

Transfer Pricing Regulations of Belarus



The pricing formation issues have been always under specific attention of state authorities. However, such attention was mostly one-sided as it was mainly focused on internal prices and the maximum limit of prices. The parties applied free prices in international trade.

New transfer pricing rules are included in the Tax Code of the Republic of Belarus effective from 1 January 2012. These rules are aimed at estimation and correction of tax consequences in case of transactions between related parties and other parties.

The Tax Code of the Republic of Belarus contains only one article (article 30-1) which provides for main principles of price determination for goods (work, services) for the taxation purposes. In general, article 30-1 corresponds with the principles outlined in the transfer pricing guidelines for multinational companies and tax administrations created by the organization for Economic Cooperation and Development ("OECD") as of 2010, including the arm's length principle.

The tax control for transfer prices aims at identifying the transactions the prices for which deviate by 20% from the market level, by the control authorities with further correction of tax base for profit tax.

The rules apply to the following transactions:

- Sales of real estate where the transaction price is more than 20% lower than the market price as at the date of the sale; and
- Foreign trade transactions, including transactions with related parties, where the price of the transaction (or transactions with the same party) within a single calendar year exceeds BYR 1 billion (approx. USD 60,000):
 - sales of goods (performing work, rendering services) and the price of the transaction deviates by more than 20% from the market price of the goods (work, services) as at the disposal date
 - acquisition of goods (work, services) and the price of the transaction deviates by more than 20% from the market price of the goods (work, services) as at the acquisition date.

If the tax authorities determine that the transaction price deviates from the market price by more than 20%, they may adjust the tax base and profits of one of the parties to the transaction to an amount that would have been obtained had the transaction price been set at the market level.

- Starting from 2015 the Tax Code of the Republic of Belarus provides for 4 methods to determine the market price:
- comparable uncontrolled price method
 - resale price method
 - cost-plus method
 - transactional net margin method

Besides, the Tax Code of the Republic of Belarus provides for rules regarding comparison of transactions, general description of possible information sources about prices as well as the criteria based on which the price is deemed a market one, etc.

The current Belarusian legislation does not provide for preparation and submission of transfer pricing documents to the tax authorities. The transfer pricing control is carried out within the tax audits.

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