

## **CROATIA**

### **TRANSFER PRICING PROFILE**

#### **1. Reference to the Arm's Length Principle**

Article 13 of Croatian Profit Tax Act (Official Gazette of Republic of Croatia, No 177/04, 57/06, 146/08, 80/10, 22/12 and 148/13) describes the tax base in the case of business relations between associated resident and non-resident persons.

According to the Article 13 Paragraph 1: "Where associated persons, within their business relations, agree on prices or other conditions different from the prices or other conditions which would be agreed between non-associated persons, the whole amount of the profit that would be realised if the business relations were between non-associated persons, shall be included in the associated persons' tax bases."

#### **2. Reference to the OECD Transfer Pricing Guidelines**

Croatian regulation (Profit Tax Act and Profit Tax Act Ordinance) accepted OECD Transfer pricing Guidelines, however there is no direct reference.

#### **3. Definition of related parties**

According to Profit Tax Act Article 13 Paragraph 2: „Persons shall be associated in terms of Paragraph 1 of this Article if one of them participates, directly or indirectly, in the management, control or capital of the other person, or if the same persons participate, directly or indirectly, in the company's management, control or capital."

The General Tax Act (Official Gazette of Republic of Croatia, No 14/08, 18/11, 78/12, 136/12 and 73/13) in Article 41 defines related entities as legally independent companies which, in their mutual relations, satisfy the following:

- Two or more natural or legal persons which for carrying out the obligations under the tax-debt relationships constitute a single risk because one of them, directly or indirectly, holds control in the others or, directly or indirectly, has significant influence on others;
- Apart from control of significant influence, related entities will also be those where deterioration or improvement of the economic and financial condition of one person can cause the deterioration or improvement of the economic and financial condition of others, because there is a possibility of the transfer of losses, profits or payment capability.

#### **4. Transfer pricing methods**

According to Profit Tax Act Article 13, the following methods can be used:

- The comparable uncontrolled price method;
- The resale price method;
- The cost-plus method;
- The profit split method;
- The net-profit method (which is equivalent to the transactional net margin method).

#### **5. Transfer pricing documentation requirements**

Implementation of the Code of Conduct on Transfer Pricing documentation (Administrative or legal action taken to implement the EU TPD Code of Conduct; specific national transfer pricing documentation rules/guidance and national practice compared to the EU TPD):

Transfer pricing rules are prescribed by the Profit Tax Act (Article 13) and by the Profit Tax Act Ordinance (Article 40).

According to the transfer pricing provisions of the Profit Tax Act and the related ordinance, the business relations between related entities will only be recognised if a taxpayer has and provides (at the request of the tax authority) the following information:

- Information about the group, the position of the taxpayer in the group and the analysis of related transactions, i.e. general information about the group and the specific information about the taxpayer;
- Identification of the method selected, a description of information reviewed, the methods and analyses used to determine the arm's-length price and the rationale for selecting the specific method;
- Documentation about the assumptions and valuations made in the course of determining the arm's-length price (which would underline benchmark analysis, functional analysis and risk analysis),
- Documentation about all calculations made in the course of the application of the selected method in relation to the taxpayer and any comparables used in the analysis;
- Updated documentation that relies on a prior-year analysis containing adjustments because of material changes in relevant facts and circumstances.

## **6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties**

Currently there is no special tax audit procedure specific to transfer pricing that differs from the regular tax audit procedure. However, the tax authority has published the Manual for Transfer Pricing Audit, which is designed for internal use, but is also available to all taxpayers.

## **7. Information for Small and Medium Enterprises on TP**

Information relevant for SMEs in tackling transfer pricing matters is available on the JTPF webpage at:

[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/company\\_tax/transfer\\_pricing/forum/profiles/profile-hr.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/profile-hr.pdf)

## **8. Information on dispute resolution**

Dispute resolution under the Arbitration Convention does not need to be initiated and may be suspended if one of the enterprises involved is subject to a 'serious penalty' for the transactions giving rise to the profit adjustment (Article 8).

## **9. Relevant regulations on Advance Pricing Arrangements**

Republic of Croatia does not have an APA programme in place.

## **10. Links to relevant government websites**

[www.porezna-uprava.hr](http://www.porezna-uprava.hr)

## **11. Other relevant information**

Secondary and compensating year-end adjustments may result in double taxation. Two questionnaires launched by the EU Joint Transfer Pricing Forum (JTPF) in 2011 took stock of the situation prevailing in each EU Member State with respect to secondary and compensating year-end adjustments as on 1 July 2011.

[Secondary Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

[Compensating/year-end Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)