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.

Czech Republic

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Czech Republic: Questionnaire concerning related-party transactions

The Czech Specialised Tax Office (STO) has recently sent out a questionnaire concerning related-party transactions in the year 2013. Through this, the STO collects the necessary data for its analyses. The questionnaire is further confirmation of the current trend that the tax authority in the Czech Republic is more and more focused on the area of transfer prices. The questionnaire consists of five parts and covers transactions between foreign and Czech related parties. The tax payer is asked to provide information if it has transfer pricing documentation and in what form, volume of transactions with related parties, name of states where each related party is seated, or where the tax payer has its permanent establishment. Part of the questionnaire is similar to the announced obligatory disclosure to the corporate tax return for 2014.

Questionnaire has many pre-set items which will allow SFU to analyse data based on economic activity, types of transactions, countries, and yes/no answers to specific questions.

The **first part** of the questionnaire requires basic information about the tax payer, such as name of the company, identification number and main business activity.

In the **second part**, the tax payer should answer yes or no to 4 questions regarding related parties, permanent establishments or activities performed abroad that could lead to the creation of a permanent establishment. In case of positive answers, parts III and IV of the questionnaire should be also filled in. The obligation to fill in part III does not apply to banks, credit banks, insurance companies, investment funds or pension companies.

The **third part** of the questionnaire is similar to the previously announced separate disclosure form which will be an obligatory part of the corporate income tax return from tax year 2014. We informed you about the new reporting obligation disclosing the related-party transaction in our previous Tax Flash on 18 July 2014.

The **fourth part** of the questionnaire is to be completed with the names of states where each related party is located and where the tax payer has its permanent establishment. The tax payer should also indicate if it has prepared transfer pricing documentation and in what form.

In the **fifth part**, the tax payer provides the names and contact details of competent persons.

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We would be happy to advise you on the potential **risks** that may be connected with the reporting of the related-party transactions and the area of transfer prices in general. We will also advise you about what could be the **result of the analyses** performed by the tax authority based on the data provided in the questionnaire. With our assistance, you will be better prepared for the potential tax audit.

The takeaway

The questionnaire concerning related-party transactions in the 2013 taxation period may be taken by the tax payers as preparation for the next year when the disclosure form regarding related-party transactions will have to be filed together with the corporate income tax return for 2014.

STO expects that tax payers will cooperate and voluntarily complete this questionnaire. STO will use the data provided for further analyses.

What else could interest you

The Czech Supreme Administrative Court confirmed the decision of the Regional Court related to tax relief utilisation if the arm´s length principle is not met.

A manufacturing company was utilising investment incentives in the form of tax relief. The company also purchased goods from its US parent company below the arm´s length price with the purpose of further distribution in the Czech Republic. The distribution represented only a supplementary activity for the company. The company tried defending its transfer prices with documentation that was based on the aggregated data for its manufacturing and distribution activities. However, according to the Czech tax authority, the manufacturing and distribution activities should have been assessed separately. The tax authority found that the company increased its tax base through the non-arm's length transaction and thus the company utilised the tax relief at a higher level than it should have. As a consequence, the company lost all the tax relief already utilised.

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

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