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Globalization and tax policy

The world economy has grown considerably and integrated in recent years. The economic globalization, the expansion of the economic activities of international companies and their operation in the states with various tax systems have created new opportunities in manipulation for tax evasion purposes through income transfers. The fast growth of digital economy, enhancement of e-commerce operations and appearance of new economic segments has generated a number of complicated problems related to tax policy. In its turn this causes the tax base erosion, reduction of budget revenues which leads to the new threats to economic security.

Many international companies, corporations and a large number of transnational companies covering interdependent legal entities operate in Azerbaijan. The growing number of companies, on the one hand increases the economic activity in the country, improves the investment climate, and raises living standards and welfare of the population by creating new jobs. But on the other hand, in this regard arises a need for tax authorities to investigate more deeply the issues related to the determination of tax revenues and expenditures of the company.

Recently, the application of transfer pricing in developed countries has been in the centre of attention and their legislative base has periodically improved in accordance with multiple transactions. But growth of transnational companies and a significant increase in the activities of multinational companies and intergroup, making them the subject of double taxation. The matter is, double taxation conventions has been developed based on the principles of 20-30th years of last century. Over the years, however, the economic structure has changed radically and the nature of international economic relations has transformed. Today, there is such a situation that no country is able to solve the problems in the area of tax policy without joining international conventions.

Presently, especially in the situation of financial crisis, the income transfer from countries with high tax rates to the countries with preferential tax rates and centralization of spending trend is being observed. In many developed countries the increase in the state budget deficit, as a result of decreasing the growth rate of the tax revenues, caused the acceleration of inflation and the unemployment. The tax base erosion problems related to income transfer is currently one the major challenges of OECD (Organization for Economic Cooperation and Development [4,9,10,14].

Transfer prices are basically applied in intra-group operations by transnational enterprises and are characterized being the price of tangibles and intangibles and services supplied to related enterprise. This price differs from the market price which is formed between independent parties in the market. That is, as opposed to market prices, transfer prices are formed not between the independent parties, but between the related parties and in accordance with arm's length [2,3,4]. But its realization in practice is quite complicated issue. Just for this reason actually the tax bodies face important issues such as investigation of transfer prices application by transnational enterprises.

Transfer pricing

The identification of prices different than market prices in the transactions between related parties are called *transfer prices.* Transfer prices could be higher or lower than market prices. Such kind of pricing is one of the widely spread methods of tax evasion. The pricing different than market prices causes a lot of difficulties in the analysis of economic processes as well as changes the real tax base.

Transfer pricing goes back to 50 - 60th year of XX century. The president of the USA R.Kennedy wrote that a number of American companies transfer their income to their daughter enterprises abroad and this way evade taxation. [16]. However as the tax evasion cases increased with the transfer pricing, these issues drew more attention and interest. In the 80th years of XX century there were a great deal of companies in the

USA, Great Britain and other developed countries using transfer pricing. Appearance of such a situation gave opportunity to the companies to evade the taxation legally, that is applying transfer pricing in the framework of existing legislation. In order to eliminate these cases a number of international organizations and first of all OECD brought forward the issue of appropriate legislative base. Presently, the transfer of taxable base by applying transfer pricing is the most challenging issue not only within OECD, but also in non-member states. The meeting of G20, June 2012, also noted that the tax system should be improved in every state to protect the taxable base. From this standpoint, the following aspects should be taken into account while taking steps in the area of transfer pricing in international world:

1. Multinational companies operating in the world are the major driving force in the economic growth and in the creation of new and innovative technologies. Income of these companies sometimes is higher than the budgets of some countries. Transfer pricing legislation should be formulated in such a way that doesn't limit their economic activity and encourage the companies to bear social responsibility.
2. As multinational companies operate in different countries, they directly become subject to double taxation. The legislative base and international conventions have to be improved in this area as well.
3. The goal of business is to maximize the profit by reducing expenses and taxes as well. Therefore those businesses have responsibility to the states and to the shareholders.

The Guidelines of the Organization for Economic Cooperation and Development «Tax services and transfer prices for transnational companies» (hereinafter transfer pricing Guidelines of OECD) are applied in the transactions between related parties in Member states. Presently, as a result of the transfer pricing tax base erosion is one of the most important problems that make economists and politicians to investigate the issue. However, many aspects of the application of transfer pricing tax policy, tax risks in the first place, depending on the criteria for the identification of sources of information and analysis is required to investigate. Successful transfer pricing programs should cover the following main steps:

- Identification of risks related to transfer pricing is the first significant stage. The risk assessment requires determination of the risk indicators;
- After identification of risk-oriented companies, the tax inspections confirm whether the companies apply transfer pricing or not. In this stage taxpayers and tax authorities communicate and discuss the issues regarding the collection of necessary data;
- As the transfer pricing cases are usually applied by highly profitable companies with sufficient financial resources, planning is carried out by highly qualified specialists in order to avoid the tax payment. In this case, the proof of this matter requires highly skilled and well educated human resources by tax authorities. The tax officials operating in the area of transfer pricing should possess economic and legal skills as well as comprehend the essence of business policy. Otherwise long term proceedings are required to prove it.
- It should be noted that actually the tax evasion cases by means of transfer pricing are typical to developing and developed states..

