Due date for mandatory Transfer Pricing Study

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What is transfer pricing?

From a tax perspective, transfer pricing is a concept that allows the competent tax authority the possibility to review, control, object, determine and recalculate the value of goods and services, that being less than those at fair market value, have been agreed between related parties.

The rationale behind transfer pricing, is to confer a real fair market value to the value agreed between related parties to goods and services with the intention to avoid taxes or with the intention to transfer tax basis to jurisdictions with lower tax rates.

How do transfer pricing affect Guatemala?

Since the enactment on January 1st of the Book I of the Tax Update Law [Libro I de la Ley de Actualización Tributaria], our tax laws adopted a new regulation in regard to transfer pricing. These rules require special attention considering that they are mandatory to corporate structures having transactions with related parties (i.e., in particular amongst local and foreign entities).

Based on the provisions contained in this new concept in Guatemala, tax payers will be required to include in their declaration of income Tax if they are conducting in transactions with related companies abroad, they will need to attach information required by the Tax Authority (SAT). The due date to present this information for tax payers under the Net Income Regime [Regimen sobre las utilidades de actividades lucrativas] will be March 31, 2014.

How to comply with transfer pricing regulations in Guatemala?

To fulfill this requirement, tax payers must have sufficient information and the analysis in order to demonstrate and justify the right value and the right amount of the consideration received or profits made from their operations; information that should be included in a inform called "Transfer Pricing Study", which will have to be available to the Tax Administration.

The introduction of transfer pricing regulations to our legal framework compels us to run a self-examination to determine whether there are transactions with related party, and if affirmative, to consult professional specialists, in order to prepare a transfer pricing study with at least three months anticipation to the the filing of the annual of Income Tax declaration.

What could happen in case of non-performance?

The consequence of for lack of compliance will be the tax administration being in a position to determine whether the related party transactions has been completed under the Arm's Length standard, e.g., using fair market prices between independent parties, and to make adjustments when the assessment results in detriment to the Treasury, in addition to the application of penalties and sanctions established in the Tax Code.