Federal Tax Code ("MFTC"), in force during FY 2017, establishes the obligation of the taxpayers to present the DISIF under the following provisions:

- I. Taxpayers subject to tax under Title II of the Mexican Income Tax Law ("MITL"), who in the immediately preceding fiscal year had declared in their regular tax returns, gross income for income tax purposes equal to or exceeding \$708,898,920.00, as well as those who had shares among the general investing public in stock exchanges, through the closing of the immediately preceding year, and do not fall within any other provision of this article.
- II. Commercial corporations that belong to the optional tax regime for groups of companies, pursuant to Title II, Chapter VI of the MITL.
- III. Para-state entity of the Federal Public Administration.
- IV. Foreign resident legal entities with a permanent establishment in Mexico, only for the activities carried on in such establishments.
- V. Mexican resident company performing transactions with foreign residents.

In the case of fraction V mentioned above, taxpayers who are required to submit the DISIF for meeting said fraction, may choose not to present it when the total amount of transactions carried out with foreign residents in the FY is less than MXN \$ 100'000,000.00 (One hundred million pesos 00/100)².

¹ Article, 32-H del FFC.

² Rule 2.19.4 Miscellaneous Tax Resolution ("MTR") 2018.

Required taxpayers to file DISIF must do so along with the Annual Tax Return.

The aforementioned represents a significant change in the filing due dates of DISIF and Exhibit 9 of the DIM (“Multiple Informative Return”) as for FY 2016, both had to be filed by the end of June, whereas for FY 2017 (and onwards), they must be submitted by March 31 of the year following the fiscal year end.^{3,4}

As of today, the Servicio de Administración Tributaria (“SAT”) has not issued any official pronouncement related to a possible deferral of the DISIF filing date. Therefore, taxpayers must begin to prepare all of the necessary information to ensure compliance. Penalties related to non/partial compliance related to intercompany transactions are between MXN\$12,080-\$120,760.

II. Statutory Tax Audit Report (“Dictamen Fiscal”)⁵

As of FY2014, Mexican entities that falls within any of the following criteria have the option to present, no later than July 15th or July 30th when all contributions are paid by July 15th of the following year of the fiscal year in question, the Statutory Audit Report prepared by an external auditor:

- ▶ Aggregate prior-year revenues excess MXN \$109.9 million;
- ▶ Total assets in excess of MXN \$86.8 million;
- ▶ Three hundred or more employees; or
- ▶ The entity is controlled by another Company (Mexican or foreign) that falls under one of the three previously mentioned criteria.

Taxpayers who have exercised the option of submitting Tax Report or Dictamen Fiscal are discharged of the obligation of submitting DISIF.

It is worth noting that the obligation for taxpayers who choose to prepare the Dictamen Fiscal remains unchanged; this means that the due date for the submission of this obligation is by no later than July 15th of the following year of the fiscal year in question.

I. Multiple Informative Return - Exhibit 9 (Transfer pricing informative return related to intercompany transactions with foreign related parties)

According to rule 3.9.3 of FY2017 MTR published on the Official Gazette of the Federation (“DOF” for its acronym in Spanish - Diario Oficial de la Federación”) on December 23rd 2016, it is established that for purposes of article 76 section X of the MITL, taxpayers that carried out intercompany transactions with foreign related parties and Article 32-H MFTC must submit the Information corresponding to the fiscal year in question, by no later than March 31st, 2018.

It is important to mention that rule 3.9.3 of MTR establishes that the taxpayers that choose to prepare the External Auditor’s Report remains unchanged, this means that the due date for the submission of this obligation is by no later than July 15th of the following year of the fiscal year in question.

II. Base Erosion and Profit Shifting (“BEPS Returns”)

Article 76-A of the MITL requires that taxpayers indicated in Article 32-H sections I, II, III and IV of the MFTC to file the following annual returns as of 2016:

- 1) Master Information return of related parties from the multinational business group (Master File)

³ Sixth resolution of alterations to the rule 2.20.6 of the MTR 2017.

