

The analysis of the legal regulation of transfer pricing in connection with the implementation of ATAD

Abstract

This diploma thesis deals with the topic of legal regulation of transfer prices. Considering the gradual globalization and the increasing number of multinational enterprises, transfer pricing is a very extensively discussed tax-related topic. It has become even more topical with the implementation of a new Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market. Transposition period for the majority of regulations presented in the directive is scheduled to 31 December 2018.

The aim of the present thesis is to characterize the current state of legal regulations of transfer pricing in the Czech Republic as well as related supranational regulations. Within the context of the former and the latter, the thesis analyzes the options of the implementation of the Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market. Also, the thesis delineates and describes the approach of the Ministry of Finance of the Czech Republic, including an assumed financial impact of the implementation of individual regulations.

The author carried out an analysis of supranational legislative regulations and legislative regulations of transfer pricing in the Czech Republic. The analysis of legal regulation of transfer pricing in the Czech Republic focused on Act No. 586/1992 Coll., on income taxes, as amended, the guidance series D of the Ministry of Finance of the Czech Republic and General Financial Directorate, accessing information concerning transactions between related persons and the case law of the Supreme Administrative Court.

The part dealing with the Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market surveys individual regulations. Also, there were analyzed the options of their implementation. Subsequently, the thesis offers the description and evaluation of the assumed implementation of the directive based on documents published by the Ministry of Finance of the Czech Republic. Finally, the thesis provides examples of expected impact on taxpayers with each individual regulation. Given the presumably biggest financial impact as well as the fact that it will draw considerable interest from the professionals in the field, an in-depth analysis of interest limitation rule was conducted.

Keywords: transfer pricing, ATAD, interest limitation rule