

Clarification for transfer pricing rules

On 13 August 2015, the Law on changes to the Tax Code of Ukraine in relation to transfer pricing dated 15 July 2015, which provides for improvement of transfer pricing rules in Ukraine, came into force.

Changes to the Tax Code of Ukraine introduce new rules of transfer pricing on certain matters.

Thus, the volume of controlled transactions with one counterparty, upon reaching of which the taxpayers shall submit the report on controlled transactions to the central executive authority that performs state tax and customs policy, was increased from UAH 20,000,000 to UAH 50,000,000 million (approx. USD 2,315,000; EUR. 2,052,000).

In addition, the provisions on VAT taxation of transfer pricing rules were excluded from the Tax Code of Ukraine.

It is worth mentioning that in accordance with the amendments, business transactions specified in sub-clauses 39.2.1.1 – 39.2.1.3 and 39.2.1.5 of clause 39.2.1 of the Tax Code of Ukraine are deemed to be controlled, if simultaneously the following conditions are met:

- taxpayer's annual income from any activity, according to accounting rules, exceeds UAH 50,000,000 (excluding indirect taxes) for the appropriate tax (reporting) period;
- volume of such business transactions of the taxpayer with each counterparty, according to accounting rules, exceeds UAH 5,000,000 (excluding indirect taxes) for the appropriate tax (reporting) period.

Changes to the Tax Code of Ukraine also provide for decrease of penalty for failure to declare controlled transactions from 5% to 1% of the amount of undeclared controlled transactions.