

**Divergences Regarding Transfer Pricing Documentation Requirements
Between Georgian Legislation and International Practice**

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Statement

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Abstract

Globalisation and the rapid growth of international trade has made inter-company pricing an everyday necessity for the vast majority of businesses. Tax authorities have made the regulation and enforcement of the arm's length standard a top priority. A key incentive for challenging taxpayers on their transfer prices is that the authorities see transfer pricing as a soft target with the potential to produce very large increases in tax revenues. Since there is no absolute rule for determining the right transfer price for any kind of international transaction with associated enterprises, whether it involves tangibles, intangibles, services, financing or cost allocation/sharing arrangements, there is huge potential for disagreement as to whether the correct amount of taxable income has been reported in a particular jurisdiction.

Typically, the life cycle of a global transfer pricing policy involves an initial detailed analysis of the underlying facts and economics, evaluation and development of the proposed policy in relation to the group's' global tax planning objectives, a detailed implementation and monitoring plan, and the adoption of a defensive strategy, given the virtual inevitability that someone, somewhere will want to challenge the result. Most of the world's major trading nations now have detailed requirements for the documentation of transfer pricing matters, but even those that have not yet implemented specific requirements will expect taxpayers to be able to explain and produce support for the positions taken on local tax returns, and to show that they conform to arm's-length results. Amendment regarding to transfer pricing was made in TCG (Tax code of Georgia) in 2010. As a result, new chapter 17 - "Transfer pricing of international controlled transactions" was added to tax code. On 18th of December in 2013 has promulgated the rule about the confirmation of the international controlled operations assessment instructions. These rules are formed according to OECD guidelines and contain the general principles for evaluating and methods for defining the prices of the controlled transactions and special regulations and standards of rules for documentation.

This thesis discusses divergences in documentation requirements between Georgian Legislation and international guidelines (Particularly the guidelines of Organisation for Economic Co-operation and Development (OECD), the Pacific Association of Tax Administrators (PATA) and the European Union (EU)) and regulation of USA (IRS Rules – Internal Revenue Service). With this background, the Georgian regulation will be examined how it corresponds with the three guidelines and IRS rules and how have the Georgian regulators chosen to deal with the issues around documentation requirements.

Key words: Transfer Pricing, Divergence, Documentation, OECD, PATA, EU TPD, IRS Rules, Tax Code of Georgia.