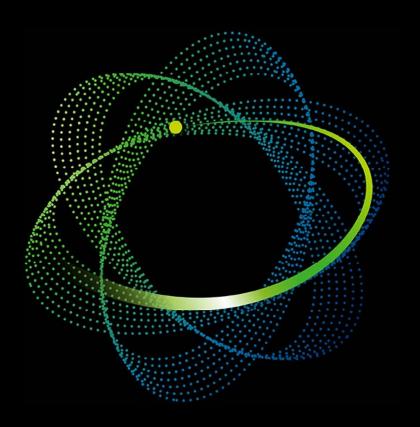
Deloitte.



Transfer Pricing News

Analysis of the economic substance and tangible benefit of the intragroup services

Some years ago, "economic substance" and "tangible benefit" may not have been relevant terms for Guatemalan taxpayers performing intragroup services transactions. However, upon the inclusion of the Special Valuation Rules between Related Parties, these terms became more significant for those involved in the services (provider of the service,

receiver of the service, and the Tax Administration). This is why, in our opinion, it is of great importance that Guatemalan taxpayers perform an in-depth analysis of the intragroup services they are charging/paying.

Some of the transfer pricing factors to be observed in the analysis of services are:



Check for the non-duplication of services – It is of the utmost important that the taxpayer check that there is no duplication of services provided/received, since if any such duplication exists, the need for the intragroup service could be questioned. For example, if the taxpayer receives charges from a related company for recruitment of personnel, while at the same time it has a Human Resources department that also recruits personnel, it could be assumed that the service is being duplicated. In any case, should this occur, the taxpayer should analyze whether the recruitment functions are similar or demonstrate that the intragroup service received creates an additional tangible benefit, which leads us to the second point.



Analysis of the value that the intragroup service can provide – It will be necessary to timely analyze the value that the intragroup service is creating; that is, to demonstrate that the services received are necessary and provide value. For instance, if the company is receiving a marketing service from a related company, it will be important to analyze the impact that such service has on the sales of the recipient, and thus justify that this service is useful and necessary, which translates into having a tangible benefit from the service.



Aspects to consider for deductibility purposes of the recipient taxpayer – It will also be important to check that all of the requirements established by the Transfer Pricing legislation are met. These requirements include:

- a. Ensuring a fair allocation of the service by the service provider, under reasonableness criteria.
- b. Having a deliverable as a result of the service.
- c. Ensuring that the service is useful and necessary for the generation of revenue.
- d. Checking everything related to documentary compliance, such as contracts, transfer pricing policies, invoices, etc.
- e. Complying with transfer pricing, demonstrating that the service charged/paid complies with the arm's length principle.

Since many years ago, these aspects have been observed by many countries of the region, and some of them have already established that for the providing of intragroup services, it is necessary to comply with a list of requirements (benefit test), which go hand in hand with that mentioned in this article.

Therefore, we recommend that taxpayers consider all of these aspects when conducting intragroup services.

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.



Mario Coyoy

Tax and Transfer Pricing Partner Centralamerica Transfer Pricing Leader mcoyoy@deloitte.com



Raúl Gracias

Senior Manager Transfer Pricing ogracias@deloitte.com

Deloitte.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

As used in this document, "Deloitte" refers to Deloitte Guatemala, S.A., Asesores y Consultores Corporativos, S.A., Deloitte Consulting de Guatemala, S.A. y Consultores en Servicios Externos, S.A., which has the exclusive legal right to become involved in, and limit its business to, the provision of audit, consulting, tax and legal, risk advisory, financial advisory and other professional services under the name "Deloitte".

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte's approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms or their related entities (collectively, the "Deloitte organization") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.

©2023. For information, contact Deloitte Guatemala.