The Law of the Republic of Kazakhstan

On transfer pricing

 (with changes and additions as of 01.01.2018.)

Article 1. The legislation of the Republic of Kazakhstan on transfer pricing

Article 2. The basic concepts used in this Law

Article 3. Control over transfer pricing

Article 4. The powers of the competent authorities

Article 5. Rights and obligations of the parties to the transaction and members of the international group

Article 5-1. Statement of participation in the international group

Article 6. Monitoring of transactions

Article 7. Reporting on monitoring of transactions and transfer pricing

The article 7-3. Cross-country reporting

Article 7-4. Use of transfer pricing reporting for tax purposes

Article 8. Interaction of authorized bodies with other organizations

Article 9. Conducting transfer pricing audits

Article 10. Adjustment of objects of taxation and (or) objects related to taxation

Article 10-1. Determination of the market price and adjustment of objects of taxation and (or) objects related to taxation in certain cases

Article 11. Determination of the interconnectedness of the parties

Article 12. Market price determination methods

Article 13. Comparable uncontrolled price method

Article 14. The method of "cost plus»

Article 15. Follow-up price method

Article 16. The profit split method

Article 17. Net profit method

Article 18. Sources of information used to determine the market price

Article 19. Responsibility for violation of the legislation of the Republic of Kazakhstan on transfer pricing

Article 20. The order of entry into force of this Law

This Law regulates public relations arising from transfer pricing in order to prevent loss of state revenue in international business transactions and transactions related to international business transactions.

**Article 1. The legislation of the Republic of Kazakhstan on transfer pricing**

1. The legislation of the Republic of Kazakhstan on transfer pricing is based on the Constitution of the Republic of Kazakhstan, consists of this Law and other regulatory legal acts.

2. If an international Treaty ratified by the Republic of Kazakhstan establishes rules other than those contained in this Law, the rules of the international Treaty shall apply.

*Article 2 is set out in the wording Of the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.)*

**Article 2. The basic concepts used in this Law**

The following basic concepts are used in this Law:

1) price from sources of information-the price received from officially recognized sources of information, data on exchange quotations, from authorized bodies, as well as from other sources of information;

2) price range - a number of market price values limited to the minimum and maximum values of market prices determined as a result of the application of one of the methods of determining market prices or sources of information in the manner prescribed by this Law;

*Article added by subsection 2-1 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

2-1) control-control determined in accordance with international financial reporting standards or other internationally recognized financial reporting standards adopted by stock exchanges for the admission of securities to trading.

The term "control" is used for transfer pricing reporting purposes;

*Paragraph 3 is stated in edition of Law of RK dated 05.12.13 g. № 152-IV (introduced with effect from 1 January 2014) (see the old. ed.)*

3) quotation period - the period of pricing, but not more than thirty-one consecutive calendar day, for which published quotations of prices on the exchange, established in the contract for the sale of goods (works, services), during which, in accordance with the terms of the transaction, the parties to the transaction is determined by the arithmetic mean of the daily quotations of prices for the relevant exchange goods (works, services), as well as non-exchange goods, the prices of which are tied to the quotations on the exchange goods.;

*The article is supplemented by sub-paragraph 3-1 in accordance with the law of the Republic of Kazakhstan dated 05.12.13 № 152-V (effective from January 1, 2014)*

3-1) quotation day - a day in which there is a published quotation for a product (work, service) in officially recognized sources of information;

4) identical goods ( works, services) - the goods( works, services) having the same characteristic for them main signs: physical characteristics, quality and reputation in the market, the country of origin and the producer;

5) the corresponding market of identical (and in their absence - homogeneous) goods ( works, services) - the market of appointment (delivery) of goods (works, services) on which the market price, or the market on the basis of which in the market of appointment (delivery) of goods (works, services) objectively forms and (or) the market price is defined;

