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Introduction to Transfer Pricing Controversy

in Central Europe

October 2025

Navigating Transfer Pricing Audits in Central Europe: Trends, Risks, and Practical Insights

This report provides an overview of how transfer pricing ("TP") audits are conducted across Central and Eastern European ("CEE") jurisdictions.

It highlights the current priorities of local tax authorities, outlines practical aspects of the audit process and subsequent appeal or court proceedings, and examines the most recent and significant TP cases in the region.

Our findings show a growing interest among CEE tax authorities in transfer pricing matters, with TP audits becoming increasingly common and often protracted. While in some countries such as Romania, Hungary, and Serbia audits may conclude within a year, in others—such as Czechia—they can last up to five years. Although none of the CEE jurisdictions allow for a formal agreement on the closure of a tax audit, experience suggests that constructive dialogue with the authorities can help reduce the risk of lengthy disputes.

Audit approaches differ across the region. In many jurisdictions, tax authorities rely on their own resources, conduct benchmarking studies independently, and apply country-specific standards, which may require adjustments to centrally prepared TP documentation.

In several countries, audits are coordinated centrally, with national authorities issuing guidelines, shaping audit policies, and becoming directly involved in complex cases. Despite these challenges, taxpayers in most CEE jurisdictions have the option to obtain Advance Pricing Agreements (APAs), a valuable tool to mitigate TP risk given the diverse audit practices and lengthy Mutual Agreement Procedures (MAPs).

At the same time, penalties for non-compliance with TP rules remain a significant concern. These range from fines for late or incomplete documentation to, in some cases, criminal liability for tax evasion. By consolidating country-specific insights and practices, this report aims to equip taxpayers and practitioners with a practical reference for navigating TP audits in CEE jurisdictions.

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How can Deloitte help?

Our multi-disciplinary team combines tax advisors and legal professionals and is ready to support your TP needs across CEE. We can assist you with:

- Designing and implementing TP strategies and policies aligned with applicable TP regulations
- Preparing TP documentation and reporting that reflect the specific requirements of each jurisdiction
- Reviewing TP models, policies, documentation, and contracts to bring consistency, accuracy, and compliance with TP obligations
- Advising on adjustments to TP models, policies, contracts, and documentation to mitigate the risks of disputes
- Developing an effective TP audit strategy
- Representing and providing support throughout tax audits, as well as during tax and court proceedings



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01

Tax audit process in transfer pricing cases in

Albania



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Albania

HIGHLIGHTS & REFLECTIONS **ALBANIA**

- Albanian tax authorities focus on cases where Albanian entities with non-complex functional profiles report profit margins that fall outside of the arm's length range.
- The General Directorate of Taxes is increasingly focusing on building TP capacity, with specialized personnel handling more complex cases.
- While there is no formal central body for TP audit coordination, the Ministry of Finance and Economy and the General Directorate of Taxes periodically issue guidance and strategic audit plans.

Tax audit process in transfer pricing cases



What is the number of TP–related tax audits in the country?

Number of TP audits in Albania remains modest. However, the Albanian tax authorities (ATA) have intensified their scrutiny, particularly regarding the profitability of Albanian subsidiaries.

Which TP issues are most commonly challenged in tax audits in the country?

ATA focus on cases where Albanian entities with non-complex functional profiles (such as distributors, contract manufacturers, or service providers) report profit margins that fall outside of the arm's length range, as established through TP (benchmarking) analyses. In such cases, the ATA examine the functional profile of the entity closely to assess whether the declared profitability appropriately reflects its risk exposure, asset base and functions performed.

Other recurring audit points include:

- intra-group service charges, with particular attention to the economic substance of the services provided, the accuracy of cost allocations, and whether the services provide a demonstrable benefit to the Albanian entity,
- license fees or royalties paid to affiliated entities, especially as regards substance of the entity that charges such fees or the functional capacity to manage and exploit the intellectual property.

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Tax audit procedure in Albania

Who is responsible for conducting TP audits?

In Albania, tax audits are conducted by the General Directorate of Taxes (GDT) ("Drejtoria e Përgjithshme e Tatimeve") and its regional tax directorates.

Are there any people / departments dedicated to perform TP audits?

ATA do not have a dedicated TP team, however, within the ATA there are individuals specialized for TP. In addition, the GDT is increasingly focusing on building TP capacity, with specialized personnel handling more complex cases.

Are TP audits managed centrally?

The approach to TP audits has become more structured in recent years, especially following Albania's alignment with the OECD standards and the formal introduction of TP legislation in 2014.

While there is no formal central body for TP audit coordination, the Ministry of Finance and Economy and the GDT periodically issue guidance and strategic audit plans. These may target specific sectors or types of transactions (e.g., intercompany services, financing, or royalty payments). Any official list of Albanian entities selected for TP audits is not published. However, risk-based selection of Albanian entities for TP audits is performed by the ATA, often based on country-by-country reporting, annual notifications of transactions with related parties and disclosures made in the TP documentation.

Do the tax authorities use external experts during TP audits?

No.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Yes, TP studies are performed by the tax inspectors themselves.

What is the typical duration of a TP audit?

TP audit typically lasts between 8-12 months. However, the duration can extend further depending on the volume and complexity of the inter-company transactions and the cooperation of the audited entities with the ATA.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of a TP audit is formally documented through a Final Tax Audit Report (Raporti Përfundimtar i Kontrollit Tatimor), issued by the tax audit team. This report includes a detailed summary of the audit findings, analysis of the controlled transactions reviewed, the applied methodology, and any proposed adjustments. If adjustments are made, a Tax Assessment Notice (Njoftim për Detyrimin Tatimor) is issued, which constitutes a binding administrative act determining the additional tax liabilities, penalties, and interest.

What options are available for presenting objections or remarks regarding the outcome of the audit?

Upon receiving the Tax Assessment Notice, taxpayers have the right to file an administrative appeal with the General Directorate of Taxes within 30 days from the date of notification. The appeal must include a written objection substantiated with legal arguments, factual explanations, and relevant documentation. If the appeal is rejected or partially accepted, the taxpayer may initiate a judicial appeal before the Administrative Court.

What is the typical duration of tax proceedings in Albania?

The duration of administrative appeal proceedings typically ranges from 6 to 12 months, depending on the complexity of the case and responsiveness of the parties involved.



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At what stage are TP disputes usually settled, and why?

Engaging in constructive dialogue with the ATA during the audit phase is advisable, as fining mutual understanding is common, especially when supported by comprehensive TP documentation and TP (benchmarking) studies.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Yes, it is possible to discuss the issues identified during a tax audit with the inspectors and potentially reach an understanding on how to conclude the audit.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

If the audited entity disagrees with the audit findings and objections are not accepted, a formal tax assessment decision is issued. The audited entity may challenge this through an administrative appeal to the GDT's Appeals Directorate.

What is the typical duration of court proceedings?

Court proceedings in TP cases may take 1-3 years, depending on the court's workload. Given the current high workload, longer durations may also be possible.

Like many civil law jurisdictions, Albanian administrative courts follow formal procedures, without robust analysis of factual background. Court primarily examines whether the tax authority acted in accordance with the applicable laws and procedural requirements. Appeals can be made to the Administrative Court of Appeal, and ultimately to the Supreme Court.

How may transfer pricing be safeguarded in **Albania**?

01 Is APA available? What is the timeline and costs for APA?

Unilateral, bilateral and multilateral APA may be concluded with the tax authorities if the value of the controlled transaction is expected to exceed EUR 30 million, or if the controlled transaction is complex and of strategic nature.

APA applications require a non-refundable pre-filing fee of EUR 500, followed by a fixed administrative fee of EUR 3000 for unilateral APAs or EUR 12 000 for bilateral/multilateral APAs.

The APA process in Albania may take up to 12 months, with agreements typically valid for a maximum of 5 years.

02 Is a cooperative compliance program available?

No.

03 Is it possible to obtain an individual tax ruling for TP?

No.

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Penalties
for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)



Failure to prepare TP documentation (local file) give the right to the ATA to prepare their own analysis of the transaction.

Standard penalty for late payment of taxes applies to TP assessments. The penalty is calculated as 0.06% of the outstanding tax for each day of delay for 365 days, reaching a maximum penalty of 21.9% of the outstanding tax.

Late submission of the Annual Controlled Transaction Notice (ACTN) incurs a penalty of ALL 10 000 (approximately EUR 100) per month of delay until the notice is filed.

In the event that irregularities in TP constitute tax evasion, criminal liability may be incurred pursuant to the relevant provisions of the Albanian Criminal Code.

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02

Tax audit process in transfer pricing cases in

Bulgaria



Bulgaria

HIGHLIGHTS & REFLECTIONS **BULGARIA**

- Compared to 2019-2020, Deloitte Bulgaria recorded over 400% growth in the number of engagements related to tax inspections and audits concerning TP during 2023-2024.
- APA is not available.
- Cooperative compliance program is not available.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

While the Bulgarian tax authorities do not publish detailed statistics on the number of tax audits concerning TP, Deloitte Bulgaria professionals have been witnessing a significant increase of TP audit engagements in the recent years. Compared to 2019-2020, Deloitte Bulgaria recorded over 400% growth in the number of engagements related to tax inspections and audits concerning TP during 2023-2024.

Which TP issues are most commonly challenged in tax audits in the country?

Bulgarian tax authorities are focused on the following TP issues at tax audits:

- intra-group services provided to Bulgarian entities are often scrutinized by the Bulgarian tax authorities in terms of substance, their relation to the business of the Bulgarian entities, documentation proving that the services were provided, and duplication of services with similar functions performed internally.
- TP methods – TP documentation and applied TP methods are often challenged by the tax authorities. Inconsistencies with Bulgarian regulations may lead to challenging the TP methodology and comparable transactions or companies selected in TP studies used for transfer pricing.
- TP (benchmarking) studies – Benchmarking studies are thoroughly reviewed by the Bulgarian tax authorities. Differences in functions, assets or risks between the tested party and selected comparables are often subject to dispute.
- profitability of the routine entities – Bulgarian subsidiaries performing routine functions, such as routine distributors or contract manufacturers are expected to be in profit position, especially in terms of transactions with related parties. Tax authorities tend to question incomes of such entities when they fall outside the market ranges, and/or challenge TP (benchmarking) studies if profitability of the Bulgarian entities appears too low.
- intra-group financing – Interest paid for financing between related parties is often challenged by the Bulgarian tax authorities.
- subordinated position of the Bulgarian entity - Bulgarian tax authorities often challenge the profitability of those Bulgarian subsidiaries of the multinational groups that report losses or profits below the expectations of the tax authorities. This is related to the issues described for routine distribution or manufacturing entities.

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The following TP issues were challenged in tax audits in **Bulgaria** in 2024

Intra-group services provided to Bulgarian entities

Missing or insufficient documentation of substance of intra-group services is usually challenged. In particular the following issues are questioned:

- insufficient documentation demonstrating that intra-group services were actually performed to the Bulgarian subsidiaries,
- duplication of intra-group services provided to the Bulgarian entities with functions performed internally by the Bulgarian entities,
- missing or insufficient documents such as contracts for intra-group services and supporting documentation (for example orders, e-mail correspondence, etc.) proving the intra-group services actually occurred,
- costs that should be classified as costs of shareholders' activities (for example costs incurred by the Bulgarian entities related with consolidated reporting).



Application of TNMM

Application of aggregated versus segmented approach for TP analysis is often discussed and challenged by the Bulgarian tax authorities. Tax authorities reject some comparable entities or transactions selected within TP (benchmarking) studies. Some entities or transactions rejected in course of the TP (benchmarking) studies may be selected as comparable by the tax authorities. Adjustments made to the analysed profit level indicators are sometimes challenged and/or rejected by the tax authorities.

Cost plus and comparable uncontrolled price methods

Bulgarian tax authorities may rework existing analyses by changing or removing comparability criteria in order to reach certain results.

Regarding arm's length character of interest rates –

If the Bulgarian entity does not present credible analysis of intra-group debt (loans, bonds, etc.), an expert witness is appointed to determine a market interest rate based on any available information (including bank statistics, market, and contractual data gathered by the expert, etc.). The conclusions of expert witnesses may be unpredictable, and courts accept or reject them on an ad-hoc basis.

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Tax audit procedure in Bulgaria

Who is responsible for conducting TP audits?

Tax audits related to TP are conducted by the tax inspectors of the National Revenue Agency ("Национална агенция за приходите") – the administrative structure mainly responsible for tax audits. Audit teams usually consist of three people. Bulgarian legislation does not specifically address tax audits concerning TP. TP is usually analysed within the regular tax audit process (inspections or audits) that have a more general scope.

Are there any people / departments dedicated to perform TP audits?

Most tax audits concerning TP are conducted by the department dedicated for "large entities ". This department consolidates the knowledge and know-how on TP audits, which is further used by the audit teams.

Are TP audits managed centrally?

While there may be no official indication that TP audits in Bulgaria are centrally managed, the TP-specific knowledge accumulated by the large entities office as well as Double Tax Treaty department at the Central Directorate of the National Revenue Agency, may be applied by the audit teams during respective TP audits.

Do the tax authorities use external experts during TP audits?

Bulgarian tax authorities may use experts that are approved centrally and included in a specific list, but in practice, we have not seen cases in which they apply this option.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Tax authorities usually verify the TP studies already prepared by the audited entities. The results of such studies may be changed by the tax authorities if they do not comply with the Bulgarian regulations and practices. Tax inspectors conduct their own analyses when TP documentation or TP analysis was not presented upon request. Tax authorities have access to the TP databases and have knowledge to use them.

What is the typical duration of a TP audit?

It typically takes between 6-12 months. The complexity of the tax audit or suspension of proceedings may prolong this term.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

A preliminary report called "tax audit report" ("Ревизионен доклад") ("TAR") is issued as a draft assessment of the audited entity's TP compliance. The audited entity may object to the TAR before the final tax assessment is issued. At this stage, it is also possible to discuss the preliminary findings of the tax inspectors during a meeting. The tax audit is completed with a final tax assessment act ("Ревизионен акт") ("TAA"). The TAA is binding and enforceable to the audited entity. If the audited entity disagrees with TAA, it may submit an appeal to the Director of the Appeals Directorate ("Директора на Дирекция "Обжалване и данъчно-осигурителна практика").

What options are available for presenting objections or remarks regarding the outcome of the audit?

During the tax audit, audited entities have various methods to support their TP position:

- Written explanations can be provided to the tax authorities regarding intra-group transactions. Such explanations are almost always requested by the tax inspectors themselves, but the audited entity may also present them on its own.
- Formal meetings with the tax inspectors and representatives of the audited entities (including TP consultants) often take place during tax audits.
- Evidence can be presented to support the TP position of the audited entity. This includes analyses, explanations, and documents supporting the statements in the TP documentation, etc.
- The preliminary TAR gives the audited entity an opportunity to present their formal objection to the inspectors' findings before a final tax assessment act is issued.

What is the typical duration of tax proceedings in Bulgaria?

Tax audits performed by tax inspectors usually take between 6-12 months to conclude with a final assessment (tax assessment act). If the audited entity chooses to pursue administrative appeal of the tax assessment act, the proceedings usually take around 2-5 months. Court proceeding may follow the administrative appealing process, and this may take 2-4 years to conclude with a final judgment.



