

www.pwc.com

*Customs issues for
localization on the
Russian market:
customs valuation issues
in the view of transfer
pricing legislation*

23 September 2011

Agenda

1. Customs aspects of arrangement of supplies into Russia via Russian subsidiaries
2. Main provisions of the new Russian transfer pricing rules with regard to the customs value
3. Customs risks and proposed ways of their mitigation as part of preparation for the new transfer pricing rules

Customs aspects of arrangement of supplies into Russia via Russian subsidiaries

- Russian customs authorities closely control the customs value of finished goods, as well as of materials and components, in particular they use “the risks profiles”
- Suppliers of goods are usually foreign companies of the same group: in customs terminology transaction is carried out between related parties
- Customs may request the confirmation of the fact that relation has not influenced on the transaction value

Main provisions of the new Russian transfer pricing rules with regard to the customs value (1)

- Extension of the list of entities recognized as related under the tax legislation
- All cross border transactions between related parties (i.e. all import and export transactions between companies of the same group) are considered as controlled ones
- New methods of determining the transfer price for tax purposes
- Functional analysis
- Providing tax authorities with notifications about controlled transactions and preparing documentation
- Preliminary pricing agreements

Main provisions of the new Russian transfer pricing rules with regard to the customs value (2)

Functional analysis

- What **functions** does company perform
- What are **commercial risks** and who bears them
- What **assets** are used and who is their economical owner

List of documents

- 1. *With regard to controlled transaction:*** parties of the transaction, transaction highlights, functions, risks and assets undertaken by a taxpayer in the transaction
- 2. *Data confirming compliance of applied prices with market prices including:***
 - Pricing methodology, sources of information and another data used for determining compliance of prices with market prices
 - Calculation of income (profit) received as a result of carrying out the transaction
- 3. *Information about other factors which had an influence on applied pricing***

Customs risks and proposed ways of their mitigation as part of preparation for the new transfer pricing rules (1)

- Documentation related to controlled transactions – source of information for customs authorities in the course of control of the customs value
- Tax and customs authorities have no experience of cooperating with taxpayers / importer / exporter in the context of the new transfer pricing rules
- In case of no sufficient cooperation between company's subdivisions revision of transfer pricing policy may be done without consideration of customs legislation and Russian practice on customs valuation

Customs risks and proposed ways of their mitigation as part of preparation for the new transfer pricing rules (2)

Recommendations

- Consideration of customs aspects while carrying out functional analysis
- Taking into account the requirements of customs legislation and practice of customs authorities on the control of customs value while reviewing transfer pricing policy
- Preparation of documentation on controlled transactions considering the possibility to use information for confirming to customs authorities that relationship has not influenced transaction value

Thank you!

Anna Ulyanova

Senior Manager

Customs Regulation Services

+7 (495) 223-5082

anna.ulyanova@ru.pwc.com

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers Russia B.V., its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2010 PwC Russia. All rights reserved. Not for further distribution without the permission of PwC Russia. "PwC Russia" refers to PwCIL member-firms operating in Russia.

"PwC" is the brand under which member firms of PricewaterhouseCoopers International Limited (PwCIL) operate and provide services. Together, these firms form the PwC network. Each firm in the network is a separate legal entity and does not act as agent of PwCIL or any other member firm. PwCIL does not provide any services to clients. PwCIL is not responsible or liable for the acts or omissions of any of its member firms nor can it control the exercise of their professional judgment or bind them in any way.