6) homogeneous goods ( works, services) - goods (works, services) which, not being identical, have similar characteristics and consist of similar components that allows them to carry out the same functions and to be interchangeable;

7) differential-the amount of adjustment applied to bring the transaction price or the price from the source of information into comparable economic conditions;

8) state with preferential taxation-a foreign state determined in accordance with the tax legislation of the Republic of Kazakhstan;

9) Commission (Agency) fee - a fee for the services of a trading broker, trader or agent for the purchase and sale of goods, performance of work, provision of services, paid in the form of an amount or a percentage of the amount of the transaction, provided for by a separate agreement between the transaction participant and the trading broker, trader or agent;

10) the transaction made in the territory of the Republic of Kazakhstan, directly interconnected with the international business operation, - the transaction on purchase and sale of goods, performance of works, rendering services which in the subsequent were the subject of the international business operation;

*Article supplemented by subparagraph 10-1 in accordance with the law of the Republic of Kazakhstan dated 05.12.13 g. № 152-V (effective from 1 January 2014); set out in the wording Of the law of the Republic of Kazakhstan dated 25.12.17 g. № 122-VI (effective from 1 January 2016) (see star. ed.)*

10-1) financial year - the period for which the annual consolidated financial statements of the international group are prepared;

*Article added by subsection 10-2 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

10-2) adverse social and economic consequences-a set of social and economic consequences that hinder the realization of national interests or create a danger to them, as well as threaten the sustainable development of the national economy;

11) economic justification of the applied price-documents and information confirming the validity of the transaction price and provided to the authorized bodies;

12) the arm's length principle-the principle applied to determination of the market price taking into account the range of prices on the basis of comparison of conditions of transactions between the interconnected parties with conditions of transactions between the independent parties performing transactions at the market price determined in the order established by this Law;

13) margin - the amount received by a trading broker, trader or agent as a result of transactions for the sale of goods, works, services;

14) margin range - a range of values limited by the minimum and maximum market margin values determined in accordance with the arm's length principle in comparable economic conditions;

15) transaction price - the price of goods (work, services) used by the parties to transactions in the transaction regulated by this Law;

16) party to the transaction - a natural or legal person who has concluded a transaction regulated by this Law;

*Sub-paragraph 17 was amended in accordance with the law of the Republic of Kazakhstan dated 05.07.11 № 452-IV (put into effect three months after its first official publication) (see star. ed.); outlines of the law of the RK of 29.09.14 No. 239-V (see the old. ed.); law of the Republic of Kazakhstan dated 07.11.14 g. № 248-V (see star. ed.)*

17) transaction monitoring reports - data on transactions, including transactions with transfer prices made during the reporting period, submitted by the transaction participant to the state revenue authorities annually in accordance with the procedure and form approved by the authorized body;

18) market price - the price of goods (work, services), formed in the interaction of supply and demand in the market of identical (and in their absence - homogeneous) goods (works, services) in comparable economic conditions, determined in accordance with the principle of " arm's length»;

19) the range of profitability standards-a number of values of profitability standards limited to the minimum and maximum values of profitability standards defined according to the arm's length principle in comparable economic conditions;

20) the rate of return-the ratio of accounting profits from core activities derived from the sale of goods (work, services) to the cost of production and sale of the goods (work, services);

21) tax benefits-exemption( reduction) from tax liabilities for certain categories of taxpayers, availability of investment tax preferences in accordance with the investment contract or implementation of activities in the territory of special economic zones;

22) comparable economic conditions - conditions of transactions in the market of identical (and in their absence - homogeneous) goods (works, services), if the difference between such conditions does not affect the price or can be adjusted in order to bring the conditions of transactions to comparable economic conditions in accordance with this Law;

23) trading broker, agent-a person performing intermediary services in accordance with the terms of the Agency agreement concluded with the transaction participant;

24) compensation for the performance of trade and intermediary functions-compensation of one of the parties to the transaction in the form of monetary compensation or a discount (price reduction) to the price of the sale of goods (work, services) for the implementation of trade and intermediary services;

