



## Gordon & Webster Inc.'s services for the transfer pricing documentation

---

### *Transfer pricing rules in Hungary*

Hungary as an OECD Member State has acknowledged that the arm's length principle as defined in Article 9 of the OECD Model Tax Convention is the international transfer pricing standard to be used. The definition is published in the Hungarian legislation in Act LXXXI of 1996 in Section 18 of the Hungarian Corporate and Dividend Tax Act (CDTA), accordingly: „The arm's length price is the price at which a willing buyer and a willing unrelated seller would freely agree to transact”.

The prices used between related companies must be documented according to the regulations of the Hungarian Ministry of Finance. (18/2003 Ministry of Finance operates to 1 January 2010, 22/2009 Ministry of Finance take effect on 1 January 2010). The regulation 22/2009 which came into force on 1 January 2010 modifies the rules how to make transfer pricing documentation. These modifications are reviewed in our letter.

### *Related risk in field of taxation*

Failure to comply with the Hungarian transfer pricing documentation regulations is leads to default penalty (currently 2 M HUF). According to the explanation of the tax authority the above mentioned amount must be understood per contracts (not per documentation).

Transfer pricing adjustments (assuming they are in favor of the tax authority) could not only increase the tax liability of the taxpayer but also result in a tax penalty of 50% on any additional tax payable plus interest on late payment of tax at twice the base rate of the National Bank of Hungary. Regarding transfer pricing it has to take into account the risk of double taxation when a 'corresponding adjustment' is not accepted by the partner.

# GORDON & WEBSTER



CONSULTING AND INVESTMENT INC.

The table below aimed to present the most important changes in the Regulation of Ministry of Finance:

	<u>Regulation of Ministry of Finance 18/2003</u>	<u>Regulation of Ministry of Finance 22/2009</u>
<b><i>Personal scope</i></b>	The obligation concerns companies not apply to small or micro enterprises (as defined in Section 3, Act XCV of 1999) and having transactions/contracts with other related companies.	These criteria are modified in the new regulation: transactions between Hungarian company and its abroad located site must be registered. Moreover the votes of close relatives in different companies must be summed up and taken into account as a vote of one shareholder.  So the range of associated enterprises has flared.
<b><i>Principle</i></b>	Only the information known at the moment of completion or at the end of tax year must be used in documentation.	The information known at the moment of the related transaction, modification of the contract or execution of the contract can be used in the documentation.
<b><i>Languages of the documentation</i></b>	There are no provisions for the language of the documentation.	The taxpayer is not obliged to make the documentation in Hungarian language, but it is translated for the notice of tax authority.
<b><i>Simplified documentation</i></b>	There is an opportunity to simplify documentation, if the total value of transactions (belonging to one contract) does not exceed HUF 50 million (net value). The opportunity shouldn't use in case of contract which are valid for indefinite period.	The amount limit (relative to HUF 50 million) applies to the following: from the date of contracting to the last day of the tax year.



## ***2010. - New forms of documentation***

### ***Separate documentation***

Separate documentation is a new notion which can be found in the Regulation of Ministry of Finance 22/2009. The expression means and covers the same as the well-known, evolved documentation practice which was valid before. The installation of this notion was essential to make difference between separate and collective documentation.

### ***Transfer pricing documentation accepted in European Union (EU TPD)***

EU TPD is a register form made by international transfer pricing forum. It was introduced to establish a standard regulation within the European Union.

The experiences of the past show that more and more company wants to comply with the transfer pricing regulations by making documentation centrally. There are two main part of the EU TPD in the case of a multinational company:

- the so-called „main documentation” which should contain information for all of the member of the EU-groups,
- and the „country-dependent documentation” which contains specific information regarding transactions at Hungarian company.

*The main documentation contains information for the company group, the functions of the companies and business strategy of the group, the types of the transactions, while the country-dependent documentation includes the contracts in detail, focused for the company.*

***The usage of EU TPD is optional, but it must be indicated in the return of income if the company makes this type.***

# GORDON & WEBSTER



CONSULTING AND INVESTMENT INC.

