



Tax Newsletter

Timely news and information on national tax issues

Trends in oversight of intragroup services transactions

In the business world, it is common for companies to implement resource optimization strategies through the incorporation into their value chain of the concentration and execution of intragroup services in their subsidiaries.

Intragroup services may vary considerably among multinational groups based on the business strategy of either centralizing or decentralizing the value chain. Some of the activities that may be involved are support services, such as human resources, accounting, treasury, or even functions that imply specialized



tasks with a knowledge component (or *know how*) of the business or industry.

However, there may be situations where the companies can leverage these types of frameworks to shift profits to a territory with a lower tax burden, consequently resulting in tax base erosion.

Given this situation, the OECD¹ lays out two main issues.² The first issue is knowing whether the service has actually been provided and the benefit received. The second issue is what the remuneration for these services for tax purposes should be in accordance with the arm's length principle.

Tax Administrations have turned their attention to these types of charges, intensifying oversight activities and mainly questioning taxpayers regarding the issues set out by the OECD in order to confirm the deductibility of the expense from the tax base.

1. Organization for Economic Cooperation and Development.
2. OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022; paragraph 7.5.

The latest trends in the oversight of intragroup services charges consist of requesting that taxpayers have an exhaustive detail of the services received, such as the following:

- a) Contracts
- b) Description of the services specifying the tasks performed, the terms during which the service was received, and deliverables that support it (according to their nature)
- c) Needs covered by the services
- d) Process flows in the providing of the service
- e) Organizational structure of the service provider, specifying the personnel performing the activities
- f) Organizational structure of the beneficiary of the service
- g) Information on the geographical location of the personnel involved in the providing of the service
- h) Benefit received by the business of the beneficiary of the service
- i) Methodology for the calculation applied by the service provider in the determination of the billing

Based on the previous list, various conclusions can be reached regarding the tested service, and thus confirm if it refers to an operating expense that complies with the deductibility requirements.

Therefore, taxpayers that enter into these types of transactions should mainly ensure the following:

- A strong functional analysis per type of service;
- The materialization of the service received;
- The economic or commercial benefit;
- Whether the service refers to a shareholder activity for which no payment with a charge to the group's companies would be justified;
- Whether there is a duplication of activities received with respect to those performed internally, and
- Transfer pricing policy applied.

It is important to consider that the tax risks could extend to the service provider if the service provider is not generating taxable income or a profit margin (transfer of costs), since an independent third party would seek to generate a profit in a comparable transaction.

It is important that taxpayers that enter into transactions for the providing of services between related companies have a *Defense file* for these charges, which should mainly contain aspects that confirm the **materiality, necessity, benefit received, and transfer pricing policy** applied, such that it mitigates potential tax risks.

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Tax Calendar

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Tax Obligations before the Tax Office (Ministerio de Hacienda)



Municipal Tax Obligations



Payroll Management Obligations

November 2024

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

To learn more about **November's** obligations:



Download the 2024 Tax Calendar

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