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FOREIGN EXPERIENCES IN ORGANIZING TAX CONTROL IN DETERMINING TAX PRICES AND TAX CONTROL

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Abstract. In this article, in order to stabilize the financial situation of prestigious companies in the world, create new jobs and achieve economic growth, it is necessary to "transition to international standards of management, use transfer pricing in the process of concluding financial transactions in entities of the cluster and cooperative system, and present financial and management reports on operational segments." . International experience testifies to the fact that a sufficient information base has been formed on the theoretical, methodological and organizational aspects of these problems, and special scientific and innovative research is being conducted in this regard. According to the research, "US Federal Tax Service (IRS) received 3.4 billion dollars obtained as a result of illegal allocation of royalties and other costs in the process of trade deals between UK and US companies in the process of formation of transfer pricing." that dollar income was returned to the main company located in England" indicates the seriousness and importance of the issue.

Keywords: Tax, fiscal policy, budget, tax administration, tax potential, normative analysis, positive analysis, tax burden, representative tax rate, average rate, tax reporting, tax revenues, analysis, positive analysis, tax burden, market price, management account, transfer price.

Introduction:

Transfer pricing is particularly relevant in the context of globalization and the growth of international trade. It is also relevant in that the formation of transfer prices in order to avoid or underpay taxes in intra-republican trade leads to the non-receipt of taxes that should be paid to the state budget.

As part of the transfer pricing regulation, the practical application of transfer pricing control in Uzbekistan, as well as the study and application of new rules, filling gaps in the legislation of Uzbekistan, is considered important, which demonstrates the relevance of the research work and the relevance of the selected topic to an important issue that is currently awaiting a solution.

Analysis of the literature on the topic

Scientific research on transfer pricing is being studied as a research direction in developed countries.

B. Khasanov emphasized that, according to his opinion, on the issue of transfer pricing policy, there are two alternative approaches to its formation among financiers and marketers - cost and value approaches.

When considering transfer pricing, it is necessary to pay attention to its differences from market prices. The article "General Rules on Market Prices" of the current Tax Code states that in order for transaction prices, income and expenses of the parties to these transactions to be recognized as market prices, the

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following requirements must be met: the contractual price clause in transactions concluded between independent persons, based on the results of stock exchange trading, or the price agreement protocol, the taxpayer has not made independent adjustments to the amounts of tax (losses) and in other cases specified in the legislation.

Soya-Serko A.A., referring to the tax control established over transfer prices, acknowledges that they are considered in the economic literature as suspicious or unusual prices. In his opinion, the definition given to transfer prices is appropriate, which is explained by the fact that transfer prices are determined by agreement of the parties outside the market to achieve commercial goals and are used precisely to reduce the tax burden.Avrova (2007) emphasizes that management accounting is the main function of management, along with such functions as planning, regulation, organization and motivation. This means that improving management and creating a market mechanism are inextricably linked with the development of the accounting system.

Bogatin (2007) describes management accounting as a part of production management, which, together with other types of services, provides a comprehensive information system for the management of the enterprise, which is an infrastructure necessary for the normal functioning of the enterprise.

Popova (2014) pointed out the need to make scientifically based management decisions related to the development of a unified methodology for assessing tax potential in the following areas: the distribution of interregional transfers between donor regions and subsidized regions; the development of a strategy for the socio-economic development of regions; a quantitative assessment of the current tax system and the availability of ways to further develop it; the possibility of using cross-sectoral comparisons at the regional level, as well as the dynamics of tax potential formation; and an interstate comparison of tax potential, which allows assessing regions from the perspective of tax competition.

Analysis and discussion of results

The international experience of tax control in transfer pricing is as follows**.**

It should be said that there are no universally binding international documents aimed at regulating transfer prices. Transfer pricing guidelines for multinational enterprises and tax administrations (hereinafter referred to as the Guide) have been developed by the Organization for Economic Cooperation and Development (IHTT). Although this is a recommendatory document, its provisions are reflected in the national legislation of various countries, including countries that are not members of the ICC. The current Guide is a revision of the Transfer Pricing Report adopted in 1979. The guide was approved on July 22, 2010.

