

Transfer Pricing

Location Guides





Russia

Arm's length principle

Transactions are required to be made in line with the arm's length principle. This means that transactions between related companies must be made under similar terms and conditions as would have been agreed between unrelated companies. The OECD Guidelines are followed.

Transfer pricing methods

The following methods are applicable:

- the comparable uncontrolled price method, CUP,
- the resale price method, RPM, and
- the cost plus method.

The methods must be applied in the same hierarchy as listed above. Thus RPM may only be used if CUP cannot be applied. The cost plus method may only be used if CUP or RPM cannot be applied.

Definition of related companies

Companies are regarded as related under following conditions:

- when one company, directly or indirectly, participates in at least 25% of another company,
- when two companies are mutually controlled by a third company, by a participation of at least 25% in each company.

A domestic company is, for transfer pricing purposes, regarded as related to a company registered in an offshore jurisdiction, if the companies carry out transactions with a value of at least RUB 60 millions in a year.

Reporting requirements

Companies that have carried out transactions with related companies are required to notify the tax authorities of these transactions in the year after the tax year.

Documentation requirements

A company has the obligation to keep documentation on transactions with related companies if the total value of the transactions to one company exceeds RUB 100,000. Third-party cross-border transactions with commodities exceeding a value of RUB 80 million are also subject to transfer pricing documentation requirements. Income from participation in other companies shall not be included in the calculation of the mentioned thresholds. The type of commodities that shall be considered as global exchange traded commodities has been listed in a publication issued by The Ministry of Industry and Trade. According to the list, oil and goods manufactured from oil, non-ferrous metals and precious metals are commodities covered by the transfer pricing law.

Briefly, sufficient documentation must include:

- information about the nature of the transactions, the companies involved and assets used and risks assumed by each company, and
- a description of the transfer pricing policy and how it has been applied, as well as information on the data used to determine the arm's length price.

The documentation may be prepared in any form and by either one of the companies involved in the transactions, but shall be submitted by the company that has received the request.

Cost sharing

According to a decision by the Supreme Arbitration Court made on 15 July 2013, the Russian tax law does not allow cost sharing between companies, irrespective of any pursuant service agreement. In order to be deductible for tax purposes, service fees must directly relate to services that the taxpayer has actually received and evidence must be presented with sufficient documentation. The Court also declared that Russian tax law conflicting with the OECD Transfer Pricing Guidelines will have priority over the guidelines.

Dispute resolution

The tax authority may adjust the taxable income if transactions with related companies differ from the market value for similar transactions for more than 20%. An underpayment of tax may result in the imposition of a fine corresponding to 20% of the additional tax amount. The limitation on transfer pricing adjustments by the tax authorities is three years. The tax authorities are allowed to request transfer pricing documentation at the latest 1 December the year after the tax year and a transfer pricing audit can be started no later than 30 June two years after the tax year.

The competent authority for mutual agreement procedures, MAPs, is the Ministry of Finance of the Russian Federation, Tax and Customs Policy Department, handling issues regarding double taxation and interpretation of tax treaties. The time limit for requesting a MAP is prescribed in the applicable tax treaty. The application must be written and shall include documentation to substantiate the request.

Advance pricing agreements applicable for three years are available, provided that the transactions are made with companies that have concluded tax treaties with Russia.

Contacts

Asia Pacific

Ryan Piper
ryan.piper@bakertillyinternational.com

Latin America

Donny Donosso
donny.donosso@bakertillyinternational.com

Europe, Middle East and Africa

Murray Watt
murray.watt@bakertillyinternational.com

North America

Jake Luskin
jake.luskin@bakertillyinternational.com

Alternatively, to locate your nearest member firm visit www.bakertillyinternational.com.

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Global Office
New Bridge Street House
30-34 New Bridge Street
London, EC4V 6BJ
United Kingdom

T: +44 (0)20 3882 2000
F: +44 (0)20 3725 9890

info@bakertillyinternational.com
www.bakertillyinternational.com

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