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At what stage are TP disputes usually settled, and why?

TP disputes often end up in court and are ultimately decided upon in respective court proceedings. The Director of appeals tends to agree more often with the tax inspectors unless significant violations of the tax regulations are made during the audit by the tax authority.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Meetings with tax inspectors often take place during tax audits to clarify TP matters and discuss potential issues before the preliminary report (tax audit report), or the final assessment (tax assessment act) is issued by the authorities. Such discussions may lead to finding a mutual understanding regarding the finalization of the audit.

What is the formal procedure in case the tax audit finds irregularities?

The tax audit always ends with a TAA, even if no irregularities are found.

The result of the irregularities might lead to:

- Upward TP adjustments: These are imposed where income of the Bulgarian entity is considered understated. The amount of such upward adjustment may increase the audited year's taxable income of the entity, effectively leading to CIT obligations and penalty interest. If the audited entity was at loss-making position, upward TP adjustments would affect the carry-forward losses of the entity, which may lead to effective taxation in the future periods.
- Questioning certain costs as not tax deductible: This leads to increasing the audited years' taxable income and, respectively, CIT obligations and/or reduction of the carry-forward losses.
- Questioning certain costs and qualifying them as hidden distribution of profit: This leads to WHT obligations and fines.
- Late payment penalty interest: This is due in all cases where tax obligations are assessed during a tax audit.

The TAA is enforceable immediately, even if an appeal is filed against the assessment.

Tax assessment acts can be appealed to the Director of Appeals ("Директора на Дирекция обжалване и данъчно-осигурителна практика"), who issues a decision. If the decision confirms the assessment, the assessment may be further appealed to the administrative court. The court proceedings for tax matters in Bulgaria take place in two instances, with the Supreme administrative court being the second and final instance.

Bulgarian tax authorities most often question:

- conditions of related-party transactions when they deviate from market conditions,
- costs that should not be considered tax deductible, most often because:
  - services are considered not related to the Bulgarian entities' business activity,
  - services provided by related parties were not beneficial for the Bulgarian entity,
  - intra-group services provided to the Bulgarian entities overlap with similar internal functions,
  - services provided to the Bulgarian entities were not substantiated with documents/evidence,
  - services are considered shareholders' activities.

Transactions between related parties qualified as hidden distribution of profit (e.g. if intra-group services are viewed as "shareholders' activities", tax authorities may consider them as hidden profit distribution and impose WHT on deemed dividends, along with fines).

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

Both the Director of appeals and the court review the appeals filed by the Bulgarian entity in full, evaluate the factual background, and issue a decision in substance, considering the applicable TP regulations (TP legislation, TP guidelines, etc.). New evidence can be presented at any stage of the proceedings, including at the first instance court level. However, it is recommended that the evidence be submitted at the earliest stage.

If factual circumstances are unclear, the Director of appeals may return the case to the tax authority that performed the audit. However, this is relatively rare with regarding TP audits.

What is the typical duration of court proceedings?

Depending on the complexity of the case and the instances involved, a court case may take 2-4 years.

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How may transfer pricing be safeguarded in **Bulgaria**?

01 Is APA available? What is the timeline and costs for APA?

No.

02 Is a cooperative compliance program available?

No.

03 Is it possible to obtain an individual tax ruling for TP?

Individual tax rulings may be requested and obtained, but they would not be binding during a subsequent tax audit.

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

Administrative sanctions (penalties) can be imposed on the company in case of non-compliance:

- Failure to prepare a TP documentation (local file) can lead to a fine of up to 0.5% of the transaction´s value that should have been documented.
- Failure to provide a master file TP documentation can lead to a fine of EUR 2,500 to EUR 5,000.
- Incorrect or incomplete data in TP documentation can lead to a fine of EUR 770 to EUR 2,500.
- Bulgarian entity that conducted hidden profit distribution and did not declare that in the CIT statement is obliged to pay a fine amounting to 20% of the transaction's amount.
- If TP adjustments affect the CIT taxable income, this may lead to inconsistencies in the Bulgarian entity's tax statement (failure to declare the correct amount). The Bulgarian legislation prescribes a fine amounting to EUR 250 to EUR 3,000.
- In practical terms, Bulgarian tax authorities most often apply fines for hidden profit distributions.
- Penal sanctions can be imposed to local taxpayers for tax evasion.
- Criminal cases can be initiated when Bulgarian entities intentionally evade taxation through certain actions, such failing to submit declarations, confirming falsehood or concealing the truth in submitted declarations, failing to issue invoices or other accounting documents, destruction, concealing, or failure to preserve accounting documents or accounting registers within the statutory time limits, etc. Based on our experience, TP compliance has not yet been a matter of criminal prosecution in Bulgaria.

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Most relevant transfer pricing cases in **Bulgaria** in 2024

Bulgarian administrative courts issued judgments in 2024 that presented opinions of significant importance for the TP practice in Bulgaria. Below are some key observations from these judgements:

- there is a mandatory hierarchy of the TP methods in Bulgaria, and tax authorities should start their analysis by evaluating the application of the methods as applied by the taxpayer within the provided TP documentation (local file).
- TP analyses may be performed based on a segmented approach, according to which various intra-group transactions are delineated and tested with the most reliable TP method for each separate transaction.
- the aggregated approach of the Bulgarian tax authorities, which evaluates all intra-group transactions concluded by the Bulgarian entity based on one complex profit and loss account (including revenues from transactions with non-related parties) was considered invalid.
- losses from projects performed by the Bulgarian contract manufacturing entities aside from their main operating activities may be excluded from their profit and loss accounts within analyses based on TNMM, but only if:
  - such projects are proved to be exceptional or temporary,
  - costs / losses are incurred only for some period of time,
  - in other cases, if these prerequisites are not met, costs of such projects should be included and analyzed with TNMM together with profits / losses from core business activity.
- costs of intra-group services and license fees paid by the Bulgarian entities to their related parties (for the use of trademarks, know-how and other intangible assets) may be reclassified to hidden distribution of profit if Bulgarian entity is unable to demonstrate specific benefits from their use, and sufficient evidence (including reports or registers of assets used) is presented to the Bulgarian tax authorities.

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Tax audit process in transfer pricing cases in

Croatia



Croatia

HIGHLIGHTS & REFLECTIONS **CROATIA**

- Main issues challenged during TP audits include intra-group financing with high interest rates and recharacterization of the entity, such as transferring losses to the Croatian entity when its real functional profile is routine.
- In practice, TP audits last from 1 to 3 years, depending on the size of the entity.
- Tax authorities approach various companies from the same industry. Usually similar TP issues are analyzed, often regarding losses of managed-profits subsidiaries operating in Croatia to tax jurisdictions with low effective income taxation.

Tax audit process in transfer pricing cases



What is the number of TP-related tax audits in the country?

In Croatia, there is no publicly available data on tax audits in general. Based on Deloitte Croatia's experience, the number of TP audits conducted is moderate.

Which TP issues are most commonly challenged in tax audits in the country?

Main issues challenged in Croatia during tax audits focused on TP include:

- costs of various management services (as regards substance, overlaps, costs included in the base used to calculate charges, and the actual value of such services for the business run by the Croatian subsidiaries),
- subsidiaries whose profitability falls out of the market range,
- intra-group financing with high interest rates, where TP benchmarking approach instead of safe harbor is used (as regards to whether the entity could have obtained a more favorable loan from a bank and / or the interest rate set is generally too high) and,
- recharacterization of the entity, such as transferring losses to the Croatian entity when its real functional profile is routine.

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Tax audit procedure in Croatia

Who is responsible for conducting TP audits?

In Croatia TP audits are conducted by dedicated departments within tax offices. Any tax office may conduct a tax audit related to TP.

Are there any people / departments dedicated to perform TP audits?

Yes, there are individuals dedicated to performing TP audits.

Are TP audits managed centrally?

No. Some tax audits may however be centrally coordinated, such as audits of companies within the same industry that are simultaneously investigated for the same TP issues.

Do the tax authorities use external experts during TP audits?

We have not observed any case where an external expert was used during TP audit. It is unlikely for this to occur.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Tax authorities have the resources to prepare TP (benchmarking) analyses for regular distribution, manufacturing, or service transactions, as well as for financial transactions. They also perform functional analyses (based on questionnaires / interviews).

What is the typical duration of a TP audit?

In practice, TP audits last from 1 to 3 years, depending on the size of the entity.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of a tax audit is formally presented in a written audit report ("Zapisnik"). This document includes details such as the name of the tax authority, reference number, legal and factual basis for the audit, duration and place of the audit, names of the officials conducting the audit, tax types and periods covered, and description of findings, actions, facts, and evidence. The report is issued electronically and signed with an electronic signature or seal. In exceptional cases, it can be issued in physical form.

What options are available for presenting objections or remarks regarding the outcome of the audit?

The audited entity has right to submit objections ("Prigovor") to the audit report within a period that cannot be shorter than 5 days or longer than 20 days from the date of its receipt.

If the objection includes new facts or material evidence that could change the established facts or legal conclusions, the tax authority will issue a supplementary audit report. However, no objection can be submitted against the supplementary report.

What is the typical duration of tax proceedings in Croatia?

While the total duration may vary depending on the complexity and scope of the case, the final decision must be issued within 60 days following the objection deadline or supplementary record delivery. However, it is not uncommon for Croatian entities to wait longer for the decision to be issued in practice, despite this legal obligation.

Once the decision is issued, the Croatian entity may file an appeal, which is reviewed and decided by the second-instance body of the tax administration. The second-instance tax authority is required to issue and deliver its decision on the appeal through the first-instance authority as soon as possible, and no later than 60 days from the date of submission of a duly filed appeal, unless a shorter deadline is prescribed by law.

However, in practice, the second-instance authority typically issues its decision within 6 to 10 months. If the Croatian audited entity disagrees with the second-instance decision, an administrative dispute may be initiated by filing a lawsuit to the administrative court within 30 days from the date the decision was delivered to the Croatian entity.

At what stage are TP disputes usually settled, and why?

We do not have specific data regarding this, but based on past experience, Croatian entities file appeals and initiate administrative disputes. However, the final decisions are typically in line with those issued by the tax administration.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Yes, it is possible to discuss issues identified during the course of the tax audits.

What is the formal procedure in case the tax audit finds irregularities?

If irregularities are found, a formal tax decision ("Porezno rješenje") is issued based on the facts from the audit record (and the supplementary record, if applicable).

Tax decisions must be issued within 60 days from the expiration of the objection period or the delivery of the supplementary record. In customs-related cases, this deadline is shortened to 30 days.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

The appeal process includes a full substantive review, not just a formal or procedural check. The competent second-instance tax authority is obliged to review the legality of the contested tax act in its entirety, meaning it conducts both a legal and factual review. If the contested tax decision is considered unlawful, second-instance tax authority may annul the decision and resolve the matter itself. Exceptionally, if due to the nature of the case a new decision must be issued by the first-instance authority, the second-instance authority will annul the decision and return the case for reconsideration.

The second-instance authority may also decide to present and examine evidence itself during the appeal procedure, particularly when the case is complex or if necessary for a better clarification of the facts.

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To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The review may include a full reassessment of both factual and legal aspects of the case.

An appeal against the judgment of the Administrative Court may be filed based on the following grounds:

1. substantial violation of procedural rules in the administrative dispute,
2. incorrect or incomplete determination of the facts,
3. incorrect application of substantive law.

What is the typical duration of court proceedings?

Court proceedings in the first instance typically last from 18 months to 3 years, depending on the complexity of the case. Following the first-instance judgment, the parties may file a regular legal remedy (appeal) within 15 days from receiving the judgment. The High administrative court is responsible for deciding on the appeal, and it usually renders its decision within approximately one year.

After that, extraordinary legal remedies may be available in specific cases, which are decided by the Supreme Court of the Republic of Croatia. If the Croatian entity believes a constitutional right has been violated related with the tax dispute, a constitutional complaint may be filed to the Constitutional Court of the Republic of Croatia.

How may transfer pricing be safeguarded in **Croatia**?

01 Is APA available? What is the timeline and costs for APA?

Yes, unilateral, bilateral and multilateral APAs are available. APAs are concluded for a period of 5 years, with the possibility of extension.

The costs of concluding an APA vary depending on the revenue of the Croatian entity and whether a unilateral, bilateral and multilateral APA is concluded. The costs range for unilateral APA is from EUR 1,991 to EUR 6,636. For a bilateral APA, the cost is increased by EUR 6,636. For a multilateral APA, the cost is increased by EUR 13,272.

02 Is a cooperative compliance program available?

Yes. The cooperative compliance program is available. However, based on our knowledge, only a few entities in Croatia are currently part of this program.

The criteria for entry are quite strict, and few entities that meet these criteria are interested, mainly due to exposure to the tax administration and the administrative burdens linked to the program.

03 Is it possible to obtain an individual tax ruling for TP?

Yes, it is possible to obtain an individual tax ruling for TP. Certain conditions must be met for the request to qualify for an individual tax ruling.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

The corporate income tax act does not prescribe specific penalties solely for failing to prepare or submit TP documentation. However, Croatian entities may be fined with a monetary fine ranging from EUR 260 to EUR 26,540 if they fail to determine the tax base in accordance with the provisions of the corporate income tax act. Such fines may also be imposed on responsible individuals for the same offence.

The general tax act prescribes fines of up to 39,810 EUR for legal entities and up to EUR 3,980 for responsible persons for failing to submit documentation relevant to tax obligations, including TP documentation. Understating corporate income tax because of violating TP regulations leads to increase of the corporate income tax base, which could result in extra corporate income tax liability of 10% or 18% of the understated amount.

In more serious cases, non-compliance with the TP obligations may escalate to criminal liability, particularly if fraudulent intent or significant harm to public finances is proven. The perpetrator is considered guilty if they were legally competent, acted with intent or negligence, and were or should have been aware that the act was prohibited.

If such criminal conduct leads to reduction or failure to determine a tax obligation, the penalty may range from one to ten years of imprisonment. In most cases, Croatian criminal act related to tax evasion applies, stating that anyone who, with the intent to partially or fully avoid paying taxes, provides inaccurate or incomplete information, thereby reducing or avoiding tax liability in an amount exceeding EUR 2654,46, may be punished by a prison sentence of six months to five years.

Tax authorities in Croatia approach various companies from the same industry. Usually similar TP issues are analyzed, often regarding losses of managed-profits subsidiaries operating in Croatia to tax jurisdictions with low effective income taxation.

Under the Croatian tax regulations, individuals responsible for tax compliance may be fined for failing to submit documentation relevant to tax obligations, including TP documentation. In more serious cases, non-compliance with the TP obligations may escalate to criminal liability, particularly if fraudulent intent or significant harm to public finances is proven. If such criminal conduct leads to reduction or failure to determine a tax obligation, the penalty may include imprisonment.