Risk assessment and information sources

One of the most important issues encountered during the transfer pricing is the risks assessment. Existing resources of tax authorities of every state are restricted. This has created the need for the identification of the risks regarding the transfer pricing. The area and companies where such risks and companies increases the effectiveness of audits, enables to save time and resources. There are lot of methods of risk identification in transfer pricing:

➢ Risk identification by analyzing appropriate data by means of information systems application;

- Analysis of companies' turnover conducting transactions through daughter companies by the enterprises located in free trade zones;
- Analysis of companies' activity with loss;
- High share of transactions concluded with the companies operating in the states of low tax rates;
- Analysis of transactions between related persons.

However, the analysis of the sources of information to investigate the characteristics of each area of the business requires understanding of its essence. The tax planning in the companies applying transfer pricing is carried out in many cases by consulting companies with high rating.

Sources of information

With purpose of determining analysis and transfer pricing risk, the tax authorities enhance the use of information from specialists, state authorities and comparable information apart from provided initial data.

One of the important points in the process of transfer pricing is to obtain adequate information. It's impossible to tell any opinion on the application of transfer pricing without proper information.

If the investigated enterprise's financial statements don't coincide with comparable figures of database, it creates a reason to investigate the enterprise in more detail. But during comparison it's important the differences between the indicators of activity area and comparison to be clear. If the results are not conclusive, the tax authorities shall take into account the other factors.

Customs information: For the purposes of customs duty calculation, the customs data on international transactions between related parties in real-time regime is possible to obtain and to use. However, the availability of transactions on movement of goods beyond the borders (because, the goods is moving without changing the owner) and other transactions, for example royalties, are not reflected in the rates of customs data.

Tax information contract

As the transfer pricing is applied basically during the foreign economic relations, tax authorities require the exchange of information and necessary data of the countries in which the company operates. In its turn it requires the conclusion of treaties on the tax information exchange between various states. The data obtained from other tax bodies, as well as the availability of special enquiries enable to determine the risk of transfer pricing. From this standpoint the information exchange between the states plays a great role in determining the transfer pricing risk and their elimination.

Press reports, trade magazines and other information in public domains

By means of these information sources it's possible to collect the necessary data on special enterprises and their business activity. The articles on business activities may cover, e.g. as a result of the entrance of competitive enterprise to the market, the decrease in sale of this enterprise, its reasons and other related information.

Internet search: It's quite possible to obtain information about various legal entities and industries by means of Internet. Also through Internet one can get access to the open database of a number of state authorities. For example, the database of financial statements of companies of Security and Monetary Commission operating in the USA.

Conclusions

As a result of the reforms carried out in recent years in all areas, great achievements have been attained not only in public administration, but also in the field of tax administration. Taking into account the best international practices in this area, as a result of measures taken, the sustainable development of the tax system, efficient tax control mechanism formation over the taxpayers activity and tax legislation base to prevent the tax evasion in a timely manner was established and is continuing to be improved.

The conceptual basis for the improvement of tax legislation covers the expanding the rights of taxpayers, equal economic conditions for the taxpayers, the organization of the fight against tax evasion cases, the creation of favorable investment climate for the development of entrepreneurship and formation of free competition.

Moreover, in connection with role in international economic relations and its integration of the world economy, the expansion of multinational companies' activity requires the creation of governing legislation in terms of taxation. That is local and foreign companies operating in countries with different tax rules of their business operations, they can increase the risk of tax evasion cases. Today, by application of transfer pricing, business transactions carried out by companies in a number of cases of tax evasion is almost expanded all over the world.

Among the states of the former Soviet Union for the first time in Kazakhstan the transfer pricing law was adopted in 2008. Transfer pricing law in the Russian Federation was adopted in 2011 and entered into force in January 2012. In the period of accelerated process of integration into the world economy and leading global legislation it is necessary to establish a legal framework for the transfer pricing.

The following are the key factors in the establishment of a legislative framework for developing countries :

⇒ The growing number of international companies, improving the investment climate, creating new jobs, improving living standards of the population give the opportunity to develop economic systems. On the other hand, in order to protect the tax base and they should investigate more deeply the issues related to transfer pricing;

⇒ Transformation of the income as a result of transfer pricing reduces the taxable base. As a result of it, significant changes take place in tax revenues. Therefore, the risk assessment methodology should be developed;

⇒ The use of the arm's length principle in the legislative framework of transfer pricing, on the one hand allows for the coordination of national legislation with international norms, on the other hand, facilitates the use from practical point of view;

⇒ As transfer pricing is basically carried out between the related parties, the determination criteria and mechanisms for practical application of such criteria should be simplified;

⇒ The risk determination in transfer pricing process should be one of the main stages. In addition to saving resources, risk assessment increases the effectiveness of administration ;

⇒ Steady training of specialists in the field of transfer pricing makes it necessary to carry out experience exchange with the tax administrations as well as with international financial institutions

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