⁴ http://www.eyboletin.com.mx/eysite2/pdf/comentarios_2734.pdf

⁵ Article 32-A MFTC and Rule 2.13.2 of the MTR 2017.

2) Local informative return of related parties (Local File)

The Local & Master File Returns are applicable only if the taxpayer meets one of the provisions indicated in article 32-H, sections I, II, III and IV of the MFTC and carry out transactions with related parties. (These provisions are mentioned in I. Informative Tax Situation Return Section)

Deadline to comply with filing the Local File and Master File is December 31 of the following year of the fiscal year in question

3) Information return, country-by-country, of the multinational business group (Country-by-Country Report)

This informative return is applicable only for Mexican multinational controlling entities with consolidated earnings of MXN \$12,000,000 or if the entity is assigned by the multinational group as responsible for submitting the report.

Bilateral Advanced Pricing Agreement (BAPA)

Finally, the United States Internal Revenue Service ("IRS") has announced that fees for Advance Pricing Agreements (APAs) are expected to increase in a two-step process (30 June 2018 and 31 December 2018).

The IRS published in the Section 3.03 of the Appendix to Revenue Procedure 2015-41 lists the user fee amounts for different types of APAs. In the announcement, the IRS significantly increases the user fee amounts as follows:

	Revenue procedure 2015-41	For APA requests after June 30th 2018	For APA requests after December 31st 2018
New APAs	US \$60,000	US \$86,750	US \$113,500
Renewal of APAs	US \$35,000	US \$48,500	US \$62,000
Small case APAs	US \$30,000	US \$42,000	US \$54,000
Amendment to APAs	US \$12,500	US \$17,750	US \$23,000

For further information about this bulletin, please contact any of the following professionals:

Enrique González
enrique.cruz@ey.com

Alma Gutiérrez
alma.gutierrez@mx.ey.com

Alberto Peña
alberto.pena@mx.ey.com

Andrés Olvera
andres.olvera@mx.ey.com

Gabriel Lambarri
gabriel.lambarri@mx.ey.com

Marco Molina
marco.molina@mx.ey.com

Mauricio Fuentes
mauricio.fuentes@mx.ey.com

Mónica Cerda
monica.cerda@mx.ey.com

Ricardo Barbieri
ricardo.barbieri@mx.ey.com

Ricardo Cruz
ricardo-manuel.cruz@mx.ey.com

Ricardo González
ricardo.gonzalezmtz@mx.ey.com

EY

Assurance | Tax | Transactions | Advisory

About EY's Tax Services

Your business will only succeed if you build it on a strong foundation and grow it in a sustainable way. At EY, we believe that managing your tax obligations responsibly and proactively can make a critical difference. Our global teams of talented people bring you technical knowledge, business experience and consistency, all built on our unwavering commitment to quality service – wherever you are and whatever tax services you need.

We create highly networked teams that can advise on planning, compliance and reporting and help you maintain constructive tax authority relationships – wherever you operate. Our technical networks across the globe can work with you to reduce inefficiencies, mitigate risk and improve opportunity. Our 45,000 tax professionals, in more than 150 countries, are committed to giving you the quality, consistency and customization you need to support your tax function.

For more information about our organization, please visit www.ey.com/mx

© 2018 Mancera, S.C. EYGM Limited All Rights Reserved ©

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients.

This bulletin has been prepared by the professionals of EY and contains general comments on the application of various accounting, tax and financial standards, as applicable. Since the contents of this bulletin are informative in nature and do not represent a specialized study of any specific situation, this bulletin must in no case be construed as being professional advice on any concrete case. At EY, we are committed to providing you with reliable and timely information; however, we cannot guarantee that the contents of this document will be valid at the time you receive or consult this document, or that they will continue to be valid in the future. Therefore, EY assumes no responsibility whatsoever for any errors or inaccuracies that may be contained in this document and the decision to use the information contained herein is entirely the recipients. All rights reserved (currently being processed).