# Tax Booklet

# Transfer Pricing Kosovo

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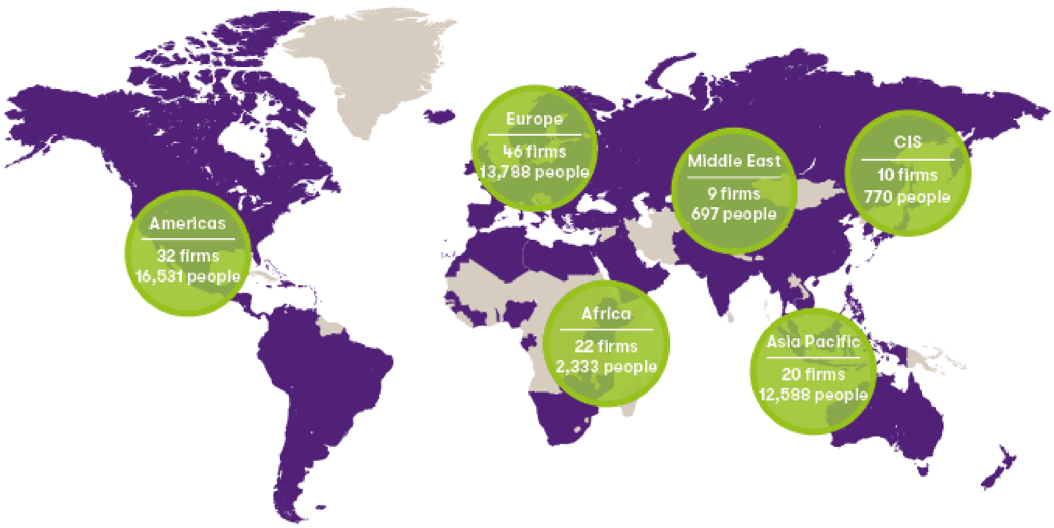


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# Tax Booklet

## In the focus: Transfer Pricing in Kosovo

Taxation is at the core focus to the governments who strives to find instruments to address tax avoidance, ensuring that profits are taxed where company value is created. Many tax authorities are investing heavily in transfer pricing regulation, which showcase that Kosovo is not outside the global economies.

Namely, in Kosovo the topic of Transfer pricing seems to be everywhere at the moment – there are newspaper articles written about it , conferences and trainings dedicated to this matter.

Taking this into consideration we have prepared this Booklet, in order to bring the concept of Transfer Pricing more close and help the business community to meet the domestic tax rules and cease any gaps and frictions.

### What is Transfer Pricing?

Transfer pricing (TP) means determining the price of goods and services sold between entities related to each other.

### Which are considered Controled transactions?

Controlled transactions are transactions that occur between two intra -companies located in two different tax jurisdictions.

Controlled transactions include all types of transactions that may affect the taxable income of a taxpayer, including, but not limited to:

- transactions involving **goods** (such as raw materials, finished products and similar);
- service transactions;
- transactions involving intangible property, (such as copyrights, licenses, fees for the use of patents, trademarks, knowledge, and similar, as well as any other intellectual property);
- financial transactions, including rents, interest payments and related guarantees; and
- capital transactions involving purchase or sale of shares or other investment, and the purchase or sale of tangible and intangible assets.

### Definition of related parties

A related party is considered to control business decisions of another entity effectively if:

- holds or controls fifty per cent (50%) or more of the voting rights of another person who is a legal entity;
- may control the composition of the board of directors of another person who is a legal person;
- has the right to distribute fifty per cent (50%) or more of the profits of another entity;
- another person is a relative (spouse, children or parents) or a related party to a relative; and
- based on verifiable facts and circumstances controls the business decisions of another entity.

### Arm’s length principle

Taxpayer subject to corporate income tax who participates in one or more controlled transactions, determines the taxable income,  in accordance with open market values used between non-related parties. When the conditions set or defined in one or more controlled transactions, carried out by a taxpayer, are not in accordance with the market prices, the taxable profits of the taxpayer may increase to the extent to be in line with market prices.

The application of the Arm’s length principle is based on a comparison of the conditions in the controlled transactions, with the conditions of comparable uncontrolled transactions.

Market range is relevant financial indicator, i.e. price, margin or parts of profit derived from the application of the most appropriate transfer pricing method for a number of uncontrolled transactions, each of which is considered comparable to the controlled transaction.

The offered/received service transaction is considered within the arm’s length principle:

- if the service is provided, and it is actually paid;
- whether the service will provide an economic value;
- if the recipient of the service would be willing to pay for it by an independent party; and
- if the value of the service corresponds to the value for which the independent parties may agree.

## Transfer Pricing Methods

The following methods can be used to determine the arm's length price:

- comparable uncontrolled price method which compares the price;
- resale price method which compares the gross profit level;
- cost plus method;
- transactional net margin which compares the net profit level; and
- profit split which compares the gross profit, net profi, internal/external data.

Tested party is a party of the controlled transaction, for which the financial indicator (margin on costs, gross margin or net margin indicator) is being tested.

## Are Transfer Pricing adjustments permitted?

The transfer pricing adjustment is made in case when financial indicator from controlled transaction is out of the market range.

Corresponding adjustments, occur when an adjustment is made within the terms of controlled transactions by the tax authority of another country which results in taxing the profits in that country, for which the profit is already taxed in Kosovo. If the country proposing the adjustment has a DTT agreement with Kosovo for the elimination of double taxation, then under these terms, TAK after submission of a request by the Kosovo taxpayer, looks into compliance of that adjustment on arm's length principle.

## What are the statutory filing deadlines?

Each taxpayer involved in the controlled transactions, including loan surpluses, which within fiscal year exceeding three hundred thousand euro (€300,000), complete andl file to TAK the form "Notifying annual controlled transactions".

The deadline for filling of the annual controlled transaction notice is the date prescribed for the submission of the annual declaration form and payment of corporate income tax by 31 March of the following year of the tax period.

## Transfer Pricing documentation

Transfer pricing documentation must be made available to TAK at its request, within thirty (30) days of receiving the request.

The transfer pricing documentation shall include:

- summary of activities of the taxpayer;
- description of the organization structure of the corporate group in which taxpayer is member;
- description of controlled transactions;
- explaining the selection of the most appropriate transfer pricing method and the financial indicators;
- comparability analysis;
- explanation of any economic analysis and support project;
- conclusion on the compliance of controlled transactions terms withing arm's length principle; and
- any other information that may have a material impact on the determination of the taxpayer's compliance within arm's length principle in relation to controlled transactions.

## Conclusion

Based on the recently adopted regulation on Transfer Pricing, we are recommending the MNE's to aim to be in compliance with the legislation when conducting transactions with related parties and to better control the transfer pricing risk.

Our Grant Thornton transfer pricing professionals can help you enhance your inter-company compliance.

# Contact

If you would like further to discuss about Transfer pricing matters in Kosovo, please contact:

Grant Thornton

Maja Filipceva, Kosovo & Macedonia Service Leader
T +389 2 3214 700
E Maja.Filipceva@mk.gt.com

Albert Matoshi
T +381 38 247 771
E Albert.Matoshi@ks.gt.com

Ljupco Naumovski
M + 377 45 640 620
E Ljupco.Naumovski@ks.gt.com

Valon Damoni
T +381 38 247 771
E Valon.Damoni@ks.gt.com

# Transfer pricing references

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