

Guide to Transfer Pricing Rules in Serbia

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Introduction to Transfer Pricing in Serbia

For several decades, Serbia has had regulations in place pertaining to transfer pricing. However, a more comprehensive tax framework was introduced in 2013. This guide offers an insight into the key transfer pricing regulations in Serbia.

Essential Laws and Legislations

Serbia's transfer pricing regulations are influenced by various legislative frameworks:

- ▶ The Corporate Income Tax Act.
- ▶ A specific Rulebook that details transfer pricing methodologies based on the arm's length principle for determining transactional prices among affiliated entities.
- ▶ The OECD Transfer Pricing Directives from January 2022
- ▶ A separate Rulebook focusing on interest rates that comply with the arm's length principle.

Understanding Transfer Price

According to the Corporate Income Tax Act, transfer pricing refers to the valuation linked to asset transactions or obligations set between affiliated companies.

Defining Affiliated Companies

Under the same act, an affiliated entity is an individual or business entity that possesses the ability to influence or dictate a taxpayer's business decisions. Notably, a party that holds either directly or indirectly, a minimum of 25% of a taxpayer's shares or possesses at least 25% voting power in a taxpayer's board is deemed an affiliated entity. Relationships also extend to family members, including spouses, offspring, and siblings.

The Arm's Length Principle Explained

The arm's length principle, recognized by OECD member nations as the standard for tax-related transfer pricing, is also applicable in Serbia. Essentially, this principle implies that the price settled upon between affiliated entities should resemble the price that would have been agreed upon had the entities been independent. The foundation of this principle can be traced back to Article 9 of the OECD Model Tax Convention.

A party that holds either directly or indirectly, a minimum of 25% of a taxpayer's shares or possesses at least 25% voting power in a taxpayer's board is deemed an affiliated entity.

BEPS Provisions and Serbia's Stance on OECD Directives

Though not an OECD member, Serbia's transfer pricing rules and documentation largely mirror the BEPS Regulations and the OECD Directives. As it stands, there isn't a comprehensive BEPS documentation structure in place, but the Local File, as outlined in the Rulebook, is mandatory.



Documenting Transfer Pricing in Serbia

This report should be filed with the tax return, within 180 days of the fiscal year's end.

Obligations and Timelines for Transfer Pricing Documentation

Taxpaying entities in Serbia transacting with affiliated entities must furnish documents showing the market-equivalent value of such transactions, as though the entities were independent. Along with this, an annual transfer pricing report, updated based on the most recent publicly available data, should be submitted. This report should be filed with the tax return, within 180 days of the fiscal year's end.

What Should the Transfer Pricing Report Contain?

The Rulebook dictates the format and content of the transfer pricing documentation. In essence, the report aligns with the BEPS Regulations. There's also a provision for an Abbreviated Report under specific conditions. This report should detail each transaction, including its nature, value, and the affiliated entity involved.

Recognized Methods for Transfer Pricing

Serbian law mandates taxpayers to employ the most fitting method for determining arm's length prices for their transactions with affiliated entities. Recognized methods include:

- ▶ Comparable Uncontrolled Price Method
- ▶ Resale Price Method
- ▶ Cost Plus Method
- ▶ Transactional Net Margin Method
- ▶ Transactional Profit Split Method
- ▶ Other methods, provided they're deemed more suitable than the standard ones.

Language and Deadlines

All reports meant for the Tax Administration should be in Serbian. In the event of a failure to provide the required report, the tax authorities might issue a written request, providing a timeframe ranging between 30 to 90 days for submission.

Consequences of Non-compliance with Transfer Pricing Rules

Taxpayers are mandated to submit their annual transfer pricing reports. A failure to do so might lead to penalties. Additionally, any discrepancies in taxable income due to transfer pricing can attract a penalty of up to 30% of the underreported tax amounts and potential interest charges for late payments. However, taxpayers can avail of a relief by paying 50% of the penalties within eight days of receiving the penalty order, absolving them from the remaining 50%.

Transfer Pricing Assessment Time Frame

Transfer pricing assessments fall under the general five-year statute-of-limitations rule that applies to taxes in Serbia.

Probability and Nature of Transfer Pricing Audits

Transfer pricing audits, though not routine, are of moderate likelihood in Serbia. Transfer pricing is typically a focus during corporate income tax audits. Currently, the tax authorities' proficiency in transfer pricing is evolving, with management and consulting services being the most likely subjects of these audits. Larger taxpayers usually face more frequent scrutiny regarding transfer pricing than their smaller counterparts.



Loans and Their Treatment in Transfer Pricing

In Serbia, interest rates can be evaluated using the rates prescribed as being at arm's length by the Ministry of Finance.

One crucial aspect of transfer pricing in Serbia is the treatment of loans, especially with the significance of interest rates in intercompany financing. This chapter delves deep into understanding how Serbia handles interest rates within the framework of transfer pricing.

Prescribed Interest Rates by Ministry of Finance

In Serbia, interest rates can be evaluated using the rates prescribed as being at arm's length by the Ministry of Finance. This serves as a guideline for taxpayers, ensuring that their loan interest rates with affiliated entities are in line with market conditions. Every year, the Ministry of Finance releases a Rulebook on interest rates, ensuring they remain consistent with the arm's length principle. This regular update aims to reflect changing market conditions, ensuring businesses remain compliant with the prevailing economic landscape.

