

New regulations for transfer pricing documentation

The amendment to the Act on income tax effective as of January 1st, 2015 sets out that the transfer pricing rules should be applicable also to domestic related parties.

TP rules applicable also to domestic related parties

Starting from the new year the transfer pricing rules are applicable not only to foreign related parties but also to domestic related parties that are economic, personal or otherwise related (for example having a common statutory representative).

These parties are obligated to use methods based on price comparison and keep transfer pricing documentation. Moreover, the tax administrator is entitled to exercise relevant adjustment of tax base of not only foreign related parties but also of domestic related parties.

The amendment sets out that the prices agreed between related parties should not differ from prices that would be agreed in similar business relationships if the parties would not be economic, personal or otherwise related.

Content of the TP documentation

On August 20th 2014, the Ministry of Finance of the Slovak Republic released a regulation on the content of TP documentation to be used by taxpayers pursuant § 18 par. 1 ITA.

We believe that in case of amendment approval, the regulation will be applicable also to domestic related parties.

The regulation regulates three different forms of TP documentation – so-called **shortened, basic and full version**.

Shortened version of TP documentation

The shortened version of TP documentation can be used by transaction of related parties only by individuals and so-called micro accounting units. The shortened version is not applicable by:

- taxpayers performing transactions with related persons from non-contracting states - i.e. states the Slovak Republic has not concluded international treaty for the avoidance of double taxation or international agreement on exchange of information relating to taxes, or states that are not contracting partners of international treaty including regulations on information exchange for tax purposes in the similar extent
- taxpayers applying the tax administrator for issue of decision on approval of TP method
- taxpayers applying for a tax base adjustment

The shortened version has to contain at least following information:

- identification and legal form of individual members of the group, description of the global organisational and ownership structure
- list and description of the individual controlled transactions of the taxpayer including identification of the contracting parties of the controlled transaction, monetization of the transaction and other information as for example business conditions and other information that may have influence on controlled transactions

Basic version of TP documentation

In other cases the taxpayers have to keep the so-called basic version of TP documentation. This version is not applicable by:

- taxpayers recognising accounting profit/loss in individual financial statements according to international financial reporting standards
- taxpayers performing transactions with related persons from non-contracting states - i.e. states the Slovak Republic has not concluded international treaty for the avoidance of double taxation or international agreement on exchange of information relating to taxes with, or states that are not contracting partners of international treaty including regulations on information exchange for tax purposes in the similar extent
- taxpayers applying the tax administrator for issue of decision on approval of TP method
- taxpayers applying for a tax base adjustment

The basic documentation consists of so-called general and specific part. The general part includes following information:

- identification and legal form of individual members of the group, description of the global organisational and ownership structure
- general description of functions of the individual group members and their expected risks they are bearing

The specific part includes following information:

- identification and legal form of the taxpayer, description of his organisational and ownership structure
- description of the business activity and business strategy of the taxpayer, identification of the industry sector, business relationships and activities performed by the taxpayer in the industry sector
- general description of functions of the taxpayer, his expected risks he is bearing and asset he is using
- list and description of the individual controlled transactions of the taxpayer including identification of the contracting parties of the controlled transaction, monetization of the transaction and other information as for example business conditions and other information that may have influence on controlled transactions
- description of the taxpayer's transfer pricing system consisting of information on selection and method of TP and determination of prices of the controlled transactions

Full version of TP documentation

All other taxpayers are obligated to keep the full version of TP documentation. The full version consists of general and specific part in the following extent:

General part:

- identification and legal form of individual members of the group, description of the global organisational and ownership structure including changes in comparison to the previous taxable period
- description of the business activity and business strategy in the group, identification of the industry sector, business relationships and activities of the group performed in the industry sector including changes in comparison to the previous taxable period
- planned business strategy, assumed activities in the future, projects and goals of the group including changes in comparison to the previous taxable period

- general description of functions of the individual group members and their expected risks they are bearing including changes in comparison to the previous taxable period
- other information that help to prove the compliance with the principle of independent relationship

Specific part:

- identification and legal form of the taxpayer, description of taxpayer's organisational and ownership structure including changes in comparison to the previous taxable period
- description of the business activity and business strategy of the taxpayer including changes in comparison to the previous taxable period
- identification of the industry sector, business relationships and activities of the taxpayer performed in the industry sector including changes in comparison to the previous taxable period
- planned business strategy and intent, assumed activities in the future, projects and goals of the taxpayer
- list of the controlled transaction, description of the individual controlled transactions of the taxpayer including identification of the contracting parties of the controlled transaction, monetization of the transaction and other information as for example business conditions and other information that may have influence on controlled transactions
- overview of non-tangible assets owned or used by the taxpayer (patents, trademarks, know-how etc.), method and extent of their use
- list of measures taken before the pricing
- list of agreements on contributions on costs that taxpayer is bearing and other decisions that may influence the transfer pricing
- general description of functions performed by the taxpayer, his expected risks he is bearing and assets he is using including changes in comparison to the previous taxable period
- description of the taxpayer's transfer pricing system consisting of information on selection and method of TP and determination of prices of the controlled transactions
- internal and/or external comparable data of independent parties, analysis of comparability
- other information that help to prove the compliance with the principle of independent relationship

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