



FOREIGN EXPERIENCE IN THE ORGANIZATION OF TAX CONTROL AND TRANSFER PRICING

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Abstract

In this article, in order to stabilize the financial situation of prestigious companies in the world, create new jobs and achieve economic growth, it is necessary to "transition to international standards of management, use transfer pricing in the process of concluding financial transactions in entities of the cluster and cooperative system, and present financial and management reports on operational segments." . International experience testifies to the fact that a sufficient information base has been formed on the theoretical, methodological and organizational aspects of these problems, and special scientific and innovative research is being conducted in this regard. According to the research, "US Federal Tax Service (IRS) received 3.4 billion dollars obtained as a result of illegal allocation of royalties and other costs in the process of trade deals between UK and US companies in the process of formation of transfer pricing." that dollar income was returned to the main company located in England" indicates the seriousness and importance of the issue.

Keywords: tax, fiscal policy, budget, tax administration, tax potential, normative analysis, positive analysis, tax burden, representative tax rate, average rate, tax reporting, tax revenues, analysis, positive analysis, tax burden, market price, management account, transfer price.

Introduction:

Transfer pricing is particularly relevant in the context of globalization and the growth of international trade. It is also relevant in that the formation of transfer prices in order to avoid or underpay taxes in intra-republican trade leads to the non-receipt of taxes that should be paid to the state budget.



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The international experience of tax control in determining transfer pricing is as follows.

It should be noted that there are no universally binding international instruments aimed at regulating transfer pricing. The Organization for Economic Cooperation and Development (OECD) has developed Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (hereinafter referred to as the Guidelines). Although this is a recommendation-based document, its provisions are also reflected in the national legislation of various countries, including non-OECD member states. The Guidelines, which are currently in force, are a new edition of the Transfer Pricing Report adopted in 1979. The Guidelines were approved on July 22, 2010.

The Guidelines divide the methods of determining prices for tax purposes into two groups: traditional methods and methods based on analysis and profit allocation.

The Guide recommends the use of the following transfer pricing methods:

Traditional methods:

- Market price method (comparable uncontrolled price method);
- Resale price method (resale price method);
- Current cost method (cost-plus method);

Methods based on analysis and profit sharing:

- Transactional net margin method (transactional net margin method);
- Transactional profit split method (transactional profit split method).

The choice of which method to use for determining transfer prices depends on the specific circumstances of the case, taking into account factors such as the advantages and disadvantages of each method, the possibility of collecting the necessary information for their application, and the degree of comparability of transactions. As for the legal nature of the Guide, it is not mandatory under Article 5 (b) of the WTO Convention and is only recommended for WTO member states to follow the Guide. However, the Manual has been widely used by both OECD and non-OECD countries in developing transfer pricing legislation. In addition, many courts use the Manual to interpret their national transfer pricing legislation when considering transfer pricing disputes. For example, Ireland, Mexico, Spain, the United Kingdom, Hungary, Latvia, Peru and Romania have included provisions in their national



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transfer pricing legislation to use the Manual to interpret these laws. The legislation of the Republic of Uzbekistan does not provide for the use of the provisions of the Manual.

The US Experience in Transfer Pricing Regulation.

If we look at the history of national legislation aimed at regulating transfer pricing, we can see that the US has made significant progress in this area compared to other countries. Section 482 of the US Internal Revenue Code (Internal Revenue Code) establishes rules governing transfer pricing. This section 482 was adopted in the 1920s. It gives tax authorities the authority to adjust prices and recalculate and impose taxes if low prices are set in intercompany commercial relations for the purpose of avoiding tax. This section 482 establishes specific methods for determining transfer prices. These methods are similar to those set out in the Guidelines. This is because the US has developed transfer pricing legislation earlier and its rules were also used in the development of the Guidelines in the 1960s.

US transfer pricing legislation allows taxpayers to enter into an Advance Pricing Agreement (APA) with the Internal Revenue Service to prevent transfer pricing in transactions with related parties. The implementation of these agreements also began in the US and served as the basis for their incorporation into the legislation of other countries. In this case, a company entering into transactions with related companies enters into an agreement with the tax authority instead of conducting inspections and preparing documents by the tax authorities. This avoids the costs of resolving disputes that may arise for both companies and tax authorities.

UK transfer pricing regulations.

The current UK transfer pricing legislation is governed by the Taxation (International and Other Provisions) Act 2010. This Act sets out the methods for calculating transfer prices by tax authorities when companies use transfer prices, and the grounds and methods for making adjustments to prices in cases of price manipulation. UK legislation also provides for the possibility of entering into an Advance Pricing Agreement (APA) between companies and tax authorities.