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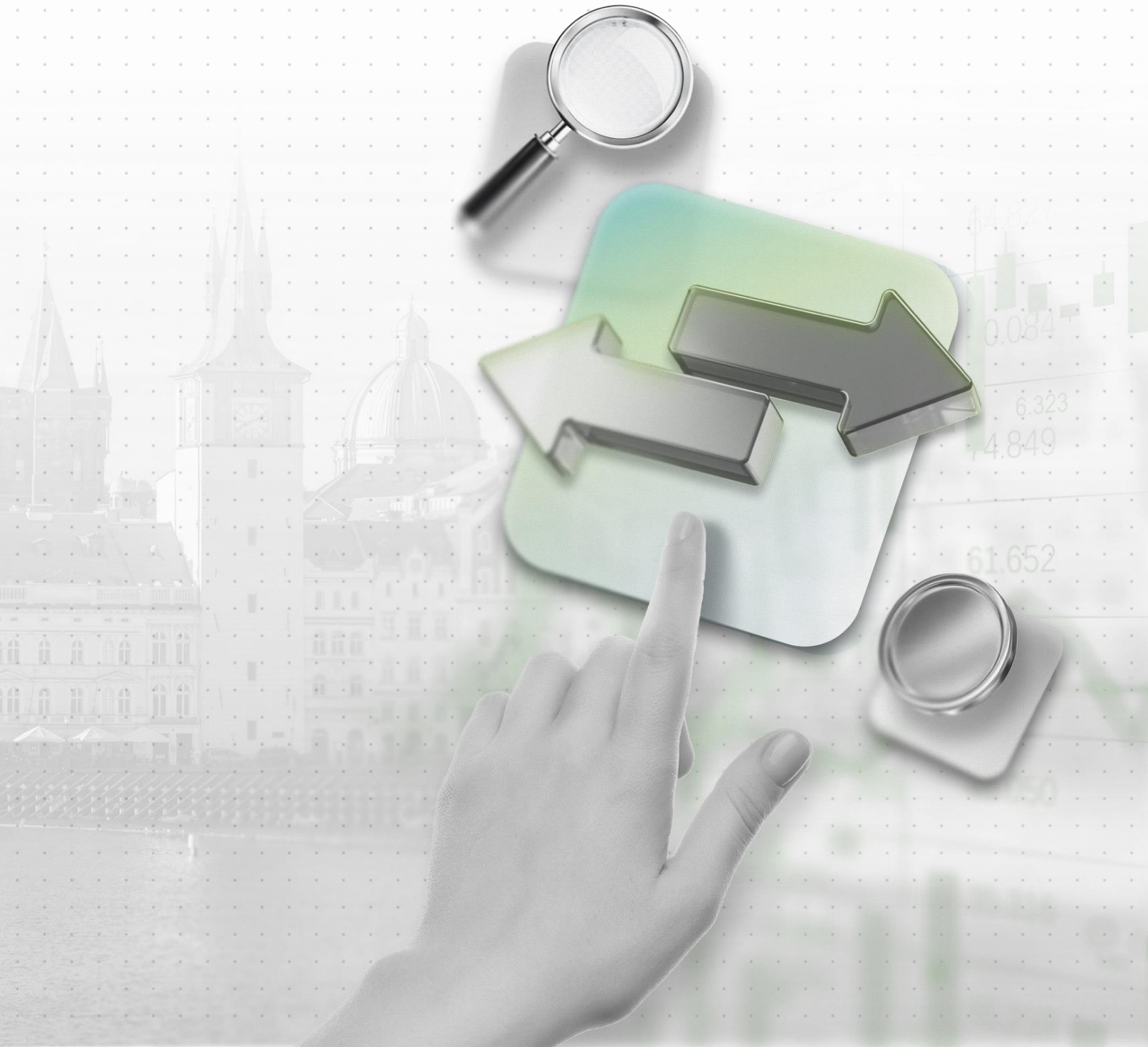
Tax audit process in transfer pricing cases in

Czech Republic



Czech Republic

HIGHLIGHTS & REFLECTIONS **CZECH REPUBLIC**

- Large number of tax audits focusing on the functional and risk profile of the Czech subsidiaries belonging to multinational groups with subsequent assessment of their profitability.
- TP audit usually takes 2-3 years based on the complexity of the TP set-up.
- In 2024, TP issues raised during tax audits were generally based on the rule that companies operating as contract manufacturers should not incur losses.

Tax audit process in transfer pricing cases

What is the number of TP-related tax audits in the country?

The latest data shows that in 2023, there have been 570 audits regarding TP issues in Czechia. These audits resulted in increasing the tax base by CZK 5.8 billion (~ EUR 231 million) and reducing the tax losses by CZK 1.2 billion (~ EUR 46.7 million), which led to tax assessments amounting to CZK 724 million (~ EUR 28.9 million) for the audited entities. Since 2014, a total of 4,052 audits have been carried out in the TP area, resulting in increasing the tax base of approximately CZK 60 billion (~ EUR 2.5 billion) and, consequently, tax assessments amounting to CZK 6.9 billion (~ EUR 274 million).

Which TP issues are most commonly challenged in tax audits in the country?

Based on our experience, we observe a large number of tax audits focusing on the functional and risk profile of the Czech subsidiaries belonging to multinational groups with subsequent assessment of their profitability. This focus is particularly prevalent among manufacturing companies across various sectors, such as automotive and electronics.

Tax authorities frequently focus on auditing routine entities (i.e., contract or toll manufacturers or routine distributors) reporting losses or showing significant fluctuation in profitability compared to previous periods. Additionally, a large number of tax audits target various intercompany services transactions (such as management, controlling, marketing services, IT support etc.) and license transactions provided between related parties. Tax authorities primarily focus on the assessment of substance and benefit tests, i.e., proving the type of services provided and substantiating the benefit for the recipient, with a high focus on formal written evidence to substantiate the scope and volume of the services and license fees. Czech tax authorities are also focus on auditing intercompany financing and group restructurings, including a deep focus on exit charges related to transfers of functions and risks, as well as pricing of asset transfers, especially intangibles.

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Tax audit procedure in the Czech Republic

Who is responsible for conducting TP audits?

Tax audits can be carried out by any tax authority, but usually it is either the local tax office based on the company's registered seat or the Specialized tax office ("Specializovaný finanční úřad") for companies with a turnover exceeding CZK 2 billion (~EUR 80 million), as well as certain selected entities, such as banks.

Although both local tax offices and the Specialized tax office follow the same procedural rules and the course of a tax audit does not differ in its fundamental aspects, the Specialized tax office has a specific department focusing on TP. This department includes officers with deeper knowledge and experience in TP issues and audits, given that these officers manage big taxpayers, who are usually members of multinational groups.

Are there any people / departments dedicated to perform TP audits?

Tax offices are usually divided into individual departments that specialize in specific taxes, such as corporate income tax, with transfer pricing audits falling under these departments. In larger tax offices, some employees may specialize specifically in transfer pricing; however, tax offices do not have dedicated departments solely for transfer pricing audits, except for the Specialized Tax Office, which has its own department of International Taxation employing transfer pricing experts.

Are TP audits managed centrally?

Not formally. TP audits are methodologically guided by the General Financial Directorate ("Generální finanční ředitelství"), which also provides methodological guidance for other audited areas. Based on our information, informal consultations occur between the tax authorities and the General Financial Directorate concerning transfer pricing audits. However, the final decision in the audit lies with the competent tax authority.

Do the tax authorities use external experts during TP audits?

Tax authorities generally do not use external experts, nor are they required to do so by law. The only situation in which the tax authority must engage an external expert is for an expert opinion on specialized technical matters. However, TP issues most often do not require such an expert assessment.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Yes, the tax authorities prepare their own analyses (specifically benchmark analyses) and, for this purpose, have access to international databases and to methodological guidance and training courses on use the respective databases etc. As already mentioned, the General Financial Directorate plays a central role, but it only issues methodological guidelines and does not formally participate in individual TP audits.

What is the typical duration of a TP audit?

From our experience, in average, TP audit usually takes 2-3 years based on the complexity of the TP set-up. However, we have experienced also extremely long tax audits counting 5 years.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The results of a TP audit are communicated to the audited entity firstly in the form of a pre-final tax audit report, in which the tax authority summarizes all its findings and calculates the impact of the conclusions on the tax liability of the audited entity. The audited entity may react to this pre-final report and thereafter, the tax authority issues a final tax audit report that formally terminates the tax audit. Any additional tax assessment is made through a payment order, which can be appealed.



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What options are available for presenting objections or remarks regarding the outcome of the audit?

Appeal against the payment order can be filed within 30 days to the Appellate Financial Directorate ("Odvolací finanční ředitelství"). In the appeal, all the conclusions of the tax authority stated in the tax audit report can be challenged. If the audited entity appeals the payment order, the tax liability will not become due until a decision is made on the appeal.

What is the typical duration of tax proceedings in Czech Republic?

From our experience, the Appellate Financial Directorate usually decides within 12-18 months.

At what stage are TP disputes usually settled, and why?

If the tax authority raises objections to the TP settlement, the case usually proceeds to litigation, meaning an appellate procedure and, in some cases, also court proceedings.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Tax audits are conducted primarily in written form and based on the analysis of documentary evidence. If necessary, the tax authority may order an on-site investigation to verify specific facts or witness statements. It is also possible to initiate a personal meeting with the tax authority to discuss its questions, concerns or conclusions. However, such personal meeting must be protocolled in writing.

What is the formal procedure in case the tax audit finds irregularities?

Appeal against the payment order can be filed within 30 days to the Appellate Financial Directorate ("Odvolací finanční ředitelství"). The decision of the Appellate Financial Directorate on the appeal is subject to judicial review by the administrative courts and, in second instance, by the Supreme Administrative Court.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

The scope of review in the appeal process before the Appellate Financial Directorate is usually defined by the grounds for appeal specified by the taxpayer. However, the Appellate Financial Directorate can go beyond the grounds for appeal and can review both factual and legal issues.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

In proceedings before the regional administrative courts, both factual and legal conclusions are reviewed (based on the grounds of individual legal action against the decision on appeal). The cassation complaint to the Supreme Administrative Court can be filed only based on the statutory grounds.

What is the typical duration of court proceedings?

The duration of judicial proceedings depends on the workload of the individual administrative court, but it typically ranges from one to two years (the median in financial matters is 481 days as of 2024). Proceedings for a cassation complaint against the ruling of an administrative court usually take 6 to 18 months.

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How may transfer pricing be safeguarded in the **Czech Republic**?

01 Is APA available? What is the timeline and costs for APA?

APA is possible in the Czech Republic, either unilateral APA as well as bilateral or multilateral. APA is possible not only for Czech legal entities, i.e., subsidiaries of multinational companies but also for permanent establishments of foreign companies. APA is a preferred option for tax authorities. The timeline of the APA negotiation depends on complexity of the TP set-up, cooperation of the entity that applies for the APA and whether it is unilateral or bi/multilateral. For unilateral APA, the proceeding might take 6-18 months, for bi/multilateral more than 12 months. The administrative fee for filing the APA is CZK 10,000 (~ EUR 400) per transaction.

02 Is a cooperative compliance program available?

There is no cooperative compliance program available in the Czech Republic.

03 Is it possible to obtain an individual tax ruling for TP?

APA proceeding is only possible

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

If a discrepancy in TP is found during a tax audit, the tax authority will assess additional tax or reduce the tax loss of the audited company. Along with the tax assessment, a penalty is also imposed, usually equal to 20% of the additionally assessed tax and 1% of the reduced tax loss, as well as late payment interest in the amount of 8% plus repo rate p.a. from the original due date of the tax until its payment.

If the tax authority suspects that tax evasion occurred due to incorrect transfer pricing settings intentionally, it may refer the matter to the police authorities ("Policie České republiky"), who will investigate the suspicion of committing a tax evasion crime. However, based on our experience, this typically does not happen in the area of transfer pricing.

Please note that Czech entities are not required by law to prepare TP documentation, therefore there are no sanctions in this regard.

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Most relevant transfer pricing cases in **Czech Republic** in 2024

TP issues usually challenged within the tax audits in 2024 referred in majority to the judgment of the Czech Supreme Administrative Court (case no. 7 Afs 398/2019-49) from 2022 where the court confirmed that companies operating as contract manufacturers should not incur losses.

The court stated that a Czech company, who supplied its products (automotive parts) directly to both related and unrelated parties (car manufacturers) bore business risks that it could not manage as a contract manufacturer. Since, prices of products sold by the Czech company were negotiated by the parent company and resulted in losses for the Czech company - intra-group transaction should be identified between the Czech contract manufacturing company and the parent company compensating this Czech company for the losses it incurred and ensuring its profitability is within the arm's length range.

This court case is widely followed by the Czech tax authorities in various tax audits, not only of manufacturers operating in the automotive sector, but also in other industries or performing other activities (i.e. distributors, service providers, etc.). Tax authorities deeply focus on the functional profile of Czech taxpayers, and if not formally evidenced and proven, they reclassify the profile and assess income taxable in Czechia based on TP (benchmarking) studies for routine entities.



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05

Tax audit process in transfer pricing cases in

Hungary



Hungary

HIGHLIGHTS & REFLECTIONS **HUNGARY**

- Around 500 TP audits were conducted in 2024.
- The Hungarian tax authority also conducts approx. 250 so-called legal compliance verification procedures (supporting audits) annually, with a particular focus on TP issues.
- Currently, the automotive sector is receiving particular attention from the tax authorities, especially with respect to intra-group services and intra-group financing transactions.
- Recently, the authorities have been carefully assessing which cases are worth pursuing in court and which are better settled at earlier stages without a dispute.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

TP has consistently been a focus area for the Hungarian tax authority ("HTA") in recent years. According to the publicly available yearbook of the HTA, approximately 500 tax audits were conducted in 2024, which included an examination of transfer prices applied between related parties. In 75% of the closed revisions, a total tax adjustment of 3.3 billion HUF (approx. EUR 8 million) was made, and the HTA imposed fines totaling 1.9 billion HUF (approx. EUR 4.6 million) .

The Hungarian tax authority also conducts approx. 250 so-called legal compliance verification procedures (supporting audits) annually, with a particular focus on TP issues.

TP audits make up a significant portion of complex corporate tax audits, especially for multinational groups and companies with cross-border related-party transactions. This trend has continued and even intensified due to recent legislative changes.

Which TP issues are most commonly challenged in tax audits in the country?

Due to recent legislative changes (such as the transfer pricing data reporting obligation effective from 2022 and increased penalties for non-compliance), detailed transactional TP data must now be included in the corporate tax statement. This requires companies to provide significantly more complex and structured data to the tax authority than before.

Through the detailed collection of such TP data, the HTA gains extremely precise and up-to-date insights into the TP practices and profitability of companies from various industries.

Currently, the HTA focuses on TP in the automotive sector. Intra-group services are subject to enhanced scrutiny during tax audits. The HTA reviews manufacturing entities that incur losses. They also emphasize their interest in financial services, particularly intra-group financing.

The HTA often re-runs TP (benchmarking) studies and questions comparable data.

The tax audit plan (public audit strategy of the HTA for the respective year) for 2025 has identified the following further TP audit topics:

- review of TP arrangements regarding companies engaged in agency, commission, or distribution activities within the group, especially those that incur losses or report relatively low profits,
- tax risk assessment of subsidiaries operating within the same group in Hungary based on country-by-country reports and data from cross-border structures, focusing on transactions identified as high-risk,
- review of transactions involving intangible assets between related parties,
- audit of compliance with TP data reporting requirements.

