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Tax and Legal Newsletter

Ukrainian Parliament adopts law regarding improvement of transfer pricing legislation

On 28 December 2014 the Parliament of Ukraine adopted the draft Law №1264-1 dated 22 December 2014 "On Amendments to the Ukrainian Tax Code (regarding Improvement of Transfer Pricing Control)" (hereinafter - "the Law").

The Law has not been signed by the president and thus is not published yet. However, the records of the Parliament plenary session of 28 December 2014 indicate certain changes to the accepted version of the Law. Also, the Parliament committee has proposed certain changes, but we do not know if the Law reflects them.

Below we briefly summarize the key amendments to the Law.

Higher penalties

According to the Parliament records, the penalties for non-disclosure of all controlled transactions for the reporting period in the TP report have been revised and increased.

Non-disclosure will now trigger a penalty of 5% of the amount of the non-disclosed transactions (instead of 1%).

Also, the penalty limit of 100 minimum wages has been excluded. Now the limit is 200 minimum wages for failure to comply with specified reporting requirements.

Comparable uncontrolled price (CUP) method is to apply for exchange-listed goods

The Law provides for the ongoing application of the CUP method for all controlled transactions involving export and import of goods with stock quotes.

Using international exchanges

To foster application of the CUP method for operations involving export and import of goods with stock quotes, the government will approve a list of international exchanges for each group of products that can be used as sources of price information.

It is unknown whether this list will be the only list that can be used.

Exclusion of "Special TP rules"

The amendments to the Law exclude the "Special TP rules" in terms of determining taxable income in controlled import/export transactions with goods under the codes defined by Art. 21 of Section 10 of the Transitional Provisions of the Tax Code.

Amendments proposed by the committee

The special-purpose committee has proposed some amendments to the draft law. We note them briefly below, though we do not know whether the Law will reflect them:

- Exclude operations with related parties - residents from the transfer pricing controllable transactions for income tax charge purposes;
- Exclude provisions concerning submission of TP reports for 2014 according to the new rules;
- Keep in force the "Special rules" that were temporarily established by p.21, Section 10 of the Transactional Provisions of the Tax Code for certain groups of goods.

We will provide our comments on the final version of the Law as soon as it takes effect and is published.

We will continue monitoring developments and will inform you on further changes in tax legislation.

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