Global Transfer Pricing Services

Breaking News

Legislative Changes in Transfer Pricing Rules in Perú

On September 24, 2024, within the framework of the legislative powers delegated by the Legislative Branch to the Executive Branch, amendments to the Income Tax Law (DL 1662 and 1663) were published, which modify the Transfer Pricing regime in Peru.

1. Advanced Pricing Agreements (APAs)

Advance Pricing Agreements (APAs) are a mechanism that allows companies to proactively approach the Tax Administration to propose an agreement regarding the methodology and implementation of Transfer Pricing for a particular transaction.

Introduction of Rollback for Bilateral APAs

The new regulation introduces, exclusively for Bilateral APAs, the possibility that the terms agreed upon in the APA may be applicable to periods prior to the date of its conclusion.

Why is it necessary?

Bilateral APAs refer to APA negotiations involving not only Peru but also the country of the counterparty engaged in the international transaction. In many countries, the practice of Rollback is common, and this amendment allows for the alignment of negotiation terms for both parties.

And what about unilateral APA´s?

In the case of unilateral APAs, the impossibility of Rollback remains.

2. Other methods (Background)

In practice, there are various types of transactions, such as the purchase or sale of shares, or the transfer of tangible or intangible assets, that are difficult to adequately value using the usual Transfer Pricing methods.

Although Peruvian regulation has, for several years, contemplated the possibility of using "other methods" of valuation, this provision was not very well developed, leading to practical application difficulties and controversial decisions at the level of the Tax Court.

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3. Other methods (new rules)

The new regulation expressly introduces the following methods:

To value **shares**:

- Discounted Cash Flows (DCF)
- Multiples
- Equity Participation Value
- Appraisal

To value **other transactions**:

- Discounted Cash Flows (DCF)
- Multiples
- Equity Participation Value
- Appraisal
- Multiperiod Excess Earnings Method (MEEM)

It is established that the DCF method cannot be used when valuing shares that represent a small package (less than 5% of the share package), or if the revenues of the company subject to valuation are less than 1,700 UIT.

Companies are required to have a technical report with the information that will be defined by the Regulation.

To keep in mind:

These modifications are effective as of January 1, 2025.

The complete regulations)in Spanish) can be found here: DL1662 y DL1663.

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