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Tax audit procedure in Hungary

Who is responsible for conducting TP audits?

TP related tax audits are performed by the Hungarian tax authority (HTA) and are typically conducted by experienced tax auditors specialized in corporate income tax and international taxation.

Are there any people / departments dedicated to perform TP audits?

Since March 1, 2025, the HTA has adopted so-called competency center structure focusing on TP and Pillar 2. There are several centers at HTA which focus on TP.

Are TP audits managed centrally?

Formally, no. TP audits are managed by the local bodies of the HTA. In complex cases, a central team is involved.

Do the tax authorities use external experts during TP audits?

The HTA is classified as an expert in transfer pricing issues, thus it relies on its in-house TP experts, so typically, no external expert opinions are used by the HTA.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

The HTA reviews TP documentation (local file and, if applicable, master file) and evaluates its consistency with the arm's length principle. The auditors may perform TP (benchmarking) analyses or functional reviews during the tax audit to challenge data presented by audited companies or the TP methods used.

What is the typical duration of a TP audit?

In general, tax audit should not exceed 90 days, although this can be extended under specific conditions. As TP audits are typically part of corporate tax audits with a broader scope, they can take from 90 days to 180 days, depending on the size of the audited company, the complexity of the case and the quality of documentation (maximum length is 365 days if the taxpayer fails to submit the required documents on time). A typical tax audit with a TP focus almost always takes 180 days.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)? What options are available for presenting objections or remarks regarding the outcome of the audit?

The outcome of the tax audit is presented differently in each phase of the proceedings:

1. Minutes of the tax audit: These are shared with the audited company when the tax audit is completed. They outline the tax authority's findings and proposed adjustments.
   The audited company may submit comments on the tax findings of this preliminary audit report within 30 days, which the first-instance tax authority shall consider before issuing their formal decision. This is the last opportunity to present any new evidence.
2. First-instance decision: Upon considering the audited company's remarks, the HTA issues the first instance decision, including any tax assessment, penalties, and late payment interest.
   The audited company may file an appeal within 30 days, which initiates a formal review process of the first-instance tax assessment.
3. Second-instance decision: Upon the audited company's appeal, the supervisory body within the HTA reviews the legal and factual background of the case and may uphold, amend, or annul the first-instance tax assessment in a binding second-instance decision.
   This decision can only be challenged in court. The audited company may file a court claim within 30 days, which initiates a formal judicial review process.

What is the typical duration of tax proceedings in Hungary?

The first-instance tax procedure typically takes 90 days which can be extended under specific conditions to 120 or 180 days in complex or high-risk cases (maximum length is 365 days). Afterwards, the audited company may submit remarks on the minutes of the tax audit within 30 days. The tax authority adopts its decision within 60 days from receiving the comments of the audited company. The second instance tax procedure then takes up to 60 days. Overall, a full tax procedure generally lasts from 3 months to over a year.



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At what stage are TP disputes usually settled, and why?

In the past, highly complex TP disputes usually ended up in courts (including the Supreme Court). However, there has been a shift in the last 6-12 months. Tax authorities have decent TP knowledge and audited companies involve tax advisors making it possible to have productive discussions at early stages of the tax audit. Recently, it seems that the HTA thoroughly considers which cases it wants to pursue in court and which to close with a settlement. Therefore, while it is challenging to provide an adequate estimate, TP cases may be settled even during the procedure before the HTA.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

In general, it is possible to discuss the TP issues with tax auditors during a tax audit in Hungary. While much of the tax audit is based on document review ("desktop audit"), the HTA frequently engages in communication with representatives of Hungarian entities, especially in more complex or high-value cases. Tax auditors may request explanations, clarifications, or documentation to clarify issues before the minutes of the tax audit are issued.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

In Hungary, the appeal against the first-instance tax assessment is not limited to formal aspects. The supervisory body conducts a full review, including a legal (whether the first-instance decision complied with the law) and a factual assessment (whether the findings were correctly established based on evidence).

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The first instance court also examines both the legal reasoning and the factual background of the case. (The Supreme Court, however, typically reviews only the legal aspects of the first-instance court's decision and procedure.)

What is the typical duration of court proceedings?

If the audited company initiates a judicial review process in court, it generally takes 1-2 years until a first instance court decision is delivered, and additional 6-12 months if the case is escalated to the Supreme Court of Hungary ("Kúria" in Hungarian) .

How may transfer pricing be safeguarded in **Hungary**?

01 Is APA available? What is the timeline and costs for APA?

Yes, APA is available in Hungary. The APA process should be completed in 120-300 days, although practice shows it usually takes about 1 year, and 3 years for bilateral and multilateral cases. The cost (administrative fee) of filing an APA is EUR 20,000 (one side is concerned) or EUR 30,000 (multiple sides are concerned).

02 Is a cooperative compliance program available?

Formally, not yet.

03 Is it possible to obtain an individual tax ruling for TP?

A non-binding tax ruling may be obtained for TP questions.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

1. **Default penalty for missing or incomplete TP documentation:**
   If a company fails to prepare or submit transfer pricing documentation (local file or master file), the HTA may impose a default penalty of up to HUF 5 million (around EUR 12,500) per documentation on the company . In the case of repeated non-compliance, this can increase to HUF 10 million (around EUR 25,000) per documentation. Since 2023, master file, company-specific document, and transaction-specific documents are considered independent, and non-compliance penalties may be imposed separately on each item.
2. **Country-by-country reporting / notification failure:**
   In the case of delayed, incorrect, or incomplete fulfilment of country-by-country reports or notifications, the default penalty may be up to 20 million HUF (around EUR 53,000) for the company.
3. **Default penalty for not complying with the transfer pricing data reporting obligation in the corporate income tax (CIT) statement:**
   If a company fails to report any transfer pricing data or submits their data incorrectly, the HTA may impose a default penalty of up to HUF 1,000,000 (around EUR 2,400) for non-individuals (corporates).
4. **Tax shortage, tax penalty and late payment interest:**
   If the HTA determines that non-arm's length pricing resulted in understated taxable income, it can adjust the tax base, which may result in a tax shortage. Regardless of the obligation to pay tax:
   - the HTA generally imposes a tax penalty (50% of the identified tax shortage, which may be reduced based on the circumstances of the case and may be halved if the taxpayer waives its right to appeal),
   - late payment interest also applies (calculated at the central bank base rate + 5%).

Most relevant transfer pricing cases in **Hungary** in 2024

Observable trends regarding TP issues challenged in tax audits in 2024:

Since 2022, the HTA has paid special attention to manufacturing companies reporting losses. The HTA explicitly declared that such entities, operating under the control of the group (central), should not be unprofitable.

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Selected court judgments in TP cases issued in 2024



Hungary vs "Metal KtF" [1]

- Tax authorities classified "Metal KtF" as a contract manufacturer and concluded that its losses were partly caused by decisions made by the group. Tax authorities claimed that "Metal KtF" provided deemed services to the group (related parties) by accepting losses in contract manufacturing transactions (intra-group).
- The Supreme Court said that TP only applies to transactions between related parties, and the arm's length price determination and transfer pricing adjustment can only be applied within this context.
- Transactions with not-related parties do not fall under this scope. For this reason, transactions between related parties need to be clearly defined.

Hungary vs "Nails KtF" [2]

- The HTA questioned transactions including the sale of products to related parties, royalties paid to a related party in Cyprus for know-how and trademarks related to the products and services provided to the Hungarian entity.
- The Supreme Court upheld the initial court's decision to impose a 200% tax penalty for tax evasion. It found that the company had falsely accounted for transactions, including fictitious invoices. However, the Supreme Court annulled the initial court judgment regarding the appointment of experts by the tax authority during the administrative procedure.

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[1] https://tpcases.com/hungary-vs-metal-ktf-october-2024-supreme-administrative-court-case-no-kfv-35289-2023-7/

[2] https://tpcases.com/hungary-vs-nails-ktf-october-2024-supreme-administrative-court-case-no-kfv-35124-2024-7/

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06

Tax audit process in transfer pricing cases in

Kosovo



Kosovo

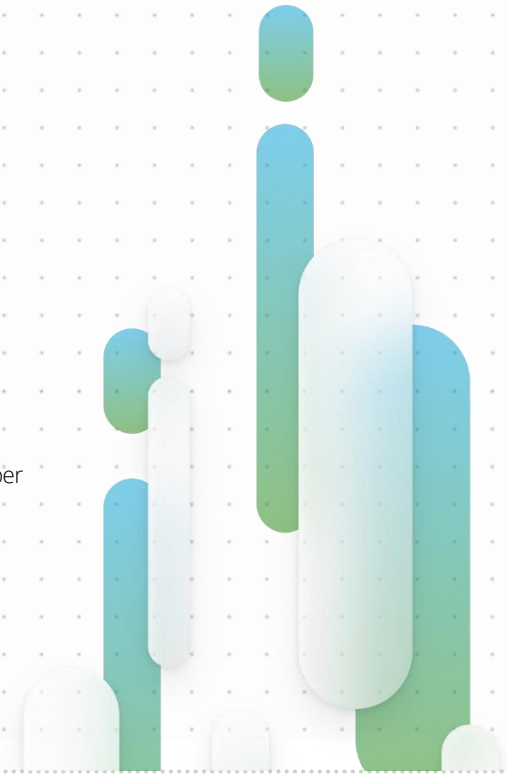
HIGHLIGHTS & REFLECTIONS **KOSOVO**

- An observable trend is an increased focus of the tax authorities on:
  - management service charges and proving their economic substance,
  - payments to offshore related parties,
  - local TP (benchmarking) studies in TP documentation.
- Kosovo currently does not have any APA program in place.
- No cooperative compliance program is available.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

There is no publicly available data on the exact number of tax audits specifically focused on TP in Kosovo. However, the Kosovo Tax Administration (TAK) has intensified its scrutiny, with a growing number of requests for TP documentation, even during audits unrelated to transfer pricing, such as VAT audits.



Which TP issues are most commonly challenged in tax audits in the country?

From the audits conducted so far, key areas of focus have included:

- intra-group service transactions (missing or insufficient documentation),
- management fees and royalties paid to related parties,
- missing TP (benchmarking) studies.

Kosovo has adopted TP regulations aligned with OECD TP guidelines. There is an increasing emphasis on TP documentation compliance, especially for companies with cross-border related-party transactions.

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Tax audit procedure in Kosovo

Who is responsible for conducting TP audits?

TP audits are conducted by the Kosovo tax administration (TAK), particularly within its specific TP audit unit.

Are there any people / departments dedicated to perform TP audits?

The Kosovo Tax Administration (TAK) does not have a dedicated transfer pricing team. However, it includes individuals specialized in TP matters. Certain tax inspectors conducting direct tax audits have developed expertise in handling transfer pricing issues.

Are TP audits managed centrally?

TP audits are partially centrally managed. They are generally initiated based on risk assessment or upon identification of red flags during general audits. There is some central coordination, especially for large entities.

Do the tax authorities use external experts during TP audits?

While TAK primarily relies on internal teams, they occasionally engage external TP experts.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Generally, TAK rarely conducts its own full TP (benchmarking) studies. Instead, it reviews documentation submitted by the audited entities and may conduct basic comparability reviews during audits.

What is the typical duration of a TP audit?

Tax audits focused on TP in Kosovo typically last around a year.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The audit findings are presented in a formal report, which outlines any adjustments proposed. This is shared with the audited entity, that has a right to respond.

What options are available for presenting objections or remarks regarding the outcome of the audit?

Audited entities may submit objections to audit findings. Usually, a draft audit report is shared with the audited entity, that may present its arguments. If disagreements persist with the issuance of the final report, formal tax dispute procedures can be initiated.

What is the typical duration of tax proceedings in Kosovo?

Administrative proceedings typically take 4-6 months.

At what stage are TP disputes usually settled, and why?

In our experience, cases tend to be resolved with similar frequency through both administrative and court procedures, depending on the circumstances.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Yes, entities typically have the opportunity to engage in discussions with tax inspectors, present supporting documentation, and clarify their TP policies. However, such interactions may differ in specific cases.

What is the formal procedure in case the tax audit finds irregularities?

If TP adjustments are conducted and not accepted by the audited entity, TAK issues a formal decision, which can be appealed within the administrative system and subsequently in court.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

In administrative appeals, both the factual and legal basis are reviewed, with more tendency towards the legal basis.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

In court proceedings, particularly at higher instances, the review tends to focus both on legal compliance and an independent re-evaluation of facts. Due to limited financial expertise, courts frequently tend to involve financial experts to perform independent analysis as well.

What is the typical duration of court proceedings?

Court proceedings may take 2–4 years, depending on the complexity of the case and backlog of the courts.



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How may transfer pricing be safeguarded in **Kosovo**?

01 Is APA available? What is the timeline and costs for APA?

No, Kosovo currently does not have any APA program in place.

02 Is a cooperative compliance program available?

No.

03 Is it possible to obtain an individual tax ruling for TP?

No.

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

Non-compliance with TP documentation requirements or failure to disclose related-party transactions can result in administrative fines for companies.

Understating taxable income due to non-arm's length pricing may lead to tax adjustments and tax liabilities, including penalties for companies and late interest.

Criminal charges may be imposed in severe cases involving tax evasion, though such enforcement is rare in the context of TP disputes.

Understatement of the corporate income tax may result in a fine ranging from 15% to 25% of the tax liability, depending on the extent of the understatement.

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Most relevant transfer pricing cases in **Kosovo** in 2024

Due to the still-developing TP landscape in Kosovo, there are no landmark court decisions published in 2024 related to TP. However, an observable trend is an increased focus on:

- reviewing management service charges and proving their economic substance,
- greater scrutiny on payments to offshore related parties,
- requests for local TP (benchmarking) studies in TP documentation.



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07

Tax audit process in transfer pricing cases in

Latvia



Latvia

HIGHLIGHTS & REFLECTIONS **LATVIA**

- Tax authority approaches multiple Latvian entities through a "Consult first" initiative, which may be considered as a pre-audit.
- Tax inspectors who specialize in TP issues are dedicated to perform TP audits.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

There are several audits regarding TP performed by the Latvian tax authority annually.
The Latvian tax authority (LTA) approaches multiple Latvian entities through a "Consult first" initiative, which may be considered as a pre-audit.

Which TP issues are most commonly challenged in tax audits in the country?

Main issues challenged in Latvia in the TP area are related to:

- management service substantiation (with regard to benefits, substance, cost base, duplication) and,
- intra-group financing as well as,
- transfers of functions and remuneration related to it.

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Tax audit procedure in Latvia

Who is responsible for conducting TP audits?

In Latvia tax audits are performed by the State Revenue Service (SRS) ("Valsts ieņēmumu dienests).

Are there any people / departments dedicated to perform TP audits?

SRS employs tax inspectors who specialize in TP issues.

Are TP audits managed centrally?

The SRS operates under the supervision of the Ministry of Finance, but it is an independent authority without direct subordination.

Do the tax authorities use external experts during TP audits?

It is established that the tax authority is competent to assess and address any TP issues on its own. So, tax authorities do not use external experts for TP.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

The tax authority performs TP studies internally.

What is the typical duration of a TP audit?

