



DORADZTWO
PODATKOWE

Tax Alert No. 234/10.09.2021



2017 and 2018 Benchmark Analyses becoming no longer valid

Since 1 January 2019, all taxpayers obliged to prepare transfer pricing documentation have also been required to prepare dedicated transfer pricing analyses. In principle, benchmark analyses are valid for 3 years from their preparation. Therefore, a vast majority of benchmark analyses that were prepared by taxpayers for the first time for 2017 or 2018 are becoming no longer valid this year and need to be renewed while their correctness needs to be verified.

The purpose of a transfer pricing analysis is to substantiate the arm's length nature of related-party transactions. Therefore, the substantive and formal correctness of the analysis is crucial to protect the taxpayer from the negative consequences of having the arm's length nature of the transaction questioned by the tax authorities.

A high-quality transfer pricing analysis makes it possible to:

- Obtain information if the transaction terms and conditions of transactions already applied or just being planned are set at the arm's length.
- Develop a basis for executing and subsequently submitting a statement on preparation of transfer pricing documentation. If an incorrect or unreliable analysis is prepared, taxpayers must take into account the risk of penalties exceeding PLN 26 million resulting from submitting an incorrect statement!
- Be secure in case of a possible tax audit. A transfer pricing analysis is verified by the authorities during a tax audit. If the transfer pricing analysis has been prepared in a reliable manner, the risk of the tax authorities making an tax adjustment is limited.

What should you pay attention to in a transfer pricing analysis

Transfer pricing analyses may be prepared in various forms, depending on the type of transaction under review and the availability of comparable data. Regardless of the type of analysis, though, special attention should be paid to:

- proper identification of the functional profile of the transaction parties
- appropriate selection of comparable entities (including not only a database search results, but also actual verification of activity on the websites of individual entities)
- elidable documentation of the analysis conducted and assumptions made (very important in case of tax audits which may be conducted even in 6 years after conducting of transaction)

DORADZTWO
PODATKOWE
TAX
ADVISORY

KANCELARIA
PRAWNA
LAW
FIRM

BUSINESS
CONSULTING

OUTSOURCING

CORPORATE
FINANCE

AKADEMIA
BIZNESU
BUSINESS
ACADEMY



- exclusion of related entities from the analysis
- recommended preparation of the analysis based on specialized external databases also used by tax authorities during tax audits

In order to have a new benchmark analysis prepared or to have the validity and correctness of a benchmark analysis verified, please contact

Magdalena Marciniak Magdalena.Marciniak@mddp.pl phone +48 22 322 68 88

or your advisor at MDDP.

MDDP is one of the largest Polish companies providing comprehensive consulting services in the area of taxes, law, business consulting, corporate finance, accountancy and payroll outsourcing, as well as professional trainings and conferences.

Since 2004, we have been continually increasing the team of advisers equipped with experience acquired both in reputable advisory companies and the largest enterprises on the Polish market. Our Clients include leading international corporations and the largest Polish companies from all sectors of economy.

We consider trust to be the basis of successful cooperation. We support our Clients in taking the most important business decisions. We combine international experience in business with the knowledge of regulations and the specificity of a given industry. We focus our activities mainly on the Polish market and ensure full involvement and individual approach to the cooperation.

This Tax Alert does not constitute legal or tax advice. MDDP Michalik Dłuska Dziedzic i Partnerzy spółka doradztwa podatkowego spółka akcyjna shall not be liable for the use of the information contained in the alert without prior consultation with legal or tax advisors.