

Tax Flash

Tax Flash is an electronic newsletter prepared by PricewaterhouseCoopers Česká republika, s.r.o. to keep you up to date on the latest tax and legal news. A more complex look at key tax changes and their impact on your business is provided in our monthly newsletter, Tax & Business News.

Legal Disclaimer: The material contained in this alert is provided for general information purposes only and does not contain a comprehensive analysis of each item described. Before taking (or not taking) any action, readers should seek professional advice specific to their situation. No liability is accepted for acts or omissions taken in reliance upon the contents of this alert.

Czech Republic

19 September 2014

Contacts

Natalia Pryhoda

+420 251 152 647

Iva Kuncová

+420 251 152 587

Prague Office

Hvězdova 1734/2c, 140 00 Praha 4
+420 251 151 111

Brno Office

náměstí Svobody 20, 602 00 Brno
+420 542 520 111

Ostrava Office

Zámecká 20, 702 00 Ostrava
+420 595 137 111

New OECD Guidance Regarding Transfer Pricing Documentation and Valuation of Intangibles

OECD released new outputs on the BEPS Action plan on 16 September 2014. These documents should be eventually approved by the finance ministers of the G-20 countries at their meeting on 20 – 21 September 2014. New guidance will cover the following action points:

1. Addressing the Tax Challenges of the Digital Economy;
2. Neutralising the Effects of Hybrid Mismatch Arrangements;
5. Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance;
6. Preventing the Granting of Treaty Benefits in Inappropriate Circumstances;
8. Guidance on Transfer Pricing Aspects of Intangibles;
13. Guidance on Transfer Pricing Documentation and Country-by-Country Reporting;
15. Developing a Multilateral Instrument to Modify Bilateral Tax Treaties.

Transfer Pricing Documentation and CbC Reporting

OECD proposes a three-stage approach to transfer pricing documentation including:

- (i) Masterfile – documentation at the group level
- (ii) Local file
- (iii) CbC reporting

CbC reporting will be relevant for the ultimate parent company within the group and will include the following data for all companies in the group, depending on their jurisdictions:

- Revenues (from transactions with both related and unrelated parties);
- Profit before tax;
- Income tax paid;
- The amount of equity;
- Earnings from previous years;
- Number of employees;
- Tangible assets.

The tax authorities will be able to perform a risk analysis and identify those tax jurisdictions in which for instance the profit that does not correspond to the number of employees is accumulated.



Tax Flash

19 September 2014

Intangibles

Revision of the Chapter related to the intangibles in the OECD Directive includes in particular:

- Definition of intangibles;
- Attribution of profits from transactions related to intangibles;
- Price determination in transactions involving intangibles.

An intangible is neither a physical asset nor a financial asset. It is an asset which is capable of being owned or controlled for use in commercial activities, and whose use or transfer would, when occurring in a transaction between independent parties and in comparable circumstances, be compensated. Thus, for transfer pricing purposes, the definition of an intangible is much broader than its accounting definition.

Legal ownership of an intangible does not itself represent an entitlement to all profits generated from its usage.

The transactions should be assessed taking into consideration all the perspectives of the parties involved and their roles. If one party involved bears the costs only passively and does not bear any risks or does not perform any important functions, this party should therefore not be entitled to any gains from the transaction.

The takeaway

Some of the rules are likely to be implemented in legislation of the OECD Member States. Therefore, we recommend paying attention to these new documents and considering the option of taking steps to reduce the risk resulting from transfer pricing.

For a discussion of how this new rule might affect your business, please contact our **transfer pricing** experts:



Natalia Pryhoda
+420 251 152 647
natalia.pryhoda@cz.pwc.com



Iva Kuncová
+420 251 152 587
iva.kuncova@cz.pwc.com

