Central European Transfer Pricing Firm of the Year
International Tax Review European Tax Awards 2012

Hungary Tax Firm of the Year
International Tax Review European Tax Awards 2011

Breaking Tax News

Transfer pricing audits: OECD guidance

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.

On 30 April 2013 the **OECD Global Forum on Transfer Pricing published its draft handbook** (hereinafter Draft) **on transfer pricing risk assessment.** The Draft provides a detailed, **practical guidance for tax administrations to improve the efficiency of their transfer pricing reviews.**

Based on the Draft, a **reallocation of profits between group companies may be suspected in case of large volume, recurring/continuous related party transactions** or **one time complex transactions involving large amounts.** In the first group various service and management fees, royalties and interests are specifically mentioned. **Transactions where the above payments are directed to a country with lower tax rates** - at least for the given income type - **are found to carry the highest risks** according to the Draft. Of one time transactions, attention should be paid to the transfer of income generating assets and intangible assets, which could alter the profitability of group members in the long run.

According to the Draft, tax authorities should **focus on taxpayers who fail to fully or partly comply with the legal regulations,** irrespective of whether they do so out of ignorance or intentionally, or they do not cooperate with the tax authority. Also in line with the 2013 tax audit guidelines of NAV, **transfer pricing risks arise in case of taxpayers who permanently generate losses as active members of a company group.** Furthermore, the Draft finds taxpayers suspicious **if they permanently make low profits** in an industry or intra-group comparison.

At the same time, the Draft emphasises that none of the above in itself is proof of profit reallocation. In each case individual circumstances must be examined in detail. Accordingly, **taxpayers are advised to lay down their transfer pricing principles reflecting the allocation of functions and risks in a suitable transfer pricing report or policy** well before the tax audit.

The Draft recommends that **taxpayers and tax authorities should closely work together** and also provides some good examples. In several countries - such as Hungary - the advance pricing agreement (APA) is a viable option, and in other countries the transfer pricing and other legal implications of a transaction may be confirmed after the completion of the deal but still before filing a tax return.

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

Dr. Attila Kövesdy

Partner in Charge
Deloitte Co.Ltd.
Tel: +36-1-428-6728
E-mail: akovesdy@deloitteCE.com

László Szakál

Partner
Deloitte Co.Ltd.
Tel: +36-1-428-6853
E-mail: lszakal@deloitteCE.com

István Veszprémi

Partner
Deloitte Co.Ltd.
Tel: +36-1-428-6907
E-mail: iveszpremi@deloitteCE.com