

# ДРТ

ДЕЛОВЫЕ РЕШЕНИЯ И ТЕХНОЛОГИИ  
BUSINESS SOLUTIONS AND TECHNOLOGIES

## Key changes in transfer pricing

April 2024

# Transfer pricing

## Key changes in 2023 and expected changes

Increased control over transactions with unrelated parties



The amount of TP adjustments recognized as dividends



Increase in transfer pricing fines



Involvement of regional tax authorities in TP audits.



Using the median value for TP adjustments.



# Key trends in the field of transfer pricing

## Increased control over transactions with unrelated parties



Order No. 86n of the Russian Ministry of Finance dated 05.07.2023 expanded the list of offshore zones. This list includes 49 countries, among them EU countries, Switzerland, Singapore, the UK, the USA, Japan and other countries. The new list of offshore zones is valid from 1 July 2023, but the changes in terms of new countries added to the list are applicable **from 01.01.2024**.

### The “blacklist” does not include:

Hong Kong    Kazakhstan  
South Africa    Turkey

### The “blacklist” include:

United Arab Emirates  
Bahrain



### General consequences

- If the turnover reaches **RUB 120 million** per year with an offshore counterparty, the transaction will be **classed as controlled**.
- Where a transaction with an **unrelated party** is classed as a controlled transaction, taxpayers will be obliged **to control the price compliance with the market level of the price**, to include the transaction **in notifications on controlled transactions** and to prepare **TP documentation**.

**From 1 January 2024, controlled transaction notifications until 20 May 2025**

# Key trends in the field of transfer pricing

Draft law on the implementation of the main directions of tax policy 2.0.



## Increasing the amount of TP fines

- Incomplete payment of tax as a result of applying **non-market prices** in controlled transactions with **non-residents of the Russian Federation** – **Fine in the amount of unpaid tax on income** received by a foreign party under the adjustment, but not less than 500 thousand rubles;
- Incomplete payment of tax as a result of applying **non-market prices** in **intra-Russian** controlled transactions – **Fine of 40% of the amount of unpaid tax**, but not less than 30 thousand rubles;
- Failure to submit a **notification on controlled transactions**/submission of false information - **Fine of 100 thousand rubles**;
- Failure to submit **national/global documentation** – **Fine of 1 million rubles**;
- Failure to submit **documentation on a specific transaction** – **Fine of 500 thousand rubles**.



## The amount of TP adjustments recognized as dividends

An addition to **Article 105<sup>3</sup>, paragraph 6<sup>1</sup>** of the Tax Code of the Russian Federation is introduced, according to which the amount of TP adjustments **will be equated to dividends** received from sources in the Russian Federation and will be **taxable in the territory of the Russian Federation**.

- Paragraph 61 of Article 1053 of the Tax Code will apply to transactions with foreign related parties where the **difference between the price and the market level of the price has resulted in an adjustment of the tax base**;
- Tax residents of the Russian Federation will be **tax agents for withholding tax on the amount of dividends**;
- The date of dividend receipt is **the last day of the year of the transaction**.



## Changes in the form of notification submission

**Notifications of controlled transactions** are submitted to the tax authority by taxpayers in the prescribed form (prescribed formats) **in electronic form**.

Introducing an exclusively electronic form of filing the reporting form for legal entities.

# Key trends in the field of transfer pricing

## Using the median value for TP adjustments



It is planned to provide for the possibility for tax authorities to adjust prices in transactions between related parties to the median value of the market price interval instead of the minimum value.

### Calculation based on the minimum value of the interval (according to the current regulation)

5 %

8 %

13 %

Minimum value of the profit margin interval

Median value

Maximum value of the profit margin interval

- Revenue = 500 million
- Cost price = 485 million
- Sales profit = 15 million
- Profit margin = 3 %



- Market revenue = 25 million
- Base adjustment = 10 million
- Additional charge of corporate income tax = 2 million
- Fine (40 % of the unpaid amount of tax) = 800 thousand

### Calculation using the median value of the interval (as per the changes discussed)

new

5 %

8 %

13 %

Minimum value of the profit margin interval

Median value

Maximum value of the profit margin interval

- Revenue = 500 million
- Cost price = 485 million
- Sales profit = 15 million
- Profit margin = 3 %



- Market revenue = 40 million
- Base adjustment = 25 million
- Additional corporate income tax charge = 5 million
- Fine (40 % of the tax base) = 8 million
- WHT on secondary adjustments = 3,75 million

# Key trends in the field of transfer pricing

## TP amendments under discussion

1

Expanding the criteria for recognizing parties as **related parties**

2

Revision of the **safe haven** interval under Article 269 of the Tax Code of the Russian Federation

Currency	Interval from 1 January 2024
Ruble	From 10 % to 150 % of the key interest rate, the minimum value of the interval cannot be less than 2 %
Euro	From 1 % to STR + 7 %
Chinese yuan	From 1 % to SHIBOR + 7 %
Pound sterling	From 1 % to SONIA in pounds sterling + 7 %
Swiss franc or Japanese yen	From 1 % to SARON in Swiss francs or TONAR in Japanese yen + 5 %
Other currencies	From 1 % to SOFR in US dollars + 7 %

3

Expanding the content of **TP documentation and notification**

4

**Pricing Agreements:** changes in periods for unilateral and bilateral agreements

5

Special attention to transactions in exchange-traded commodities

6

Obligation of a taxpayer to provide information **on the value chain**

7

Obligation to provide information from the consolidated fin. statements of **the International Group of Companies (IGC)** and fin. statements of the participants of the IGC

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