



**Unprepared for Transfer
Pricing?**

No need for alarm bells to ring

Introduction

For:

- multinationals with established global transfer pricing policies;
- Kazakhstan-owned groups operating outside Kazakhstan, and other businesses with cross-border transactions and/or with affiliates, it is not so straightforward to ensure compliance with Kazakhstan's transfer pricing law as it is in most other jurisdictions.



Transfer Pricing in Kazakhstan

The Law on Transfer Pricing sets out to protect the Republic of Kazakhstan's domestic tax revenue base by setting out a series of controls and pricing restrictions that apply to "international business transactions."

Kazakhstan's Transfer Pricing (TP) regime significantly differs from most nations' TP laws (which are always in line with the principles originally set out by the Organisation for Economic Cooperation and Development in their core TP guidelines: "Transfer Pricing for Multinational Enterprises").

The principal source of this divergence is that the Kazakhstan TP regime applies to:

- all cross-border transactions (i.e., irrespective of whether such transactions

are concluded with related parties or third parties); and,

- certain transactions performed in Kazakhstan during domestic transactions that are "directly linked to cross-border transactions", which could include:
 - Imports and exports of goods;
 - Service agreements, where one of the parties is a non-resident providing services to a tax resident of Kazakhstan from an overseas location

(i.e., where the service provider does not have a permanent establishment in Kazakhstan);

- Goods and service agreements concluded between Kazakhstan residents beyond the territorial borders of Kazakhstan.

In relation to these transactions, the Kazakhstan TP law stipulates certain types of control, which could include the following:



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- Documentation on significantly-controlled transactions, which must be prepared on an on-going basis and submitted annually to the tax authorities
- Documentation on controlled transactions, which must be maintained and made available to the tax authorities for review upon request;
- Mandatory adjustment of prices (for TP and corporate income tax purposes) for transactions where the actual prices applied do not fall within certain prescriptive conditions set out in the law (this most notably applies to the Energy and Resources industry, where average prices over a range of dates are often used to determine transaction prices and “differential” amounts are incorporated to adjust for terms of payment, shipping, insurance and other product- and market-related factors);
- Transfer pricing audits;
- Other potential control actions, provided by the law.

As a consequence of the above breadth of the scope of local TP legislation and the control actions available to Kazakhstan’s tax authorities, it is imperative to have suitable and adequate Transfer Pricing documentation in place so as to protect taxpayers from avoidable TP risks in Kazakhstan.

Having global policies and OECD-compliant documentation in place does not automatically ensure adequate compliance and protection for Kazakhstan TP purposes.





How Deloitte can help

Deloitte is one of the largest professional services firm in the world and a leading global authority on Transfer Pricing.

Deloitte provides a diverse range of services related to Transfer Pricing, including (but not limited to):

- reviews of companies' Transfer Pricing documentation and analysis of their compliance with Transfer Pricing legislation in Kazakhstan;
- guidance on what additional documentation could be put in place to address current risks faced by companies;
- analyses of pricing methods applied for intra-group and cross-border transactions from a Kazakhstan tax perspective;
- localisation of the global Transfer Pricing policies of large multinational companies;
- assistance to companies with constructing a consolidated Transfer Pricing documentation file in a form suitable to present to the Kazakhstan tax authorities.

When executing transfer pricing projects, we can leverage the following benefits:

- Our experience gained during previous transfer pricing projects, including development of a methodology for implementing business processes in accordance with transfer pricing legislation, leveraging from deep industry and technical experience available across Deloitte offices around the world;
- Our ability to obtain up-to-date information on any changes in tax legislation from the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan, which is responsible for tax policy;
- The participation of our firm and team members in professional associations (e.g., Association of Taxpayers of Kazakhstan), which gives us the opportunity to meet and have discussions with representatives of the Ministry of Finance Tax Committee of the Republic of Kazakhstan;

- Support from other Deloitte offices located in London and Dusseldorf, which have received international recognition as offices of best practice on transfer pricing.

Meet the team

If you have any concerns about the adequacy of your TP policies, controls and documentation, or if you would like to discuss any element of your organisation's Transfer Pricing needs, we are here to help.

To discuss any of these matters, please contact:



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