The manual divides the methods of determining prices for tax purposes into two groups: traditional methods and methods based on analysis and profit sharing.

The manual recommends using the following transfer pricing methods:

Traditional methods:

- Market price method (comparable uncontrolled price method);
- Resale price method (resale price method);

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- Current cost method (cost-plus method);

Methods based on analysis and profit sharing:

- Transactional net margin method (Transactional net margin method);
- Transactional profit split method.

The choice of which method to determine transfer pricing depends on the specific situation of the case, taking into account the advantages and disadvantages of each method, the ability to collect data necessary for their application, and the degree of comparison of transactions.Regarding the legal nature of the Guidelines, they are not binding under Article 5(b) of the OECD Convention and are only recommended for OECD member states to follow. However, the Guidelines have been widely used by OECD and non-member states in developing transfer pricing legislation. In addition, many courts use the Guidelines to interpret their national transfer pricing legislation when considering transfer pricing disputes. For example, Ireland, Mexico, Spain, the United Kingdom, Hungary, Latvia, Peru and Romania have included provisions in their national transfer pricing legislation to use the Guidelines to interpret these laws. The legislation of the Republic of Uzbekistan does not provide for the use of the Guidelines.

The US Experience in Transfer Pricing Regulation.

If we look at the history of national legislation aimed at regulating transfer pricing, we can see that the US has made significant progress in this area compared to other countries. Section 482 of the US Internal Revenue Code (Internal Revenue Code) establishes rules governing transfer pricing. This section 482 was adopted in the 1920s. It gives tax authorities the authority to adjust prices and recalculate and impose taxes if low prices are set in intercompany commercial relations for the purpose of avoiding tax. This section 482 establishes specific methods for determining transfer prices. These methods are similar to those set out in the Guidelines. This is because the US has developed transfer pricing legislation earlier and its rules were also used in the development of the Guidelines in the 1960s. US transfer pricing legislation allows taxpayers to enter into an Advance Pricing Agreement (APA) with the Internal Revenue Service to prevent transfer pricing in transactions with related parties. The implementation of these agreements also began in the US and served as the basis for their incorporation into the legislation of other countries. In this case, a company entering into transactions with related companies enters into an agreement with the tax authority instead of conducting inspections and preparing documents by the tax authorities. This avoids the costs of resolving disputes that may arise for both companies and tax authorities.

UK transfer pricing regulations.

The current UK transfer pricing legislation is governed by the Taxation (International and Other Provisions) Act 2010. This Act sets out the methods for calculating transfer prices by tax authorities when companies use transfer prices, and the grounds and methods for making adjustments to prices in cases of price manipulation. UK legislation also provides for the possibility of entering into an Advance Pricing Agreement (APA) between companies and tax authorities.

Legislation of the Russian Federation.

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There is not much legislation in the Russian Federation aimed at regulating transfer pricing. On July 18, 2011, the Law "On Amendments to Certain Laws of the Russian Federation in Order to Improve the Principles of Determining Prices for Tax Purposes" was adopted. This Law introduced a new section into the Tax Code of the Russian Federation - V.1. Related Parties. General Rules for Pricing and Taxation. Tax Control over Transactions between Related Parties. Agreement on Pricing Formation". These additions to the Tax Code are consistent with the recommendations given in the Guidelines. The newly introduced rules are aimed at increasing the effectiveness of state control in the field of transfer pricing. The introduced amendments have expanded the concept of related parties. Transactions between related parties are recognized as controlled transactions. The legislation also specifies other types of controlled transactions.

The following methods of determining income in transactions between related parties are prescribed:

- Comparative market price method;
- Resale price method;
- Cost method;
- Comparative profitability method;
- Profit sharing method.