Audits should be closed within 90 days, but may be prolonged if cross-border review is initiated. Unfortunately, for "consult first" there is no statutory deadline, and this process may take up to 2 years.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of the audit has a form of a formal tax audit report with a summary of the background and the tax authorities' assessment.

What options are available for presenting objections or remarks regarding the outcome of the audit?

The SRS's assessment may be appealed to the SRS' General Director ("Valsts ieņēmumu dienesta Ģenerāldirektore") within 30 days.

What is the typical duration of tax proceedings in Latvia?

Litigation process in the event of a TP dispute is the following:

1. Assessment by tax authorities: Provided to the taxpayer by the tax authorities,
2. Appeal to the SRS´ General Director: Within 30 days from the assessment:
   - if the decision is in favor of the taxpayer: the assessment of the SRS is fully or partly canceled,
   - if the decision is not in favor of the taxpayer: the taxpayer can appeal further,
3. Appeal to the Administrative District Court: Within 30 days,
   - if the court decides in favor of the taxpayer: the assessment of the SRS is fully or partly canceled, but the SRS may still submit an appeal,
   - if the court decides against the taxpayer: the taxpayer can appeal to the Administrative Regional Court,
4. Appeal to the Administrative Regional Court: must be submitted within 30 days,
   - if the court decides in favor of the taxpayer: the assessment of the SRS is fully or partly canceled, but the SRS may still submit a further appeal,
   - if the court decides against the taxpayer: the taxpayer can file a cassation appeal to the Administrative Supreme Court,
5. Cassation appeal to the Administrative Supreme Court: must be submitted within 30 days.
   - if the Supreme Court supports the decision of the Administrative Regional Court: no further litigation is applicable,
   - if the Supreme Court does not support the decision: the litigation process is sent back to the Administrative Regional Court,
   - if the Regional Court then supports the former decision, the litigation is usually finalized.

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At what stage are TP disputes usually settled, and why?

Latvian tax authorities in case of a "consult first" procedure, issue letters with recommendations, including opinion of a tax authority. The LTA expects these recommendations to be implemented. If a taxpayer ignores the recommendations, a tax audit may be initiated. Most issues are settled during the "consult first" stage.

In practice, Latvia has multiple MAP, so it might be considered that SRS has a tendency to disagree with other tax authorities.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Generally, TP audits tend to involve discussions with the tax authority.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?/ To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

A review of the substance of the case (factual background) may be performed during the appeal procedure within the SRS. The court proceeding may include review of the transactions and analysis of the substance. Court judgment may also be issued without reviewing the factual background, only with respect to formal issues.

What is the typical duration of court proceedings?

Court proceedings could take up to 4-5 years.

How may transfer pricing be safeguarded in **Latvia**?

01 Is APA available? What is the timeline and costs for APA?

Yes, APA is available. Once the application is submitted, the SRS must provide its official response within 1 month on whether the APA procedure is launched. If the SRS agrees with the request, it will provide its ruling within this period, although additional information may be requested. After receiving a positive decision from the SRS, the APA conclusion process is started.

If the process for concluding an APA is not finalized within 1 year from the date of the official response on launching the APA process, the SRS may decide to terminate the APA procedure.

The fee for filing an APA application is EUR 7,114 with the following revised terms of payment:

- 20% is payable before filing the application
- 80% is due after receiving confirmation from the SRS that the APA procedure has been launched.

02 Is a cooperative compliance program available?

No.

03 Is it possible to obtain an individual tax ruling for TP?

Yes.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)



In Latvia TP non-compliance fines reach up to EUR 100, 000 per year (up to 1% from the related party transaction amount).

Any TP adjustment is immediately taxable at effectively 25% tax rate. For example, an adjustment of interest expense by EUR 2 million will result in a tax of EUR 500, 000.

The Latvian tax authorities in practice impose fines for non-compliance with the statutory obligation to submit TP documentation. Penalties may be significant in terms of amounts. They are imposed event if Latvian entities do prepare the TP documentation, but such documentation does not include specific Latvian requirements.

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Tax audit process in transfer pricing cases in

Lithuania



Lithuania

HIGHLIGHTS & REFLECTIONS **LITHUANIA**

- Tax authorities are currently challenging loss-making companies or companies with different functional profile than reported for transfer pricing.
- Central tax authority tends to concentrate on more complex cases and large companies.
- TP audits tend to involve discussions with the tax authority.
- APA may be requested only for future transactions.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

No public data is available. Based on our experience, Lithuanian tax authorities are currently challenging loss-making companies or companies with different functional profile than reported for TP. These types of TP audits have increased in number in recent years.

Which TP issues are most commonly challenged in tax audits in the country?

The Lithuanian tax authority collects and analyzes information about related-party transactions concluded by the Lithuanian entities. Such information is usually readily available in the annual financial statements and annex to the annual corporate income tax statement.

The main issues challenged in Lithuania at tax audits focused on TP include:

- companies which report tax losses (including analyses of their functional profiles),
- subsidiaries performing distribution, contract manufacturing or providing intra-group services whose profitability falls out of the market range,
- costs of various management services (as regards substance, overlaps, costs included in the base used to calculate charges, actual value of such services for the business run by the Lithuanian subsidiaries,
- intra-group financing (as regards interest rates and credit capacity to incur such debt).



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Tax audit procedure in Lithuania

Who is responsible for conducting TP audits? Are there any people / departments dedicated to perform TP audits? Are TP audits managed centrally?

In Lithuania tax investigations/ audits are performed by: a) territorial tax authorities ("teritorinė valstybinė mokesčių inspekcija") and/ or b) central tax authority ("centrinis mokesčių administratorius") . The Central tax authority tends to concentrate on more complex cases and large companies.

Some tax inspectors, who specialize in direct tax audits, focus on TP issues.

Do the tax authorities use external experts during TP audits?

It is established that the tax authority is competent to assess and address any TP issues on its own. So, as a general practice, tax authorities do not use external experts for TP. If an opinion on valuation is required, external experts might be involved.

What is the typical duration of a TP audit?

Tax investigations/audits focused on TP in Lithuania can take from several months to a year (on average), and longer in more complex cases.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

In Lithuania, tax authorities can proceed either with tax investigation or tax audit. In case of a tax investigation, at the end of the procedure tax authorities might come up with a formal proposal for the audited company to correct its tax statement in a particular way (within a 10-day term). If the audited company agrees with the suggested approach, the tax penalty shall not apply. If the audited company disagrees with the suggested approach, the tax authorities may proceed further with a tax audit.

The tax audit is finished with a formal tax audit report. It contains a detailed examination of the matter (also, lists supporting written evidence) and the arguments of the tax authorities for calculation of respective tax amounts.

What options are available for presenting objections or remarks regarding the outcome of the audit?

The audited company is entitled to submit written remarks to the tax audit report (attaching all supporting written evidence, as submission of such in further stages of a tax dispute is limited by law). In practice, discussions, remarks, or objections are much more successful, if they are made in the form of a dialogue with the tax authority during the tax audit, i.e., before the tax audit report is issued.

The tax proceeding ends with a formal decision issued by the tax authority that conducted the tax audit. The decision establishes the calculated additional tax, tax default interest and tax penalty

At what stage are TP disputes usually settled, and why?

Most issues are settled during tax investigations or tax audits and/or using the procedure of agreement for tax amounts, so not many cases transform into formal disputes. The procedure of agreement for tax amounts is available at any stage of a tax dispute and/or during a tax investigation or a tax audit, and such agreement can be signed when neither party has sufficient evidence to substantiate its calculations of the taxes.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Generally, TP audits tend to involve discussions with the tax authority. However, the nature of these discussions highly depends on the specific tax inspectors who conduct the audit.



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What is the formal procedure in case the tax audit finds irregularities? And to what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

The appeal should be filed to the specialized tax disputes institution – the Tax Disputes Commission ("Mokestinių ginčų komisija prie Lietuvos Respublikos Vyriausybės"). The Tax Disputes Commission reviews the case based on the limits of the appeal (i.e., it could be both, the facts/evidence and legal basis). The proceedings at the Tax Dispute Commission take up to 2 months. The decision of the Tax Disputes Commission is enforceable, meaning any tax arrears arising from the decision must be paid. Otherwise, tax authorities can start enforcement proceedings.

The decision of the Tax Disputes Commission can be appealed to the administrative court (with a limitation for the tax authorities, that they can appeal on a legal basis only, i.e., appeals on the facts/evidence grounds are not allowed by law). Subsequently, the party that is unsatisfied with the administrative court's decision can appeal to the Supreme Administrative Court of Lithuania.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

Both the administrative court and the Supreme Administrative Court of Lithuania review the case based on the limits of the appeal (i.e., it could be both, the facts/evidence and legal basis). In case of public interest, such courts are also entitled to step-out of the limits of the appeal.

What is the typical duration of court proceedings?

Court proceedings take from 6 to 12 months in the administrative court, and around 1-2 years in the Supreme Administrative Court of Lithuania.

How may transfer pricing be safeguarded in **Lithuania**?

Is APA available?
What is the timeline and costs for APA?
Is a cooperative compliance program available?
Is it possible to obtain an individual tax ruling for TP?

In Lithuania, APA may be requested only for future controlled transactions by submitting a signed request form to the State Tax Inspectorate under the Ministry of Finance (central tax authority) ("Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos"). The request must include comprehensive details on the taxpayer, all parties to the transaction, their legal / economic relations, business operations and strategy, chosen transfer pricing method with comparability analysis, critical assumptions, and supporting documents, and must be submitted in Lithuanian (with translations provided upon request). The State Tax Inspectorate examines APA requests within 60 calendar days of receipt – extendable by another 60 days if further analysis is needed – with the decision (approval or rejection) issued and notified at the earliest convenience, typically within five working days of the decision date. Approved APA is binding on the State Tax Inspectorate (but not on the taxpayer) and remains valid from the date of adoption through the current and up to five subsequent calendar years, subject to the continued accuracy of the information and critical assumptions; the taxpayer must inform the State Tax Inspectorate of any significant changes.

There are no application fees, and Lithuania's program permits unilateral, bilateral and multilateral APA. Though to date only unilateral APAs have been concluded.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)



In Lithuania, understating CIT as a result of violating TP regulations (if established during a tax audit), leads to the application of additional sanctions by the decision of tax authorities – CIT default interest (0.03% per day) and CIT penalty (of 20% to 100% of the understated CIT amount).

In general, failing to declare and pay the correct amount of tax, provided the amount of such tax is at least 28,000 EUR, is subject to criminal liability and respective sanctions (fines, and in serious cases even imprisonment up to 4-7 years). However, criminal liability is not often applied in practice.

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09

Tax audit process in transfer pricing cases in

Poland



Poland

HIGHLIGHTS & REFLECTIONS **POLAND**

- There are around 350 audits regarding TP annually.
- A TP audit takes around a year on average.
- Most issues are settled during tax audits, so not many cases transform into formal disputes.
- Poland offers APA mechanism. It allows to agree in advance with the Polish tax authorities on the TP methodologies of specific controlled transactions.
- APA has become a reliable mechanism for discussions with central competent authorities about TP cases.

Tax audit process in transfer pricing cases

What is the number of transfer pricing–related tax audits in your country?

There are around 350 audits regarding transfer pricing annually.

Which TP issues are most commonly challenged in tax audits in the country?

Main issues challenged in Poland in tax audits focused on TP include:

- license fees for IP paid to related parties with no business substance and capacity to manage IP,
- subsidiaries performing distribution, contract manufacturing or intra-group services whose profitability falls out of the market range or if the transfer pricing policy is not aligned with their functional profiles,
- costs of various management services (as regards substance, overlaps, costs included in the base used to calculate charges, actual value of such services for the business run by the Polish subsidiaries,
- intra-group financing (as regards interest rates and credit capacity to incur such debt),
- business restructurings (transfers of production or changes in the TP models),
- recharacterization cases, especially connected to debt and transactions with insufficient business substance.

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Tax audit procedure in Poland

Who is responsible for conducting TP audits?

In Poland, tax audits are performed by: a) general tax authorities, which primarily focus on tax collection, and b) specialized tax authorities dedicated to tax audits. Audits performed by these authorities differ significantly, particularly in the following areas: audit procedures they follow, typical ways audits are conducted, their knowledge and experience in tax audits, and the success rate of tax audits.

Are there any people / departments dedicated to perform TP audits?

Some tax inspectors who perform tax audits specialize in TP issues.

Are TP audits managed centrally?

TP audits in Poland are centrally managed to some extent. The Ministry of Finance prepares a list of issues that should be audited. The same applies to the list of entities that should be subject to tax audit. TP audits with large amounts at stake are being centrally supported by the Ministry of Finance, when it comes to TP analysis and evaluation of the case.

Do the tax authorities use external experts during TP audits?

It is established that the tax authority is competent to assess and address any TP issues on its own. So, tax authorities do not use external experts for TP.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

There is a specialized central team to assist tax offices with TP studies, but there is no obligation for the tax authorities to use it.

What is the typical duration of a TP audit?

Tax audit focused on TP in Poland takes around a year on average.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of an audit has a form of a formal tax audit protocol with a summary of the background and the tax authorities' standpoint.

What options are available for presenting objections or remarks regarding the outcome of the audit?

Objections to the tax audit protocol can only be made in the case of tax audit performed by the general non-specialized tax authority. In practice, discussions, remarks, or objections are much more successful if they are made in the form of a dialogue with the authority on course of the tax audit, i.e., before the protocol is issued.

What is the typical duration of tax proceedings in Poland?

Tax proceeding takes around a year in both instances.

At what stage are TP disputes usually settled, and why?

Most issues are settled during tax audits, so not many cases transform into formal disputes. This is because tax authorities have enough TP knowledge, allowing for the resolution of most issues at an early stage. There is some reluctance to bring TP cases to courts, because the outcome is usually hardly predictable.

It is common practice for tax auditors to extend the number of audited years, with the assumption that this will lead to an increased tax assessment.



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Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Generally, TP audits tend to involve discussions with the tax authority. However, the nature of these discussions highly depends on the specific tax inspectors conducting the audit. Specialized tax offices are generally more open to dialogue. Such discussions may lead to a mutual understanding regarding the outcome of the audit.

What is the formal procedure in case the tax audit finds irregularities?

If the outcome of the audit presented in the tax audit protocol is not accepted, then a tax proceeding is initiated. The tax proceeding ends with a formal decision issued by the tax authority that conducted the tax audit. The appeal may be filed to the tax chamber, which is a separate second-instance tax authority. The decision of the tax chamber is enforceable, meaning any tax arrears arising from the decision must be paid. Otherwise, tax authorities start enforcement proceedings.

The tax chamber's decision can be appealed to the administrative court. Subsequently, the party that is unsatisfied with the court's decision can appeal to the Supreme Administrative court.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

The second instance authority is formally required to review the whole case again (both the facts/evidence and legal basis).

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The court proceedings are very formalistic. The court does not review the case again or establish the factual background itself (no evidence is considered at this stage). It only reviews whether the tax authorities acted in accordance with the legal regulations.

The Supreme Administrative Court reviews only whether the administrative court followed the procedure and acted based on the legal regulations. The Supreme Administrative Court's review concerns only the arguments presented in the appeal.

What is the typical duration of court proceedings?