25) transfer price (transfer pricing) - the price which is formed between the interconnected parties and (or) differs from objectively forming market price taking into account the range of prices at transactions between independent parties which is subject to control according to this Law;

26) transfer pricing agreement - a written agreement between the authorized bodies and the party to the transaction establishing the method of determining the market price and the source of information used to determine the market price for a certain period;

27) trader-a person who carries out intermediary functions in the purchase and sale of goods, performance of works, provision of services independently and (or) on behalf of the transaction participant;

28) end user - an independent party that does not have a special relationship with the parties to the transaction, which has an impact on the economic results of the transaction carried out by such parties;

*Article added by subsection 28-1 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

28-1) revenue - income from the sale of goods, works and services determined in accordance with international financial reporting standards or other internationally recognized financial reporting standards adopted by stock exchanges for the admission of securities to trading;

*Sub-item 29 is contained in the wording of Law of RK dated 07.11.14, No. 248-V (see the old. ed.)*

29) authorized body-state revenue body of the Republic of Kazakhstan;

30) long-term price-the transaction price set for a certain period in the officially recognized sources of information and (or) the contract (agreement) between the parties to the transaction;

*The article is supplemented by subparagraph 30-1 in accordance with the law of the Republic of Kazakhstan dated 25.12.17 № 122-VI (effective from 1 January 2016)*

30-1) international group-a set of persons who are members of an international group, including the parent company of such an international group, which simultaneously meet the following conditions:

the set of persons specified in the first paragraph of this subparagraph includes at least one person who is recognized as a resident of the Republic of Kazakhstan or is not recognized as a resident of the Republic of Kazakhstan, but carries out business activities in the Republic of Kazakhstan through a structural unit, a permanent establishment;

are interconnected through control and (or) participation;

in respect thereof, consolidated financial statements or financial statements of which are not taken into account in the preparation of consolidated financial statements solely on the basis of the size or materiality of such persons in accordance with international financial reporting standards or other internationally recognized financial reporting standards adopted by stock exchanges for the admission of securities to trading;

*Article added by subsection 30-2 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

30-2) member of an international group-a person who meets one of the following conditions:

the parent company of an international group;

a person carrying out business activities in respect of which the consolidated financial statements of an international group are prepared or consolidated financial statements would be prepared (in the absence thereof) if the securities of such person would be admitted to trading on the stock exchange;

a person carrying out business activities whose financial statements are not included in the consolidated financial statements of an international group solely because of the size or materiality of such person's data in accordance with international financial reporting standards or other internationally recognized financial reporting standards adopted by stock exchanges for the admission of securities to trading;

a structural subdivision or permanent establishment of a person defined in paragraphs two and (or) three and (or) four of this sub-paragraph, in respect of which separate financial statements are prepared for the purposes of internal control or financial, tax or other regulatory reporting of the person who created such structural subdivision or permanent establishment;

*Article added by subsection 30-3 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

30-3) authorised member of an international group - a member of an international group who is not the parent company of an international group but who is authorised:

the parent company of the international group to prepare and (or) submit on behalf of the international group cross-country reporting and which in legal relations on submission of cross-country reporting exercises the same rights and obligations as the parent company of the international group,

*The third subparagraph 30-3 is put into effect since January 1, 2019*

a member of the international group to prepare and (or) to submit on behalf of the international group or such participant basic reports and (or) local reporting in the state (territory) of residence (which) is another member of the international group, which provided the appropriate authority, or in which (on which) such member of the international group carries on business through a structural unit, permanent establishment. The authorized participant in legal relations on submission of the main reporting and (or) local reporting exercises the same rights and obligations as other participant of the international group who transferred the corresponding powers.

