

Changes in the form of notification about the controlled transactions

News of transfer pricing

Kept review | January 2025



Background

From 2024 changes in the Russian Tax Code (hereinafter – the RTC) came into force with regard to information which should be disclosed within the notification about the controlled transactions (hereinafter – the Notification). On December 28, 2024, the Federal Tax Service of Russia published Order No. ED-7-13/1088@ of 02.12.2024 “On the Approval of the Form, the Procedure for its Completion and the Format for Submitting Electronic Notification about Controlled Transaction” (hereinafter – the “Order”) which contains new form of the Notification, instruction for its filling in and XML format in electronic form. The Order comes into force one month after its official publication (i.e. from January 28, 2025). The taxpayer who performed controlled transactions within 2024 should submit the Notification to the Russian Tax Authorities mandatory according to the provisions of the section V.1 of the RTC. It is required to submit the Notification for CY2024 in a new form before 20 May 2025 in XML format using electronic channels of communications.

The amendments are aimed at disclosing in the Notification more detailed information that the Russian Tax Authorities can receive now only from Russian taxpayers given the increasingly limited interaction with foreign tax authorities. First of all, such changes will affect taxpayers that perform cross-border transactions with goods according to the list of the

Ministry of Industry and Trade (subclause 2 of clause 1 of article 105.14 of the RTC) that fall within special commodity groups (clause 5 of article 105.14 of the RTC):

Oil and oil products

Ferrous metals

Nonferrous metals

Mineral fertilizers

Precious metals and precious stones

The Russian Tax Authorities want to receive details about movement of such goods and to get a clear understanding how value chain is built. From 2024 it is required to report not only the details about controlled transaction with special commodity groups actually performed, but also disclose the data about previous purchase/subsequent resale of such goods.



Details

The following amendments to the form of the Notification are reflected in the published Order:

1. a number of fields that were previously optional are mandatory according to subclause 6 of clause 3 of article 105.16 of the RTC:
 - field 4.6¹ "Pricing methods code" in section 1A;
 - field 4.7 "Source code of information used by the taxpayer" in section 1A;
2. some new fields are added:
 - field 4.3 "Code of the type of the transaction subject as stipulated by subclause 7 of clause 3 of article 105.16 of the RTC" in section 1A (for cross-border transactions in commodities);
 - field 2 "Unique number of contract/loan agreement" in section 1B – applicable for cross-border transactions. This number is given by the Central Bank of Russia for currency control purposes;
 - field 3.6 "Code of the point of delivery, place of transfer of title according to the OKTMO classification" in section 1B;
 - field 3.12 "Amount of the base for royalties calculation in rubles" in section 1B;
 - field 4.1 of section 2 is supplemented with a new classification "foreign structure without formation of a legal entity" (in addition to Russian and foreign organization);
 - field 4.8 "Address (for foreign organizations or foreign structures without formation of a legal entity)" of section 2 is supplemented with additional subfields, including: field 4.8.1 "Room number, house number, street name (avenue, boulevard or other)", field 4.8.2 "District, block name or other", 4.8.3 "Settlement (city, town, village or other) and postal code", 4.8.4 "Region (oblast, krai, state, canton, county, province or other)" and 4.8.5 "Country".
3. The form is supplemented with new sections to be completed for cross-border controlled transactions, the subject of which are goods pursuant to the list of the Ministry of Industry and Trade:
 - section 1B "Information on the transaction of subsequent sale or previous purchase of goods". In this section it is required to disclose the information about all transactions performed step by step before the first independent purchaser or related manufacturer. Its purpose is to provide clarity of pricing in cross-border transactions with special group of commodities;
 - section 1G "Information on services related to the transaction from section 1B". In this section it is required to disclose information about the services related to cross-border transactions with special commodities group of commodities pursuant to the list of the Ministry of Industry and Trade;
 - section 4 "Information on the party to the transaction of subsequent sale or prior purchase of goods".

Based on the proposed amendments, we can conclude that the tax authorities want to receive more information on cross-border controlled transactions from the Notification, including information that was previously mandatory for disclosure only in TP documentation.

Penalty

Failure to provide a Notification by the established deadline or inaccurate completion of certain details in it will result in a penalty of **RUB 100,000**, in accordance with the provisions of Article 129.4 of the RTC, starting from reporting year 2024. In addition, penalties may be imposed on officials - for example, CEO in accordance with article 15.6 of the Code of Administrative Offenses of the Russian Federation.

