

Different rules for assessing related-party transactions (2/50/18)

This article offers an overview of assessing related-party transactions and disclosing information according to the new corporate income tax (CIT) payment regime and the revised transfer pricing (TP) documentation standard.

Applying the CIT Act to related-party transactions

Under article 4(2)(2)(e) of the CIT Act, a taxpayer should adjust their tax base if they have entered into a transaction with a related party during the tax period and –

- the income gained from that transaction is below an arm's length price (value), or
- the expense incurred in the transaction is above an arm's length price (value).

This deficit or surplus (value differential) is a deemed profit distribution that should be included in the tax base for the last tax period of the financial year and reported on line 6.5 of the CIT return.

Figure 1 illustrates the taxpayer's transactions that are treated as related-party transactions under the CIT Act:



No.1. These persons are defined by article 1(18) of the Taxes and Duties Act (TADA) under paragraph 3 of the Cabinet of Ministers' Regulation No. 677 on the application of provisions of the CIT Act with a single key exception: if an entity or cooperative society holds a share of between 20% and 50% in another entity or cooperative society, then in measuring a deemed profit distribution, only a related-party transaction with a foreign related party will be considered.
No.2. Tax havens are listed in the Cabinet of Ministers' Regulation No. 655.

The total value of transactions (TVT) conducted with related parties in the financial year should appear on line 6.5.1 of the CIT return. To calculate TVT, all the transactions for the financial year identified in Figure 1 should be added up, for example, sales of goods (income gained) with services acquired (expense incurred), and the tax return should show the total:



The tax return for December of the financial year may be adjusted before filing the annual report without incurring any penalties or late fees under TADA.

Applying TADA to related-party transactions

The revised TP documentation standard in TADA article 15.2 includes new rules for TP files that give the SRS access to three levels of TP documentation, where more information on the global operations of the entire group will be available compared to the previous standard. The TP documentation under the new standard will include the following documents (levels):

1. the country-by-country report;
2. the master file; and
3. the local file and/or simplified transfer pricing documentation.

The amended TP rules apply to transactions conducted in financial years starting in 2018 and later and lay down thresholds for annual net revenue and controlled transaction value (CTV). Exceeding either threshold

will require a resident taxpayer or a permanent establishment (PE) to prepare TP documentation and file it with the SRS each year or to prepare TP documentation and file it on request in cases specified by TADA article 15.2.

Figure 2 illustrates the taxpayer's transactions defined by TADA article 15.2(2), whose arm's length pricing should be described in the TP documentation:



No.1. These persons are defined by TADA article 1(29.3).

No.2. These persons are defined by TADA article 1(18).

No.3. Tax havens are listed by the Cabinet of Ministers' Regulation No. 655.

No.4. The taxpayer's transactions with a resident are defined by TADA article 15.2(2)(4) and take place within one chain of supply (economically linked) with person No.1 or No.3.

Economically linked transaction



To calculate CTV, the controlled transactions for the financial year identified in Figure 2 should be added up (income gained plus expense incurred) and their total will be a key factor in determining the procedure and the extent to which TP documentation should be prepared and filed with the SRS.