



## 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:

1

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.

2

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.

3

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.

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