

Changes in the Tax Code of the Russian Federation: advanced pricing agreements and other issues

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On 10 February 2021, the Federation Council approved draft law No. 1025680-7 "On Amendments to Part One of the RF Tax Code in Terms of Improving the Tax Control over Prices and the Procedure for Concluding an Advanced Pricing Agreement" (hereinafter referred to as the Draft Law) adopted in the final – third reading by the State Duma on 27 January 2021.

The Draft Law is intended to improve the procedure of concluding advanced pricing agreements (hereinafter referred to as APA), to clarify the conditions for recognizing transactions as controlled and to introduce other specific amendments to the RF Tax Code.

Key amendments in the procedure for concluding an APA at transfer prices

The key amendments proposed by the Draft Law are as follows:

- entitling taxpayers that have entered into a foreign trade transaction and applied for an APA involving foreign tax authorities to stipulate in such an APA the price control methods set forth by foreign laws for equivalents of these methods, provided that the results of their application are comparable. The corresponding results are recognized as comparable if differences between them are either absent or insignificant for the tax base and tax amounts;
- introduction of restrictions on conducting tax audits of transactions in respect of which the taxpayer has filed an application for an APA if no decision has been made to conclude such an agreement or reject the application;
- a clearer regulation of the timelines at various stages of an APA conclusion, in particular, the limitation of the timeline for the taxpayer to submit documents on an additional request under an APA to 10 working days from the date of receiving the request (if the required documents cannot be submitted within the prescribed period, the Federal Tax Service of Russia has the right to extend this period upon receipt of a notification from the taxpayer about the impossibility of submitting documents within the prescribed period and about the period within which these documents can be submitted), and the timeline for submission of the finalized draft of an APA and documents on the controlled transaction — to 30 working days from the date the taxpayer receives the relevant decision;
- a significant expansion of the grounds for rejecting an APA conclusion, for example, failure to provide additional information in accordance with the established procedure and within the prescribed timeline.

A more detailed analysis of the amendments is provided in our [publication](#).

Clarification of conditions for recognizing transactions as controlled

The Draft Law clarifies the conditions for recognizing foreign trade transactions involving commodities constituting the main export items of the Russian Federation (oil, ferrous and non-ferrous metals, mineral fertilizers, precious stones and metals) as controlled transactions. Currently, price control in such transactions is performed only if these commodities are recognized as commodities of global commodities exchange. However, such groups of commodities as ferrous metals, mineral fertilizers and precious stones, do not include commodities of global commodities exchange. Thus, an amendment has been introduced allowing to recognize transactions as controlled if the subject of such transactions are commodities specified by the Ministry of Industry and Trade (Minpromtorg) of Russia, and on which stock indexes may not be published, but quotations of information and price agencies may be available.

The new version of the Draft Law stipulates that this provision will apply to transactions where income and/or expenses are recognized in accordance with Chapter 25 of the RF Tax Code starting from **1 January 2022** irrespective of the date of the relevant contract.

It should be noted that at the stage of the second reading amendments to other provisions of the RF Tax Code were also introduced. In particular:

- the documents storage period has been increased to five years;
- tax authorities have the right to request information about account holders from banks, as well as to request information related to the maintenance of the register of securities holders;
- a minimum period (three months) has been introduced for the submission of a country report by constituent entities of a multinational enterprise group at the request of the tax authority;
- withdrawing an appeal prior to the decision will not terminate the right to appeal again on the same grounds;
- an appeal can be considered online via a video conference call;
- confidentiality of information from country data will be ensured in a manner similar to the procedure for protecting information constituting tax secrecy.

KPMG Transfer Pricing team will be pleased to answer any questions you may have about this Draft Law in more detail, render assistance in obtaining an APA and in respect of other issues related to the application of transfer pricing laws. Details of our services, including assistance in entering into APAs with the tax authorities [are available on the KPMG website](#).

Previous tax alerts on the subject are available on the [KPMG website](#).

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