Court proceedings take from 6 to 12 months in the administrative courts and around 3 years in the Supreme Administrative Court.

How may transfer pricing be safeguarded in **Poland**?

01 Is APA available? What is the timeline and costs for APA?

Since 2006, Poland offers APA mechanism. It allows to agree in advance with the Polish tax authorities on the TP methodologies of specific controlled transactions. All formally filed cases are considered and openly discussed. APA has become a reliable mechanism for discussions with central competent authorities about TP cases.

An APA proceeding is generally conducted in an open and cooperative manner. That said, companies applying for an APA should be ready to ensure full transparency in their communications with the competent authority.

In course of the APA proceeding tax authorities usually request various data and information about the covered transaction, the company, and the group, and analyse functional profile and TP methodologies in details. Information gathered during APA is not shared with the tax audit authorities. APA decisions are not published, even in an anonymous version.

- **Types of APA available:** unilateral, bilateral, and multilateral.
- **Timeline:** The statutory period for issuing an APA is 6 months, but in practice, the process takes 18-24 months, depending on the complexity of the case. Bilateral APA cases usually take longer.
- **Validity:** APA is valid for up to 5 years (may be renewed for subsequent 5-year periods).
- **Fees (non-refundable):**
  - PLN 50,000 – for domestic unilateral APA,
  - PLN 100,000 – for unilateral APA concerning transaction with foreign party,
  - PLN 200,000 – for bilateral or multilateral APA.

The administrative APA fee is charged per transaction.

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02 Is a cooperative compliance program available?

Poland introduced a formal cooperation agreement framework in 2020 as part of its efforts to promote tax certainty and transparency. The program is based on the OECD concept of cooperative compliance.

The cooperation agreement is voluntary, bilateral and legally binding. The program is available to companies with annual revenues exceeding EUR 50 million. The objective of the program is to ensure real-time tax compliance and reduce audit risks by fostering open communication and mutual trust between the company and the tax administration. The cooperation is based on a multi-year agreement, subject to annual review. The program covers very broad tax issues (not only TP issues).

The major focus of the central cooperative compliance team is to understand and verify the effectiveness of the internal tax control framework of the company. On-going proactive support in resolving tax issues is offered by the tax authorities to the companies participating in the program.

TP is a core area of interest within the cooperation agreement. The participants are required to:

- disclose TP policies, documentation, and methodologies in advance,
- provide access to TP analyses, TP benchmarking studies, and related intercompany agreements,
- engage in real-time discussions with tax authorities on complex TP matters, including restructuring, intangibles, and financial transactions,
- ensure that TP documentation is consistent with actual business practices and OECD TP guidelines.

The central tax authority offers:

- assurance that declared TP arrangements will not be challenged, provided they remain consistent with agreed principles,
- simplified APA procedures, where the TP method can be agreed within the scope of the cooperation agreement,
- reduced compliance burden and audit exposure.

03 Is it possible to obtain an individual tax ruling for TP?

It's not possible to obtain an individual tax interpretation for TP methodologies. Individual interpretations may be sought with regards only to formal issues (e.g. definitions, compliance obligations).

Requests containing elements connected to the arm's length nature of transaction are rejected (APA should be used for this purpose).

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

Failure to fulfill tax obligations is subject to fiscal penal sanctions (fines, and in serious cases even imprisonment).

In recent years, many TP compliance obligations have been introduced. For example, it is required to submit a statement that transfer prices are arm's length. Not submitting or submitting a false statement is punishable.

In principle, failing to declare and pay the correct amount of tax is punishable, even with imprisonment. It is debatable whether this also applies when the basis for not declaring and not paying the tax is related to the assessment of the arm's length conditions of transactions between related parties (based on economic assumptions and estimated). However, there are criminal cases initiated in this respect.

It should be noted that fiscal penal sanctions are generally applied only in serious cases. Nevertheless, tax authorities are increasingly using these instruments.

Administrative sanctions may also be applied. Understating income tax as a result of violating TP regulations leads to extra tax liability of 10% to 30% of the understated amount.

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Most relevant transfer pricing cases in **Poland** in 2024

Polish tax authorities tend to reclassify license fees paid to related parties with no real business substance. Administrative courts in several cases said that according to the TP regulations any such reclassification was not permissible prior to 2019 (I SA/Rz 471/24, I SA/Rz 472/24, I SA/Rz 358/24).

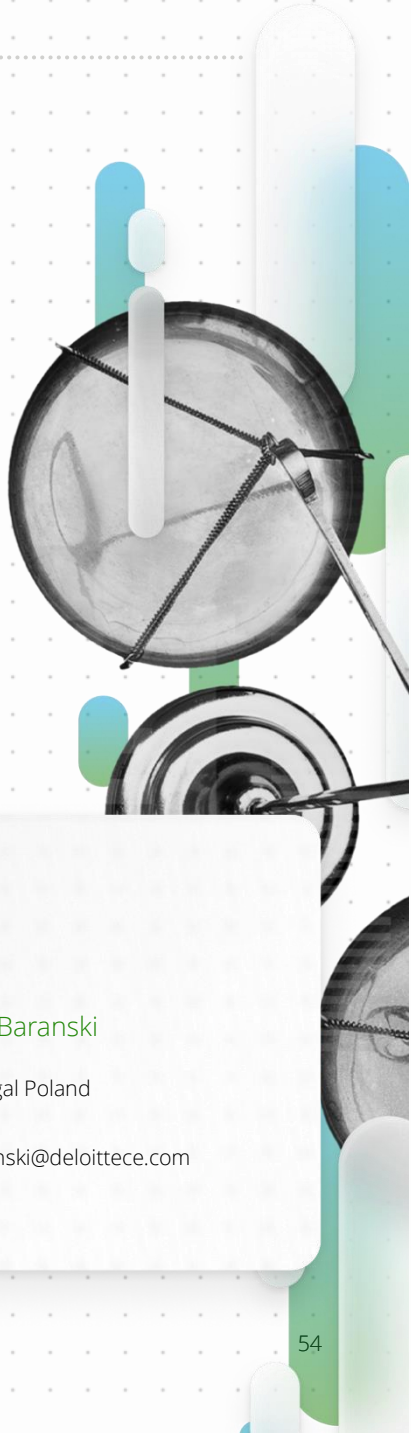
Not only transfer prices, but also all other conditions of controlled transactions should be analyzed to confirm if they are at arm's length (I SA/Go 73/24).

Contract manufacturing entities should not be exposed to risks related with the COVID-19 pandemic, especially if their industry has not been negatively affected by the pandemic (I SA/Wr 422/24).

Audit trends

During tax audits, Polish tax authorities claim that:

- routine entities should not bear significant financial costs which may erode their profitability,
- routine entities should not incur losses even if they occurred during the COVID-19 pandemic,
- Polish entities should be remunerated for functions exceeding their routine operations (through a share in consolidated profit or extra profit margins),
- debt capacity should be verified, if Polish entities are financed with intra-group debt,
- centrally provided services should not overlap with internal functions, should have real economic substance and should be documented (i.e. companies should be able to provide material documents demonstrating substance of the services and their value to the Polish business),
- TP (benchmarking) studies should include Polish / regional comparables,
- Polish entities should be compensated for restructurings and should not pay for transfer of a non-profitable business moved to Poland.



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10

Tax audit process in transfer pricing cases in

Romania



Romania

HIGHLIGHTS & REFLECTIONS **ROMANIA**

- TP disputes are more likely to be settled in court.
- Courts tend to appoint independent experts to prepare judicial expertise reports (to verify the findings of the tax authority). Judges in courts rely on the tax expertise proof. For the tax expertise the judge appoints a designated / principle tax expert and the parties to the litigation may also appoint their own experts.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

While data about number of tax audits focused only on transfer pricing is not available in Romania, in 2024, a total number of 50,708 tax audits were carried out (representing multiple types of tax inspections), during which transfer prices were also verified where applicable. The tax inspection activity in 2024 resulted in additional corporate income tax assessments amounting to EUR 1,2 billion and tax loss reduction of EUR 0,8 billion.

Which TP issues are most commonly challenged in tax audits in the country?

The main TP issues that arise in tax audits in Romania are related to:

- TP (benchmarking) studies, including re-checking their compliance with the Romanian specific TP regulations, mainly in terms of independence of comparable companies / transactions,
- costs and profits segmentation per activities and scrutiny over the actual computation of the profitability by focusing on each category of revenues and costs used in calculations (based on actual figures from the financial statements based on the Romanian accounting standards),
- details of the functional analysis including re-checking critical functions and risks undertaken by the parties and questioning declared functional profiles of the Romanian entities,
- thorough analysis of financial transactions including challenging the adjustments performed or even reclassifying loans into equity or trade receivables from affiliated parties into loans,
- rigorous verification of supporting documents for transactions involving services and royalties.

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Tax audit procedure in Romania

Who is responsible for conducting TP audits?

TP audits are performed by tax inspectors working with the National Agency for Fiscal Administration (Agentia Nationala de Administrare Fiscala, ANAF).

Are there any people / departments dedicated to perform TP audits?

In general, tax inspectors conducting tax audits are not dedicated/specialized in TP, but there are "back-office" regional TP teams that support the tax inspectors during tax audits. While not mandatory, tax inspectors may involve regional teams specialized in TP for analysis and support during audit processes, depending on the need. Communication with the audited companies within tax audits is undertaken in general only by the tax inspectors.

Are TP audits managed centrally?

To some extent. It's not unheard of that certain TP hot topics are guided from the National Agency for Fiscal Administration – Ministry of Finance. However, tax inspectors may analyze any aspects with regards to TP on their own within the tax audits that they perform.

Do the tax authorities use external experts during TP audits?

No external experts are used in TP audits.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Yes, tax inspectors perform TP studies themselves, if deemed necessary.

What is the typical duration of a TP audit?

Depending on the size of the audited company (small, medium, large,) the maximum duration of a tax audit is of 45, 90 and 180 days. However, tax audits may be suspended, in which case the suspension period is not considered.

In practice, tax inspections usually exceed double the maximum legal duration.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

At the end of the audit, a formal report is issued that includes the tax inspectors' reasoning and a tax assessment decision, which establishes tax liabilities or modifications to the taxable base.

What options are available for presenting objections or remarks regarding the outcome of the audit?

The audited company may submit its comments with regard to the findings of the audit (that are contained in the draft version of the tax report). It is a procedural step before the tax inspectors issue the final version of the tax report.

What is the typical duration of tax proceedings in Romania?

Tax proceeding at the appeal body usually takes between 45 days to 6 months.

At what stage are TP disputes usually settled, and why?

Usually, TP disputes are more likely to be settled in court and not during the tax appeal phase. Approximately 85% of the decisions following tax appeals fully confirm the matters mentioned in the tax inspection report.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Yes, usually the audited company may discuss the issues identified during the audit and present further explanatory notes.

What is the formal procedure in case the tax audit finds irregularities?

The audited company has 45 days to lodge a tax appeal against the finding presented in the tax report and tax assessment decision (computed from the date of their communication). The tax appeal is resolved by a department under the Ministry of Finance (working at both central and regional levels).

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

Courts are allowed to check and review the factual background of the case.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

Court proceedings at first instance involve analyses of facts of the case and the appeal. The appeal against the first-tier court decision is usually limited to legality issues (either based on breach of procedural norms, or the erroneous interpretation by the court of the incidental material fiscal norms).

What is the typical duration of court proceedings?

Should the appeal body reject the complaint, the audited company may lodge a court claim against this decision. In Romania court proceedings in tax cases are conducted in two instances. Court proceedings at first instance involve analyses of facts of the case and the appeal. Courts have a formalistic/bureaucratic approach and tend to appoint independent experts to prepare judicial expertise reports (to verify the findings of the tax authority). Judges in courts rely on the tax expertise proof. For the tax expertise the judge appoints a designated / principal tax expert and the parties to the litigation may also appoint their own experts. The experts work independently and submit the tax expertise report in court, which basically is the base of the judge's decision.

Therefore, for these reasons court judgments are issued in up to 3 years.

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How may transfer pricing be safeguarded in **Romania**?

01 Is APA available? What is the timeline and costs for APA?

Yes. As per the law, an APA is issued anywhere between 12-18 months (maximum limit), and the submission cost requested by the tax authority is variable depending on the size of the company and the amount of transaction covered by the APA (between EUR 10,000 and EUR 20,000).

02 Is a cooperative compliance program available?

Romania currently does not have a formal cooperative compliance program, but the implementation of such a program is under consideration by the Romanian tax authorities.
The Romanian tax authorities issue conformity notifications to the companies mentioning potential irregularities identified by the tax authorities based on very initial review of the financial statements, tax reporting, etc.. Company, who receives such conformity notification, has 30 days to correct the potential irregularities or reply to the notification.

03 Is it possible to obtain an individual tax ruling for TP?

The unilateral advance pricing agreement (APA) is the only individual tax ruling which can be obtained for TP.

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

Usually, the tax inspectors shall compute and establish ancillary fiscal liabilities (interest and late payment or non-declaration penalties) for any due taxable income.

Interest is 0.02%/day of delay, late payment penalties are 0.01%/day of delay and non-declaration penalties are 0.08%/day of delay. The latter are capped at the tax liability value.

Both the interest and penalties are applied retroactively starting from the date of the taxable moment, as per the opinion of the inspectors.

The late payment penalties and non-declaration penalties are not applied simultaneously, but either one or the other. Depending on the case at hand, the RTA evaluates and decides to apply one of the previously mentioned penalties.

Moreover, failure by the taxpayer/payer to comply with the obligations to prepare the transfer pricing file, as well as failure by the taxpayer/payer to comply with the obligation to present the transfer pricing file at the request of the tax inspectors, can be fined by up to LEI 14,000 RON (approx. EUR 2,800).

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Most relevant transfer pricing cases in **Romania**

- TP should be analyzed from the side of parties with less complex functional profiles,
- The resale price method is acceptable for distribution activities carried out by the retailers if these activities do not substantially increase the value of products,
- Multi-year analysis instead of a year-by-year analysis in the TP studies should be used, even in the context where the company does not have a multi-year production strategy,
- Entities with losses may be included in TP studies, as a single-year loss may genuinely reflect market conditions at that time and is not sufficient to reject the company from the studies.



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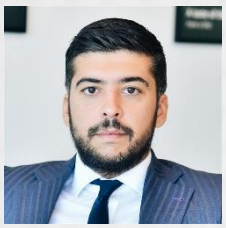

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Tax audit process in transfer pricing cases in

Serbia



Serbia

HIGHLIGHTS & REFLECTIONS **SERBIA**

- Tax authorities have recently formed a dedicated team to perform TP audits.
- Most cases are concluded during the appeal procedure before the Ministry of Finance of the Republic of Serbia.
- APA is not available in Serbia.
- It is possible to submit a request for an opinion from the Ministry of Finance on any tax issue, including TP. Once the Ministry of Finance issues its opinion, such an opinion is binding for the Serbian tax authorities.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

There is no publicly available information on the number of tax audits focused on TP in Serbia. Tax authorities have recently formed a dedicated team to perform such audits. Nevertheless, due to the increased interest in transfer pricing issues by the Serbian tax authorities, the number of tax audits focused on TP is increasing.

Which TP issues are most commonly challenged in tax audits in the country?

