

HOW TO AGGREGATE TRANSACTIONS IN THE CONTEXT OF TRANSFER PRICING DOCUMENTATION REQUIREMENTS

The term "kind of transaction" is basically about the distinction between a goods transaction and a service transaction, said the Supreme Administrative Court ("SAC") in its judgement of 17 December 2014 (**case no. II FSK 2849/12**).

SAC held that, whatever the nature of services, i.e. whatever they involve, they are always the same kind of transaction – services. According to SAC, all goods or service transactions entered into by a taxpayer with the same party must be documented for transfer pricing purposes if their **total value** during the tax year exceeds the thresholds set out in Article 9a CIT Act.

SAC says that it is not the similarity of transactions that is relevant for the documentation requirement but their kind. Therefore, if a company has different service transactions with the same related party, then – even if they are about different services and involve different prices – the values of each such individual services must be summed up and it is the total that should be compared to Article 9a thresholds to check if the documentation requirement applies.

In practice then taxpayers may have to prepare transfer pricing documentation for all service transactions with a single entity, whether or not the turnover on any of the individual services exceeds the equivalent of EUR 30,000 annually.

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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