

## SLOVAK REPUBLIC

### TRANSFER PRICING PROFILE

#### 1. Reference to the Arm's Length Principle

Section 17 subsection 5 interconnected with section 18 of the Income Tax Act No. 595/2003 Coll. as amended (hereinafter the "ITA")

#### 2. Reference to the OECD Transfer Pricing Guidelines

None, but OECD Transfer Pricing Guidelines (Chapters I – VIII with its annexes) were published in Financial Bulletin during years 1997 – 2002 and they are generally accepted as an administrative guidance.

#### 3. Definition of related parties

Section 2 subsections (n), (o), (p), (r) of the ITA

#### 4. Transfer pricing methods

Section 18 subsections 2 and 3 of the ITA

#### 5. Transfer pricing documentation requirements

Taxpayers are obliged to provide documentation in accordance with section 18 subsections 1 of the ITA. The documentation must be submitted within 15 days upon the request of the Slovak tax authorities (section 18 subsections 11 of the ITA). Documentation is also required in case of:

- APA-s requests (section 18 subsections 6 of the ITA), and
- corresponding adjustments (section 17 subsection 6 of the ITA), and
- mutual agreement procedure (section 18 subsections 8 of the ITA).

The documentation could be submitted in the Slovak language or in other language which is allowed by the tax authority's approval.

Updated transfer pricing documentation requirements (including simplified requirements for smaller enterprises) was introduced on 15<sup>th</sup> July 2015 in Guideline laying down the content of the documentation on the pricing method applied by the taxpayer under section 18(1) of the ITA. It was applied for the first time for taxable periods starting after 1 January 2015 and it is currently under the revision with the aim to be applicable for the taxable periods starting after 31<sup>st</sup> December 2018.

The guidelines are based on the principles set out in the OECD Transfer Pricing Guidelines and the principles outlined in the Resolution of the European Council and of the representatives of the governments of the Member States on the Code of Conduct on transfer pricing documentation for associated enterprises in the EU. The guidelines were published in Financial Bulletin on official web site of Ministry of Finance of the Slovak Republic (<http://www.finance.gov.sk/Default.aspx?CatID=10700>).

Implementation of the Code of Conduct on Transfer Pricing documentation for associated enterprises in the European Union (EU TPD) - summary of Member States' responses to the 2013 JTPF questionnaire on the implementation of the EU TPD:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/company\\_tax/transfer\\_pricing/forum/jtpf/2013/summary-ms.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/jtpf/2013/summary-ms.pdf)

## 6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

In accordance with section 18a of the ITA financial administration applies specific transfer pricing penalties in cases of aggressive tax planning. The amount of the penalties in these cases is double comparing the amount of the standard penalties.

## 7. Information for Small and Medium Enterprises on TP

Information relevant for SMEs in tackling transfer pricing matters is available on the JTPF webpage at: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/company\\_tax/transfer\\_pricing/forum/profiles/profile-sk.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/profile-sk.pdf)

## 8. Information on dispute resolution

<b>Competent Authority</b>	Ministry of Finance <i>Taxation and Customs Section</i> Štefanovičova 5 817 82 Bratislava 15  Tel.: +421 (2) 5958 3469 Fax: +421 (2) 5958 3458 E-mail: <a href="mailto:lubica.adame@mfsr.sk">lubica.adame@mfsr.sk</a>
<b>Organization</b>	Taxation and Customs Section Ministry of Finance of the Slovak Republic
<b>Scope of MAP &amp; MAP APA</b>	Treaty interpretation and application.
<b>Domestic guidelines &amp; administrative arrangements</b>	The Ministry of Finance of the Slovak Republic issued the Methodological Instruction (guidance) No. MF/020525/2017-724 in order to ensure uniform application of the processes for the mutual agreement procedure.*) This Methodological Instruction applies particularly to: <ul style="list-style-type: none"> <li>- mutual agreement procedures which are initiated by the taxpayer based on the DTAs; and</li> <li>- mutual agreement procedures which are initiated by the taxpayer based on the Arbitration Convention;</li> </ul> and contains formal and factual details of the procedure in the Slovak Republic <a href="http://www.finance.gov.sk/Default.aspx?CatID=11638">http://www.finance.gov.sk/Default.aspx?CatID=11638</a>  (*applicable by the date of application of domestic law introducing EU Directive on tax dispute resolution mechanisms in the European Union - 1 July 2019).
<b>Time for filing</b>	No special limits, only conditions established by the respective treaties apply.
<b>Form of request</b>	No special requirements, only prerequisites of the application set by the Methodological Instruction.
<b>Documentation requirement</b>	Documentation required as specified in point 5.
<b>User fees</b>	None