Actions (inaction) of the authorized participant of the international group in the legal relations regulated by this Law shall be recognized as actions( inaction) of the participant of the international group who granted the relevant powers to the authorized participant of the international group;

*Article added by subsection 30-4 in accordance with Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

30-4) parent company of an international group-a member of an international group that meets the following conditions at the same time::

such participant directly and (or) indirectly participates in the authorized capital of other members of the international group and the share of such participation is sufficient to ensure that the consolidated financial statements are prepared in respect of members of the international group;

such a participant does not have another parent company over him;

no other member of an international group shall satisfy all the conditions specified in this subparagraph at the same time;

31) international business transactions-export and (or) import transactions for the purchase and sale of goods; transactions for works, services, one of the parties of which is a non-resident operating in the Republic of Kazakhstan without a permanent establishment; transactions of residents of the Republic of Kazakhstan, committed outside the territory of the Republic of Kazakhstan, for the sale of goods, works, services;

*The article is supplemented by sub-paragraph 32 in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

32) consolidated financial statements - financial statements of an international group prepared in accordance with international financial reporting standards or other internationally recognized financial reporting standards adopted by stock exchanges for the admission of securities to trading, in which the assets, liabilities, capital, income, expenses and cash flows of the parent company of the international group and other members of the international group are presented as assets, liabilities, capital, income, expenses and cash flows of one person.

*Article 3 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. ed.); law of the Republic of Kazakhstan dated 30.06.10 № 297-IV (effective from July 1, 2010) (see star. edition); Law of RK dated 26.12.17, No. 124-VI (introduced from 1 January 2018) (see the old. ed.)*

**Article 3. Control over transfer pricing**

1. Transfer pricing control (hereinafter referred to as control) is carried out on the following transactions:

1) international business operations.

However, for the purposes of this subparagraph:

export of goods - export of goods from the territory of the Republic of Kazakhstan, carried out in accordance with the customs legislation of the Eurasian economic Union and (or) the Republic of Kazakhstan, as well as the export of goods from the territory of the Republic of Kazakhstan to the territory of another member state of the Eurasian economic Union;

import of goods - import of goods into the territory of the Republic of Kazakhstan, carried out in accordance with the customs legislation of the Eurasian economic Union and (or) the customs legislation of the Republic of Kazakhstan, as well as the import of goods into the territory of the Republic of Kazakhstan from the territory of another member state of the Eurasian economic Union;

2) committed in the territory of the Republic of Kazakhstan, directly related to international business operations:

on marketable mineral resources extracted by a subsoil user being a one of the parties;

one of the parties which has tax benefits;

one of the parties which has a loss according to tax returns for the last two tax periods preceding the year of the transaction.

2. Control is carried out by the authorized bodies:

1) transaction monitoring;

(2) inspections;

3) other procedures established by the laws of the Republic of Kazakhstan.

3. The order of interaction of the authorized bodies during the control carried out in accordance with this Law shall be determined by the authorized bodies.

*See: Order of The Chairman of the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan dated June 7, 2010 № 249 "on the distribution of control functions in transfer pricing", letter No. NK-13-18/11651 Dated November 21, 2009*

*Article 4 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. ed.)*

**Article 4. The powers of the competent authorities**

1. The authorized bodies for the purposes of control have the right to:

1) request from the parties to the transaction, government agencies and third parties the information necessary to determine the market price and differential, as well as other data for the monitoring of transactions;

2) excluded in accordance with the Law of the RK from 13.01.14, № 159-V (see the old. ed.)

3) monitor transactions;

4) excluded in accordance with the Law of the RK from 13.01.14, № 159-V (see the old. ed.)

5) excluded in accordance with the Law of the RK from 13.01.14, № 159-V (see the old. ed.)

Sub-paragraph 6 was amended in accordance with the law of the Republic of Kazakhstan dated 05.07.11 № 452-IV (put into effect three months after its first official publication) (see star. ed.)