## *Gordon & Webster Inc.*

### *Who we are*

The consultancy company Gordon & Webster Inc. was founded in 1997 and currently coordinates the activities of four national branches in the Central European region by the local offices in order to create value for its present and future clients. The permanent staff of 50 people, including professionals and consultants with domestic and international experience is supported by a wide range of external partners with flexible structures. The main activity of Hungarian office is providing of professional consulting services on the local market. Our company is partner of international consulting companies and leader developer enterprises. In 2006 we opened the Czech office of Gordon & Webster Inc.

### *What we believe in*

We believe in our work, we believe in the strength of the teamwork and cooperation, we believe in professionalism. We expect that our people spend clients' and our firm's resources as if their own resources were in stake. Our aim is to deliver the best of our firm as cost effectively as we can. The client's interest we put ahead of our own. It doesn't mean doing whatever client asks if it is in conflict with targeted value. We stay independent and able to disagree, regardless of the popularity of our views in order to deliver finally the best for our clients.

Our success and satisfaction from our work begins with our successful and satisfied clients.

### *What we do*

Gordon & Webster Inc. serves excellent service portfolio in the consultancy areas, when it has a significant experience. We focus our activities on the consultancy in the areas of classic crisis management, strategic management, controlling, transfer pricing, ERP and IT systems. We focus on the Tax and Controlling consulting, furthermore HR consults, Organisation Development, Management and ERP & IT systems consulting. The Tax Services Consulting includes the transfer pricing, the classic corporate tax consulting, the TVA recuperation, the international tax optimization, and the implementation of TVA group.

Our clients especially appreciate a complex offer and high standard of our services, deep knowledge of a wide range of industrial branches, services provided in Hungarian, English, German, Czech, or Croatian and a unique opportunity to take advantage of our experience both on the local and international levels with a focus on individual needs of each client. We use our multinational network to deliver the best to all clients in each situation. We earn our clients' trust through our complete commitment, our individual behaviour, the quality of our work, and superior service. Each of our clients support the innovation in its business practise and this fact made their success.



*How can we serve you?*

Our professionals' aim is to reduce our clients' risks stemming from taxation as much as possible by providing solutions in transfer pricing problems.

### *Our services relative to the documentation*

- ***Qualification of the company***

Does your company need a transfer pricing documentation? We analyze the parameters of your company and answer the question;

- ***Audit***

Monitoring the documentation made by the company in reference to the Hungarian tax rules.

- ***EU transfer pricing documentation***

Alteration of the EU TPD made at higher group level in conformity with the Hungarian rules;

- ***Separated documentation***

Assistance in the completion of transfer pricing documentation in accordance with the Hungarian rules;

- ***AMADEUS benchmark study***

Sector analysis accordingly the Hungarian controlling system used by the database (called AMADEUS), which gives a general idea of the prices used by the company.

- ***Prior price performance***

Prior performance of transaction is the price performance of the products or services at the holding.

# GORDON & WEBSTER



CONSULTING AND INVESTMENT INC.

*As you have resort to our services,*

- can establish an explainable transfer pricing practice for the future with our help you;
- you can get a clear picture about the market prices of the products and services sold and offered within the group.
- the chance of disputes with the authority can be reduced.

\*\*\*

Should you have any questions regarding our transfer pricing services, please do not hesitate to contact us,

***Zsombor Huvosvolgyi***

***Sales Manager***

***Gordon & Webster Inc.***

Mobile: +36 20 388 73 16

E-mail: [zsombor.huvosvolgyi@gordon-webster.com](mailto:zsombor.huvosvolgyi@gordon-webster.com)

Address: 1138 Budapest, Révész u. 27.

Post: 1439 Budapest, Pf: 632.

Phone: +36 21 380 16 80

Fax: +36 1 789 48 05

Internet: [www.gordon-webster.com](http://www.gordon-webster.com)