

LATVIA

TRANSFER PRICING PROFILE

1. Reference to the Arm's Length Principle

Section 12 of the law "On Corporate Income Tax" requires the arm's length consideration where property/services is/are:

- supplied/provided for less than arm's length consideration; or
- acquired for a consideration that exceeds the arm's length consideration.

2. Reference to the OECD Transfer Pricing Guidelines

According to the Regulations of the Cabinet of Ministers Nr 556 of 4 July 2006 "Rules for the Application of the Norms of the law "On Corporate Income Tax"" the OECD Transfer Pricing Guidelines may be used for the determination of the arm's length price.

3. Definition of related parties

The definition of affiliated undertakings is provided in paragraph 3 of section 1 of the law "On Corporate Income Tax": Affiliated undertakings – two or more commercial companies or co-operative societies if:

- 1) they are parent and subsidiary undertakings;
- 2) the participatory share of one commercial company or co-operative society in another commercial company or co-operative society is 20 to 50 per cent and, in addition, such company does not have a majority vote;
- 3) more than 50 per cent of the value of equity capital, shares or co-operative shares in each of these two or more of these commercial companies or co-operative societies (or commercial company and co-operative society) is owned by or is ensured by a contract or otherwise a decisive influence over these two or more commercial companies or co-operative societies (or commercial company and co-operative society) to:
 - a) one and the same person or relatives of such person to the third degree or the spouse of such person, or those in affinity with such person to the second degree,
 - b) more than one, but, not more than 10, one and the same persons,
 - c) a commercial company or co-operative society wherein the natural person (or his or her relatives to the third degree or spouse, or those in affinity with such person to the second degree) owns directly or indirectly more than 50 per cent of the value of the equity capital, shares of such commercial company or the value of the co-operative society co-operative shares;
- 4) one and the same person or one and the same persons have a majority vote in the administrative institutions of such commercial companies or co-operative societies (or commercial company and co-operative society);
- 5) in addition to a contract regarding a specific transaction, an agreement in any form has been entered into (including an agreement that has not been made public) between these commercial companies or co-operative societies (or commercial company and co-operative society) regarding whatsoever additional remuneration not foreseen in the contract, or also such companies perform other types of concerted activities with intent to reduce taxes.

4. Transfer pricing methods

Pursuant to articles 83-93 of the Regulations of the Cabinet of Ministers Nr 556 of 4 July 2006 "Rules for the Application of the Norms of the law "On Corporate Income Tax"" in order to determine arm's length price, the following methods shall be used:

- comparable uncontrolled price method;
- resale price method;

- cost-plus method;
- profit split method; and
- transactional net margin method.

The first three methods are preferred methods. The last two methods may be used where the first three cannot be reliably applied.

5. Transfer pricing documentation requirements

Implementation of the Code of Conduct on Transfer Pricing documentation for associated enterprises in the European Union (EU TPD) - summary of Member States' responses to the 2013 JTPF questionnaire on the implementation of the EU TPD:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transfer_pricing/forum/jtpf/2013/summary-ms.pdf

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

According to paragraph (1¹) of section 23 of the law "On Taxes and Duties" in verifying the transfer price for the compliance with the arm's length principle, the tax administration shall, within the scope of a tax review (audit), assess or adjust the amounts to be indicated in the relevant captions of tax and informative declarations, taxable income (tax losses), tax (duty) assessments pursuant to the provisions of the regulatory acts governing taxes, impose penalties within five years of the statutory payment term laid down in the regulatory enactments except for the case mentioned in paragraph two of section 16.¹ of this Law.

According to paragraph 2 of section 16.¹ of the law "On Taxes and Duties" if a taxpayer has acted in accordance with the provisions of the concluded advance pricing agreement and no changes have occurred in its business to conflict with the mentioned advance pricing agreement, the tax authorities, during a tax review (audit), shall not be entitled to adjust the arm's length price (value) determined for the particular transaction or type of transactions.

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/taxation/company_tax/transfer_pricing/forum/index_en.htm#achievements

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).

Declaration by the Republic Latvia (*Official Journal C 160, 30/06/2005 P. 0011 – 0022*)

"The concept of "serious penalty" means a penalty for any infringement of tax law.

The term "serious penalties" means administrative penalties for serious tax infringements, as well as criminal penalties."

9. Relevant regulations on Advance Pricing Arrangements

On 3 January 2013 the Cabinet of Ministers adopted regulations Nr 16 "The Procedure of Conclusion of Advance Agreement between the Taxpayer and Tax Administration Regarding the

Determination of the arm's length price of a Transaction or a Type of Transaction". According to these regulations the unilateral advance pricing agreements can be concluded.

10. Links to relevant government websites

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/On_Taxes_and_Fees.doc - Law on Taxes and Duties

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Enterprise_Income_Tax.doc - Law on Enterprise Income Tax

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](#)