

Abstract: The problematics of transfer pricing in Czech and International tax law

Constant globalization leads to the boom of business and property-related companies, which we call multinational. Multinational companies carry out so-called intra-company transactions within their group of companies under different conditions than they would in normal business. We call these transactions dependent, because they are carried out between affiliates, in an environment that is not competitive but related. Transfer pricing issues are usually associated with tax optimization because, with the help of these transactions, multinationals are able to achieve a lower tax burden. Aggressive tax optimization prevents proper transfer pricing for intra-company transactions. Transfer pricing of intra-company transactions is set up properly if they are in line with the arm length's principle, which in its own way attempts to simulate a competitive environment.

The aim of this work is to outline the regulation of transfer pricing in Czech and International tax law and to analyse the problems of the regulation. In Czech law, the transfer pricing is mainly regulated in the Income Tax Act and in the non-binding instructions of the Ministry of Finance, which rely heavily on international regulation. At international level, the transfer pricing is regulated mainly by Organization for Economic Cooperation and Development (OECD) via OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, which contains a relatively comprehensive regulation to this issue. The European Union and the United Nations are also active in contemporary transfer pricing problematics and regulation.

This thesis is divided into 7 chapters, each chapter dealing with one of the most important transfer pricing concepts. The first chapter deals with transfer pricing in general and also with various reasons for a specific transfer pricing. The second chapter defines the Czech and international concept of associated enterprises, the third chapter deals with the arm's length principle and the arm's length price. The next chapters (3-6) describe and analyse the transfer pricing methods, transfer pricing documentation and advanced pricing agreements. The last chapter deals with the jurisprudence of the Supreme Administrative Court of the Czech Republic, which plays an important role in the application and interpretation of the narrowly regulated transfer pricing.

The work is intended to provide the reader with a knowledge of transfer pricing issues in the Czech and International tax law, analyse weaknesses and to point out some insufficiency in the current regulation.