

## Adó Hírlevelek

### The targeted audit of transfer pricing documentations



#### What should be checked before an official audit of the transfer pricing records?



Sándor Szmicsek

In this issue of our newsletter, we would like to call attention to two obligations related to transfer pricing documentations that are often forgotten and may lead to fines, but are also quite easy to fix in case they are missing. One such obligation is the inclusion in the transfer pricing studies of the data of affiliated enterprises involved in a given transaction, while the other one concerns the notification of affiliated enterprises to the Tax Authority.



Borbála Bodó

#### Data included in the transfer pricing documentations

*Relevant provision of law:*

*Decree no. 18/2003 (VII.16.) PM, Section 4 (1)*

The decree on Documentation Requirements Pertaining to the Determination of the Arm's Length Price mentions as a mandatory element of such studies the name, address and registered seat of affiliated enterprises involved in the transaction. If the enterprise has no tax number, then the company registry number, as well as the name and seat of the court in charge of the company records must also be included.

Since incomplete records may lead to fines, we recommend to all parties who may be subject to audits of their transfer pricing documentation that they should convince themselves that their documentation includes these data, and if necessary, they should supplement their documentations.

#### Notice of affiliated enterprises

*Relevant provision of law:*

*Act on Rules of Taxation, Section 23 (4) b)*

Another requirement is that the Tax Authority must be notified of the names, registered seats and tax numbers of affiliated enterprises. Failure to give such notice may also lead to a fine being imposed. Therefore, it is also worth checking before an audit if the affiliated enterprises reported are the same as the companies included in the transfer pricing records. The list of reported affiliated enterprises can easily be obtained by way of the company's tax administrator.

**Forms to be completed:****09T201T*****New and changed data  
notification form  
(APEH)***

If the list does not include all affiliated enterprises on whom documentations are kept, the reporting obligation can be easily fulfilled by way of the “*New and changed data notification form*”.

Notice of the given affiliated enterprise must be given if any a contract is concluded with it or at the time of a transaction. Thus, with respect to an affiliated enterprise with which the contract was concluded in 2006, it is not enough if the notification is made from 2007 only.

On the abovementioned “*New and changed data notification form*” it is also possible to notify affiliated enterprises to the tax authority retroactively. Nevertheless, we wish to call attention to the possibility of a fine being imposed in such cases also, since the notification did not take place within 15 days of the conclusion of the first contract, as required by the law.

Should you have any question about the topic discussed in this Newsletter, we are always happy to be of service.

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