

Transfer pricing in the Republic of Uzbekistan

General information

What legislation governs transfer pricing in Uzbekistan?

Section VI, "Tax control on transfer pricing," of the Tax Code of the Republic of Uzbekistan No. RU-135 dated 25 December 2007 (TC RU), which took effect on 1 January 2022.

Uzbekistan is not a member of the Organization for Economic Cooperation and Development (OECD), although its transfer pricing rules are similar to the OECD Transfer Pricing Guidelines. Meanwhile, there are several distinctions with the key difference being that the OECD Transfer Pricing Guidelines are applicable to international transactions with related parties, whereas the TC RU also covers transactions involving unrelated parties.

What is transfer pricing under the TC RU?

The TC RU defines transfer pricing as a commercial and/or financial arrangement and/or the results of activity involving related parties that are different from the terms and results that would have been obtained in comparable economic conditions by independent parties.

Who are considered related parties?

The TC RU lists criteria for related parties, for instance if one legal entity directly and/or indirectly participates in another legal entity and the share of its participation is 20% or more.

What are controlled transactions?

The following types of transactions fall under the transfer pricing control in Uzbekistan:

- 1. Controlled transactions between related parties:**
 - 1.1 Transactions with related parties involving a sale of goods, performance of work, provision of services, including transactions between tax residents of Uzbekistan, in which:**
 - ▶ The amount of the transaction exceeds UZS 5 billion
 - ▶ At least one party of the transaction is eligible for a special tax regime or is a participant of a special economic zone
 - ▶ At least one party of the transaction is exempted from income tax, applies a reduced tax rate or is eligible for other tax benefits
 - ▶ The transaction involves a mineral extracted by one of the parties, if tax on subsoil use in relation to this mineral includes ad valorem tax rate
- 2. Controlled foreign trade transactions:**
 - ▶ Transactions between related parties
 - ▶ Foreign trade transactions involving global exchange-traded commodities
 - ▶ Transactions involving a party that is incorporated in, resides in or is a tax resident of an offshore jurisdiction



Transfer pricing reporting

What reports must be prepared by a taxpayer?

To account for controlled transactions, taxpayers must prepare the following documents annually:

- ▶ Notification on controlled transactions (Notification)
- ▶ Transfer pricing documentation (Documentation)

What are the filing deadlines for transfer pricing reports?

The Notification must be submitted not later than the due date for annual financial statements presentation.

The Documentation must be submitted within 30 calendar days after a request is received from the tax authority.

Is there a Notification form?

A hard copy or electronic copy of the Notification is submitted to the tax authority in accordance with the form established in Appendix 2 to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 111 dated 10 March 2022 (Resolution).

What information must be disclosed in the Notification?

Under the Resolution, the Notification must contain the following information:

- 1) Information on a taxpayer (type of a taxpayer, code of economic activity, etc.)
- 2) Information on controlled transactions (information on a basis for the control, amount of income or expenses, etc.)
- 3) Information on a transaction subject (terms of a transaction, origin of a transaction subject, etc.)
- 4) Information on a legal entity that is party to a transaction (name of a legal entity, taxpayer identification number, etc.)

Is there a Documentation form?

Documentation is prepared in a free form and submitted to the tax authority in a hard copy.

What information must be disclosed in the Documentation?

1. Information on activities of a taxpayer that has performed a controlled transaction:
 - ▶ List of parties involved in a controlled transaction, description of a transaction and its term
 - ▶ Information on functions performed by entities involved in a transaction, on assets used in relation to a transaction and on economic (commercial) risks undertaken
2. Information on the methods determining a market price:
 - ▶ Justification of the method selection and the way of its application
 - ▶ Indication of information sources used
 - ▶ Calculation of a range of market prices (range of profitability margins)
 - ▶ Amount of income (profit) received, and amount of expenses (losses) incurred as a result of performance of a controlled transaction, produced profitability margin
 - ▶ Information on economic benefits derived from a controlled transaction that was performed by the entity acquired exclusive rights
 - ▶ Information on other factors that influenced the price (profitability) of a controlled transaction
 - ▶ Adjustments of a tax base and tax payable amount made by a taxpayer

Does the TC RU provide exemptions from Documentation filing?

Yes, in the following situations:

- ▶ If prices in transactions are set by anti-monopoly agencies or are subject to regulation
- ▶ If a transaction is not subject to control
- ▶ If transactions involve securities and short-term financial instruments traded in the organized securities market
- ▶ If transactions are covered by an advance pricing agreement

Transfer pricing understatement of the tax base

What penalties may be imposed in the area of transfer pricing?

Failure by a taxpayer to pay fully or partially the tax payable amount by applying in controlled transactions commercial and/or financial terms different from commercial and/or financial terms applied in transactions between unrelated parties carries a fine of 40% from unpaid tax.

Can legal entities and individuals adjust the tax base on their own?

Yes, the tax base can be adjusted by:

- 1) Legal entities within the period set for filing the income tax report
- 2) Individuals within the period set for filing a declaration on the aggregate annual income

Risk mitigation efforts

1. Determine whether your company's transactions are subject to the transfer pricing control. If so, you should do the following:

- ▶ Annually file the Notification as required by the TC RU
- ▶ Annually prepare the Documentation with a benchmarking studies according to the TC RU

▶ Develop a policy determining transfer prices in controlled transactions

2. Regularly monitor transfer pricing law enforcement practice

EY transfer pricing services

EY helps its clients to discover new opportunities for sustainable development based on effective business management and knowledge of legal requirements.

Our transfer pricing team will help you understand new legislation, ensure compliance with laws and regulations, and achieve your corporate goals.

Building on our advanced international knowledge, local experience and understanding of your business needs, we will help you:

- ▶ Identify transfer pricing risks, if any
- ▶ Develop and adopt a transfer pricing policy to mitigate risks
- ▶ Prepare a notification on controlled transactions
- ▶ Prepare a transfer pricing documentation
- ▶ Conclude an advance pricing agreement
- ▶ Support you during a tax audit and defend your position

Please contact us to receive additional information or discuss any questions that you have:



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