

Penalty for failure to file transfer pricing documentation: assessment of proportionality

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In statutory cases, the taxpayer is liable to prepare transfer pricing (TP) documentation and file it with the State Revenue Service (SRS). An examination of TP documentation helps the SRS monitor the correctness of corporate income tax (CIT) payments because the difference between a controlled transaction's value and market price must be included in the taxable base under the CIT Act. If the taxpayer defaults on the obligation to prepare and file TP documentation, then in addition to the opportunity to start an audit and assess the correctness of the CIT calculation, the SRS may start a data assessment in the field of tax revenue risks and charge a hefty fine on the company if an offence is found. This article explores what offences relating to TP documentation permit the taxpayer to be fined outside an audit and how the SRS should evaluate and justify the size of fine.

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