Transfer prices are determined using the above methods. The legislation allows for the use of a combination of two or more methods. The Tax Code establishes the obligation of taxpayers to submit documents on a specific transaction upon request by tax authorities. These documents are used to determine the application of transfer prices. The legislation determines the type of documents to be submitted by the taxpayer. It is important to note that in the Tax Code of the Russian Federation, transfer pricing control is a new type of tax audit. Verification of the completeness of the calculation and payment of taxes related to the conclusion of transactions between related parties is carried out at the time of conclusion of such transactions between related parties. If the application of transfer prices between related parties leads to the non-payment of taxes on time, this entails the payment of a fine in the amount of 40% of the unpaid tax, but not less than 30,000 rubles. The taxpayer shall be exempted from payment of this penalty if he provides the tax authorities with documents substantiating that these prices are market prices or if he has concluded an Agreement on Price Formation with the tax authorities or tax authorities. The tax legislation of the Russian Federation also provides for the possibility of concluding an agreement on price formation for tax purposes. This possibility may be used only by taxpayers who have the status of large taxpayers by law. The agreement shall be concluded between the taxpayer and the state tax authority and shall stipulate the procedure for determining prices and (or) applying methods for determining price formation for controlled transactions during the period of conclusion of the agreement.

Legislation of the Republic of Kazakhstan.

The experience of the Republic of Kazakhstan in regulating transfer prices between CIS countries is greater than that of other countries. Kazakhstan adopted the Law "On Transfer Pricing" in 2008. The Republic of Kazakhstan has more experience in regulating transfer pricing between CIS countries than

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other countries. Kazakhstan adopted the Law "On Transfer Pricing" in 2008[1]. In this country, the rules determining transfer prices are not part of the Tax Code, but are adopted as a separate legal act. This Law is implemented in the field of transfer pricing control not only in transactions between related parties, but also in other types of transactions, as well as transactions concluded in the territory of the Republic of Kazakhstan and directly related to international commercial operations.

The legislation of the Republic of Kazakhstan on transfer pricing complies with the recommendations given in the Manual. In accordance with Article 12 of this Law, the following methods are used to determine market prices in transactions:

1) the method of comparative uncontrolled prices;
2) the cost plus method;
3) the resale price method;
4) the profit split method;
5) the net profit method.

If prices other than market prices are used in controlled transactions, the competent authorities may conduct an audit of the parties to the transaction, and based on the results of this audit, the competent authorities shall make appropriate adjustments to the objects related to taxation.

The above examples show that specific recommendations of international organizations have been developed to combat tax evasion by related parties through transfer pricing, and based on these recommendations, effective legal mechanisms have been developed in many countries, as well as in the CIS countries, to combat tax evasion.

The history of the development of transfer pricing dates back to the beginning of the 20th century, when the development of capitalism was rapidly developing, and scientific and technological progress stimulated the exchange of goods and services between divisions of one enterprise. At this stage, the concept of transfer pricing did not yet exist, but its essence was already clearly visible. Later, as the trend of intra-company exchange developed, the need arose to create a single legislative framework and pricing methodology, on the basis of which prices for such transactions would be determined. The United States of America was the first country to introduce the principles of transfer pricing in its legislation.

In the Republic of Uzbekistan, the concept of transfer pricing was introduced into the new edition of the Tax Code of the Republic of Uzbekistan, approved by the Law of the Republic of Uzbekistan No. ZUR-599 dated December 30, 2019 “On Amendments and Addenda to the Tax Code of the Republic of Uzbekistan”. The Tax Code came into effect on January 1, 2020. It is stipulated that Section VI of the Tax Code, dedicated to transfer pricing, will come into effect on January 1, 2022.Currently, the problem of studying the conformity of the price formed between related parties and within the framework of controlled transactions with the market prices is very urgent.

The Tax Code provides a tariff for the concepts of transfer pricing and transfer pricing, according to which:

[1] Закон Республики Казахстан от 5 июля 2008 года № 67-IV «О трансфертном ценообразовании»

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- for the purpose of this Code, a price that differs from the price that is formed in transactions between related parties and (or) can be used in comparable economic conditions when concluding transactions between independent persons is considered a transfer price.
- commercial and (or) financial conditions and (or) results that differ from the conditions and results that can be obtained by independent persons in comparable economic conditions of the activities of related parties are understood as transfer pricing for the purpose of this Code.

