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Dear Client,

Hungary's Parliament has adopted the tax law on the grounding of the 2023 budget. In the followings we are summarizing the new rules regarding transfer pricing.

Transfer pricing regulations

The law on the grounding of the budget affects the rules on the preparation of transfer price documentation in several aspects. The new regulations might impose additional tax burden on taxpayers.

New term in the regulation

The previous regulations used the term of arm's length price, which means the countervalue that independent parties apply or would apply in comparable conditions.

Besides the above, the concept of **arm's length range** is also introduced as a new term. The arm's length range is the set of values consisting of the data of comparable transactions between independent parties or of financial data of comparable independent undertakings.

New reporting obligation

According to the new rules, taxpayers, besides their existing obligation to maintain records, will also be required to supply data on transactions with their related companies. This information shall be reported in the corporate income tax return.

Although the detailed rules in this regard are not yet known, the related ministerial decree is expected to be issued in 2022, since **the new data provision obligation shall be fulfilled regarding tax returns filed after 31 December 2022, that is, it shall be met in the tax return for 2022, which is to be filed until 31 May 2023.**

Since the transfer price documentation shall be prepared at the same time as the filing date of the tax return, and data shall be provided about the related party transactions in the future, **adherence to the deadline for the documentation's preparation shall be subject to particular attention.**

Extension of the mandatory application of the interquartile range

As a new rule, if the taxpayer uses data to establish the arm's length price, which relate to comparable product, service or undertaking and are stored in a database that is publicly available or can be checked by the tax authority, or it uses data from other source, which are publicly available or can be checked by the tax authority, then the taxpayer shall further narrow the elements of the resulting sample to the range that includes half of the sample's elements (interquartile range).

Hence, if the price established with the method of comparable prices based on a publicly available database



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falls out of the interquartile scope, the documentation shall be modified in the above respect.

The new rule shall be applied first in the course of establishing the tax obligations for the tax year starting in 2022, therefore it is recommended to modify the documentation as soon as possible.

Narrower application of the modification of profit before taxation

If the countervalue applied on the transaction between the taxpayer and its related undertaking is **within the arm's length range**, the profit before taxation cannot be adjusted based on the arm's length principle.

This means that the taxpayer cannot decrease or increase its pre-tax profit by the amount equal to the difference between the arm's length price and the consideration paid.

This regulation shall be applied for the first time when the tax liability for the tax year starting in 2022 is established.

Mandatory adjustment to the median value

If the consideration applied in a transaction between the taxpayer and its related undertaking is **outside the arm's length range**, then in the course of pre-tax profit adjustment, instead of the nearest arm's length price, the mandatory median value shall be considered as arm's length price, which can significantly increase the tax base.

The undertaking may be exempted from the above only in case it certifies that within the arm's length range the value other than the median value is the best to reflect the transaction in question.

Stricter fines for missing or incomplete transfer pricing documentation

The fines for missing or incomplete transfer pricing documentation will dramatically increase.

Instead of the earlier fine of 2 million HUF (4 million HUF in case of repeated infringements), the tax authority may impose a fine of 5 million HUF, or, in case of repeated infringements, 10 million HUF.

Higher fees in tax authority procedures on arm's length pricing

For unilateral procedures on arm's length pricing, that is, a procedure conducted by only one country's competent authority, 5 million HUF shall be paid instead of the present 2 million HUF, while the fees for bilateral and multilateral procedures will be **uniformly 8 million HUF**.

The above described regulations will impose an increased burden on the concerned undertakings than before, therefore we recommend the soonest possible review of the documentations.

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This document reflects general, simplified, non-exhaustive information on legislative changes and it does not substitute tax advisory. We recommend contacting us to assess on an individual basis whether your business is affected by the above legislative changes and to provide you with guidance on declaration and payment deadlines of the new taxes.

Kind regards,
TPA Consulting Kft.

Contact:



József Szemerédi
Tax Advisor, Partner

Tel: +36 (1) 3454500, Fax Ext. 02
E-Mail: jozsef.szemeredi@tpa-group.hu

TPA Consulting Ltd
12 Buday László u., Budapest 1024

www.tpa-group.hu
www.tpa-group.com

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