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12 Transfer Pricing Myths

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TP is not an issue in the CZ

- ü There is no statutory obligation to prepare transfer pricing documentation
- ! Tax authorities may request TP documentation in case of doubts about determination of transfer prices + TP documentation is recommended by the OECD Transfer Pricing Guidelines



Large Concern = proper TP

üTP is not a problem

- ! Being part of a large concern does not necessarily mean proper TP documentation
- ! More attention paid to TP issues due to the publication of media cases and BEPS initiative
- ! Transfer pricing is a part of the internal agenda



TP is a Group concern

ü Approach – we are just doing what the Group said

- ! Pay attention to the status and liability of executive officers
- ! Signing contracts on group transactions, signing tax returns
- ! Concern law + definition of related parties
- ! Criminal liability



We fill in the CTR annex and that's it

ü This may or may not be true

- ! A tool the tax authorities use to pick the taxpayers for TP check
- ! Tax authorities' analyses, effective since 2014
- ! Compliance of disclosed information – Annual Report, Notes to the Financial Statements



TP applies to the largest ones

ü Turnover limit for specialized Tax Office – CZK 2 Bn.

! Not a condition for forgetting about the transfer pricing

! Examples from neighboring countries:

- Slovakia – 3 categories of TP documentation, basic documentation and complete documentation for transactions over EUR 1 million
- Germany – TP documentation does not apply to small enterprises – transactions < EUR 5 million per year
- Austria – Austrian entities with overall revenues > EUR 50 million have to prepare TP documentation
- Poland – statutory TP documentation, if the turnover/costs exceed EUR 2 million
- Hungary – TP documentation for medium and large enterprises and transactions > EUR 160 thousand

Tax authorities are not familiar with TP

ü Complicated issue

- ! Increased education of tax office staff, specialized teams
- ! Equal opponent = discussions, arguments



The more complex the better

- ü Extensive documentation + complicated pricing = tax authorities will not understand that
- ! May raise questions about the content quality
- ! May give the impression of covering the truth



TP applies to cross-border transactions only

ü Czech concern does not have to follow TP rules

- ! Taxation at the level of individual entities
- ! No Group taxation
- ! Paying the taxes to Czech state budget will fail as an argument



We pay taxes, we are safe

ü Regular payment of taxes gives you peace of mind

- ! Reporting losses for longer period attracts the attention of tax authorities
- ! Even the profit making companies are checked by tax authorities
- ! Cross-border cooperation of tax authorities; information exchange



Formal approach of tax authorities = we win

- ü Written contracts, TP documentation and other evidence are sufficient to justify the transfer prices – the „paper withstands everything“ approach
- ! The connection with real business operation and functional and risk profile is important
- ! Asking the right questions may seriously affect the TP defense



No risk when applying Cost+5% for services

ü Low added value services

- ! The question is whether the providing company fulfils the criteria
- ! Importance of the cost base
- ! Confidential information, poor communication within the Group



Profitability = 10%

ü Expected confirmation of existing practice

! The margin is not a specific figure

! The benchmark analysis results in a margin range



Thank you for your attention

