



The Association of European Businesses

# Business Breakfast on Transfer Pricing

## “Transfer Pricing: practical aspects”

Quality Information | Effective Lobbying | Valuable Networking

October 30, 2012

Marriott Grand Hotel

[www.aebrus.ru](http://www.aebrus.ru)



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## **CONTROLLED TRANSACTIONS NOTIFICATION: TRANSACTIONS WITH GOODS**

**(Ksenia Litvinova, Pepeliaev Group)**

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## Date of of transaction being made

- the date the contract was entered into (the specification signed)?  
or
- the date the goods were shipped?

# Aggregation of transactions

May the figures for transactions be added together if there are non-material differences in the terms and conditions for supply?

## Practical aspects in completing a notification:

- How to complete the 'Name of subject matter of transaction' field?
- Is it permissible to use the code of the nomenclature group as the code of the subject matter of the transaction under the All-Russian Classification of Goods (Customs Classification for Foreign Trade)?
- How a return of goods by a buyer is reflected in the notification?



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# Intangible Assets and Property Rights

Practical Aspects of the Completion of  
Notifications

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# Notifications – Intangible Assets and Property Rights

- Types of transactions (Clause 210 of Section 1A)
- Types of the subject of the transaction – Clause 010 of Section 1B – “3”

# Notifications – Intangible Assets and Property Rights

- No guidance on how to declare:
  - OKVED code
  - Place of transaction
  - Unit of measurement
  - Date of transaction:
    - Differences in the timing for the recognition of income and expenses





# Practical Approach to Preparation of Russian Transfer Pricing Documentation

## Business Breakfast on Practical Aspects of Transfer Pricing

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30 October 2012

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## TP Documentation – General Requirements

- Legal Authority
  - ✓ Article 105.15 of the Russian Tax Code
  - ✓ Federal Tax Service Letter No. OA-4-13/14433@ dated 30.08.2012
- Generally comply with OECD Transfer Pricing Guidelines
- Applies to all controlled transactions (with some exceptions, as well as financial thresholds under transition rules)
  - ✓ Transactions with “several same counterparties” - unclear wording of the transition rules
- May be requested no earlier than 1 June of the following year and must be submitted within 30 business days
- No penalty for tax assessment for 2012-2013
- Exemption from penalty if documentation is timely submitted, but
  - ✓ Documentation must comply with general requirement on its complexity, otherwise tax penalty would apply (FTS Letter dated 30.08.12)
  - ✓ Criteria for determination if the documentation is sufficient are not defined

# TP Documentation: FAQ & Practical Considerations

- When to prepare?
  - ✓ Preparation should to the most extent possible align with time of transfer price setting
- Level of Detail?
  - ✓ Complexity and thoroughness of documentation must correspond to the complexity of the transaction and its pricing setup
  - ✓ Different levels of detail established by Tax Code at the option of the taxpayer
  - ✓ High burden of proof on the tax authorities in case of application by the taxpayer of transfer pricing methods established by Tax Code
- Global TP reports may be used?
  - ✓ Consistency might be important for avoidance of double taxation as well as potential MAP and APA procedures
  - ✓ Adaptation for Russia might be required based on specific requirements of Russian rules
- How to manage and control?
  - ✓ Consider developing transfer pricing internal control system throughout the calendar year

## TP Documentation: Recommended Contents\*

- I. General information on parties and type of transaction
- II. Description of taxpayer's business and external factors relevant for pricing (level of competition, goods substitutes, state regulation)
- III. Description of group structure and market positioning, including description of assets and IP relevant for pricing
- IV. Information on controlled transactions, including analysis of contractual terms, business strategies and functional analysis
- V. Description of pricing policy used / choice of transfer pricing method, sources of information and economic analysis
- VI. Determination of market price/ margin ranges and adjustments

\*FTS Letter dated 30.08.12



# TP Documentation: 9 steps approach

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## TP documentation: 9 steps approach (1 of 3)

- **Controlled transactions identification**
  - definition of a transaction
  - transaction value calculation
- **Planning**
  - transactions volume & documentation
  - informational sources
- **Industry analysis**
  - markets, competitors
  - statistical data, indexes
  - regulatory environment

## TP documentation: 9 steps approach (2 of 3)

- Comparability analysis and functional analysis of counterparties'
  - 5 comparability criteria
  - working capital adjustments
- Choosing a tested party
  - classification of counterparties
- Choosing a TP method
  - priority methods
  - choice of a method and profit level indicator

## TP documentation: 9 steps approach (3 of 3)

- **Economic analysis**
  - safeguarding original search downloads
  - “most” comparable transactions (organizations) approach
  - annual update/new search requirement
- **Documenting**
  - centralized or de-centralized approach
  - documentation for long-term contracts
- **Implementation and monitoring**
  - annual revision of documentation
  - 4 years of keeping TP documentation





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# TP: Practical Steps

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# TP: Main Stages

- Analysis of all transactions and identification of Controlled Transactions
- Preparation of the TP Documentation
- Preparation of the TP Notification

# TP Processes: Participants

- Internal
- External

# TP Documentation: Options

- Without Attraction of the External TP Experts
- With Attraction of the External TP Experts



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