

WTS Transfer Pricing Newsletter



Editorial

Dear Reader,

It is our pleasure to present to you the second edition of our WTS Transfer Pricing Newsletter in 2018.

The global transfer pricing environment is still changing in a dynamic way. Therefore, in order to keep you up-to-date, our WTS Transfer Pricing Newsletter provides you an overview on current developments in the transfer pricing area in ten selected countries as well as an update on a relevant OECD topic.

We hope you will find this newsletter useful and we would appreciate your feedback and suggestions.

If you have any questions regarding any aspects of this newsletter, our experts of the global WTS TP team will be happy to answer all of the questions you may have.

Yours sincerely,

WTS Global Transfer Pricing Team

Belarus



Transfer pricing reform in Belarus

The Belarusian Finance Ministry has published a draft of the new Tax Code for 2019 (version of October 17, 2018). This document introduces significant changes to domestic TP rules. This is probably not the final version and the proposed amendments could still be changed or cancelled altogether in practice. However, we believe that the majority of changes will be passed. Below we comment on changes and the latest TP trends that we consider to be the most important.

Cancellation of 20% deviation from the arm's length price

Current TP rules allow a deviation of 20% from the arm's length price (profitability range). If the changes come into force, any deviation from the arm's length price (profitability range) in controlled transactions may trigger additional corporate income tax liabilities in Belarus.

Advance pricing agreements

Taxpayers with controlled transactions exceeding a value of BYN 2 million excluding indirect taxes (currently approx. EUR 800 k) and high taxpayers will be entitled to enter into advance pricing agreements with the tax authorities.

The list of related persons will be extended

A person that directly or indirectly influences the business conditions or economic results of another person will be recognized as a related person. The draft introduces the new term "beneficiary of the company" which is defined, for tax purposes, as an individual who directly or indirectly takes key managerial decisions and decisions affecting the business activities of the company. Such beneficiaries and the company will be related persons.

TP treatment of trade in shares of companies

The current opinion of the Belarusian tax authorities regarding TP control of transactions involving shares between related persons is not crystal clear. On the one hand, the tax authorities have commented that such transactions are outside TP control. On the other hand, some argue that the sale of shares can be interpreted as transactions involving property rights which are subject to TP control. There is even more uncertainty because the Tax Code does not specify how to determine the arm's length price of shares. Currently there is no rule that taxpayers should stick to the value of net assets per share or similar.

Latest practice of the supervisory authorities

President Lukashenko publicly announced a campaign against corruption and manipulations in structures involving intermediaries. Financial investigators of the State Control Committee now pay close attention to structures involving related intermediary companies during their audits, especially those registered outside Belarus. We expect that the supervisory authorities will focus even more on deals involving intermediary companies in 2019.

Please contact us if you have any questions and we would be happy to assist you on the matter.

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