6) enter into an agreement on the application of transfer pricing in the manner approved by the Government of the Republic of Kazakhstan;

*The paragraph is supplemented by subparagraph 7 in accordance with the Law of RK dated 25.12.17, No. 122-VI.*

*From 1 January 2016 to 1 January 2019, agenda item 7 acts in the wording of article 6*

7) send a request to the member of the international group for the submission of inter-country reporting for the financial year to the authorized body in the cases established by article 7-3 of this Law.

2. It is excluded according to the law of RK of 05.07.11 No. 452-IV (put into effect after three months after its first official publication) (see star. ed.)

3. The authorized bodies are obliged to:

*Paragraph 1 is stated in edition of Law of RK dated 25.12.17, No. 122-VI (introduced from 1 January 2016) (see the old. ed.)*

1) to respect the rights of the parties to the transaction and the participants of the international group, which are subject to the provisions of this Law;

2) to protect the interests of the state;

3) consider the economic justification of the applied price, including the documents confirming the transaction price and the differential, information on application of one of methods of determination of the market price and other information confirming validity of the applied price;

3-1) consider the application of the transaction participant to conclude an agreement on the application of transfer pricing within ninety working days from the date of receipt of the application from the transaction participant;

3-2) send a written response to the transaction participant with the reasons for refusal to conclude an agreement on the application of transfer pricing within five working days from the date of the decision on the results of consideration of the transaction participant's application;

4) explain the procedure for filling in the forms of established reporting on transaction monitoring;

5) observe the secrecy of information obtained during the control;

6) to review the complaints of the parties to the transaction on the results of the audit in accordance with the laws of the Republic of Kazakhstan.

Paragraph 4 is set out in the wording Of the law of the Republic of Kazakhstan dated 05.07.11 № 452-IV (put into effect after three months after its first official publication) (see star. ed.)

4. The authorized bodies shall perform other powers provided by this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

*Article 5 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. edition); stated in the edition of Law of RK dated 25.12.17, No. 122-VI (introduced from 1 January 2016) (see the old. ed.)*

**Article 5. Rights and obligations of the parties to the transaction and members of the international group**

1. Participants of the transaction and participants of the international group have the right:

1) provide to the authorized bodies the economic justification of the applied price, including the documents confirming the price of the transaction and the differential, information on application of one of methods of determination of the market price and other information confirming the applied price;

2) receive information and explanations from the authorized bodies on the legislation of the Republic of Kazakhstan on transfer pricing;

3) represent their interests in matters arising in connection with the implementation of control, in person or through a representative or with the participation of a tax consultant;

4) to provide the authorized bodies with the economic justification of the applied price and other information confirming the applied price in the course of control and appeal of the notification on the results of the tax audit;

5) appeal against notifications on acts of inspections and actions (inaction) of officials of authorized bodies in the manner determined by the laws of the Republic of Kazakhstan;

6) independently adjust the transaction price and (or) objects of taxation, as well as objects related to taxation before checking;

7) enter into agreements with the authorized bodies on the application of transfer pricing.

*Part two of paragraph 1 of article 5 is valid from January 1, 2016 to January 1, 2019 in the wording of article 7*

In this case, a member of the international group also has the right to authorize another member of the international group to prepare and (or) submit on its behalf cross-country reporting.

2. Participants of the transaction and participants of the international group have other rights established by the laws of the Republic of Kazakhstan.

3. The parties to the transaction must:

1) perform duties in accordance with this Law on time and in full;

2) comply with the legal requirements of the authorized bodies;

3) keep records and documentation confirming the validity of the applied transaction price;

4) submit to the authorized bodies information and reports on the monitoring of transactions, as well as other documents in the manner prescribed by this Law.

At the request of the authorized bodies, the transaction participant shall submit information and documents confirming the validity of the applied transaction price within ninety calendar days;

5) at the request of the authorized bodies, during inspections, provide economic justification of the applied price, including documents confirming the price of the transaction and the differential, information on the use of one of the methods of determining the market price and other information confirming the applied price.