<b>Tax collection / penalty / interest</b>	No specific provision.
<b>Other dispute resolution mechanisms</b>	The EU Arbitration Convention for the transfer pricing cases.
<b>Government Website</b>	<a href="http://www.finance.gov.sk/Default.aspx?CatID=8501">http://www.finance.gov.sk/Default.aspx?CatID=8501</a>

Dispute resolution under the Arbitration Convention does not need to be initiated and may be suspended if one of the enterprises involved is subject to a 'serious penalty' for the transactions giving rise to the profit adjustment (Article 8).

Unilateral Declaration of Slovak Republic on Article 8 of the Arbitration Convention (*Official Journal L 174, 03/07/2008 P. 0001 – 0005*)

The term 'serious penalty' means a penalty imposed according to the Criminal Code for criminal offences committed with respect to the infringement of the pertinent tax laws, Tax Administration Act or Act on Accounting.

## 9. Relevant regulations on Advance Pricing Arrangements

### Section 18 subsections 4 -10 of the ITA:

The taxpayer can submit the application to the tax office no later than 60 days before the beginning of the taxable period (the recommendation to the taxpayer is to apply as much in advance as possible because of the complexity of the process).

APA application must be submitted in Slovak language. It is possible to use different language too, but only after the approval of the tax office.

#### Mandatory requirements of the application:

- transfer pricing documentation
- identification of persons involved in considered controlled transactions - name, surname, business name, residence or registered seat of company, address of company, Tax identification number or other identification number if attributed
- the identification of taxable period which is covered by APA
- description of controlled transaction
- estimated controlled transactions volume in question
- proposed transfer pricing method

#### APA filing fee

For unilateral APA fee will be paid at an amount of EUR 10 000,

For bilateral APA the fee will be at an amount of EUR 30 000.

The payment of the fee will be made without prior notice and is payable upon application of the APA. If the payment was not made upon application and in the right amount, it is payable within 15 days from the date of receipt written request for payment sent by the tax office.

If payment is not paid or is not paid in the right amount, the application is deemed not to have been filed. After that the tax office notices the taxpayer and paid fee will be paid back to the taxpayer.

The maximum term of arrangement is 5 years (5 tax periods). Tax office can approve the application on the next 5 tax period at the request of the taxpayer (submitted no later than 60 days before the end of the period specified in the previous APA Decision, if the taxpayer can prove that there is no change in the circumstances according to which the previous decision was made).

If the tax office decides not to comply the request it will send a notification to the taxpayer. The fee is not payable back.

**Pre-filing meeting**

Pre-filing meeting is not mandatory, however we consider it as very useful and we are prepared to arrange such a meeting if the taxpayer is interested.

**10. Links to relevant government websites**

Ministry of Finance official web site:

<http://www.finance.gov.sk>

**11. Other relevant information**

Secondary and compensating year-end adjustments may result in double taxation. Two questionnaires launched by the EU Joint Transfer Pricing Forum (JTPF) in 2011 took stock of the situation prevailing in each EU Member State with respect to secondary and compensating year-end adjustments as on 1 July 2011.

[Secondary Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

[Compensating/year-end Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

**OECD MAP profile for the Slovak Republic:**

<http://www.oecd.org/tax/dispute/Slovak-Republic-Dispute-Resolution-Profile.pdf>