

Tax and Legal Newsletter

A draft produce on the transfer pricing audit was published

Recently, a draft order "On approving the audit Procedure of accrual and payment of tax liabilities that arose from controlled transactions" was published on the [official website](#) of the State Fiscal Service of Ukraine (subsequently - SFS).

It should be noted that the adoption of the order will ensure enforcement of para 39.5 of the Tax Code of Ukraine and will provide a step-by-step assistance to local authorities of the SFS of Ukraine in organizing and conducting audits of tax liabilities related to controlled transactions of taxpayers.

In particular, the draft Procedure includes the following:

According to the Procedure, audit of controlled operations is defined as an unscheduled document-based inspection.

An audit of controlled transactions might take place if any of the following reasons are present:

- ▶ an authorized local inspection body identifies that a taxpayer's report does not contain a full record of controlled transactions and informs the central SFS body about it
- ▶ the controlled transactions of a taxpayer who was monitored do not correspond to the arm's length principle
- ▶ a taxpayer fails to submit a report on controlled transactions or submits it with violations. The same applies to the transfer pricing documentation

Contacts at EY

Igor Chufarov
+380 (44) 492 8231
Igor.Chufarov@ua.ey.com

Oleksandr Fedosieienko
+380 (44) 499 3370
Oleksandr.Fedosieienko@ua.ey.com

Audit procedure

An audit of controlled transactions shall be conducted by the local fiscal authority in which the audited taxpayer is registered. An order to conduct audit of controlled transactions is issued by a local fiscal authority after receiving an approval from the central SFS body. Based on the decision provided by the SFS, other local authorities and officials from the central SFS body may be assigned to get involved in the audit of controlled transactions.

The duration of audit

The duration of an audit of controlled transactions must not exceed a period of 18 months. Every six months of audit, the authorities that are carrying out the process should update the taxpayer on the status of the investigation and share all relevant information to him. If there are any reasons (as listed in sub-para 39.6.2.9 of the Tax Code of Ukraine) for the audit to be extended for a longer period, the audit can be prolonged by an order of the head of the SFS but it must not exceed 12 months.

Provision of relevant information

Taxpayers are obliged to provide all relevant information and documents that are required for the audit to an authorized body in a period of 10 days starting from the first day of investigation.

Additional documents should be provided by a taxpayer upon an oral request of tax authorities that are carrying out the process over a specified period of time. If the documents are not provided after an oral request was made, a taxpayer will subsequently receive a written request from the tax authorities. In this case, all documents specified in the additional written request should be provided to investigators by a taxpayer no later than 15 days from receiving a notice.

We will continue monitoring the developments on this matter and are happy to answer any questions you might have on the information provided above.

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY works together with companies across the CIS and assists them in realizing their business goals. 4,500 professionals work at 20 CIS offices (in Moscow, St. Petersburg, Novosibirsk, Ekaterinburg, Kazan, Krasnodar, Togliatti, Vladivostok, Yuzhno-Sakhalinsk, Rostov-on-Don, Almaty, Astana, Atyrau, Bishkek, Baku, Kyiv, Tashkent, Tbilisi, Yerevan, and Minsk).

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

© 2015 Ernst & Young LLC

All Rights Reserved.

Contacts

Kyiv
+380 (44) 490 3000