*Item 4 is valid from January 1, 2018 to January 1, 2019 in the wording of article 9 of the law of the Republic of Kazakhstan dated 25.12.17 № 122-VI (see the version effective from January 1, 2019) (see star. ed.)*

4. Members of an international group are required to::

1) perform duties in accordance with this Law on time and in full;

2) comply with the legal requirements of the authorized bodies;

3) submit to the authorized body an application for participation in an international group in accordance with article 5-1 of this Law;

4) conduct a cross-country reporting, if a party to the international group charged with the responsibility or reporting requirement of such reporting;

5) submit to the authorized body inter-country reporting in cases established by article 7-3 of this Law;

6) at the request of the authorized body, to submit inter-country reports in accordance with the provisions of this Law.

5. Parties to transactions and members of an international group shall perform other duties provided for by this Law.

*The law is supplemented by article 5-1 in accordance with the law of the Republic of Kazakhstan dated 25.12.17 № 122-VI (effective from 1 January 2018)*

Article 5-1. Statement of participation in the international group

1. A member of an international group shall submit to the authorized body an application for participation in the international group not later than 1 September of the year following the reporting financial year.

The application form and the procedure for its completion shall be approved by the authorized body.

2. The obligation to submit an application for participation in an international group rests with the following members of the international group:

1) parent company of the international group, which is a resident of the Republic of Kazakhstan;

2) an authorized member of an international group (if transfer pricing reporting is to be submitted by an authorized member of an international group);

3) a resident who is a member of an international group and is not the parent company of an international group or an authorized member of an international group, if there is an obligation or requirement to report on transfer pricing in accordance with this Law;

4) a non-resident who is a member of an international group and carries out business activities in the Republic of Kazakhstan through a structural unit, permanent establishment, if there is an obligation or requirement to report on transfer pricing in accordance with this Law.

3. If a member of an international group finds incomplete information, inaccuracies or errors in filling in the submitted application for participation in an international group, such member shall submit an amended application taking into account the updated information.

At the same time, the period established by paragraph 1 of this article shall not apply to the submission of an amended application.

4. Failure by a member of an international group to submit an application for participation in an international group or submission by such member of an international group to an authorized body of an application containing inaccurate information shall entail liability in accordance with the laws of the Republic of Kazakhstan.

*Article 6 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.)*

**Article 6. Monitoring of transactions**

1. Monitoring of transactions is carried out by monitoring the prices applied by the participants of transactions by the authorized bodies.

*Paragraph 2 is stated in edition of Law of RK of 29.09.14 No. 239-V (see the old. ed.)*

2. International business transactions on goods (works, services), the list of which is approved by the authorized body, are subject to monitoring.

3. According to the results of monitoring of transactions in the event of a deviation of the transaction price from the market price by the authorized bodies is checked on transfer pricing.

*Paragraph 4 was amended in accordance with the law of the Republic of Kazakhstan dated 05.07.11 № 452-IV (put into effect three months after its first official publication) (see star. ed.); outlines of the law of the RK of 29.09.14 No. 239-V (see the old. ed.)*

4. The rules for monitoring transactions are approved by the authorized body and include the procedure for filling in the approved forms of reporting by the transaction participant for monitoring transactions and their submission to the authorized bodies, as well as the procedure for maintaining documentation for monitoring transactions.

*See: Letter no. NK-05-22/8102 of the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan dated 25 August 2009*

*Article 7 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.); law of the Republic of Kazakhstan dated 07.11.14 g. № 248-V (see star. edition); stated in the edition of Law of RK dated 25.12.17, No. 122-VI (see the old. ed.)*

*From January 1, 2016 to January 1, 2019 article 7 is valid in the wording of article 10 of the law of the Republic of Kazakhstan dated 25.12.17 № 122-VI*

