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TAX ALERT
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Rulebook on transfer pricing amended

Ministry of Finance of the Republic of Serbia has adopted Amendments to the Rulebook on Transfer Pricing and Methods Applied for Determining Prices in Related Party Transactions in Accordance With the Arm's Length Principle ("the Rulebook") on 28 January 2014.

Amendments to the Rulebook were published in the Official Gazette of the Republic of Serbia n0 8/2014 on 29 January 2014 and came into force on the day after. Given the effective date, the Amendments will be applicable on transfer pricing documentation which has to be prepared for related party transactions in 2013.

Primary objective of these Amendments is to decrease requirements set before taxpayers, particularly with respect to transactions which are not expected, because of their value, to materially impact tax liability. It is expected that the Amendments to the Rulebook will provide relief to taxpayers with respect to preparing transfer pricing documentation.

Since this is the first time that detailed transfer pricing documentation requirements are being applied, it is important to keep up with the development of new regulations and practice. KPMG will continue to monitor and report on developments in this complex field, as well as on their possible impact on tax obligations and general activities of business entities.

Please note that the deadline for submission of transfer pricing documentation report to the Tax Authorities is unchanged – 30 June 2014.

Relevant changes are presented below.

Simplified report for certain types of transaction

The amendments abolished the obligation to prepare a detailed analysis of compliance with the arm's length principle for certain transactions. This allows the taxpayers a simplified approach to including certain less important transactions in the transfer pricing documentation, by just presenting them in a form of a short report. The above changes may represent a significant relief for taxpayers, depending on the business model and business conditions.

The transactions may be excluded from the detailed analysis, if at least one of two following conditions is met:

1) Transaction with related party is a one-off transaction in the year for which the tax balance sheet is submitted, and its value does not exceed 8,000,000 RSD;

2) Total value of all transactions with a related party in the year for which the tax balance is submitted is not greater than 8,000,000 RSD.

The above mentioned relief is not applicable to loans and credits. These transactions have to be analyzed in accordance with the rules prescribed by the Corporate Income Tax Law.

Short report on less significant transactions must contain the following information about all transactions that meet the above requirements:

1) Description of transaction;

2) Value of transaction;

3) Name of related party with whom the transaction was executed.

Use of Comparable uncontrolled price method

Amendments prescribe that cost of services or products realized by a taxpayer's related party in a transaction with a non-related party, can be considered internal comparable price, provided that the transaction was carried out under comparable conditions.

The above mentioned change extended the scope of internal data which can be used, so that the taxpayers can use the Comparable uncontrolled price method in a more reliable manner.

Definition of unrelated party for the purposes of the application of certain methods

Definition of a related party is more precisely defined, depending on the method used for transfer pricing analysis:

- When determining internal comparable prices (under the Comparable uncontrolled price method) or internally comparable margins (under the Cost plus or Resale price methods) taxpayers can use prices or margins realized in transactions with entities that are not related to the taxpayer.
- When determining external comparable prices (under the Comparable uncontrolled price method) or external comparable margins (under the Cost plus or Resale price methods) taxpayers can use prices or margins realized in transactions between unrelated parties.
- When determining the arm's length range of net margins (under the Transactional net margin method) taxpayers can only use margins realized by entities which do not have related parties.

Specifying the provisions on related and unrelated parties has eliminated dilemmas about the selection of comparable data.

Content of documentation

The amendments reduced requirements for identification and presentation of related parties in transfer pricing documentation. Taxpayers are now required to disclose only those related parties with whom they had transactions during the year for which the documentation is prepared.

In addition, taxpayers are no longer required to disclose information related to "planned development of business relationships and transfer pricing policies with related parties."

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