

Tax & Legal Alert

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Fiscalis programme for tax officials includes training on transfer pricing

Contacts:

Janos Kelemen
Partner
E-mail: janos.kelemen@si.pwc.com
Tel: + 386 1 583 60 58

Beta Štembal
Senior Manager
E-mail: beta.stembal@si.pwc.com
Tel: + 386 1 583 60 20

Črtomir Borec
Senior Manager
E-mail: crtomir.borec@si.pwc.com
Tel: + 386 1 583 60 52

Tina Klemenc
E-mail: tina.klemenc@si.pwc.com
Tel: + 386 1 583 60 067

PricewaterhouseCoopers d.o.o.
Cesta v Kleče 15, SI-1000 Ljubljana
Tel: + 386 1 583 60 00

www.pwc.com/si

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The European Parliament and the Council adopted the Fiscalis 2003-2007 programme to improve the operation of taxation systems in the internal market. The objective of the Fiscalis programme is to help all Member States work more closely together against tax fraud, through improved electronic systems for information exchange between national administrations, co-operation in investigations, training seminars for tax officials and experts and exchanges of officials between national administrations.

At the end of 2007, the Member States organized a seminar within the Fiscalis programme, where the main topic was how to conduct a transfer pricing audit. The seminar was addressed to the EU Member States' tax inspectors. However, someone from the private sector was also invited to share experiences with the tax officials.

The main goal of the seminar was to develop a better understanding of how and under what circumstances a transfer pricing audit should be conducted. Delegates were to consider

the needs for prioritizing their own resource utilization and to recognize the significant resources devoted by multinational enterprises for safeguarding against any undue transfer pricing risk exposure.

The presentation from the private sector demonstrated how multinational corporations develop their documentation assisted by transfer pricing consultancies and the corporations' best practice of preparing for transfer pricing audits.

For further information please contact **Tina Klemenc**.

Carousel and missing trader fraud (continuation)

Following the **Carousel and missing trader fraud** article, published in the previous Tax & Legal Alert, we are indicating some of the ECJ Cases, which refer to:

Carousel and missing trader fraud:

1. C-354/03 Optigen Ltd, C-355/03 Fulcrum Electronics Ltd and C-484/03 Bond House Systems Ltd
2. C-439/04 Axel Kittel and C-440/04 Recolta Recycling SPRL
3. C-409/04 Teleos plc and Others
4. C-271/06 Netto Supermarkt GmbH & Co. OHG

Abuse of law:

1. C-255/02 Halifax plc
2. C-419/02 BUPA Hospitals Ltd and Goldsborough Developments Ltd
3. C-223/03 University of Huddersfield Higher Education Corporation
4. C-425/06 Part Service Srl.

For further information about CIT please contact Črtomir Borec.

Received invoices which refer to previous tax periods from the corporate income tax point of view

Companies often receive invoices which refer to transactions from the prior year. Thus, questions regarding recognition of the respective expenditure from received invoices which derive from the prior period are raised. In accordance with Slovene accounting standards (SAS 2006), material errors are misstatements in financial statements for prior periods arising from a failure to use, or a misuse of, reliable information that was available when the financial statements for those periods were authorised for issue. An amount is material if the neglecting of its recognition could effect the business decisions of persons who rely on financial statements. The company defines the nature and level of materiality in its internal acts.

The company shall correct material prior period errors retrospectively in the first set of financial statements authorised for issue after their discovery. Errors are to be corrected by re-stating the comparative amounts of assets, liabilities and all affected components of equity presented in the prior period. If correction retrospectively is impracticable, the fact has to be disclosed. The effect of corrections of prior period errors is excluded from the profit or loss for the period in which the error is discovered. However, the net profit of the prior period is decreased as a result.

In establishing the tax base or recognition of expenditures of the taxable person, the amount of differences ensuing from corrections of errors with regards to which the net retained earnings or other elements of equity are restated, shall be included in the tax base of the period in which the error is discovered in such a way that it decreases the tax base.

In our opinion, the expenditures subject to immaterial prior period errors should be included in the period in which the error has been discovered as in the accounting records, and thus the correction of errors technique should not have an effect on the change of the tax base.

Following the facts above, the amounts from corrections of prior period errors, material or immaterial, should be tax deductible in the period in which the error is discovered.

For further information please contact Beta Štembal.

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