

Transfer pricing: how we can help you

- *The strongest transfer pricing team in Georgia to serve your needs, comprised of experts including a Partner, a Director, Managers and Consultants with extensive local and international experience in transfer pricing across various industries.*
- *Solid ties with the Revenue Service of the Georgian Ministry of Finance, international organizations and business associations that will support you.*
- *Continuous success in helping our clients prepare transfer pricing policy and documentation, defend position during transfer pricing audits and win transfer pricing disputes.*
- *Direct access to the most advanced knowledge and best international practice for sharing with you due to PwC's transfer pricing network with over 3,100 dedicated specialists delivering highest quality services in over 93 countries.*



Specific Transfer Pricing provisions were first introduced in 2011 when the new tax code entered into force. Further, the detailed instruction, Decree N423, of the Finance Minister, was enacted on 18 December 2013.

Scope of transfer pricing regulations

The rules generally follow the Organization for Economic Co-operation and Development 2010 principles, Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (the "OECD Guidelines").

Georgian transfer pricing rules are applicable to cross border transactions between a Georgian resident company and:

1. a foreign company which is a related party, and
2. a resident of a low tax jurisdiction as per the list defined by the Government of Georgia.

The arm's length principle

The "arm's-length principle" of transfer pricing states that the amount charged by one related party to another for a given product/service must be the same as if the parties were not related.

Transfer pricing documentation and monitoring requirements

Transfer pricing documentation should be maintained for all transactions subject to transfer pricing rules and should be

presented to the Georgian Revenue Service upon their request in Georgian or English language. Upon written request the transfer pricing documentation must be presented within 30 calendar days to the tax authorities.

The tax legislation does not prescribe any penalties if an entity does not prepare a transfer pricing documentation. Though, in the absence of such written document, clarifying the entity's position on the arm's length nature of the controlled transactions, the burden of proof would stay with the Georgian taxpayer.

Transfer pricing methods

Similar to the "OECD Guidelines", the local legislation provides the five methods to determine the arm's length character of a controlled transaction:

- Comparable uncontrolled price ("CUP") method
- Cost plus ("CP") method
- Resale price ("RP") method
- Profit split ("PS") method
- Transactional net margin method ("TNMM")

Generally, the "best method" rule should apply. However, the CUP method will have the priority when CUP and any other method could be used analysis.

The use of global/regional transfer pricing documentation

Similar to the stated in OECD Guidelines instructions in determining market prices both taxpayers and the Georgian Revenue Service may use internal or external

comparables, depending on whether or not the parties of the controlled transaction have comparable transactions with third parties. In the absence of the internal comparable data, an external comparable may be relied upon.

Considering that finding external comparable data of the Georgian entities may be rather difficult because of its limited availability, the Decree allows using comparable data of foreign companies. Where applicable comparability adjustments should be considered.

Advance pricing agreements (APA)

The Decree determines the procedures and documents required for application to the Georgian revenue Service for an APA. An APA can be issued with respect to one or several controlled transactions provided that they are expected to exceed GEL 50 million. An APA could be concluded for up to three years. The Decree allows for concluding a bilateral or multilateral APA.

Although the tax legislation allows conclusion of an APA, in practice the Georgian Revenue Service has not approved any APA yet.

Statute of limitation

A general statute of limitation for tax purposes in Georgia is three years starting from 1 January 2017.

Complete support with transfer pricing

Complete support

Compliance:

- Prepare / localize / update transfer pricing documentation for all types of controlled transactions
- Prepare benchmarking studies for prices, profitability margins, interest rates, royalty
- Prepare monitoring reports and CbCR

Day-to-day support:

- Identify and mitigate transfer pricing risks
- Develop transfer pricing policies and procedures, train in-house specialists
- Assist with all ad-hoc transfer pricing matters

Planning and transformation:

- Structure your business in a tax efficient way
- Align transfer pricing with your business model
- Transform supply chain
- Attribute appropriate profit to a permanent establishment

Position defense and dispute resolution:

- Develop defense strategy and argumentation
- Support during tax audits and coordinate positions with tax authorities
- Draft appeals and resolve disputes in the Ministry of Finance system and court
- Assist with advance pricing agreements

Contact us to discuss your matters



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