

Romania: Transfer Pricing in 2016

Transfer pricing represents the price agreed for transactions between related parties. Companies carrying out transactions with related parties should charge similar prices for these transactions as compared to transactions with independent parties, thus observing the arm's length principle.



WHICH SUBJECTS ARE OBLIGED TO KEEP DOCUMENTATION?

Romanian tax payers that carry out transactions with foreign related parties
OR
Domestic related parties

Language of the documentation

Romanian language

Mandatory content of documentation

The transfer pricing file should contain minimum the following information:

1. Information about the Group
2. Information about the Company
3. Industry analysis
4. Functional analysis
5. Information about the related party transactions
6. Economical analysis

It is not sufficient to translate the master transfer pricing file prepared by HQ! Specific information about the Romanian entity is mandatory.

WHEN SHOULD THE DOCUMENTATION BE SUBMITTED?

If you carry out controlled transactions with same members of group on regular basis, and there are no factors that may influence the determination of prices, you can refer to the documentation for the last period.

Deadline for submission of the documentation may be as tight as within 10 days of tax authority's request for large tax payers

The 10 day deadline is applicable for large tax payers that carry out transactions with related parties above certain thresholds. For the other tax payers, the deadline is within 30 to 60 days of the tax authority's request. Tax authority can ask taxpayers to provide the transfer pricing documentation in justified cases at any time, i.e. not only during the tax inspection. Therefore, we recommend to prepare the documentation at the same time controlled transactions between related parties are carried out.

WHAT PENALTIES CAN BE IMPOSED?

Up to Euro 3,000

For non-compliance with the transfer pricing documentation obligations, i.e. for breach of a non-monetary obligation

- + adjustment of tax base
- + penalties & late payment interest



WHAT METHODS CAN BE APPLIED?

Traditional methods and other methods according to the OECD Guideline can be used

Principle of the best method shall be applied

Also combination of more methods is possible

Comparable uncontrolled price

Used mainly for transactions with tangible and intangible assets and financial transactions

Resale price method

Used mainly for distributors of products

Cost plus method

Used mainly for transactions related to manufacturing and sale of semi finished products/ finished products which do not include high added value

Profit split method

Suitable for very integrated transactions when the parties contribute in a unique way or they possess valuable tangible asset

Net margin method

Mainly for comparable transactions that significantly differs in functions. Data about gross margin are not reliable.



ADVANCED PRICING AGREEMENTS

You can ask the tax authority to issue a decision on approval of a particular method of transfer pricing. By this way, you can secure a period of up to 5 years. As long as the transactions are carried out as described in the advanced pricing agreements, the tax authorities will not audit these transactions.



APA issuance fee
(large tax payers with consolidated value of transactions higher than Euro 4,000,000)

Euro 20,000
Euro 15,000
(for amendments)



APA issuance fee
(non-large tax payers and consolidated value of transactions lower than Euro 4,000,000)

Euro 10,000
Euro 6,000
(for amendments)



APA validity
Up to 5 years
(possibility of extension if conditions remain unchanged)

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