



## **SAT filed a **criminal complaint** against a taxpayer that did not report having had commercial relationships with related parties abroad.** Transfer Pricing Newsletter

Last Thursday, October 25, 2018, the Diario de Centro América (official gazette) published an article in its Economics section indicating that the Superintendency for Tax Administration (SAT) performed 18 audits from April to September of this year related to the informational annex on transfer pricing that is due March 31<sup>st</sup> of each year.

The article also stated that the SAT

filed a criminal complaint against a taxpayer that did **NOT** report having had commercial activities with related parties abroad when, according to the SAT's interpretation, the taxpayer did in fact conduct such activities.

Furthermore, the article indicated that currently the tax office is analyzing 10 similar cases of taxpayers not having reported transactions with related parties

abroad. In these cases, the Tax Administration is concluding with the gathering of sufficient evidence in order to prepare the respective complaints.

The increasing importance of Transfer Pricing in the SAT's oversight activities has become evident, which is in line with the global trend that shows that the most important tax issue currently affecting tax administrations and business groups that operate in two or more countries is precisely the valuation of transactions between related parties. Therefore, the strategic management of such business groups recommends having independent consultants specialized in Transfer Pricing in order to:

- Develop the group's transfer pricing policy, which defines in detail the methodology for determining the price to be used in transactions between related parties, for both recurring and future transactions, as well as the necessary documentation. These policies allow companies to have some guidance when replicating the transactions in new jurisdictions or new markets.
- Prepare the Country-by-Country Report required by Base Erosion and Profit Shifting –BEPS– Action 13 of the Organization for Economic Cooperation and Development –OECD–.
- Prepare the group's Master File. This document is intended for providing a high-level overview in order to place the transfer pricing practices of the multinational group in their global economic, legal, financial and tax context; and may include the arm's length range (prices or profit margins) of each element of the group's value chain.
- Prepare the Transfer Pricing Study –TPS– in compliance with the requirements of the legislation of each country in which the group operates. It is here where the importance of having a consultant preparing the TPSs who has a local presence in each jurisdiction cannot be stressed enough, in order to ensure that the consultant will provide the proper support when facing the requirements of each local tax administration.

- Provide support in tax controversies resulting from transfer pricing adjustments identified by the SAT in audits related to this matter, since it impacts the taxable income for the income tax.

- Perform an analysis of the transactions with related parties prior to their occurrence to ensure that they are carried out in compliance with the legislations they affect.

Deloitte's experience at the global level in Transfer Pricing –TP– has led us to conclude that the successful execution of these projects requires the combination of global experience, knowledge and technology with expertise in local tax law. This combination ensures the leveraging of Global and Regional resources and practices, while at the same time, the correct understanding of the local legislation. With this in mind, our team of advisors, based in Guatemala, is available to serve you.

## Our experts:

Deloitte offers a range of integrated tax and legal services. Our teams combine technical knowledge, experience and innovation, which allow us to help our clients meet their objectives at the local and global levels.



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