

Abstract / Résumé / Zusammenfassung

Transfer pricing is currently a very relevant topic. Tax administrations are focusing on unveiling and penalizing tax evasion and in author's opinion also on prevention and reduction of tax optimization using intragroup transactions with price designed to minimize taxation. The volume of tax base and tax adjustments by tax administrations multiplied in recent years without significant changes in relevant legislation and that raises a question whether this change is not contrary to the principle of legality use of powers conferred by public law. This thesis analyzes reasons for these changes, which are connected to significant increase in number of group cross border transactions. In European context the increase is partially result of intensive economic integration of member states. Second important aspect leading to the relevance of this topic is the intensity public perception of this issue which to large extent eliminates the difference between tax avoidance and illegal tax evasion.

The thesis generally focuses on transfer pricing in European context created by the activities of OECD reflected by EU legislation. The analysis shows that the OECD document on the issue are very beneficial instruments and their use is in many cases unified by the EU, which analyzes the areas where differences in application by the member states present the most pressing issues. Further, the influence of global development in this are on Czech regulation and practices of transfer pricing is also scrutinized.

The thesis is divided into seven chapters. First chapter focuses on brief description of the matter, including its development and basic methods used for determining transfer prices. Special attention is paid to the Glaxo case, which can be seen as the catalyst of intensive development that can be currently observed in Europe. The author also focuses on examples of this new approach to transfer pricing demonstrated in court cases from Great Britain, Germany and Luxemburg. The second chapter discusses the role of European Union in the area of transfer pricing. The legal basis for legal regulation and the history and current legislative activities of the EU are analyzed.

Next chapter deals with implementation of OECD recommendation into legal regulation of transfer pricing in the Czech Republic and with issues which might arise as a result of application of transfer pricing regulation. The fourth chapter focuses on description of the OECD guidelines and assessment of its relationship to national regulation. The following part discusses the issue of adjustment of tax under article 9 of the OECD Model Convention, and

the problems that it might cause. This issue is closely connected to resolution of disputes arising out of tax adjustments. Therefore the seventh chapter is focused on Arbitration convention which is compared to the new proposal of directive on dispute resolution. Certain aspects of these regulations are also compared to OECD Model Convention on double taxation prevention.

Key words:

Direct taxes, transfer pricing, resolution of disputes arising of double taxation, Arbitration Convention, Directive on Dispute Resolution, tax avoidance, tax evasion.