

# Transfer Pricing



**How can we help you?**



## **Application of the Law on Transfer Pricing №67-IV 3PK ("TP Law").**

Under the TP Law, all international transactions held by a resident of the Republic of Kazakhstan ("Kazakhstan") with both related and unrelated parties are subject to TP control.

Additionally, under certain conditions, transactions carried out within the territory of Kazakhstan are also subject to TP control.

### **Transfer pricing methods**

The TP Law provides for five methods for determining the market price:

- Comparable uncontrolled price ("CUP") method;
- Cost plus method;
- Resale price method;
- Profit split method;
- Transactional net margin method;

The TP law provides limited guidance on application of these methods, except for the CUP method. The CUP method has a priority over other methods and well described in the TP law and broadly used by the Kazakhstan tax authorities.

### **Important amendments to the TP Law**

Starting 27 May 2024 amendments to the TP Law have come into force, regulating the procedure for determining the market range of prices and profitability when applying TP methods. A significant change is establishment of the interquartile range as the market range, which essentially leads to a narrowing of the allowable deviations in prices and profitability compared to previously applied approaches.

From 2026 the substance-over-form principle planned to be introduced, requiring a deeper functional analysis that considers the actual conduct, functions, and risks of the parties involved. This approach will give the tax authorities broader powers to audit and challenge transaction terms to comply with the arm's length principle.

## **"Three-tiered" TP reporting**

Members of multinational enterprise groups conducting business in Kazakhstan are obliged, under certain conditions, to submit the following TP reports:

- **Country-by-Country Notification** – filed no later than 1 September of the year following the reporting financial year (for FY2024 by 1 September 2025);
- **Country-by-Country Reporting** - filed upon request of tax authorities within 12 months from the request date;
- **Master file** - filed upon request within 30 calendar days from the request date;
- **Local file** - filed annually within 12 months following the reporting financial year (for FY2024 by 31 December 2025) if the following conditions are met simultaneously:
  - turnover of controlled transactions with related parties exceeds 250 thousand MCI for the reporting year;
  - revenue for the year preceding the reporting financial year exceeds 5 million MCI.

### **Monitoring reporting**

Monitoring reporting must be submitted for international business transactions listed in the List\* if the annual transaction turnover exceeds 250,000 MCI. The list among other items includes oil, petroleum products, certain metals, construction and installation works, marketing and forwarding services, and from 2025 - financial transactions. The monitoring report submitted by May 15 of the year following the reporting financial year (for FY2024 by 15 May 2025).

*\*The Order of the Minister of Finance of the Republic of Kazakhstan dated 19 March 2015 No. 194.*

### **TP documentation**

TP documentation may be requested by the tax authorities for any transaction subject to control under the TP Law, regardless of whether the transaction is carried out with related or independent parties. The tax authorities are entitled to request this documentation retrospectively, within a statute of limitations of five years. The TP Documentation should be provided within 30 calendar days following the request.

# Our services

## Compliance with the TP Law:

- Preparation / localization / updating of CbCR, Master files, Local files, monitoring and TP documentation reports, CbCR Notifications;
- Preparation of benchmarking studies for prices, profitability (margins), remuneration rates on loans, royalties.

## TP consulting:

- Consulting on TP matters;
- Diagnostics of TP risks;
- Development of policies and procedures related to TP;
- Training of specialists on TP issues.

## Planning and transformation:

- Structuring a business for tax efficiency;
- Allocation of taxable profits between the head office and a permanent establishment.

## Position defense and dispute resolution:

- Support during tax audits and reconciliation of positions with tax authorities;
- Preparation of appeals against notification / statements to the court and representation of your interests in the Ministry of Finance of the Republic of Kazakhstan and in all judicial instances;
- Assistance in concluding advance pricing agreements, as well as during the mutual agreement procedure.

# Our experience



- We regularly assist our clients in preparing three-tiered TP reporting, transaction monitoring reporting, TP documentation, conducting benchmarking studies (such transactions as import / export of goods, financial services, royalties), using various databases.
- Our team has extensive expertise and provides full support to clients ranging from transfer pricing issues during tax audits to protecting the company's position in disputes at the level of the Ministry of Finance of the Republic of Kazakhstan and the courts. In particular, we have significant practical experience with transactions involving the export of crude oil, oil products and metals, as well as royalties and financial operations. These categories of transactions are traditionally subject to increased scrutiny by the tax authorities of Kazakhstan during administrative procedures.
- We regularly issue newsletters, conduct trainings and webinars on TP issues for our clients.

# Contact us



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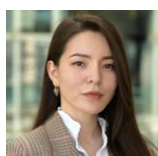
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