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Transfer pricing



The future of transfer pricing

Transfer pricing refers to the pricing of transactions between related companies, generally within the same group. For many companies, such transactions must be at an Arm's Length Price (ALP) with documenting evidence supporting this pricing.

In 2011 transfer pricing legislation came into effect in Ireland. Since then all Irish companies within the ambit of transfer pricing law are obliged to maintain documentation evidencing the arm's length nature of intra-group transactions.

The ALP requires that transactions between related parties are priced for tax purposes as if the counter-parties were unrelated.

Transfer pricing rules apply to all trading transactions of impacted companies. This includes the sale or purchase of goods or services from group companies, management charges, royalty payments/receipts in respect of Intellectual Property (IP), financing transactions and many more.

At present, transfer pricing does not extend to non-trading transactions. This is expected to change from **1 January 2020**.

Small and Medium Sized Enterprises (SMEs) (have less than 250 people and either a turnover of less than €50 million or assets less than €43 million) are also currently excluded from the scope of transfer pricing legislation.

However, it is worth noting that the SME thresholds are on a group basis, so that small Irish subsidiaries of a larger group will be within the Irish transfer pricing regime. The SME exemption may also be removed with effect from **1 January 2020**.

Transfer pricing is not just about cross border transactions. The arm's length nature of transactions between related Irish companies must also be documented.



Why is transfer pricing important?

A scaling up of Irish Revenue's transfer pricing resources, together with increasing co-operation between Revenue authorities, is likely to see transfer pricing become the single biggest focus of Irish Revenue audits, both in Ireland and globally.

Under part 35A TCA 1997, Irish companies are obliged to maintain sufficient evidence to support the arm's length nature of transactions between group entities. In establishing the ALP and in determining the appropriate allocation of profits or losses within a group, the OECD transfer pricing guidelines must be followed.


At the core of the OECD's transfer pricing guidelines is 'value creation', with taxable profits aligned to where value is credited. In some cases, determining and evidencing appropriate ALP will be straightforward. However, in most cases it will be more complex, with a functional analysis required to understand the key value drivers.

Understanding the value of assets such as intangibles can be complex, with groups often underestimating the value of these assets. This opens up the possibility of positive tax arbitrage savings through identification of an appropriate pricing policy for intangibles or for the input of head office management, in the activities of overseas subsidiaries.

If a company's taxable profits are not computed on the basis of the transfer pricing principles, Revenue will adjust the taxable profits of the company to reflect ALP, with additional tax, interest and potential penalties arising.

It is critical that companies maintain documentation, including appropriate benchmarking studies, supporting their transfer pricing policies. Existing documentation requirements are likely to be brought in line with 2017 OECD transfer pricing guidelines with effect from **1 January 2020**.

The OECD's 2017 guidelines requires the maintenance of both a master file and a local file. The master file provides an overall summary of how the group is structured and the key value drivers in the business, with an overview of the group's transfer pricing policies. The master file is shared with all Revenue authorities within the group.

A man with a beard, wearing a dark suit, is seen from the back and side, looking out over a city skyline. The background is a bright, slightly hazy view of skyscrapers, suggesting a high-rise office environment. The lighting is soft and natural, coming from the left, creating a professional and contemplative atmosphere.

The local file is focused on the role of the local entity within the overall group. It includes details of the functions of the local entity, its management and how it interacts with other group companies from a pricing perspective.

With the shift in the OECD's transfer pricing guidelines towards the value creation concept, the link between a group's operational structure and its transfer pricing policies increases. Understanding transfer pricing is important in determining the consequences of operational decisions.

In summary, transfer pricing is the single biggest issue for Revenue authorities globally. It is critical that Irish groups have the appropriate documentation in place supporting their existing transfer pricing policies.

How can Grant Thornton help?

At Grant Thornton, we have a dedicated and experienced transfer pricing team. Our experts can ensure you are compliant with Irish transfer pricing legislation. We collaborate with our Grant Thornton International network of member firms to provide a robust global solution.

Our team can help you by understanding your business structure and the key value drivers. We advise on the transfer pricing implications of your intra-group transactions, potentially identifying tax arbitrage savings and most importantly helping you document the ALP of your intra group transactions. While Irish transfer pricing legislation also includes transactions between Irish companies within the group, the key focus of Irish Revenue is typically on cross border transactions. We work regularly with our Grant Thornton International transfer pricing network in putting together a robust transfer pricing policy across all jurisdictions, not just in Ireland.



1. Functional analysis review

Typically, our work involves a functional analysis review of your business operations to understand how the business operates and the key value drivers.

2. Design and implementation

Following our functional analysis review we help design and implement appropriate transfer policies across the group or modify existing policies, while cognisant of commercial sensitivities.

3. Sensible advice

We provide sensible advice on key issues, such as the pricing of IP and the allocation of profits/losses within a group. We also advise on ongoing transfer pricing developments, including work at OECD level on the role of the consumer and marketing intangibles in the appropriate allocation of profit between jurisdictions.

4. Documentation

We help design and implement global transfer pricing policies and procedures, together with the preparation of the appropriate documentation supporting this (including master and local files). Having the right documentation in place, in a timely manner, is critical in the event of a Revenue challenge.

5. Dispute resolution

We assist with the dispute resolution phase that takes place when Revenue authority(s) challenge transfer pricing policies. This can be on an unilateral basis or in collaboration with our global transfer pricing teams, depending on the nature of the challenge.

Key management contacts for our dedicated transfer pricing team include:



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