

Tax authority's comment on transfer pricing issues comes as pleasant surprise 3/23/21



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Section 15.2 of the Taxes and Duties Act requires a taxpayer to meet requirements for the timeliness of information included in their transfer pricing ("TP") documentation and for regular updates to reflect the present situation. During a period of calm in preparing and filing TP documentation, we asked the State Revenue Service ("SRS") to answer some confusing questions about updating comparable data and revising financial data, including the scope for taking the roll forward approach.

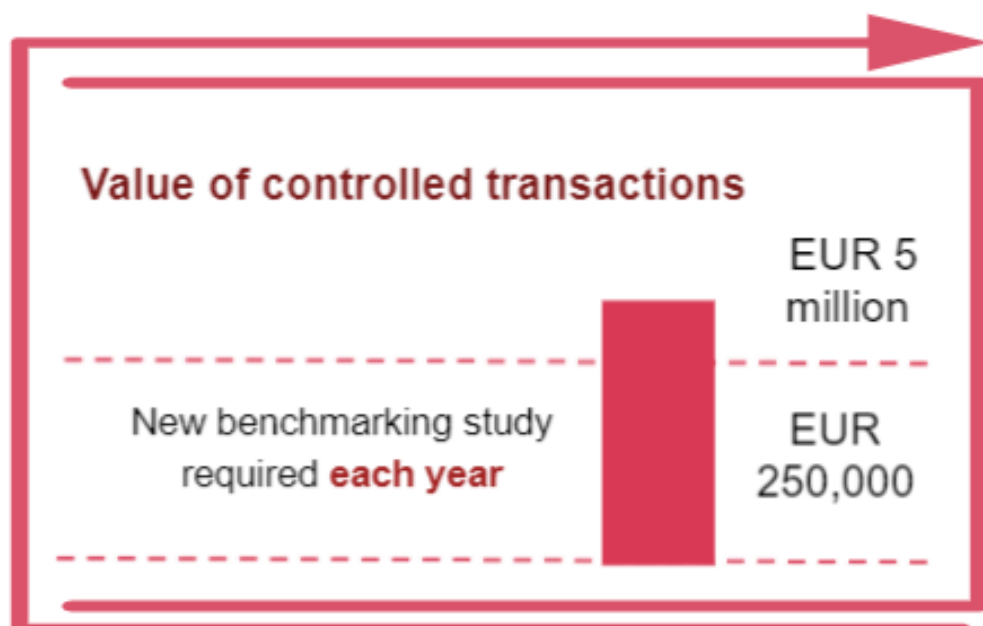
Requirements for revising TP documentation

The Latvian statutory requirements for the timeliness of information included in a taxpayer's TP documentation apply to all of its chapters, including the benchmarking study. The TP rules give relief to a particular category of taxpayers if their functional and economic analysis remains substantially unchanged. In such cases the taxpayer is allowed to revise their existing TP documentation every three years, except for the comparable financial data included in it.

Yet there were no clear answers as to when and how this relief may be reasonably claimed, so we approached SRS experts for comment. The answers we have received are set out below.

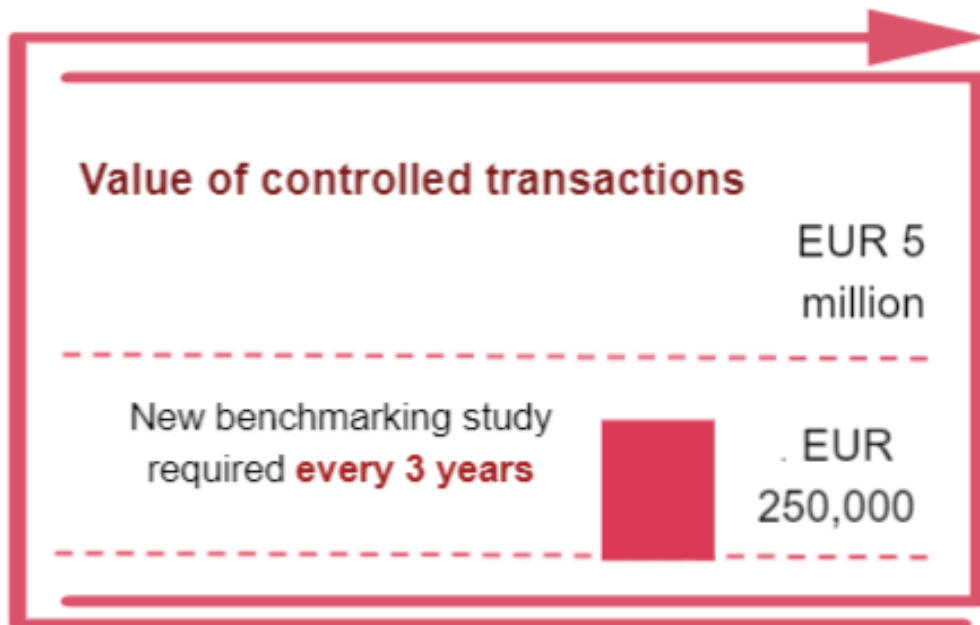
When is a taxpayer preparing a local TP file required to conduct a new benchmarking study?

The taxpayer is required to conduct a new benchmarking study each year¹ if his controlled transactions in the fiscal year total over EUR 5 million.



Is a taxpayer preparing a local TP file eligible for any benchmarking relief and when?

The taxpayer is not required to conduct a new benchmarking study each year² if his controlled transactions in the fiscal year are between EUR 250,000 and 5 million.



The category of taxpayers eligible for this relief³ have to update the financial data of the comparable companies identified earlier, with a new benchmarking study required every three years.

It is important to note that the relief is available only if the taxpayer's TP methodology remains substantially unchanged and makes it possible to revise the TP documentation every three years.

May comparable companies' financial data for multiple years be used in a benchmarking study?

Only limited availability of comparable data, as supported by evidence in the taxpayer's TP documentation, may serve as an argument for using financial data of comparable unrelated companies for multiple years in the benchmarking study.

May the taxpayer's financial data for multiple years be used in a benchmarking study?

The permission to use financial data for multiple years included in the Latvian TP rules does not apply to the tested company, a taxpayer whose transfer prices are being tested with the particular benchmarking study. So, to determine whether the price applied in the controlled transaction is arm's length, only the taxpayer's financial data for the fiscal year may be used.

Must a transaction price the taxpayer has determined by the ex-ante

approach be benchmarked each year?

If the taxpayer has set an arm's length price when making the transaction based on the information available at that time (the ex-ante approach) then he is not required to prepare a new benchmarking study each year or to revise the existing one unless the contract provisions provide for this.

Evaluating the SRS's answers clarifies all the aspects of preparing and revising a benchmarking study – hopefully taxpayers can use this valuable information in relevant situations.

¹ Section 15.2(3)(2) of the Taxes and Duties Act

² Section 15.2(4)(2) of the Taxes and Duties Act

³ Section 15.2(5) of the Taxes and Duties Act