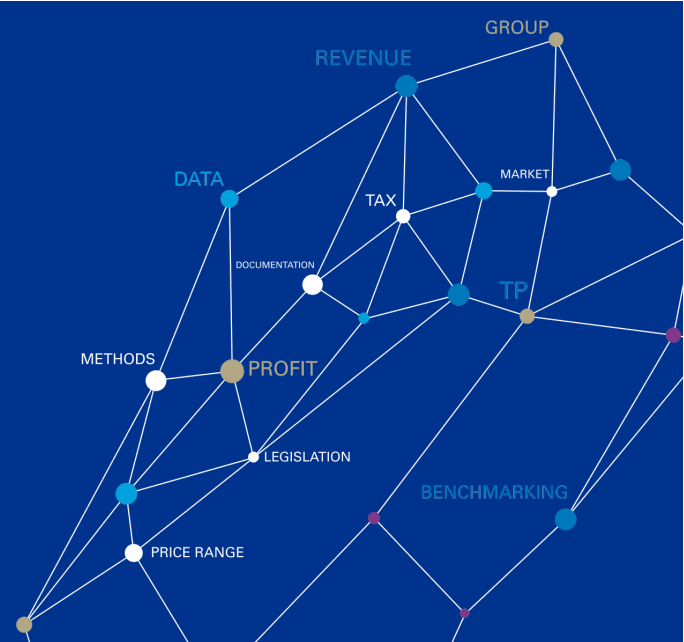




TP NewsFlash

Transfer Pricing

#2 - 2018



Dear Readers,

In this issue, we offer you an overview of the recent legislative changes to Kazakhstan transfer pricing legislation which may affect your activities in Kazakhstan.

Kazakhstan signed a Multilateral Competent Authority Agreement (MCAA)

On 12 June 2018 the Ministry of Finance of the Republic of Kazakhstan signed a Multilateral Competent Authority Agreement on The Exchange of Country-by-Country Reports (MCAA). MCAA provides for a unified standard of automatic exchange of Country-by-Country Reports.

MCAA allows Kazakh tax authorities to receive Country-by-Country Reports of multinational enterprises that have subsidiaries in Kazakhstan. Besides, Kazakhstan multinational enterprises will be able to submit Country-by-Country Reports in Kazakhstan instead of foreign countries.

MCAA will be fully enacted once the respective IT system will be established and bilateral agreements with other countries signatory to MCAA will be signed by Kazakhstan.

Transfer Pricing Tips: intangible assets

BEPS Action Plan have revised guidelines on issues relating to determination of the arm's length remuneration for intangible assets. Generally, where an entity performs high value-adding DEMPE functions (development, maintenance, enhancement, protection and exploitation) in relation to the intangible, it can expect remuneration in the form of royalty payments.



Besides, the BEPS Action Plan covers key points and aspects related to intangibles:

- Legal ownership of intangibles, by itself, does not confer any right to royalty upon its owner.
- Entities performing DEMPE functions are entitled to the arm's length consideration.
- Entities performing DEMPE functions shall monitor risks and have the financial capacity to assume these risks.
- Where the entity provides funding for development of intangibles and does not exercise control over the financial risks associated with the funding, then it is entitled to no more than a risk-free return.
- To precisely determine the market value of complex intangible assets, a thorough analysis is required.



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