

BELGIUM

SMALL AND MEDIUM ENTERPRISES AND TRANSFER PRICING

1. Have you established a dedicated website/webpage as a single point of information for SMEs on transfer pricing matters? Alternatively, has information for SMEs on transfer pricing matters been made available electronically via an existing website/webpage? In which language(s) is the information available?

No

2. Do you have a single definition of SME that applies for most direct tax purposes?

The indicators and threshold included in EC recommendation 2003/361.
For small companies and small groups a national definition is applied:

Art. 15 of the Company law defines an enterprise as small if it has not exceeded more than one of the following criteria for the last and one but last accounting period:

- annual average workforce: 50
- annual turnover (excluding VAT): 7.300.000 EUR
- balance sheet total: 3.650.000 EUR

unless the annual average workforce exceeds 100 units.

Art. 16 of the Company law defines a "small group" as a company that together with its subsidiaries or companies with which it forms a consortium do not exceed more than one of the following criteria on a consolidated basis:

- annual turnover (excluding VAT): 29.200.000 EUR
- balance sheet total: 14.600.000 EUR
- annual average workforce: 250

3. Do you apply a specific SME definition for transfer pricing purposes?

No specific definition for TP purposes.

4. What specific services for SMEs are in place e.g. advanced pricing agreements, dispute resolution (pre- or post-audit), etc.? Is information on these services available electronically on the website(s) identified in question 1 or elsewhere? In which language(s) is the information available?

Only the following administrative practices are specific for SMEs:

Description: The Tax administration should not request as much and detailed information from smaller and less complex enterprises (SMEs included) than it does from large and complex enterprises.

Nature: Administrative Circular letter nr^o Ci.RH.421/580.456 (AOIF 40/2006) of 14 November 2006-Paragraphs 25-28. This provision has to be read in conjunction with the principle set out in point 2 of the administrative circular that the information required in order to examine transfer pricing depends on the facts and circumstances of the case.

Point 4 of the administrative circular is also highly relevant. It refers, among other things, to the need to assess whether it is appropriate to request certain information in the light of the factual circumstances of each individual case.

Without question, the status of SMEs must be taken into account.

5. Are training materials made available to SMEs electronically via the website(s) identified in question 1 or elsewhere? In which language(s) is the information available?

N/A

6. Is information on procedures to provide SMEs with advance certainty on transfer pricing issues (e.g. advanced pricing agreements, rulings and clearances) available electronically via the website(s) identified in question 1 or it is only available from some other source? In which language(s) is the information available?

N/A

7. Is there a dedicated contact point available to SMEs for transfer pricing compliance issues?

The local tax office in charge of the Belgian enterprise, or
The transfer pricing audit team
Finance Tower
Kruidtuinlaan 50 bus 3351
1000 Brussel

8. Is there a dedicated contact point for advanced pricing agreements, clearances and rulings available to SMEs?

For bilateral and multilateral APAs:

Federal Public Service of Finance
General Administration of Taxes
International Relations
North Galaxy
Koning Albert II-laan 33 bus 22
1030 Brussel
E-mail: aagfisc.internat@minfin.fed.be

Contact person:

Sandra Knaepen, E-mail: sandra.knaepen@minfin.fed.be

For unilateral APAs:

Federal Public Service of Finance
Dienst Voorafgaande Beslissingen/ Service des Décisions Anticipées en matière fiscale
Wetstraat 24
1000 Brussel
E-mail: dvbsda@minfin.fed.be
<http://www.ruling.be/indexNL.html>

9. Is there a dedicated contact point available to SMEs who want to claim relief from double taxation as a result of a transfer pricing adjustment?

Federal Public Service of Finance
General Administration of Taxes
International Relations
North Galaxy
Koning Albert II-laan 33 bus 22
1030 Brussel
E-mail: aagfisc.internat@minfin.fed.be

Contact person:

Sandra Knaepen, E-mail: sandra.knaepen@minfin.fed.be

Competent authority:

M. C. SIX, Administrator-general of Taxes
Mrs. S. KNAEPEN, Director