

The background of the header is a 3D-rendered maze with a person walking through it. The maze is composed of white walls on a blue floor. The person is a silhouette of a man in a suit carrying a briefcase, walking away from the viewer into the maze. The text 'Transfer Pricing' is written in large white letters across the top of the maze, and 'Obligation to Prepare Documentation' is written in smaller white letters below it.

Transfer Pricing

Obligation to Prepare Documentation

Dear Sir or Madam,

The document published by the Fiscal Control Department of the Ministry of Finance, i.e. "Tasks for Offices of Fiscal Control for the Year 2010", presents priorities for the operations of these authorities. The most fundamental tasks of fiscal control authorities include the necessity to eliminate from the business trading any transactions concluded on non-market conditions aimed at reducing fiscal burdens of affiliated entities. **Therefore, one may expect that fiscal control authorities will in particular investigate transactions with affiliated entities as well as verify whether taxpayers fulfil their obligation to prepare transfer pricing documentation.**

The obligation to prepare transfer pricing documentation follows directly from Article 9a of the Corporate Income Tax Act (hereinafter referred to as the CIT Act), whereby taxpayers concluding transactions with affiliated entities, as defined in Article 11 (1) and (4) (capital or personal ties) are obliged to prepare tax documentation of such transaction(s).

The obligation referred to above covers any transaction or transactions between affiliated entities where the combined amounts (or the equivalent thereof) following from the contract or the total sum of amounts declared and due for taxation in a given fiscal year and actually paid during the fiscal year exceed the equivalent of:

- EUR 100,000 – whenever the value of transactions does not exceed 20% of the share capital specified in accordance with Article 16 (7) of the CIT Act, or
- EUR 30,000 – in the case of services, sales or making intangible fixed assets available, or
- EUR 50,000 – in other cases.

Transfer pricing documentation shall also be prepared with regard to transactions where amounts due were paid directly or indirectly for the benefit of the entity having the place of residence, the registered office or the management board in the territory of the country or in the country applying harmful tax competition (tax havens) whenever the combined amount (or the equivalent thereof) following from the contract or the total amount of sums declared for taxation paid in a given fiscal year exceeds the equivalent of EUR 20,000.

As a matter of fact, such documentation should be drawn up after the end of a given fiscal year on the condition that the value of concluded transactions exceeded the amounts specified hereinabove.

The transaction limits above expressed in the euro shall be converted into the Polish currency with the average exchange rate published by the National Bank of Poland and effective on the last day of the fiscal year preceding the fiscal year during which the transaction subject to the obligation referred to in Section 1 was concluded.

We wish to remind that taxpayers are obliged to submit documentation on request of fiscal authorities or fiscal control authorities within 7 days from the day of delivering the said request. Therefore, given the short period of time and the frequently wide scope of transfer pricing documentation, we suggest that transactions with affiliated entities be analysed and measures be undertaken in terms of preparing relevant transfer pricing documentation on a regular basis.

Whenever the tax authorities or the fiscal control authorities determine the taxpayer's income to be higher (or lower in the case of loss) than the amount declared by the taxpayer with regard to concluding the transactions referred to in Article 9a and whenever the taxpayer fails to submit tax documentation to the authorities – the difference between the income declared by the taxpayer and the amount determined by these authorities shall be taxed with the 50% rate. Regardless of the CIT sanction rate specified above a financial penalty in the form of a penal and fiscal fine may also be imposed for a failure to submit required information to the tax authorities.

Without any doubts, the chief objective of correctly prepared transfer pricing documentation supported with an analysis of the appropriateness of the prices used included in any such documentation is to protect taxpayers' interest as it presents reasons and constitutes a basis for justifying the prices used in transactions between affiliated entities.

Having regard to the security and comfort of our clients and being a tax consulting company with a firm track record and well-qualified staff, we may assist you in preparing transfer pricing documentation in accordance with the requirements of the tax law as well as in verifying any already existing documentation regarding transactions concluded in previous years.

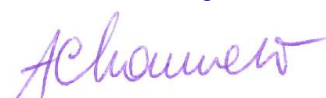
On our part, we spare no effort to ensure that the documentation we prepare on the basis of economic and financial data resulting from taxpayers' books and our own knowledge thoroughly substantiates the market appropriateness of transactions carried out by our clients.

Such documentation is prepared or verified by our well-qualified staff, i.e. tax advisors and tax consultants, who ensure proper performance with their technical background, their experience and utilisation of specialist analytical tools (including the AMADEUS data base).

Costs of preparing transfer pricing documentation are specified for each of our clients individually on the basis of the following criteria: the amount of documentation items, the repeatability of the method used to calculate prices in transactions and also the delivery deadline.

Yours sincerely

President of the Management Board



Agnieszka Chamera

Tax advisor