**Article 7. Reporting on monitoring of transactions and transfer pricing**

1. Transaction monitoring reporting includes the following information:

1) documentation confirming the validity of the application of prices, including:

the data of the interconnection of the parties;

description of business activity of the transaction participant, the industry in which the transaction participant operates, and market conditions;

forecasts, business strategy, transfer pricing methodology, including information regarding factors that affect pricing;

functional analysis, risk analysis, tangible and intangible assets;

reports on international standards, including financial statements;

2) the method used to determine the market price;

3) source of information;

4) information on transactions specified in article 3 of this Law, containing information from contracts (contracts), invoices (invoices), declarations for goods, information provided by financial institutions, as well as other necessary to determine the differential;

5) description of goods (works, services), including physical characteristics, quality and reputation in the market, country of origin and manufacturer, the presence of a trademark and other information related to the quality characteristics of the goods (works, services);

6) contractual terms;

7) the strategy of the business;

8) margin, Commission (Agency) remuneration of a trading broker, trader or agent or compensation for the performance of their trading and intermediary functions. In this case, the participant of the transaction provides information that discloses the components of the margin, if such information is available to the participants of the transaction, and if the margin includes a Commission (Agency) fee of the trading broker, trader or agent or compensation for the performance of trade and intermediary functions, the authorized bodies do not take these components into account;

9) other data that justify the correct application of the transaction price and affect the amount of deviation of the transaction price from the market price.

Information in subparagraphs 1), 5), 6), 7), 8) and 9) the first part of this article shall be submitted to the authorized body in the event of such conditions and data affecting the amount of deviation of the transaction price from the market price in transactions regulated by this Law.

2. Participants of transactions, including transactions with goods that are not subject to monitoring of transactions in accordance with this Law, are required to maintain documentation confirming the validity of the applied price, submitted to the authorized body at its request.

3. Transfer pricing reporting provided by a member of an international group includes cross-country reporting.

The form of inter-country reporting and the procedure for its completion shall be approved by the authorized body.

The reporting provided for in this paragraph, containing information constituting state secrets in accordance with the legislation of the Republic of Kazakhstan on state secrets, shall be submitted in the part that does not contain information constituting state secrets.

In the event that a member of an international team finds incomplete information, inaccuracies or errors in completing the reporting, such member shall be required to submit adjusted reporting in the light of the updated information.

At the same time, the reporting deadlines established by this Law shall not apply to the submission of adjusted financial statements.

*The law is supplemented by article 7-1 in accordance with the Law of RK dated 25.12.17, No. 122-VI (shall be enforced from January 1, 2019.)*

Article 7-1. Local Reporting

1. Local reporting for the reporting fiscal year shall be submitted by a member of an international group to the authorized body no later than 12 months following the reporting fiscal year.

2. Unless otherwise established by paragraph 3 of this article, the obligation to submit local reports lies with the following members of an international group:

1) the parent company of an international group that is a resident of the Republic of Kazakhstan;

2) an authorized member of an international group (if local reporting is to be submitted by an authorized member of an international group);

3) a resident who is a member of an international group and is not the parent company of an international group or an authorized member of an international group;

4) a non-resident who is a member of an international group and carries out entrepreneurial activities in the Republic of Kazakhstan through a structural unit, a permanent establishment.
Despite the provisions of subparagraph 3) or 4) of this paragraph, if local reporting is submitted by an authorized member of an international group on behalf of the person referred to in subparagraph 3) or 4) of this paragraph, the obligation to submit local reporting is considered fulfilled by such person.

3. The provisions of this article apply to a member of an international group (with the exception of that specified in subparagraph 2) of paragraph 2 of this article) who completed the transactions specified in article 3 of this Law and for which the amount of revenue in accordance with its financial statements for the fiscal year preceding the reporting fiscal year, is at least a five-million-month monthly calculation indicator established by the law on the republican budget and in effect on January 1 fiscal year.