According to Section V of the Tax Code, tax control is carried out in 2 different forms, i.e. tax monitoring and tax audits. In turn, tax audits are divided into camera tax audits, mobile tax audits and tax audits.

In accordance with Section VI of the Tax Code, tax control during transfer pricing is carried out in the form of an audit of the full calculation and payment of taxes in connection with the conclusion of transactions that are controlled within the framework of tax control during transfer pricing, as defined in Article 194 of the Tax Code.

In connection with the conclusion of controlled transactions, the audit of the full calculation and payment of taxes (hereinafter referred to as the audit) is conducted by the Tax Committee of the Republic of Uzbekistan in accordance with the Tax Code.

The inspection is conducted on the basis of the notification of controlled transactions sent in accordance with Article 182 of the Tax Code or the notification of the regional tax authority, as well as in the event that a controlled transaction is detected as a result of conducting a tax audit. Also, the inspection on the part related to value added tax and excise tax is carried out if one of the parties to the transaction is a legal entity or an individual entrepreneur who is not a relevant tax payer. In the event that during the transfer pricing investigation it is found that the amount of tax has been reduced or the amount of the loss has been increased, the Tax Committee shall make corrections to the relevant tax base and/or tax amount. Conducting this audit cannot be the subject of tax control conducted by the interregional tax inspectorate or regional tax authorities on large taxpayers. As mentioned above, the transfer pricing direction of tax control is a new direction in the legislation of the Republic of Uzbekistan. Article 193 of the Tax Code stipulates that the documents specified in the first part of this article may be requested from the taxpayer by the Tax Committee after June 1 of the calendar year following the conclusion of the controlled transactions.

To date, no inspections have been conducted in this area. We believe that the provisions of the Tax Code have the following problems:

1. Inspection in Article 194 of the Tax Code of the Tax Code

Based on the notification of the controlled transactions sent in accordance with Article 182 or the notification of the regional tax authority, as well as in the event that a controlled transaction is detected as a result of a tax audit, it is established. Article 182 of the Tax Code stipulates that taxpayers must notify tax authorities about the controlled transactions they have entered into in a calendar year, and the notification must be sent by the taxpayer to the tax authority in the place of his account no later than the deadline for submitting the annual financial report for the calendar year in which the controlled transactions were concluded. The deadline for submission of annual financial reports for

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enterprises with foreign investments is set no later than March 25 of the year following the reporting year, and for other economic entities no later than February 15 of the year following the reporting year. Legislation does not specify the deadline for submission of notification for permanent establishments and individuals, but transactions controlled by permanent establishments and individuals are also carried out. However, due to the fact that they do not submit an annual financial report, if the deadline for submitting a notification about a controlled transaction is set as April 1 or June 1 of the year following the year in which the transaction was implemented, taxpayers have been given additional time to fully cover their existing controlled transactions, and ambiguities have been avoided. and equal conditions would be created for taxpayers.

2. If the notification is not submitted in the presence of a controlled transaction in the taxpayer, there is no possibility of conducting an audit. Also, the measure of liability for failure to submit notification is not specified.

In order to eliminate the existing shortcomings, it is considered appropriate to make an appropriate amendment to the Tax Code on the possibility of conducting an investigation even if the tax authorities have determined that there is a controlled transaction.

3. In accordance with Article 337 of the Tax Code, a 0% rate of profit tax has been established on the profit obtained from the sale of goods (works) for export (except for the goods approved in the Annex to Decree No. PF-5587 of the President of the Republic of Uzbekistan dated November 29, 2018).In this case, the sale of goods and services between related parties at prices below market prices and the application of a 0% rate to exports even when the amount of income not fully received as a result of transfer pricing is determined by the Tax Committee will lead to non-assessment of tax. In order to eliminate this imbalance, it is necessary to introduce into Article 337 of the Tax Code the application of the basic rate of profit tax (15%) rather than a 0% rate to “the amount of income not fully received as a result of transfer pricing when exporting goods (services). This is because in practice there is no obstacle to exporting goods (services) from the republic at low prices in order to transfer the profits received by exporting entities to other countries with a lower tax burden.

