Tax&Legal Highlights

Croatia

Advance Pricing Agreement Procedure Regulations

The Croatian Tax Authorities have published Advance Pricing Agreement Procedure Regulations, which provide the taxpayers with an option for tax risk minimisation.

The Advance Pricing Agreement ("APA") is **an agreement between a taxpayer and the Ministry of Finance, Tax Authorities and the tax authorities** of other countries in which the related parties are residents or operate through a permanent establishment.

The purpose of an APA is **to define the tax treatment of one or more related party transactions before the transactions commence**. The criteria that can be agreed upon during the APA process include transfer pricing methods, comparable companies / transactions / profit indicators, transfer pricing adjustments or assumptions on future events of those transactions.

The purpose of concluding an APA is to:

- Minimise tax risks during the planning of materially significant complex related party transactions
- Have assurance during the planning of related party transactions

- Resolve transfer pricing matters on a partnership basis with the Tax Authorities

The details of an APA conclusion are prescribed by the **on the Advance Pricing Agreement Procedure Regulations** (NN 42/17).

During the APA conclusion process, the taxpayer has to prepare a functional, risk and economic analysis for the future transaction. A successful preparation of the detailed documentation prior to entering the transaction is key to present economic reasons for entering into the transaction to the Tax Authorities.

The basis for the APA is a planned transfer pricing study, which contains concise data on the future transaction and the functional, risk and economic analysis of the planned transaction.

The APA can be concluded as a:

1. Unilateral Agreement between the taxpayer and the Tax Authorities, or
2. Bilateral or Multilateral Agreement between the taxpayer and the Tax Authorities as well as the related parties and the tax authorities of other countries in which the related parties are residents

The APA is initiated by the **taxpayer and is binding for the taxpayer and the Tax Authorities** for the period for which it is concluded.

The APA can be concluded for a period of up to five years, depending on the characteristics and types of transactions, which are the subject of the APA. The APA can be extended for six months before the expiry of the time limit for which the APA is concluded.

The procedure of concluding the APA consists of the following phases:

1. Submission of the initiative for the APA conclusion
2. Preliminary discussion
3. Submission of the Statement of Intent for the APA conclusion
4. APA conclusion
5. Monitoring the APA implementation

The APA conclusion costs are borne entirely by the applicant of the Statement of Intent and must be paid together with the Statement of Intent submission.

The Tax Authorities will not perform a transfer pricing adjustment after the APA conclusion, i.e. in the APA duration period, as long as the taxpayer fully complies with the terms of the APA, or until the conditions of the APA change.

Contacts Details

Dražen Nimčević
Partner
Tel: +385 (1) 235 1917
Mob: +385 (91) 2035 091
Email: dnimcevic@deloittece.com

Petra Bulić
Senior Manager
Tel: +385 (1) 2351 974
Mob: +385 (91) 6868 091
Email: pbulic@deloittece.com