



On approval of the Rules for Concluding an Agreement on the Application of Transfer Pricing

Invalidated Unofficial translation

Decree of the Government of the Republic of Kazakhstan No. 1197 dated October 24, 2011. It became invalid by the Decree of the Government of the Republic of Kazakhstan dated 19.05.2022 No. 317 (effective after ten calendar days after the date of its first official publication).

Unofficial translation

Footnote. It became invalid by the Decree of the Government of the Republic of Kazakhstan dated 19.05.2022 No. 317 (effective after ten calendar days after the date of its first official publication).

In accordance with subparagraph 6) of paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan dated 5 and July 2008 "On Transfer Pricing", the Government of the Republic of Kazakhstan **HEREBY DECREES AS FOLLOWS:**

1. That the attached Rules for Concluding an Agreement on the Application of Transfer Pricing shall be approved.
2. This Decree shall be enforced upon expiry of ten calendar days after the first official publication.

Prime Minister of the Republic of Kazakhstan

K. Massimov

Approved by
Decree of the Government of the
Republic of Kazakhstan
No. 1197 dated October 24, 2011

Rules for Concluding an Agreement on the Application of Transfer Pricing

1. General Provisions

1. These Rules for Concluding an Agreement on the Application of Transfer Pricing (hereinafter referred to as the Rules) are developed in accordance with the Law of the Republic of Kazakhstan dated July 5, 2008 "On Transfer Pricing" (hereinafter - the Law) and determine the procedure for concluding an Agreement on the application of transfer pricing (hereinafter - the Agreement) between the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan (hereinafter - the Committee) and the participant in the transaction .

Footnote. Paragraph 1 as reworded by Decree of the Government of the Republic of Kazakhstan No. 528 dated 08.28.2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

2. The following paragraphs shall be reflected in the Agreement:
 1. general provisions;
 - 2) parties to the Agreement;
 - 3) scope of the Agreement;
 - 4) a list of submitted documents;
 - 5) the method of determining the market price;
 - 6) the source of information used to determine the market price;
 - 7) the duration of the Agreement;
 - 8) the date of entry into force of the Agreement;
 - 9) the period before leaving information on applicable prices during the term of the Agreement;
 - 10) confidentiality;
 - 11) consequences of non-fulfilment (violation) by the transaction participant of the terms of the Agreement;
 - 12) grounds for early termination of the Agreement;
 - 13) additional conditions.

2. Procedure for concluding an Agreement on the Application of Transfer Pricing

3. The participant in the transaction shall submit to the Committee an application for the conclusion of the Agreement in writing and in any form, to which the copies of the documents necessary for the conclusion of the Agreement, shall be attached, including:

- 1) a certificate * or a certificate of state incorporation (reincorporation) of a legal entity, constituent documents (charter, constituent agreement), extracts from the register of holders of shares (shares) owning more than 5% of shares (shares);

note: * certificate of state (accounting) incorporation (reincorporation) of a legal entity (branch, representative office) issued before the Law of the Republic of Kazakhstan dated December 24, 2012 "On Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on State Registration of Legal Entities and Accounting Registration of Branches and Representative Offices" shall be valid until the termination of the legal entity;

- 2) business identification number (individual identification number (for individuals));

- 3) excluded by Decree of the Government of the Republic of Kazakhstan No. 905 dated 04.07.2012 (shall be enforced from the date of official publication);

- 4) an identity document;

- 5) excluded by Decree of the Government of the Republic of Kazakhstan No. 528 dated August 27, 2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

- 6) contracts for the sale and purchase of goods (with additions and changes);
- 7) subsurface use contracts (with amendments and additions) concluded with the Competent Authority of the Republic of Kazakhstan and (or) with the Government of the Republic of Kazakhstan;
- 8) information on investments (stocks) in companies of the Republic of Kazakhstan and foreign countries;
- 9) data on the interconnectedness of the parties;
- 10) a source of information at market prices used in transactions;
- 11) the method proposed for determining the market price;
- 12) a business strategy, which includes a marketing policy (product, marketing, pricing, as well as a policy of promoting a product on the market), a pricing methodology, including information regarding factors that affect pricing, market reputation.

If it is impossible to submit the documents referred to in subparagraphs 6), 7), 8), 9), 10), 11) and 12) of this paragraph, the transaction participant shall submit a written justification on the impossibility of submitting them.

Footnote. Paragraph 3 as amended by Decree of the Government of the Republic of Kazakhstan No. 905 dated 04.07.2012 (shall be enforced from the date of official publication); No. 574 dated 05.06.2013; No. 528 dated August 27, 2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

4. In the case of the sale (purchase) of goods (works, services) to related companies, the transaction participant entering into the Agreement shall also submit documents related to the sale (purchase) of these goods (works, services) to related companies.

5. The Committee shall consider the application of the transaction participant to conclude the Agreement within sixty business days from the date of receipt of the said application from the transaction participant.

In the event of a positive decision on the conclusion of the Agreement, within five working days from the date of the decision, the Committee shall send to the party to the transaction, signed by the Chairman of the Committee or an official charged with fulfilling the duties of the Chairman of the Committee, the Agreement, valid for a period not exceeding three years from the day of its signing.

After the signing by the Chairman of the Committee or the official charged with fulfilling the duties of the Chairman of the Committee, the Agreement shall be sent to the Committee within ten working days from the date of signing.

In the event that a decision is made to refuse to conclude an Agreement, the Committee, within five business days from the date of the decision on the results of consideration of the application of the transaction participant to conclude the Agreement, shall send a written response to the transaction participant with reasons for the refusal to conclude it.

Footnote. Paragraph 5 as reworded by Decree of the Government of the Republic of Kazakhstan No. 528 dated August 27, 2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

6. The Committee shall refuse to conclude the Agreement with the party to the transaction in the following cases:

1) if the transaction participant fails to provide written justification on the impossibility of providing a complete list of documents required for the conclusion of the Agreement and provided for in paragraph 3 of these Rules;

2) if it is possible to apply other methods of determining the market price, taking into account the sequence established by Article 12 of the Law and not provided for in the application of the transaction participant for concluding the Agreement;

3) if it is possible to use other sources of information used to determine the market price, taking into account the sequence established by Article 18 of the Law and not provided for in the application of the transaction participant for concluding the Agreement.

Footnote. Paragraph 6 as amended by Decree of the Government of the Republic of Kazakhstan No. 528 dated August 27, 2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

7. If necessary, the Committee shall request documents (information) related to the concluded Agreement from the following entities:

- 1) state bodies;
- 2) banks, organizations engaged in certain types of banking operations;
- 3) insurance (reinsurance) organizations, insurance brokers ;
- 4) professional participants in the securities market;
- 5) auditors, audit organizations;
- 6) other organizations.

Footnote. Paragraph 7 as amended by the Decree of the Government of the Republic of Kazakhstan No. 528 dated 27.08.2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

8. By mutual agreement of the Committee and the party to the transaction, the Agreement may be terminated earlier than the stipulated validity period, while the terms of the Agreement remain valid until terminated.

Footnote. Paragraph 8 as reworded by Decree of the Government of the Republic of Kazakhstan No. 528 dated August 27, 2018 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).