

Global Tax Alert

News from Transfer Pricing and Americas Tax Center



EY Americas Tax Center

The EY Americas Tax Center brings together the experience and perspectives of over 10,000 tax professionals across the region to help clients address administrative, legislative and regulatory opportunities and challenges in the 33 countries that comprise the Americas region of the global EY organization.

- ▶ Copy into your web browser:

<http://www.ey.com/US/en/Services/Tax/Americas-Tax-Center---borderless-client-service>

Bolivian Deputies Chamber approves transfer pricing bill

Executive summary

On 25 June 2014, the Bolivian Deputies Chamber approved Bill 322/2014 - 2015, which in connection with Investment Promotion Act 516 of April 2014, defines the transfer pricing regime.

While the Bill is largely general in nature (it modifies some articles of the Tax and Customs Laws and the Tax Code), certain critical transfer pricing rules are defined.

Detailed discussion

Background

Act 516 issued in April 2014 defined a transfer pricing regime and required within 90 days (due the first week of July 2014) the Economy and Public Finance Ministry to elaborate regulatory rules. The regulation has been developed during the past three months and Bill 322/2014 - 2015 was published on 25 June 2014. It is important to note that:

- ▶ This Act shall be enforced from its publication date in the *Official Gazette*, unless it expressly defines a date for enforcing.
- ▶ As a result, the Bill is subject to changes and amendments, according to the current legislative procedure, defined by the Political Constitution.
- ▶ This Bill was already approved by the Origin Chamber (Deputies) and therefore it has been referred to the Reviewer Chamber (Senate). Once approved, it will be sent to the President for promulgation (Act).



Building a better
working world

Critical matters

- ▶ The TP regime covers transactions with local and foreign related parties, and applies to Corporate Income Tax only.
- ▶ The definition of related parties is limited to the standard wording of the OECD model. Related parties are accordingly defined as a natural or legal person involved in the direction, control, management or capital ownership of another company or, third parties who are directly or indirectly involved in the direction, control, management or capital ownership of two or more companies.
- ▶ The tax authority is empowered to compare related-party transaction values with transactions between independent parties. The Bill lists, without defining, the following revaluation methods:

- Comparable uncontrolled price
- Resale price
- Cost plus
- Transactional net margin
- Transactional profit split method
- Transactional notorious price in transparent markets (better known as the sixth Argentine method)

Also, it is stated that if it is not possible to determine the value of the transaction using any of these methods, the tax authority may apply other methods appropriate to the nature and economic reality of the operation.

It is not expressly defined in the regulation if methods are selected by relative comparison (“best method”) or based on a hierarchy of methods.

- ▶ The Customs Act is amended empowering Customs to require transfer pricing studies for imports.
- ▶ Transfer pricing tax audits would be performed by 12 months and, if required, they may be extended by 12 months more. Currently tax audits only can be extended for 6 months.
- ▶ Based on our understanding of the Bill, the regime will be enforced from the following fiscal year (e.g., 1 January 2015 for commercial companies, 1 April 2015 for industrial enterprises, etc.) and these months will be used to define rulings.

Finally, the Bill draft includes some essential regime elements but without describing formal requirements (TP supporting documents or tax returns), comparability criteria, safe harbors, anticipated pricing agreements, among others.

For additional information with respect to this Alert, please contact the following:

Ernst & Young (Auditoria y Asesoría) Ltda., La Paz

- | | | |
|---------------------|-----------------|--------------------------|
| ▶ Javier Iriarte | +591 2 243 4313 | javier.iriarte@bo.ey.com |
| ▶ Juan Pablo Vargas | +591 2 243 4313 | juan.vargas@bo.ey.com |

Ernst & Young (Auditoria y Asesoría) Ltda., Santa Cruz

- | | | |
|---------------|-----------------|-----------------------|
| ▶ David Arata | +591 3 337 3031 | david.arata@bo.ey.com |
|---------------|-----------------|-----------------------|

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Americas Tax Center

© 2014 EYGM Limited.
All Rights Reserved.

EYG No. CM4558

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com