

Transfer Pricing Alert

KPMG in Poland



March 2019

Explanations of the Ministry of Finance regarding the application of the transfer pricing regulations for transactions carried out in 2018

As of January 1, 2019, new regulations on transfer pricing came into effect. Currently, the process of preparing explanations enabling taxpayers to correctly apply the new regulations is undergoing. On March 11, 2019, the Ministry of Finance published explanations regarding the transfer pricing adjustments made in 2019 with respect to transactions or other events which occurred in 2018, as well as explanations regarding the submission of the ORD-U form for 2018.

Application of new regulations related to transfer pricing adjustments

The new provisions on transfer pricing adjustments introduce a number of conditions to be met by taxpayers, especially with regard to adjustments reducing the tax liability (i.e. reducing revenues or increasing tax deductible costs). The fulfilment of these conditions is connected with the taxpayer's right to recognize the adjustment of transfer prices. As explained by the Ministry of Finance, the new

transfer pricing regulations regarding transfer pricing adjustments, effective from January 1, 2019, are applicable to transactions commencing after December 31, 2018.

In view of the above, the Ministry of Finance pointed out that the transfer pricing adjustments made in 2019, but concerning transactions or other events carried out in 2018 should be recognized in the tax books of 2019 (under the rules in force until the end of 2018). According to the explanations of Ministry of Finance, the "retroactive" inclusion of transfer pricing adjustments will be possible in the case of adjustment of transactions carried out after January 1, 2019.

Submission of ORD-U information for 2018

The Ministry of Finance also indicated in its explanations that the repeal of the provisions regarding exemptions from the obligation to submit information on agreements

concluded with non-residents (ORD-U form), which came into force on 1 January 2019 refers to ORD-U information submitted only for 2019. It should be emphasized that when submitting the ORD-U information, it is necessary to apply the provisions in force in the tax year for which information is submitted. In connection with the above, taxpayers obliged to submit CIT-TP or PIT-TP forms are exempt from the obligation to submit ORD-U form for 2018.

In case of any doubts regarding the transfer pricing regulations in force from January 1, 2019, or regarding explanations issued by the Ministry of Finance, please contact us.

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