Currently, main issues challenged in Serbia in tax audits focused on TP include:

- costs of various management services (as regards substance, overlaps, costs included in the base used to calculate charges), and
- contract manufacturing entities / distribution entities, that are underperforming and whose profitability is below the market range.

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Tax audit procedure in Serbia

Who is responsible for conducting TP audits?

In Serbia, TP audits are performed by tax auditors from the tax administration (Ministry of Finance of the Republic of Serbia).

Are there any people / departments dedicated to perform TP audits?

Yes, as of recently, there is a specialized team within the Serbian tax administration, dedicated to performing TP audits together with colleagues from other Tax administration departments.

Are TP audits managed centrally?

No, each tax auditor performs an independent tax audit. However, it should be noted that the audit order for each individual tax audit is being issued centrally.

Do the tax authorities use external experts during TP audits?

No, apart from occasionally allowing Serbian entities' external experts to be involved, we do not have information about Serbian tax authorities using their external experts during the audit.

What is the typical duration of a TP audit?

From our experience, a TP audit usually takes 2-6 months: two months on basis of audit order, and one month on basis of the supplementary audit order (if issued). After that period, there is a 2-month period during which tax authorities are supposed to deliver their report and findings.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

As per Serbian TP legislation, in case that tax authorities are challenging certain transactions, they are obligated to produce appropriate TP analysis, using same principles as the Serbian entities to assess whether that transaction is at arm's length.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The tax authority presents its findings in respect to a specific tax audit in the minutes on tax audit. The audited entity may object to the findings presented in the minutes within 8 days. Then, the tax inspectors in that specific tax audit decide whether the minutes should be adjusted based on such objections or not. If the tax authority considers that the violations are identified, the next formal act is a resolution by which the tax authority determines the violation, amount of tax debt and other matters related to the tax audit. The resolution can be challenged within 15 days (the appeal does not postpone execution of the resolution). The Ministry of Finance should then make a decision.

What options are available for presenting objections or remarks regarding the outcome of the audit?

A Serbian entity may declare an objection to the minutes of the performed tax audit, issued by the tax inspectors (the deadline is 8 days from the date when the minutes were received). The audited entity may file an appeal against the formal resolution (which may or may not include amendments based on the previously submitted objections).

What is the typical duration of tax proceedings in Serbia?

It is challenging to determine the duration of tax proceedings in Serbia. Namely, in case of an appeal, the resolution is taken to the Ministry of Finance of the Republic of Serbia. The Ministry of Finance has several options when considering an appeal, such as accepting the appeal wholly or partially, canceling the challenged resolution of the Tax administration, and returning it back to the first-instance Tax administration (tax inspector) with mandatory instructions based on which the tax administration must issue new resolution. In such cases, the process can last several months and sometimes even more than a year.

At what stage are TP disputes usually settled, and why?

While no formal data is available, our previous experience shows that most cases are concluded during the appeal procedure before the Ministry of Finance of the Republic of Serbia, which is filed against the decision (resolution) of the tax audit. At this stage, the proceeding may enter a circulus vitiosus. Namely, the legal provisions regulate the procedure in such a way that tax authorities, despite not properly conducting the tax audit and rendering a faulty decision, can reissue the same faulty decision after the Ministry of Finance accepts the appeal of the audited entity and returns the case back to tax authority for supplementation and correction of irregularities found in the initial final decision (resolution) of the Tax administration. There are no legal limitations on the number of times this same procedure can be repeated.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Generally, TP audits tend to involve discussions with the tax authority. However, the nature of these discussions highly depends on the specific tax inspectors conducting the audit.

What is the formal procedure in case the tax audit finds irregularities?

The tax auditor delivers the minutes of the performed tax audit to the audited entity, that may submit objections within 8 days from the date when the minutes are received. The tax administration issues a final resolution within 60 days from the date of delivery of the minutes.

The resolution instructs the entity to pay the determined tax liability to the prescribed public revenue accounts within 15 days from the date of delivery of the resolution or to rectify other identified irregularities. The entity may file an appeal to the Ministry of Finance of the Republic of Serbia within 15 days from the date of receipt of the resolution.

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To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

The decision is reviewed based on the appeal, considering both formal and factual background if both matters are raised in the appeal. New facts and new evidence can be presented in the appeal, but the appellant is obliged to explain why such evidence was not presented in the first-instance procedure.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The decision is reviewed based on the appeal / lawsuit, addressing both formal and factual background if both maters are raised in the appeal.

What is the typical duration of court proceedings?

The duration of court proceedings in the administrative court in Serbia is difficult to estimate, but based on our previous experience, the average duration is from one to three years. However, there are cases that can take up to 10 years.

How may transfer pricing be safeguarded in **Serbia**?

01 Is APA available? What is the timeline and costs for APA?

No, as of now, APA is not available in Serbia.

02 Is a cooperative compliance program available?

No, as of now, a cooperative compliance program is not available in Serbia.

03 Is it possible to obtain an individual tax ruling for TP?

Yes, as per Serbian legislation, it is possible to submit a request for an opinion from the Ministry of Finance on any tax issue, including transfer pricing. Once the Ministry of Finance issues its opinion, such an opinion is binding for the Serbian tax authorities.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

In Serbia, failing to fulfil tax obligations is subject to fiscal penal sanctions (fines, and in serious cases, even criminal liability).

Inaccurately determining the tax base and failure to pay appropriate corporate income tax can lead to fines, penalties, and late payment interest fees. Namely, if the amount of tax determined in the tax statement is less than the amount that should have been determined in accordance with the CIT regulations, the Serbian entity will be fined for the offense with a fine in the amount of 30% to 40% of the difference between these two amounts. In addition, tax authorities may impose fines for failure to accurately determine taxable income also to the responsible persons of that legal entity which is done through a misdemeanor proceeding, i.e., a court proceeding based on tax administration initiative. Late payment interest is also charged on the amount of unpaid tax.

In more serious cases, i.e., such as when tax authorities deem there was an intent to perform tax evasion, or if the amount of the newly established tax obligation exceeds a certain amount (currently RSD 1,000,000 which is approximately EUR 8,500), the tax administration may forward the case to the tax police that is assessing if there is a case to bring before the public prosecutor, who can decide to bring criminal charges. Fines for tax evasion through criminal charges may result in imprisonment from 1 to 10 years, depending on the amount evaded.

Most relevant transfer pricing cases in **Serbia** in 2024

In course of tax audits conducted in Serbia, tax authorities focus on costs of intra-group services and Serbian contract manufacturing / distributing entities that are underperforming, i.e., whose profitability is below the arm's length range.

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Tax audit process in transfer pricing cases in

Slovakia



Slovakia

HIGHLIGHTS & REFLECTIONS **SLOVAKIA**

- Only a small number of cases are settled during formal tax audit stage; quite a lot of cases transform into subsequent (dispute) stages. This is because tax authorities are usually very strict and quite disagreeable in the early stages of proceedings. Despite the lengthy process and absence of special tax courts (i.e., often leading to unpredictable decisions), an increasing number of TP cases are brought to courts.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

There are usually up to 80 audits regarding TP annually in Slovakia.

Which TP issues are most commonly challenged in tax audits in the country?

The main issues challenged in Slovakia during tax audits focused on TP include mostly subsidiaries performing manufacturing, who incur losses or whose profitability falls below the market range, as well as costs of various services concerning substance, overlaps, costs included in the base used to calculate charges, and the actual value of such services for the business run by Slovak subsidiaries.

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Tax audit procedure in Slovakia

Who is responsible for conducting TP audits?

In Slovakia, TP audits are mostly performed by specialized tax authorities known as the Tax authority for selected entities (Úrad pre vybrané hospodárske subjekty) which has jurisdiction mostly over large companies, however, entitled to perform TP audit practically of any entity. Local tax authorities (daňové úrady) perform audits to a lesser extent. Audits performed by these authorities may differ, mostly due to knowledge and experience in tax audits.

Are there any people / departments dedicated to perform TP audits?

The tax authority for selected entities has special teams in all regions that specialize in TP issues.

Are TP audits managed centrally?

TP audits in Slovakia are centrally managed to some extent, primarily by the Slovak Financial Directorate (Finančné riaditeľstvo).

Do the tax authorities use external experts during TP audits?

The tax authority conducting the audit should be competent to assess and address any TP issues on its own. However, the Department of Methodology of the Financial Directorate is sometimes involved. External experts appear to be used quite rarely.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

TP studies (benchmarks) are conducted by tax authorities involved in tax inspections.

What is the typical duration of a TP audit?

Based on the Slovak legislation, the sole tax audit focused on TP may take up to one year, however, it can be extended at the discretion of the tax authorities conducting the audit by additional up to 12 months. Such extensions are not unusual.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of the audit has a form of a formal tax audit protocol with a summary of the background and the tax authorities' standpoint. By issuing a protocol, the tax audit phase formally ends, and so-called assessment proceeding starts.

What options are available for presenting objections or remarks regarding the outcome of the audit? What is the typical duration of tax proceedings in Slovakia? What is the formal procedure in case the tax audit finds irregularities? And to what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

Objections to the tax audit protocol can be made within 30 working days in writing. Such objections should then be discussed between the audited entity and the authorities, even repeatedly, and notes should be prepared from each such discussion. Following the final notes, a decision is issued. By issuing the decision, the assessment proceeding ends. The deadline for assessment proceeding is 3 months, unless extended at discretion of tax authorities (extension can be made even repeatedly).

The appeal against the decision may be filed with the tax authority conducting the audit, which, unless fully accepted by the authority (extremely unlikely), should be passed for decision to the second-instance body (usually the Financial Directorate). The second instance authority is formally required to review the whole case (both the facts/evidence and legal basis). The decision of the second-instance body is enforceable, meaning any additional tax arising from the decision must be paid. Otherwise, tax authorities start enforcement proceedings.

The audited Slovak entity may request the Ministry of Finance to examine the decision of the second-instance authority in course of extraordinary proceeding. The party may also file an administrative lawsuit against the decision to the administrative court.

Subsequently, the party that is unsatisfied with the court's decision can appeal to the Supreme Administrative Court.



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At what stage are TP disputes usually settled, and why?

Only a small number of cases are settled during formal tax audit stage; quite a lot of cases transform into subsequent (dispute) stages. This is because tax authorities are usually very strict and quite disagreeable in the early stages of proceedings. Despite the lengthy process and absence of special tax courts (i.e., often leading to unpredictable decisions), an increasing number of TP cases are brought to courts.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Generally, TP audits tend to involve discussions with the tax authority. However, the nature of these discussions depends heavily on the specific tax inspectors conducting the audit.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The courts are in practice very formalistic, meaning they primarily review whether the procedural rules under Slovak law were met by the tax authorities, rather than assessing the factual background. However, there is a rising tendency for courts to assess substantial law and the merits of a case as well (if materially challenged by the appellant – The administrative court is bound by the scope and grounds of the administrative lawsuit).

The Supreme Administrative Court reviews only whether the (first-instance) administrative court followed procedure and acted in accordance with legal regulations. The Supreme Administrative Court's review also concerns only the arguments presented in the appeal.

What is the typical duration of court proceedings?

Court proceeding can take from 3 to 5 years in the administrative court and up to 3 years in the Supreme Administrative Court.

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How may transfer pricing be safeguarded in **Slovakia**?

01 Is APA available? What is the timeline and costs for APA?

APA is available in Slovakia. The timeline is usually up to two years for a unilateral APA, and several years for a bilateral / multilateral APA. The stamp duty payable is EUR 10,000 for unilateral and EUR 30,000 for bilateral / multilateral APA. If the entity applying for the APA is considered as highly reliable based on tax reliability index, the fee is reduced by half.

02 Is a cooperative compliance program available?

No, it is not available.

03 Is it possible to obtain an individual tax ruling for TP?

The APA procedure should be used for TP cases.

Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

In Slovakia, failing to fulfil tax obligations is subject to sanctions (fines).

In serious cases, a criminal proceeding may be initiated, which can lead to imprisonment of the responsible individual or other criminal sanctions. In Slovakia, also criminal liability of legal entities is established for selected criminal offenses.

A penalty calculated as three times the basic ECB interest rate (not less than 10% per annum) from the additional tax is imposed. Additionally, if an entity fails to make a payment on time, a sanction interest of four times the basic ECB interest rate (not less than 15% per annum) from the delayed amount is imposed.

Finally, failing on obligation of non-monetary nature may result in a penalty for a company up to EUR 3,000, which can be imposed repeatedly.

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Most relevant transfer pricing cases in **Slovakia** in 2024

Judgments of the Slovakian administrative courts in TP cases issued in Slovakia in 2024 indicate that:

- Tax authorities should adequately reason the aggregate approach to TP analysis (i.e., should not automatically analyze the overall profitability of the Slovakian entities, but take a more detailed look at individual transactions) (KE-7S/148/2020 – 160 (Marelli)),
- Tax authorities in TP assessments should not automatically use the median, as any value within the range equally represents conditions made in transactions concluded at arm's length (KE-7S/148/2020 – 160 (Marelli)),
- Tax authorities cannot by default exclude companies that incur losses from the TP study without adequate reasoning (BA-1S/111/2019 (Illichmann)),
- Entities who are related not only through a share in equity but also by personal relationships should not be used as comparables in TP studies (if information about such relationships is available) (BA-1S/111/2019 (Illichmann)).



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Tax audit process in transfer pricing cases in

Slovenia



Slovenia

HIGHLIGHTS & REFLECTIONS **SLOVENIA**

- TP audits take approximately 1-2 years until the issuance of a decision.
- It is not common to find mutual understanding as to the result of a tax audit procedure.
- In majority of TP disputes audited entities decide to proceed with a lawsuit to the Administrative and Supreme Court.

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

In Slovenia, the tax audit process in transfer pricing cases is conducted by the Financial Administration (FURS), which focuses on ensuring compliance with arm's length principles in related-party transactions. In 2024, there were 28 tax procedures related to TP.

A significant portion of these issues was identified in companies reporting tax losses, where the audits led to adjustments amounting to over €5 million in additionally assessed and payable tax liabilities and €9.3 million in increased indirect financial obligations (including decreases of available tax losses carried forward).

Which TP issues are most commonly challenged in tax audits in the country?

The main issues challenged in Slovenia during tax audits focused on TP included: (1) inappropriate application of TP methods, (2) irregularities in the payment of license fees for the use of intangible assets, (3) non-arm's length interest on intercompany loans, and (4) non-arm's length pricing of services and goods between related entities.

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Tax audit procedure in Slovenia

Who is responsible for conducting TP audits?

In Slovenia, TP audits are performed by the Financial Administration of the Republic of Slovenia (FURS - Finančna uprava Republike Slovenije).

Are there any people / departments dedicated to perform TP audits?

While there is no distinct authority exclusively dedicated to TP audits, certain tax inspectors within FURS specialize in international taxation and TP issues. These specialized inspectors are organized within a centralized unit that is dedicated to carrying out all formal TP audits, particularly of large and very large or multinational entities.

Are TP audits managed centrally?

TP audits in Slovenia are not strictly centrally managed, but there is a degree of coordination. There is a small central TP team within FURS that may provide guidance or set audit priorities, especially for high-risk cases / entities. However, Slovenian tax offices have autonomy in initiating and conducting TP audits as part of general tax audits.

