

TRANSFER PRICING DOCUMENTATION FOR PARTNERSHIPS AND JOINT VENTURES

This is to remind you that 1 January 2015 marked commencement of new regulations which broadened the scope of the transfer pricing documentation requirements under Article 9a CIT Act and Article 25a PIT Act to include also joint venture agreements, partnership agreements for partnerships without legal personhood, and similar arrangements between related parties. This means that, following year 2015, relevant taxpayers will have to meet the challenge and for the first time prepare a transfer pricing documentation for such arrangements.

The new law catches such partnership types as limited partnership (*spółka komandytowa*), registered partnership (*spółka jawna*), and limited liability partnership (*spółka partnerska*), as well as joint ventures and consortia for the carrying out of joint projects. The statutory threshold which triggers the documentation requirements in such cases is EUR 50,000 or, where one of the parties is based in a tax haven, EUR 20,000.

The scope of mandatory content in transfer pricing documentation for joint ventures, partnerships and similar arrangements is generally the same as in transfer pricing documentation for other transactions (e.g. sales of finished products), namely:

- functions performed by the parties, including assets employed and risks incurred,
- all expected costs of the transaction, form and date of payment,
- profit calculation method and manner, the pricing of the transaction,
- business strategy (if it affected the transaction or its value).

In addition to those parts, the transfer pricing documents must also disclose what factors affected the **contractual division of profits and losses among the parties (partners)**. The explanatory statement for the amending bill to introduce the new requirements implies that this section of the documentation especially can attract a particular attention of inspectors.

Note also that the duty to develop and hold transfer pricing documentation for the subject arrangements is on the **partners** of partnerships which are not legal persons, as it is partners that are taxpayers for income tax purposes.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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