



TP NewsFlash

Transfer Pricing

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Dear readers,

In this issue, we offer you an overview of the recent news regarding Kazakhstan transfer pricing legislation and international practice, which may affect your activities in Kazakhstan

The Minister of Finance of the Republic of Kazakhstan approved forms of Master File and Local File

On 24 December 2018, the Minister of Finance of the Republic of Kazakhstan approved¹ the following forms and rules of their filling:

- Local File form and rules for its filling
- Master File form and rules for its filling.

These forms were approved in accordance with provisions of the Transfer Pricing Law of the Republic of Kazakhstan and come into force in Kazakhstan starting 1 January 2019.

Overall, these forms are in line with the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. Major difference of the Local File from is that it covers only transaction between members of a multinational group, which are subject to transfer pricing control in Kazakhstan.

The term of consideration of an Advance Pricing Agreement was decreased

On 8 September 2018, Decree of the Government of the Republic of Kazakhstan amended a procedure for concluding an Advance Pricing Agreement (APA) between State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan and a local taxpayer.

According to these amendments, the State Revenue Committee of the Ministry of Finance is appointed as a new authorized party acting on behalf of the Government (instead of Tax Committee and Customs Committee of the Ministry of Finance).

Additionally, the Decree reduced the term for consideration of applications for APA from 90 to 60 business days from the date of receipt of application.

OECD and IGF released set of practice notes for developing countries on BEPS risks in mining

The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) and OECD Centre for Tax Policy and Administration jointly designed mining sector specific guidance on some of the most pressing base erosion challenges facing resource-rich developing countries.

¹ Order #1104 dated 24 December 2018 of the Minister of Finance of the Republic of Kazakhstan "Regarding Master File, Local File and Country-by-Country Report transfer pricing forms and rules for their filling"

This partnership are developing a series of practice notes and tools for governments. They now have finalized the following three practice notes:

- limiting the impact of excessive interest deductions on mining revenue
- using tax incentives in mining, specifically, examining the tax base erosion risks they can pose
- developing government policy options for monitoring the value of mineral exports (considering types of minerals, risks of undervaluation, existing government capacities, and available budgets).

Transfer Pricing Tips: reasons to prepare TP documentation

There are some of the benefits of preparation of Transfer Pricing documentation for taxpayers:

- documentation identifies risks of adjustments of tax liabilities related to TP
- taxpayers have an opportunity to identify its TP risks and perform necessary tax adjustments to get ready for a TP audit
- in case of tax or TP audit regulatory authorities would review a TP documentation in the first place
- presence of TP documentation automatically transfers a burden of proof to regulatory authorities
- according to the TP Law, parties of a controlled transaction must maintain reports and related TP documentation with substantiation of prices.

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