4. Article 473 of the Tax Code establishes that participants in special economic zones are exempted from paying profit tax, depending on the amount of their investments:

For investments in the amount of 3 million to 5 million US dollars - for a period of 3 years;

For investments in the amount of 5 million to 15 million US dollars - for a period of 5 years;

For investments in the amount of 15 million US dollars and above - for a period of 10 years.

This tax benefit applies only to the types of activities of a participant in a special economic zone stipulated in the agreement on investment in the territory of a special economic zone concluded between the investor (investors) and the Directorate of the Special Economic Zone.

In practice, there are no obstacles to exporting goods (services) produced by a participant in a special economic zone at low prices from the republic in order to transfer the profit received to other countries with a low tax burden. In order to prevent such situations, it is advisable to introduce an amendment to the transfer pricing law on the sale (purchase) of goods (services) at prices lower (higher) than the

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market price, which excludes the application of a benefit for the amount of income not fully received as a result of transfer pricing.

5. In accordance with Article 187 of the Tax Code, profitability can be calculated based on the results of activities carried out under comparable economic conditions (commercial conditions) based on the data of the financial statements of a legal entity if the following conditions are simultaneously observed:

1) the legal entity carries out comparable activities and performs comparable tasks related to them.The comparability of activities can be determined taking into account the types of economic activities provided for in the All-State Classification of Types of Economic Activities of the Republic of Uzbekistan, as well as international and other classifications;

2) the total amount of net assets of a legal entity is not negative according to the financial reporting data as of December 31 of the last year of the number of years for which profitability is calculated;

3) the legal entity does not have losses from sales according to the financial reporting data for a period of more than one year of the number of years for which profitability is calculated;

4) the legal entity does not directly and (or) indirectly participate in the activities of another legal entity with a share exceeding 25 percent and does not have a legal entity as a participant (shareholder) with a direct participation share exceeding 25 percent.

Although it is stipulated that when determining the profitability range, profitability indicators determined based on the results of at least four comparable transactions, including transactions carried out by the taxpayer, or based on the financial statements of at least four comparable legal entities, should be used if the transactions are not controlled, the same article requires that “a legal entity shall not directly and (or) indirectly participate in the activities of another legal entity with a share exceeding 25 percent and shall not have a legal entity as a participant (shareholder) with a direct share exceeding 25 percent.” Thus, the above and the following norms contradict each other and this causes many problems in practice.To correct the contradictory norm in this Code, the situation would be corrected if the word 25% in paragraph 4 were changed to 20%.

5. Another problem is that the Tax Code does not contain the concept of symmetrical correction. Thus, if additional tax is calculated as a result of a tax audit on a controlled transaction between 2 residents, then logically tax will be collected from 2 entities on the same amount of income. To eliminate these situations, it is necessary to introduce a norm on symmetrical correction into the Tax Code.

Conclusions and Proposals

1. The establishment of liability for failure to submit a notification in the presence of a controlled transaction and the establishment of a single deadline for submitting a notification of a controlled transaction will serve to improve the process of implementing tax control.

2. A proposal has been developed to change the rule in Article 187 of the Tax Code that when calculating profitability, a legal entity shall not directly and (or) indirectly participate in the activities of another legal entity with a share exceeding 25 percent and shall not have a legal entity as a participant (shareholder) with a direct participation share exceeding 25 percent from 25 percent to 20 percent.

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3. It is advisable to amend the Tax Code to recognize transactions between related parties, one of the parties of which is a tax resident of the Republic of Uzbekistan, as controlled foreign trade transactions, and to take into account the fact that the amount of income from transactions in the relevant calendar year exceeds one billion soums.

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