

Breaking Tax News

Bill on the proposed changes of transfer pricing reports

In contrast to our monthly Tax News+, in our Breaking Tax news you will be informed immediately of regulatory changes affecting your business but without commentary by our experts.

A draft bill (hereinafter: bill) announced by the Ministry for National Economy early in March proposes **significant changes** to the reporting obligation related to the determination of the arm's length prices, i.e. **concerning transfer pricing reports**. Apart from **clarifying the wording**, the bill proposes **changes in content**.

Perhaps the **most important change introduced in the bill** in connection with the search in databases containing companies' financial statements data (e.g. Amadeus database) is that **it specifies the criteria of selecting comparable enterprises**. Accepting this proposal would mean that it would be defined by law what criteria may be taken to select the appropriate comparable enterprises (e.g. geographic screening, independence screening or screening based on losses) and what further statistical elimination would be necessary for an acceptable result. Taxpayers wishing to proceed differently from what is stipulated by law would be required to explain the reasons in the transfer pricing report. In our opinion, the bill goes against international trends in this respect since the steps of the database research are typically not regulated so strictly in other countries and it is neither in line with global simplification efforts. The bill raises a number of questions, particularly concerning those databases which may not be suitable for performing the filtering steps proposed, or regarding researches prepared in other countries which contain additional or different filtering steps.

As another important change, the transfer pricing reporting obligation would not apply to transactions in relation to which a request for an advance pricing arrangement (APA) has been submitted and confirmed by the Hungarian tax authority from the tax year of the submission until the last day of that tax year when the APA resolution is in effect. This extends the period of exemption from the reporting obligation due to the APA, which is another strong argument for filing an APA request. The amendment also provides that transactions performed only in the tax year concerned must be taken into account when determining whether the value of the transaction is below the HUF 50 million threshold, which ensures exemption from the reporting obligation related to the determination of the arm's length prices. According to the bill, if the consideration under the related party contract is denominated in a currency other than HUF, the MNB exchange rate effective on the day of the conclusion of the contract is to be used when determining whether the transaction value is below the threshold of HUF 50 million, as well as HUF 150 million in the case of low value adding intra-group services.

Concerning low value adding services, **the bill clearly specifies what could be taken into account in a consolidated manner with respect to the HUF 150 million threshold.** The bill sets forth that if the margin applied in the transaction qualifying as a low value adding service is within the range of 3-10% (instead of the previously determined 3-7%), it is not required to perform a benchmark study.

Please note that the bill is not yet final. A number of questions may arise in connection with the proposed changes. Naturally, you will be informed immediately of changes to the bill or of its final version. **Please do not hesitate to contact us with any of your questions.**

If you have any questions or comments concerning the above, please contact one of our tax experts:

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