



CORPORATE NEWSLETTER – IMPACTS OF COVID-19 IN TRANSFER PRICING

The effect of the COVID-19 pandemic has generated an unprecedented impact on the world's economy, causing a climate of uncertainty and great volatility. Given this scenario, companies need to make adjustments that allow them to adapt to changes in the market, manage risks, and adapt to the new global dynamics, structuring their activities in such a way that allows them to continue their operations as efficient as possible, and to protect its profitability or minimize the possible losses generated by this extraordinary situation. These adjustments do not escape the actions of multinational companies, and tax administrations.

The main effects of COVID-19 on the world's economy correspond to:

- Decrease in consumption in general and restructuring of the consumption pattern of households.
- Disruption of the supply chains.
- Structural changes in the way of doing business.
- Financing cost.
- Necessity to manage increasing risks, policies defined based on greater risk aversion.

Each of these effects generate impacts in terms of transfer prices, which must be analyzed and documented in such a way as to manage the additional risks that may arise from potential review processes by the Tax Administration, such as:

1. Changes in the transfer pricing policy:

- Changes in the functional profile of group entities. In relation to the need to assume greater risks, or additional functions to maintain operations, and even the development of intangibles that allow them to adapt to the way of doing business (such as the development of applications that enable e-commerce).
- Adjustments in the prices of goods and services, which could impact the cost structure, or the expected income.
- Adjustments in the charges received for marketing intangibles, which could experience significant changes in relation to the commercial value that they contribute to the operations of the entities.
- Need to contract additional services that allow greater efficiency in operations.
- Impossibility of fulfilling contractual agreements, and possible collection of penalties for non-compliance.

As a result of these situations, it is possible that the profitability recorded in the coming years will be impacted by many market factors, risk materialization, extraordinary costs, among others. Which should be reviewed and documented in light of the analyzes that are carried out in order to validate compliance with the arm's length principle, in many cases it is necessary to resort to extraordinary comparability adjustments that allow the impact of these variables to be isolated. Also,

document the economic and rational substance of the market in the changes experienced in relation to the types and volumes of transactions registered as a result of this situation.

2. Changes at the level of intragroup financing policies:

- Increases in intercompany financing transactions.
- Structuring of more flexible policies in the management of cash surpluses “*cash poolings*”.
- Restructuring of previous intercompany financing transactions.
- Increases in costs associated with such transactions such as: commitment fee.
- Changes in credit rating at the company and country level.

In this sense, it is important to verify the impact that this situation has generated on interest rates, not only worldwide, but on the market in which the debtor operates, given that the interest rates and access to financing facilities may vary from one country to another by virtue of the monetary or financing policies that the different governments adopt to face the possible recession of their respective economies. This is especially relevant in light of the comments issued by the Organization for Economic Cooperation and Development (“OECD”) in relation to this type of transactions.



3. Restructuring.

- Decentralization of some functions / centralization of others.
- Changes in the level of activities, or risks assumed by each of the entities worldwide.
- Closing of operations in some countries.

In the medium-long term, there may be an increase in the restructuring processes of multinational groups, which will seek to adjust their global operations in order to obtain greater efficiency given: the changes that may occur in terms of effective demand from countries, changes in the supply chain, consumables / raw material prices, changes in the economic policies of the different governments of the countries in which they develop operations.

In this sense, it is important that when structuring changes in this type of operations, it is considered within the criteria to evaluate the impacts that these could have in terms of transfer prices, in such a way that the risks that may be derived are quantified, or the economic substance of the changes presented at the time they are reported is documented.



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