



Kosovo transfer pricing: unique and non-OECD compliant requirements

01

- › Tax administration of Kosovo ("TAK") **can request a TP documentation from any taxpayer** during a TP audit. Upon request the taxpayer would have only 30 days to submit the TP documentation.
- › Taxpayer are also required to submit an **Annual Controlled Transaction Notice (ACTN)**. The ACTN must be deposited no later than the 31st of March of the following fiscal year, along with the financial statements.
- › The format and its content are specified according to the instructions published by the Ministry of Finance.

02

- › All cross-border related party transactions are, in principle, subject to transfer pricing documentation requirements.
- › Kosovar entities engaged in **cross-border related party transactions**, including loan surpluses must prepare the ACTN if the total volume of such transactions exceeds EUR 300,000.
- › Controlled transactions below EUR 300,000 are considered to meet the TP documentation requirements, even in the case of using foreign comparable transactions. Series of foreign comparable uncontrolled transactions are updated only once every three reporting periods, provided that there were no material changes in the controlled transactions, comparable uncontrolled transactions or relevant foreign economic circumstances.

03

- › The Kosovo legislation does not impose a hierarchy of TP methods when selecting the most appropriate method for analysis, however they suggest the use of the following methods:
 - Comparable Uncontrolled Price Method ("CUP");
 - Resale Price Method ("RPM");
 - Cost-Plus Method ("CPM");
 - Transactional Net Margin Method ("TNMM");
 - Profit Split Method ("PSM").
- › The taxpayer may apply another method only if they can prove that none of the approved ones can ensure compliance with the arm's length principle. They must demonstrate that this alternative method meets the requirements of the arm's length principle.

04

- › Kosovo has defined related-party relationships based on **direct or indirect ownership of at least 50%**, as well as personal, management, or other significant links between entities. This applies to corporate income tax (CIT) taxpayers engaged in controlled transactions with related parties in foreign tax jurisdictions.
- › Given the above, Pan-European benchmarking studies applying **25% relatedness criteria are rejected** by the Kosovo authorities.

05

- › **TP benchmarking studies including comparables in Kosovo and strongly preferred by TAK.**
- › However, when not enough results are available, the benchmarking extends its comparables in regional markets, **Balkan states** and subsequently **European Union member states**.
- › The benchmarking selection has unique requirements (e.g. geographic region should start from Kosovo, use of non-consolidated data only, only 50% independence criteria).
- › TAK show preference to **testing local entities** rather than following OECD suggestions such as testing the party performing simpler functions.

06

- › **Tax authorities in Kosovo in recent years have put TP as one of their focus areas, and during TP audits they often request:**
 - Robust TP documentation;
 - Detailed supportive documents that prove benefits from intragroup services, actual provision of services, etc.;
 - Materials which show benefits from central functions specifically for the Kosovo subsidiaries.

Collection of the respective evidence above is one of the crucial aspects of success during tax audits.

07

- › TP audits have only recently been initiated in Kosovo and have tended to be long in duration.
- › A TP audit may be appealed in the Appeals Department, after which taxpayer may further appeal their verdict at the Independent Review Board if the taxpayer disagrees. In case of further disagreement, a taxpayer may then initiate a lawsuit in court. APA's are **not available** in Kosovo.
- › **Tax authorities benefit from a long statute of limitations** period to conduct an audit – 6 year after the filling of the relevant tax declaration.

08

- › **TP documentation must be prepared in on of the official languages in Kosovo, in special cases (with free will) may be submitted in English language.** However, when submitted in English version, the tax authorities may request translation in Albanian.

09

- › **The following sanctions may be imposed to taxpayers:**
 - Failure to prepare local file give the right to the TAK to prepare their own analysis of the transaction.
 - The standard penalty for late payment of taxes applies to transfer pricing assessments. The penalty is calculated as 0.65% of the outstanding tax per month delay.
 - Under-declaration of corporate income tax may result in a fine ranging from 15% to 25% of the tax liability, depending on the extent of the under-declaration.
 - Late submission of the ACTN incurs a penalty of EUR 125 per month of delay until the notice is filed.

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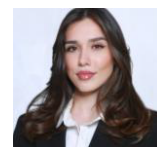


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