Legislation of the Russian Federation.

There is not much legislation in the Russian Federation aimed at regulating transfer pricing. On July 18, 2011, the Law “On Amendments to Certain Laws of the Russian



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Federation in Order to Improve the Principles of Determining Prices for Tax Purposes” was adopted. This Law introduced a new section into the Tax Code of the Russian Federation - V.1. Related Parties. General Rules for Pricing and Taxation. Tax Control over Transactions between Related Parties. Agreement on Pricing Formation”. These additions to the Tax Code are consistent with the recommendations given in the Guidelines. The newly introduced rules are aimed at increasing the effectiveness of state control in the field of transfer pricing. The introduced amendments have expanded the concept of related parties. Transactions between related parties are recognized as controlled transactions. The legislation also specifies other types of controlled transactions.

The following methods of determining income in transactions between related parties are established:

- Comparative market price method;
- Resale price method;
- Cost method;
- Comparative profitability method;
- Profit allocation method.

Transfer prices are determined using the above methods. The legislation allows the use of a combination of two or more methods. The Tax Code establishes the obligation of taxpayers to submit documents on a specific transaction upon request by tax authorities. These documents are used to determine the application of transfer prices. The legislation determines the type of documents to be submitted by the taxpayer. It is important to note that in the Tax Code of the Russian Federation, transfer pricing control is a new type of tax audit. Verification of the completeness of the calculation and payment of taxes related to the conclusion of transactions between related parties is carried out when such transactions are concluded between related parties. If the use of transfer pricing between related parties results in the non-payment of taxes on time, this shall entail the payment of a fine in the amount of 40% of the unpaid tax, but not less than 30,000 rubles. If the taxpayer provides the tax authorities with documents substantiating that these prices are market prices or has concluded an Agreement on Pricing with the tax authorities or tax authorities, he shall be exempted from paying this fine.



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The tax legislation of the Russian Federation also provides for the possibility of concluding an agreement on pricing for tax purposes. This possibility may be used only by taxpayers who have the status of large taxpayers by law. The agreement is concluded between the taxpayer and the state tax authority and provides for the procedure for determining prices and (or) applying methods for determining price formation for controlled transactions during the period of conclusion of the agreement.

Legislation of the Republic of Kazakhstan.

The experience of the Republic of Kazakhstan in regulating transfer prices between CIS countries is greater than that of other countries. Kazakhstan adopted the Law “On Transfer Pricing” in 2008. In this country, the rules determining transfer prices are not part of the Tax Code, but are adopted as a separate legal act. This Law is implemented in the field of transfer pricing control not only in transactions between related parties, but also in other types of transactions, as well as transactions concluded in the territory of the Republic of Kazakhstan and directly related to international commercial operations.

The legislation of the Republic of Kazakhstan on transfer pricing complies with the recommendations given in the Manual. In accordance with Article 12 of this Law, the following methods are used to determine market prices in transactions:

- 1) the method of comparative uncontrolled prices;
- 2) the cost plus method;
- 3) the resale price method;
- 4) the profit split method;
- 5) the net profit method.

If prices other than market prices are used in controlled transactions, the competent authorities may conduct an audit of the parties to the transaction, and based on the results of this audit, the competent authorities shall make appropriate adjustments to the objects of taxation.

The above examples show that specific recommendations of international organizations have been developed to combat tax evasion by related parties through the formation of transfer prices, and based on these recommendations, effective legal



mechanisms have been developed in many countries, including the CIS countries, to combat tax evasion.

Conclusions and proposals

1. It is advisable to create a software product for assessing profitability indicators for use in determining income for tax purposes in controlled transactions in accordance with the procedure established by tax legislation.
2. It is necessary to develop a methodological manual for determining income for tax purposes in controlled transactions and establish a single deadline for submitting a notification of a controlled transaction.
3. It is advisable to also grant regional tax authorities the authority to conduct an audit of the full calculation and payment of taxes in connection with the conclusion of controlled transactions within the framework of tax control when determining transfer pricing.
4. Appropriate amendments should be made to the Tax Code to allow for an audit if tax authorities determine the existence of a controlled transaction;
5. Establishing liability for failure to submit a notification of a controlled transaction in the event of its existence and establishing a single deadline for submitting a notification of a controlled transaction will serve to improve the process of tax control.

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