Do the tax authorities use external experts during TP audits?

FURS generally does not use external experts in-course of the TP audits. Internal expertise within the administration is deemed sufficient, especially considering that international taxation units are staffed with trained personnel. External experts are only engaged if a supporting analysis needs to be done by a licensed professional, such as a real estate or corporate appraiser.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Slovenian tax authorities generally do not perform their own TP studies. Instead, they assess the documentation provided by the entities and challenge it if they find inconsistencies. Central office may offer support to tax inspectors, but it is not mandatory for them to be involved in every case.

What is the typical duration of a TP audit?

A TP tax audit takes longer than any other tax audit. Since it normally covers multiple (usually up to three) tax periods, it may take more than a year, especially in case of complex inter-company transactions or if a significant portion of supporting documents is requested and needs to be collected by the Slovenian entity.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

The outcome of a TP audit is usually presented in the form of minutes from the tax authority, which include a summary of findings and a justification of the tax authority's position. If the audit identifies a TP adjustment, it forms the basis for a formal tax assessment.

Slovenian audited entities may submit remarks or objections to the findings of the minutes. These remarks are typically reviewed by the same tax office, and informal discussions commonly occur at this stage to resolve disagreements before a formal tax decision is issued.

What is the typical duration of tax proceedings in Slovenia?

TP audits take approximately 1 - 2 years until the issuance of a decision.
The Ministry of Finance (Ministrstvo za finance) can take an additional 1 – 2 years to review a potential audited entity's appeal to the decision.



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At what stage are TP disputes usually settled, and why?

It is not common to find mutual understanding as to the result of a tax audit procedure with FURS, so most audited entities decide to file an appeal to the Ministry of Finance (second-instance authority). Due to insufficient substantiation or procedural errors in the relevant FURS' decisions, many TP disputes are returned by the Ministry of Finance back to FURS with instructions on how to properly conduct a repeated tax audit procedure..

Most TP disputes are thus resolved before the audited person files a lawsuit with an administrative or supreme court. Additionally, if the tax audit procedure and the issuance of final decisions by FURS and the Ministry of Finance take significantly longer, some TP disputes might be closed due to the expiration of the absolute statute of limitations.

In cases of TP disputes involving material amounts of additionally assessed tax liability (e.g. more than EUR 300,000), the majority of audited entities decide to proceed with a lawsuit to the Administrative and Supreme Court.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Discussions with the tax authorities are possible and fairly common in course of a TP audit. Audits are not strictly limited to a desktop review. In practice, tax inspectors often engage in dialogue with the representatives of the audited entities to clarify facts, request explanations and discuss preliminary findings before issuing formal decisions.

To what extent is the decision reviewed based on the appeal (only formally or also as regards the factual background)?

If irregularities are confirmed, the tax audit procedure results in a formal decision (tax assessment) by the tax authority. The audited entity may file an appeal to the second-instance body, the Ministry of Finance. The second-instance authority is obliged to review the case in full, including both factual and legal aspects. However, no submission of new evidence is allowed in the scope of an appeal filed to the second-instance body.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

If the audited entity is dissatisfied with the second-instance decision, they may file a lawsuit to the Administrative Court. This court reviews not only the formal procedure but also the factual background of the case, including the assessment of evidence. No submission of new evidence is permitted in the scope of a lawsuit to the Administrative Court.

Appeals from the Administrative Court may be submitted to the Supreme Court, which predominantly reviews only legal issues and procedural matters, and not necessarily the underlying facts as well.

What is the typical duration of court proceedings?

It depends on the complexity of the case, but the overall proceedings in case of appeal to the Administrative court (Upravno sodišče Republike Slovenije) (up to 1 year) and then appeal to the Supreme court (Vrhovno sodišče Republike Slovenije) (up to another 1 year) can take approximately 2 years before resolution.

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How may transfer pricing be safeguarded in **Slovenia**?

01 Is APA available? What is the timeline and costs for APA?

APA is available in Slovenia, which has implemented clear procedural rules on how the APA may be applied and concluded, along with rules on implementation and tracking of concluded APAs. The procedure is encouraged by the Financial Administration (FURS), especially for entities engaged in complex cross-border transactions. There is no officially published timeline. Once the tax authority issues a written notice to initiate the APA process, the entity must pay a fee of EUR 15,000 within 30 days. This payment is non-refundable, even if the APA is later withdrawn by the Slovenian entity. In the case of a renewal of an existing APA, the fee is reduced to EUR 7,500. However, if the APA is not concluded due to reasons not attributable to the entity, a partial refund of EUR 5,000 is granted.

02 Is a cooperative compliance program available?

Slovenia has a special tax status program (previously called horizontal monitoring), which grants "special tax status" to selected large taxpayers who voluntarily commit to high compliance standards. This program promotes closer cooperation with FURS and greater tax certainty for the entities that are in the program. As of 2024, 14 large taxpayers were part of this program.

03 Is it possible to obtain an individual tax ruling for TP?

Individual tax rulings (binding or non-binding) are available only for all other taxes but are not permissible for questions relating to TP. However, an APA serves a similar purpose as it serves as the primary mechanism for obtaining advanced certainty on TP matters. Slovenia actively uses MAP, with dedicated staff at the General Financial Office. In 2024, all concluded MAPs resulted in the full elimination of double taxation.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

In Slovenia, non-compliance with TP obligations and the understatement of taxable income resulting from non-arm's length intra-group transactions are subject to penalties under the Tax Procedure Act (ZDavP-2). Administrative fines may apply if a Slovenian entity fails to provide transfer pricing documentation as required by law. For legal entities, these fines range from EUR 3,200 to EUR 30,000, and for responsible persons within these entities, from EUR 400 to EUR 4,000. For smaller entities, fines range from EUR 1,200 to EUR 15,000 for the entity, and from EUR 300 to EUR 2,000 for the responsible individuals (article 397 ZDavP-2).

If the taxable income is understated because intra-group transactions were not conducted at arm's length, tax authorities may assess tax and impose penalties under the general provisions for tax avoidance and underreporting.

In serious cases, criminal liability under the Slovenian Criminal code (Kazenski zakonik - KZ-1) may also apply, including even imprisonment if the Slovenian entity intentionally evaded paying a large amount of taxes.

Notwithstanding the above, Slovene tax authorities in practice rarely or almost never impose penalties in the course of TP audits. Usually, the only adverse implications comprise assessed corporate income tax (primary tax adjustment), withholding tax (secondary tax adjustment, applied in case of irregular transfer prices are identified in relation to the shareholder of Slovene taxpayer), and late interest (applied on both primary and secondary tax adjustments).

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Most relevant transfer pricing cases in **Slovenia** in 2024

In Slovenia, in TP audits performed in 2024:

- Tax authorities scrutinized transactions involving intangible assets (including economic ownership over intellectual property).
- Special attention was given to royalty payments for intangible assets, interest on intra-group loans, and service charges between related entities.
- Cases involving losses for consecutive years, volatile net profitability, and business restructurings also attracted attention of the tax authorities.
- Slovenian tax authorities very often analyze transactions including intra-group services. Usually, tax authorities request documents demonstrating value of such services, prove that such services were actually provided and that they do not overlap with functions performed internally.
- Multiple tax audits have been initiated with Slovenian branch offices of foreign corporations, with a focus on checking if appropriate transfer pricing method was applied, specifically verifying whether local activities exceed supporting nature and should instead of cost-plus approach be remunerated relative to the Group revenue/operating profit realized in the Slovenian market.

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Tax audit process in transfer pricing cases in

Ukraine



Ukraine

HIGHLIGHTS & REFLECTIONS **UKRAINE**

- During the fiscal years from 2015 to 2024, the Ukrainian tax authority conducted 130 audits regarding TP issues.
- These figures indicate a consistent focus on TP compliance by the Ukrainian tax authorities, with 2024 showing a sharp increase in both the number of completed audits and financial adjustments.
- Usually, TP disputes are not settled during the administrative procedure and often proceed to court. Tax authorities rarely change their initial decisions.
- Usually, court proceedings may take up to 2-3 years (for all instances combined).

Tax audit process in transfer pricing cases

What is the number of TP–related tax audits in the country?

During the fiscal years from 2015 to 2024, the Ukrainian tax authority conducted 130 audits regarding TP issues. These audits resulted in corporate income tax assessments totaling EUR 99 million and in reducing reported tax losses by EUR 204 million. In 2024, Ukrainian tax authorities performed 21 TP audits leading to corporate tax assessments for the amount of EUR 13 million and adjustments to reported tax losses for the amount of EUR 42 million. In 2024, more than 700 formal TP violations were detected, including non-submission or late submission of TP reports ("data sheet" disclosing the list of controlled transactions). This resulted in fines totaling approximately EUR 4 million.

These figures indicate a consistent focus on TP compliance by the Ukrainian tax authorities, with 2024 showing a sharp increase in both the number of completed audits and financial adjustments.

Which TP issues are most commonly challenged in tax audits in the country?

Historically, several typical patterns have been observed in the approach of the Ukrainian tax authorities:

- Transactions involving exchange-traded commodities are subject to heightened scrutiny, with particular attention paid to compliance with the approved pricing procedures for such commodities.
- Tax authorities often contest the TP method applied by the audited entity, such as using the CUP instead of TNMM, or vice-versa.
- Tax authorities frequently question the composition of the set of comparable companies used by the audited entity when applying profit-based methods such as TNMM.
- Since January 1, 2021, the tax authority imposes withholding tax on the income of non-residents due to the adjustment of taxable base if certain controlled transactions are not on arm's length terms.
- Tax authorities commonly cross-reference transfer prices with data from customs declarations to verify consistency.
- Tax authorities scrutinize the formal aspects of TP reports and documentation in detail and often impose penalties for procedural non-compliance, even if the substantive pricing is not in dispute.
- Tax authorities also frequently adjust taxable profits in cases where transactions are carried out with specific entities being unrelated but still under TP control. This is due to their registration in low-tax jurisdictions or their specific legal forms. Such transactions are subject to heightened scrutiny and TP adjustments.

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Tax audit procedure in Ukraine

Who is responsible for conducting TP audits?

In Ukraine, TP audits are conducted by the State Tax Service (STS, Державна податкова служба України) and are centrally managed.

Are there any people / departments dedicated to perform TP audits?

The STS has special departments dedicated to TP issues. TP audits are typically conducted as documentary audits (either field or non-field), under the same procedural rules as for other tax audits.

Are TP audits managed centrally?

Yes.

Do the tax authorities use external experts during TP audits?

Ukrainian tax authorities typically rely on internal expertise for TP audits and do not commonly engage external experts.

Do tax authorities perform TP studies themselves (centrally or individually in the course of the tax audit)?

Tax authorities perform TP studies themselves (local tax authorities with high involvement of the central state tax body).

What is the typical duration of a TP audit?

TP audits in Ukraine have a standard duration of 18 months, with a possible extension of up to 12 additional months, making the maximum duration 30 months. These audits often involve in-depth analysis, including requests for additional documentation.

The statute of limitations for TP audits is 7 years. This period was prolonged even more due to COVID-19 and the full-scale Russian invasion into Ukraine when the TP audits were suspended.

How is the outcome of a TP audit presented (e.g., summary, report, formal decision)?

Upon completion of a TP audit, the findings are presented in a formal tax audit act (certificate), detailing the background, analysis, and conclusions of the tax authorities.

What options are available for presenting objections or remarks regarding the outcome of the audit?

An audited company may submit objections to the TP audit report within 30 days from the date of its receipt. The tax authority is obliged to review these objections and provide a written conclusion within 30 working days from the date of receiving the objections.

If the taxpayer is not satisfied with the conclusion, they may appeal to the higher tax authority within the next 10 working days. The appeal is considered within 20 to 60 days. Consideration of the appeal ends the administrative procedure.

What is the typical duration of tax proceedings in Ukraine?

If the taxpayer is not satisfied with the conclusion, they may appeal to the higher tax authority within the next 10 working days. The appeal is considered within 20 to 60 days. Consideration of the appeal ends the administrative procedure.

At what stage are TP disputes usually settled, and why?

Usually, TP disputes are not settled during the administrative procedure and often proceed to court. Tax authorities rarely change their initial decisions.

Is it possible to discuss issues identified during tax audits, or are they limited to a desktop review of documents?

Audited Ukrainian entities may engage in discussions with tax authorities during the audit process. This facilitates clarification of issues and allows audited entities for providing documentation or explanations as needed.

Within TP audits, Ukrainian tax authorities are allowed to perform a specific form of interaction – interviews of company's employees. This procedure is not prescribed for other types of audits.



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What is the formal procedure in case the tax audit finds irregularities?

The tax authorities prepare TP audit act (report) with description of all findings/violations. Then the appeal procedure is started.

To what extent is the decision reviewed based on the appeal in the court proceeding (only formally or also as regards the factual background)?

The decision is usually reviewed deeply by the court, based on the factual background. In practice, despite certain limitations provided by the procedural legislation, the courts of appeal and the Supreme Court tend to examine the case comprehensively.

What is the typical duration of court proceedings?

Usually, court proceedings may take up to 2-3 years (for all instances combined).

When the administrative appeal procedure is finished, taxpayers can initiate court litigation.

Court tax proceedings include a three-levels judicial review structure:

- First Instance: A claim may be submitted within 6 months after receiving the tax notice, or within 1 month if filed after the administrative appeal procedure. The case is analyzed by the District Administrative Court . Taxpayers often consider a 10-working-day period to leave accruals unagreed post-decision receiving or post-administrative appeal completion. The court reviews the legality and substance of tax authority actions and issues a decision.
- Appeal: An appeal may be submitted within 30 days after the full decision of the first instance court is prepared. The appeal is reviewed by the Administrative Court of Appeal.
- Cassation: Cassation may be filed within 30 days after the appellate decision is prepared and is reviewed by the Supreme Court.

How may transfer pricing be safeguarded in **Ukraine**?

Is APA available?
What is the timeline and costs for APA?
Is a cooperative compliance program available?
Is it possible to obtain an individual tax ruling for TP?

Ukraine offers an APA that may be concluded with the tax authorities to agree on TP methodologies for future transactions. The APA application is free of administrative charges.

Companies in Ukraine may obtain individual tax rulings from the tax authority, including clarification of the tax treatment of specific transactions and TP arrangements.

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Penalties for non- compliance in transfer pricing and for understating the taxable income

(Caused by intra-group transactions concluded not at arm's length)

Non-compliance with TP regulations in Ukraine can result in significant penalties, including:

- Fines for TP documentation and reporting violations: Ukrainian tax code prescribes specific penalties for non-compliance with TP documentation and reporting requirements. Fines are calculated based on the subsistence minimum of the reporting year (revised each year). There are specific penalties regarding each type of TP documentation and reporting, including master file, country-by-country report, local file, country-by-country notification and TP report.

For 2024 penalties for selected violations are:

- for TP report non-submission up to approx. EUR 19,000,
- for TP documentation (local file) non-submission up to approx. EUR 13,000,
- for country-by-country notification non-submission up to approx. EUR 6,000,
- for country-by-country report non-submission up to approx. EUR 63,000,
- for TP documentation (master file) non-submission up to approx. EUR 19,000.

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