Please note that previously a penalty of RUB 5,000 was used for this form of reporting. Penalty was multiplied following the adoption of Federal Law No. 539-FZ of 27.11.2023.

¹ Hereinafter the numbering is given in line with the updated form of the Notification.

Problems and questions

The adopted Order clarifies certain points that previously raised questions, in particular:

- How to record subsequent sale transactions if they were made after the reporting calendar year – the cut-off date of April 20 of the year following the reporting year has been set:

if a subsequent sale transaction is carried out outside the calendar year for which the Notification is submitted, but not later than the deadline for the submission of the Notification provided for in clause 2 of article 105.16 of the RTC, reduced by one month, this transaction shall be recorded in section 1B (clause 85 of the Order).

- How to record transactions where the sale of goods on the list of the Ministry of Industry and Trade takes place to multiple retail purchasers:

if field 2.1 “Characteristic of the party to the transaction” of section 1B specifies “3” (i.e. “End retail purchaser of goods”), the total quantity of goods sold to end purchasers with the specified characteristic for the relevant calendar year shall be indicated in field 2.6 “Quantity”, and field 2.9 “Total cost” shall indicate the total final cost of goods excluding VAT and excise duties in rubles or foreign currency, sold to end purchasers with the specified characteristic for the relevant calendar year (clauses 106 and 109 of the Order, respectively);

if field 2.1. of section 1B specifies “3”, section 4 shall not be filled in (clause 154 of the Order).

- It has been clarified what is to be considered a related service to be recorded in Section 1G:

field 2.1 “Name of service” of section 1G specifies the name of the related service affecting the price of goods (clause 114 of the Order).

In addition, based on earlier clarifications, we understand that the value chain is subject to disclosure up to the link after which it does not involve persons related to the taxpayer (Letter of the Federal Tax Service dated 02.08.2024 No. ZG-2-13/11134@ “On the notification by taxpayers to the tax authorities of controlled transactions carried out by them in a calendar year”).

At the same time, a number of questions remain open regarding the recording of information in the new form of the Notification, including:

- logically complex structure of the disclosure, including numbering of sheets, through which it is planned to ensure traceability of the value chain;
- lack of clarification as to what should be specified in clause 1.1.3 “Commentary to clause 1.1.1” of section 1B as a wording of the reason in case of impossibility to determine the transaction of subsequent sale or prior purchase of goods related to a controlled transaction;
- filling in section 1G “Information on related services to a transaction from section 1B”: how to allocate services provided in a complex manner to a specific controlled transaction / group of controlled transactions, whether they should be allocated and by which allocation key, for example, how to allocate the cost of insurance services to controlled transactions if the company's activities are insured as a whole.

In addition to methodological issues, taxpayers also face a number of business issues that need to be resolved in the near future in order to fulfill the obligation to timely file the Notification. The main problematic issue is obtaining data from interdependent counterparties for the disclosure of information on cross-border commodities on the list of the Ministry of Industry and Trade.



Actions

Preparation of Notifications taking into account the changes in the form will require additional labor on the part of taxpayers. To ensure proper completion and filing of a Notification we strongly recommend that you:

- perform a preliminary analysis of the perimeter of controlled transactions to have a clear understanding of the approaches and methods to be used in the preparation of TP documentation – non-compliance of data in the Notification and TP documentation may be treated as a risk indicator; if TP risks are identified – make adjustments before the end of the reporting period;
- set up accounting systems to optimize the collection of data to be disclosed in the Notification;
- determine in advance the approaches to collecting data on controlled transactions and, if necessary, set them as regulations applied at the Group level;
- determine how to prepare a Notification. If your own software is used, it should be modified in line with the current changes to the form of the Notification;
- in relation to controlled cross-border transactions involving goods on the list of the Ministry of Industry and Trade, it is recommended to establish business processes for interaction with foreign group counterparties in order to take steps in advance to obtain all the required information for completing the Notification, including the collection of data on the chain of movement of goods, since a taxpayer may not rely on the refusal of related parties to disclose information on the value chain.



How can we help?

Kept specialists start developing a specialized software for converting Notifications into XML format.

We will be delighted to answer any questions you may have, analyze each specific situation, and provide the following services:

- prepare and convert the Notification into XML in accordance with the updated requirements of the RTC, provided that the company/group provides all the necessary information;
- provide methodological support given the evolving practice of preparing and submitting Notifications.





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