

Flash Report

Ukraine • Issue 23/2013 • 4 July 2013

The Law on transfer pricing

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The Law on new transfer pricing rules passed

Today the Parliament of Ukraine passed in the second reading the Law “On Changes to the Tax Code of Ukraine in respect of transfer pricing rules”. If the President enacts the Law it will come into force from **1 September 2013** (the initial anticipated date was 1 July 2013).

Several important changes were made to the document between the first and second reading:

1. Domestic transactions between related parties will be subject to control only if one of the parties involved has a tax loss, pays corporate tax at a reduced rate, or uses a special tax regime.
2. Reporting has been substantially simplified compared to the initial version. Firstly, the requirement for annual submission of the primary source documentation has been cancelled. Secondly, the reporting is divided into two parts: (1) the report listing controlled transactions, which is required for annual submission, and (2) documentation substantiating the market level of prices. The last should be submitted **only** upon the request of the tax authorities.
3. High penalties (5% of the transaction amount) will only apply for a **failure to provide a report** about the controlled transaction, but not for the content of the report. This penalty will not apply for a failure to provide transfer pricing and primary source documentation. The penalty for tax underpayment in the first year of the new rules' validity is set at UAH 1 for each offence.
4. Rules for determination of the usual price for CPT and VAT purposes will be harmonised from 1 January 2014.
5. The provision that the usual price of imported goods must not be lower than the customs value was excluded from the Tax Code.
6. The five year transitional provisions for some industries of the economy were clarified.

We will issue a detailed flash report about the new rules after a detailed analysis of the adopted law.