

Transfer pricing in Serbia

Serbian transfer pricing rules

- Transfer pricing rules are present in Serbia since 2001.
- Specific regulations on the application of the transfer pricing rules are defined by the Serbian Ministry of Finance in July 2013.
- Tax authority in the Republic of Serbia is Tax Administration of Serbia.
- Applicable tax legislation in Serbia: Corporate Income Tax Law (CIT Law) and Rulebook on transfer pricing and methods for the determination of arm's length prices in intra-group transactions (Rulebook)
- The Serbian transfer pricing guidelines are in line with OECD transfer pricing guidelines (exception for interest rates on loans granted to or from shareholders or related parties).
- An entity is deemed a related party if it has the possibility of control or considerable influence on the business decisions made (at least 25 percent of the shares in the capital – direct or indirect ownership). Members of the immediate family are considered related parties. In addition, any company which is a resident of a jurisdiction with a preferential tax system is deemed to be a related party (51 tax jurisdictions defined by the Ministry of Finance).
- Serbia applies the 'best method approach' for conducting transfer pricing analysis. Combinations of the several methods can be implemented.
- Acceptable transfer pricing methods include comparable uncontrolled price (CUP), resale price, cost plus, transactional net margin and profit split or any other method that comply with the arm's length principle.
- A taxpayer is obliged to prepare and submit documentation presenting related party transactions at both transfer and arm's length prices along with their annual tax return.
- The documentation must be prepared in Serbian.
- Serbian transfer pricing rules do not contain any specific provisions in relation to business restructurings.
- Transfer pricing study might be prepared by taxpayer.
- APAs are not available to taxpayers.
- Serbia is not an OECD member.

Regulatory snapshot

When did transfer pricing rules start?	Rules present since 2001. In 2013 introduced detailed Transfer Pricing Rulebook
Level of transfer pricing	Developing regime
Return disclosure	Yes
Documentation	Compulsory with thresholds
Methods	Most appropriate method
Audit risk	High
Penalties	High
Advance Pricing Agreements (APAs)	Not available





Transfer pricing rules in Serbia

Regulations on the application of the transfer pricing rules were published by the Ministry of Finance in 2013.

Tax authority in the Republic of Serbia is Tax Administration of Serbia.

Transfer pricing in Serbia is regulated by:

- CIT Law - articles 59, 60, 61, 61a and 62;
- Rulebook on Transfer Prices and Methods Applied for Determining Prices in Related Party Transactions in Accordance with the Arm's Length Principle (Rulebook);
- Rulebook on 'Arm's Length' Interest Rates (Interest Rates Rulebook, providing a simplified option for assessing inter-company loans).

The Rulebook aligns Serbian rules with the OECD Guidelines.

Effective date of commencement of transfer pricing regulations

Transfer pricing rules have been present in Serbia since July 2001. The transfer pricing rulebook was enacted on 20 July 2013, and was amended on 29 January 2014. The Ministry of Finance issues the Interest Rates Rulebook usually annually (at the moment the Interest Rates Rulebook for 2015 and 2016 is in force).

Rulings, laws and guidelines

- Corporate Income Tax Law (CIT Law) – under articles 59, 60, 61, 61a and 62;
- Rulebook on transfer pricing and methods for the determination of arm's length prices in intra-group transactions (Rulebook);
- Rulebook on 'Arm's Length' Interest Rates.

Is transfer pricing documentation required? If so, what information should be included?

A taxpayer that carries out the transactions with the related parties (foreign and Serbian) is obligated to draft and submit transfer pricing documentation along with their annual tax return.

Drafting transfer pricing report is mandatory for all kind of transactions with related parties.

In addition, Serbian Rulebook defines a materiality threshold (one-off transactions amounting up to RSD 8 million (EUR 70.000 approximately), or transactions with one related party amounting up to RSD 8 million). For those transactions a short version of transfer pricing report (simplified) might be submitted. Financial transactions (loans) are excluded from the simplified documentation option.

Transfer pricing documentation contain mandatory elements that are:

- Analysis of the group and the taxpayer
- Industry analysis
- Functional analysis
- Selection of transfer pricing method
- Conclusions reached
- Appendices

Short form report should include the following information:

- a description of the transaction;
- transaction value;
- associated enterprise (related party) involved in transaction.

What are the deadlines for documentation preparation?

The deadline for documentation submitting is set to 180 days from the observed period end, and an additional period of 90 days can be granted on request. The documentation is submitted along with the annual tax return.

In which language should documentation be filed?

The documentation has to be drafted in Serbian language only.

How long is it necessary to keep transfer pricing documentation?

The general statute of limitation period of five years (from the day when the period of limitation commenced) is set in Serbia. That general rule also applies for transfer pricing assessments. The absolute period of limitation is ten years.

Are intercompany agreements recommended?

It is recommended that taxpayers document their intercompany transactions through intercompany agreements, but it's not mandatory.

Do you have to make disclosures about transfer pricing in the tax return? What statements or certifications are required?

Serbian taxpayers need to disclose their related party transactions (revenues and costs) in section 5 of the annual tax return. In the same section of the tax return the taxpayers need to disclose amounts that falls under materiality threshold.

In section 6 of the annual tax return the total amount of transactions (revenues and costs) from the financial transactions (loans) need to be disclosed. In the section 7 there is information of the amount of the tax base adjustment relating to transfer pricing, if any.

Which transfer pricing methods are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price (CUP), resale price, cost plus, transactional net margin and profit split or any other method that comply with the arm's length principle.

Interest rates can also be assessed using an interest rate prescribed as arm's length by the Ministry of Finance.

Is there a priority among the acceptable methods?

There is no hierarchy. The best method rule should apply based on the nature of the controlled transaction, the availability of reliable information, and the degree of comparability between controlled and uncontrolled transactions.

Interest rates can also be assessed using an interest rate prescribed as arm's length by the Ministry of Finance.

What is the statute of limitations on assessment of transfer pricing adjustments?

There is no special statute of limitation assessment of transfer pricing adjustments.

The general statute of limitation period of five years (from the day when the period of limitation commenced) is set in Serbia. That general rule also applies for transfer pricing assessments. The absolute period of limitation is ten years.

What rates and conditions apply for transfer pricing penalties? And is there penalty relief?

For non-disclosure of transfer pricing transactions as well as documentation, penalties may range from RSD 100.000 up to RSD 2.000.000 (EUR 800 – EUR 16.500). Additional penalties of up to 25 percent of the understated tax liabilities may be determined by the Tax authorities based on their assessment of the transfer pricing. The additional penalties may not be less than RSD 500.000 (EUR 4.000).

There is no penalty relief available, however, taxpayers may be permitted an additional period of up to 90 days to comply with transfer pricing documentary requirements.

Are there exemptions to Transfer Pricing rules in your country?

Reduced documentation obligations are allowed for related party transactions under RSD 8 million materiality threshold (one-off or total amount). It should be noted that documentation is required in any case.

Are advance pricing agreement (APA) options available?

No APAs or advance rulings of any kind.

Tax audit areas

Transfer prices are reviewed as part of regular tax audits. Audits are not conducted on a regular basis, and typically take place not more often than once in three to five years. At the moment, there is not enough feedback from the Tax Authorities regarding transfer pricing audits.

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