



FINACONT TAX NEWSLETTER

Transfer pricing risks



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National Tax and Customs Office **has increased the number of investigations in the pricing of transactions between affiliated parties and initiates adjustments in more and more cases, i.e. increases the tax base of the taxpayer subject to investigation.**

Having transfer pricing documentation which also meets formal requirements will not provide sufficient safety for the taxpayer **if the tax authority challenges the existence of transactions between affiliated parties.**

It is important to note that in most cases tax investigations **examine not only prices and pricing of transactions between affiliated parties but also the reasonability of transactions.**

For transactions between affiliated parties tax authority mainly examine **whether the transaction would have been realized between independent parties as well** and how the transaction served the economic interest of the beneficiary. If these matters cannot be proved and verified in the tax investigation, **tax authority might increase the corporate tax base of the beneficiary with regard to the transaction even twice under different titles.**

Furthermore, the authority might not approve to deduct the input VAT of incoming invoice of the transaction.

Tax investigations **mainly focus on often indefinable management fees.** Tax authority attempts to prevent cases when services are charged within a group as if they were real economic events but have no real value for the beneficiary or significantly higher fee is charged than it would be worth under market circumstances.

The other important field of investigation is loan within a group. The authority might examine whether the debtor would have taken the same loan from an independent party on the market under the same conditions (amount, currency, maturity and interest rates) considering its financial status. In this case during an investigation the authority may not only refuse to approve the deduction of interests paid but may also challenge the deduction of financial expenditures including the losses on exchange in relation to the loan. This means that it is worth preparing for tax investigations well in advance, for instance, describing business background/circumstances in the transfer pricing documentation or collecting documents (correspondences, analyses, training materials and others) proving fulfillment.

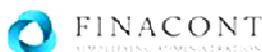
If the company spends time on structuring and systematically filing these documents, it will be much simpler for it to validate its interests during any tax investigation.

Please contact our colleagues if you wish to have a detailed interpretation of this legislation as this newsletter offers general understanding.

Should you have any questions, please do not hesitate to contact us.

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