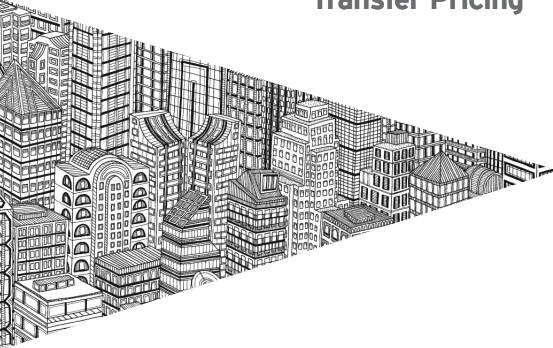


International Tax Alert

News and views from
Transfer Pricing



Turkish tax authorities request transfer pricing documentation reports

Executive summary

Turkish transfer pricing rules which have been effective since 1 January 2007 impose documentation requirements for taxpayers. Transfer pricing documentation reports are the most important element of the documentation requirements.

The Large Taxpayers Tax Office (LTTO) has been requesting 2007 transfer pricing reports from taxpayers since September 2008. This demonstrates the importance Turkish Tax Authorities attach to transfer pricing. It is expected that as the next step, tax authorities will begin transfer pricing audits, particularly for taxpayers registered with the LTTO.

Detailed discussion

Turkish transfer pricing rules

Legal framework

Turkish transfer pricing rules were introduced by the new Corporate Income Tax Code no. 5520 with effect from 1 January 2007. In article 13 of the Code, it is stipulated that income shall be considered to have been distributed in a disguised manner if the companies engage in related party transactions at prices which are not in line with the arm's length principle.

Generally Turkish transfer pricing rules are based on the OECD Transfer Pricing Guidelines.

The regulations cover the following main topics:

- ▶ Definition of related parties
- ▶ Definition of related party transactions
- ▶ Arm's length principle
- ▶ Comparability factors
- ▶ Transfer pricing methods
- ▶ Documentation requirements
- ▶ Advance pricing agreements
- ▶ Transfer pricing penalties
- ▶ Transfer pricing adjustments

Documentation requirements

Taxpayers are required to prepare the necessary documentation proving that the prices applied in related party transactions are in line with the arm's length principle.

Details of the documentation requirements are regulated under the General Communiqué on Transfer Pricing dated 18 November 2007. In particular, the documentation requirements include:

1) Transfer pricing form

Taxpayers are required to submit a transfer pricing form for transactions with related parties. This form should be submitted as an attachment to the annual corporate tax return which must be filed by the deadline of 25 April of the following fiscal year.

Taxpayers should disclose on the form the list of their related parties, the volumes of the related

party transactions and transfer pricing methods applied in these transactions.

2) Annual transfer pricing documentation report

▶ Scope

The annual transfer pricing documentation reports should include a company analysis, definition of the activities, organizational structure, shareholding structure, industry analysis, the related parties, each transaction conducted with related parties along with their values, a functional analysis, economic analysis (selection of transfer pricing methods, benchmarking studies and financial analysis) and inter-company agreements.

Taxpayers registered with the LTTO should prepare the documentation reports covering all local and cross-border related party transactions. Meanwhile, other taxpayers should prepare the documentation reports covering only their cross-border related party transactions.

Documentation should be prepared annually in the Turkish language.

▶ Timing

Documentation reports are required to be prepared by 25 April of the following fiscal year, which is also the due date for the corporate income tax return. Taxpayers are obliged to present their documentation reports within 15 days upon an official request made by tax authorities.

Requests from LTTO

Turkish Tax Authorities established a special tax office called LTTO for taxpayers with relatively high assets, turnovers, taxes paid and number of employee in order to observe the tax operations of these firms more closely. Many Turkish affiliates of large multinational enterprises are registered with LTTO.

LTTO has been requesting 2007 transfer pricing reports from registered taxpayers since September 2008. In official request letters, LTTO states that taxpayers who fail to submit their documentation reports in 15 days, will be subject to tax audits.

By requesting the documentation reports from such a large number of taxpayers in only the second year following application of the regulations, Turkish Tax Authorities are demonstrating the importance they attach to transfer pricing. The actions undertaken by LTTO do not result in an immediate tax audit for taxpayers that provide transfer pricing documentation reports. It is likely that the LTTO will first conduct its own internal review and review the reports collected in the coming weeks and months in order to select the taxpayers for future transfer pricing audits. In this respect, tax authorities are expected to begin transfer pricing audits, particularly for taxpayers registered to LTTO, in the near future.

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EYG no. CM1328

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