



TRANSFER PRICING IN THE REPUBLIC OF SERBIA

Definition of transfer price

Transfer price is a price associated with assets transactions or creating obligations between related entities.

Definition of related entities

Any private individual or legal entity that can exercise control or has significant impact on taxpayer's business decisions is considered to be a related entity. Further, the Corporate Income Tax Act defines that capability of control over taxpayer exists in case of direct or indirect ownership of at least 25% of taxpayer's shares or stocks, as well as in case when an entity directly or indirectly controls at least 25% of the votes in taxpayer's management board.

Legal entity related to the taxpayer is also considered an entity in which the same private individual or legal entity, as in taxpayer's ownership or voting structure, directly or indirectly participate in management, control or capital. Additionally, spouses, descendants, adoptees and their descendants, parents, adopters, siblings and their descendants, grandparents and their descendants, as well as siblings and parents of spouses of persons related to the taxpayer are also considered related entities.

Additionally, transactions conducted between Serbian tax residence and the company registered in the country of preferential tax system is also subject of transfer pricing analysis.

The obligation to submit transfer pricing report

Taxpayers in the Republic of Serbia who have transactions with related entities are obligated to submit, along with the tax balance sheet, documents stating the value of transactions with related entities at prices that would be realized on the market or in similar transactions, i.e. as if they were not related entities. Furthermore, taxpayers are obliged to prepare and submit transfer pricing documentation each fiscal year. Analysis presented in the transfer pricing report have to be updated annually, in order to be based on the last publicly available information.

Deadlines and language

Having in mind that the report is prepared for the purpose of submission to the Tax Administration, it is necessary to be prepared in local language ie. in Serbian language. If transfer pricing report is not submitted, the Law prescribes that the Tax Authorities could ask a taxpayer to submit transfer pricing documentation and are obligated to give a deadline of 30 to 90 days to act upon the request.

The content of transfer pricing report

The content and the form of transfer pricing documentation is regulated by the Transfer Pricing Rulebook, stating that the documentation is submitted in the form of report or in the form of simplified report.

The form of transfer pricing report is precisely defined and it is mostly reconciled with BEPS Regulations, although that the documentation would be considered as a hybrid between BEPS Master File and Local File.

Further, the taxpayer may submit Simplified Report for transactions with related parties, except for loans, in case that:

1. It is a one-off transaction with a related party in the respective year, whose value does not exceed RSD 8 million turnover (about 68,000 EUR);
2. The total value of transactions with a single related entity in the respective year does not exceed RSD 8 million turnover (about 68,000 EUR).

Applicable transfer pricing methods

In accordance with the applicable legislation, the taxpayer is obliged to select the most appropriate method for determining the arm's length prices for the analysis of transactions with related entities. The following methods can be applied:

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost Plus Method
- Transactional Net Margin Method
- Transactional Profit Split Method
- Any other method for determining the arm's length price, under condition that the application of the aforementioned methods is not possible, or that the other method is more appropriate than the aforementioned methods.

Transfer pricing penalties and reliefs

Each taxpayer is obligated to file annual transfer pricing documentation together with the annual tax return and tax balance sheet. Penalties are prescribed only if the taxpayer fails to submit the transfer pricing report upon official written request by the tax authorities, subject to an additional filing deadline between 30 and 90 days. The range of penalties for eventual noncompliance is between RSD 100,000 (approximately EUR 800) and RSD 2 million (approximately EUR 16,500) for the legal entity and up to RSD 100,000 (approximately EUR 800) for the responsible individual in the legal entity. In addition, the possible adjustment of taxable income on a transfer pricing basis may result in a penalty of up to 30% of the understated tax liabilities and may further result in increased interest for late tax payments. Taxpayers may opt to pay 50% of imposed penalties (no later than eight days from the receipt of the tax penalty order, whereas they would be exempt from payment of the remainder 50% of imposed penalties.