Alternative Interest Rate Assessment

While the Rulebook serves as a guideline, it's not the only pathway for businesses. Taxpayers have the flexibility to determine what they believe to be arm's length interest rates independently. This can be achieved through a separate benchmark analysis. By opting for this approach, businesses can conduct a detailed analysis of comparable interest rates in the market, ensuring their intercompany loans align with real-world economic scenarios.

However, it's crucial for businesses to ensure their benchmark analysis is comprehensive and adheres to the standards expected by the Serbian tax authorities. Should their analysis not stand up to scrutiny, they may face challenges and potential adjustments by the tax authorities.

Conclusion

In Serbia, while the Ministry of Finance provides guidelines on interest rates for intercompany loans, businesses have the autonomy to determine rates they deem fit, provided they can substantiate their choices with thorough benchmark analyses. It's essential for companies to be informed and diligent in this area, given the increasing focus of tax authorities on transfer pricing and intercompany financing.

Abbreviated Transfer Pricing Documentation in Serbia

Taxpayers can opt for abbreviated transfer pricing documentation.

Serbia's transfer pricing regulations accommodate a more streamlined approach for certain transactions with related parties, allowing for simplified documentation under specific thresholds. This chapter provides a detailed overview of these simplified or "abbreviated" documentation obligations, aiding taxpayers in better understanding and navigating this aspect of Serbian transfer pricing rules.

Criteria for Abbreviated Reporting

Taxpayers can opt for abbreviated transfer pricing documentation if they meet the following criteria:

1. **Materiality Threshold:** The key criteria for this simplified reporting is the materiality threshold. If a taxpayer has a one-off related party transaction or if the aggregate amount of transactions with a single related entity is under RSD 8 million (approximately EUR 70,000), they qualify for this relaxed documentation.
2. **Nature of Transaction:** Notably, financial transactions, specifically loans, do not qualify for the abbreviated report, regardless of their value. This exclusion ensures that complex financial transactions are reported in full detail.

Contents of the Abbreviated Report

Even though it's a shorter form of documentation, the abbreviated report still requires specific details to ensure transparency and compliance. An eligible taxpayer should include:

1. **Description of the Transaction:** A concise yet comprehensive overview of the nature of the transaction should be provided. This would offer clarity on what was transacted, whether it was goods, services, or any other form of transaction.
2. **Transaction Value:** The exact or approximate monetary value of the transaction should be clearly stated. This helps tax authorities assess the scale and significance of the transaction.
3. **Associated Enterprise Involved:** Information about the related party or the associated enterprise involved in the transaction should be provided. This includes the enterprise's name, country of registration, nature of relationship, and other relevant details.

Conclusion

The provision for abbreviated transfer pricing documentation offers a more efficient reporting pathway for smaller transactions in Serbia. However, taxpayers must be vigilant and ensure they meet the set criteria. Furthermore, while the reporting might be abbreviated, the importance of accuracy and clarity remains paramount.

Kreston MDM: Your Transfer Pricing Consultants

Rooted in Serbia, our team boasts a deep understanding of both local and international transfer pricing landscapes.

Introduction

In the intricate world of transfer pricing, navigating the myriad of regulations, methodologies, and documentation requirements can be daunting. That's where Kreston MDM steps in. As an esteemed transfer pricing consultant, we bring a wealth of expertise and hands-on experience to simplify and optimize your transfer pricing strategies.

Who We Are

Kreston MDM is part of the global Kreston network, a collective of independent accounting and business advisory firms spanning across numerous countries. Rooted in Serbia, our team boasts a deep understanding of both local and international transfer pricing landscapes.

Our Expertise

1. **Comprehensive Analysis:** We provide a thorough analysis of your intercompany transactions, ensuring they align with both local and international standards.
2. **Strategic Planning:** Leveraging our deep industry insights, we offer tailored strategies that not only ensure compliance but also optimize your tax position.
3. **Documentation Excellence:** From full reports to abbreviated documentation, we excel in crafting precise, clear, and compliant transfer pricing documents.
4. **Training & Workshops:** To empower our clients, we conduct training sessions and workshops, ensuring your team stays updated with the latest in transfer pricing.
5. **Audit Assistance:** In the event of a tax audit, our experts provide robust support, guiding you through each step and addressing potential challenges.

Why Choose Kreston MDM?

1. **Global Insights, Local Expertise:** Being part of the Kreston network, we bring global best practices tailored to the Serbian context.
2. **Personalized Approach:** We understand that each business is unique. Our solutions are bespoke, aligning with your business model and industry nuances.
3. **Ethical Standards:** Integrity is at our core. We ensure transparent, honest, and ethical services at all times.
4. **Dedicated Team:** Our consultants are seasoned experts, continuously updating their skills to provide you with cutting-edge advice.

Engage With Us

Whether you're just stepping into the realm of transfer pricing or looking to refine your existing strategies, Kreston MDM is poised to guide you. With our unparalleled expertise and dedication, you can rest assured that your transfer pricing needs are in the most capable hands. Engage with us and experience the Kreston difference.



Disclaimer:

The information provided in this e-book is for reference purposes only and should not be considered as legal or professional advice. For accurate and up-to-date information, it is recommended to consult relevant authorities and tax/legal experts.

Thank you for reading this e-book. We hope that the contacts, resources, and glossary provided in the appendices will further support your understanding of doing business in Serbia. Should you require additional assistance or have any further questions, please do not hesitate to reach out to Kreston MDM, your trusted advisor for business endeavors in Serbia. We wish you success and prosperity in your business ventures!

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