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**English - Or. English**

3 June 2020

**CENTRE FOR TAX POLICY AND ADMINISTRATION  
COMMITTEE ON FISCAL AFFAIRS**

## **Working Party No. 6 on the Taxation of Multinational Enterprises**

### **Transfer pricing implications of the COVID-19 pandemic**

#### **Questionnaire for business**

This questionnaire on the transfer pricing implications of COVID-19 is circulated to the members of Business at the OECD (BIAC) on behalf Working Party No. 6 and the Forum on Tax Administration Mutual Agreement Forum.

Members of BIAC are invited to send written comments to [transferpricing@oecd.org](mailto:transferpricing@oecd.org) and [fta.map@oecd.org](mailto:fta.map@oecd.org) by Wednesday 17 June.

Any submissions will be treated as confidential.

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## *Transfer pricing implications of COVID-19 pandemic: questionnaire for business*

### Introduction

The COVID-19 pandemic is a global health crisis that is having a profound impact on every member of the Inclusive Framework. Social distancing measures have resulted in a partial shutdown of the global economy and has led many multinational businesses to incur significant losses. In response, governments around the world have moved quickly to provide unprecedented financial support to the businesses worst affected.

The COVID-19 pandemic is already, and will continue, to give rise to a unique economic environment to which there are few comparables in publically available third party data, making it difficult to apply transfer pricing rules. The members of the Inclusive Framework are aware of these challenges and that taxpayers are already turning to national tax administrations for guidance on a wide variety of transfer pricing issues.

In this regard, the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* continues to represent internationally agreed principles and, irrespective of the underlying economic circumstances, provides guidance for the application of the arm's length principle of which Article 9 is the authoritative statement. However, members also recognise that in these challenging times it is incumbent on us to consider what additional tools could be provided for greater tax certainty and to mitigate the risks of future disputes between taxpayers and tax administrations.

This questionnaire on the transfer pricing implications of COVID-19 is circulated to the members of Business at the OECD (BIAC) on behalf Working Party No. 6 (WP6) and the Forum on Tax Administration Mutual Agreement Procedure (FTA MAP) Forum. The purpose of this questionnaire is to gather input from business on the transfer pricing issues that you are facing today and expecting to face in the near future. This input will inform further discussions at WP6 and the FTA MAP Forum on how we can best respond to the transfer pricing issues arising from or exacerbated by COVID-19.

It is important to note that WP6 and the FTA MAP Forum are aware that COVID-19 will create a variety of different transfer pricing issues for different businesses. The purpose of this questionnaire is not simply to gather a list of issues, but to identify the issues that should be prioritised by WP6 and the FTA MAP Forum.

### Questions

Respondents (trade associations and individual business members of those associations) are invited to provide general comments on the transfer pricing implications of the COVID-19 pandemic. For example, are you facing questions about the interaction between transfer pricing and subsidies or furlough schemes?

To help WP6 and the FTA MAP Forum prioritise issues, respondents are specifically invited to respond to the four questions outlined below.

1. What are the transfer pricing issues you are facing or expecting to face in the near future because of COVID-19 that give you the greatest cause for concern? Please list up to five and provide a short explanation why these issues have been selected.

2. What are the transfer pricing issues you are facing because of the COVID-19 that, in your view, are:
  - a. Least clearly addressed in the *Guidelines*?
  - b. Most likely to give rise to disputes with tax administrations?

Please list up to five issues for each sub-question.

3. Given the unique nature of the current economic environment and that publically available third party data for 2020 will not be widely available until mid-2021 at the earliest, for your business what types and sources of information do you think should be utilised as the basis for comparability analyses for 2020? And/or what kinds of adjustments do you think should be made?
4. Can you identify any examples of supplementary transfer pricing guidance published by national tax administrations that address any of the issues you have identified above? These might have been issued during the COVID-19 pandemic, or from an earlier crisis such as the Global Financial Crisis of 2008-09.

It would be helpful if, in addition to answering the questions outlined above, respondents provided a general description of the impact COVID-19 has had on their business (either positive or negative). For example, from a structural, operational or organisational perspective. It would also be helpful for respondents to provide practical examples to illustrate areas where they are facing the greatest challenge.