*The law is supplemented by article 7-2, in accordance with the Law of RK dated 25.12.17, No. 122-VI (shall be enforced from January 1, 2019.)*

Article 7-2. Master reporting

1. Basic reporting for the reporting fiscal year is submitted by a member of an international group to an authorized body upon request.
The main accounts for the reporting fiscal year are submitted by a member of an international group to an authorized body no later than 12 months from the date on which the member of the international group received the requirement to submit such reports.
At the same time, the obligation to submit the main statements is considered fulfilled if a member of the international group is presented with a notarized copy of the main accounts of the parent company of the international group that is a non-resident or an authorized member of the international group (in case the parent company of the international group granted such member of the international group the authority to submit main reporting), containing information similar to the main information o reporting, the requirements for the preparation of which are established by the legislation of the Republic of Kazakhstan on transfer pricing. In the event that the main statements are submitted by the parent company of an international group or an authorized member of an international group to the competent authority of a foreign state in electronic form, notarization of a copy of such statements is not required.

2. Unless otherwise provided by clause 3 of this article, the obligation to submit basic reports upon the request of an authorized body applies to the following members of an international group:

1) the parent company of an international group that is a resident of the Republic of Kazakhstan;

2) an authorized member of an international group (if the main reporting is to be submitted by an authorized member of an international group);

3) a resident who is a member of an international group and is not the parent company of an international group or an authorized member of an international group;

4) a non-resident who is a member of an international group and engages in business activities in the Republic of Kazakhstan through a structural subdivision, a permanent establishment, if the parent company of an international group or an authorized member of an international group (in case the main reporting is subject to submission by an authorized member of an international group) is not a resident of the Republic Kazakhstan.
If the main accounts are submitted by an authorized member of an international group on behalf of the person referred to in subparagraph 3) or 4) of this paragraph, or the parent company of the international group to which the person referred to in subparagraph 3) or 4) of this paragraph belongs, in the order determined by the authorized body, the obligation of the person specified in subparagraph 3) or 4) of this paragraph, upon submission of the main accounts upon request, is authorized.

*The law is supplemented by article 7-3, in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

Article 7-3.Intercountry reporting

1. The intercountry reporting for the financial year under review shall be submitted to the authorized body by a member of the international group referred to in paragraph 2 of this article no later than 12 months following the reporting financial year.

The intercountry reporting for the financial year under review shall be submitted by the member of the international group referred to in paragraph 3 of this article to the authorized body at its request not later than 12 months from the date of receipt by the member of the international group of the requirement for intercountry reporting.

The obligation to submit the intercountry reporting is considered to be executed in case of submission of a party to the international group notarized copies of social security statements for a parent company of an international group being a non-resident or authorized member of the international group (in the case that the parent company of an international group provided to such participant of an international group authority to represent inter-country reporting) that contains information similar to the information on cross-country reporting, requirements for the preparation of which are established by the legislation of the Republic of Kazakhstan on transfer pricing. If intercountry reporting is submitted by the parent company of an international group or by an authorized member of an international group to the competent authority of a foreign state in electronic form, notarization of a copy of such reporting is not required.

2. Unless otherwise established by paragraph 4 of this article, the obligation to submit the intercountry statements rests with the following parties to the international group:

1) parent company of the international group, which is a resident of the Republic of Kazakhstan;

(2) an authorized member of an international group (if the parent company of the international group referred to in subparagraph (1) of this paragraph has given such member of the international group the authority to report between countries).

3. Unless otherwise specified in paragraph 4 of this article, the obligation to submit inter-country reporting at the request of the authorized body shall apply to the following members of the international group:

1) a resident who is a member of an international group and is not the parent company of an international group or an authorized member of an international group, subject to one of the following conditions:

the parent company of the international group or an authorized member of the international group (if the parent company of the international group has granted such member of the international group the authority to submit cross-country reporting) is not a resident of the Republic of Kazakhstan and has no obligations to submit cross-country reporting in accordance with the legislation of the state (territory);

the parent company of the international group or an authorized member of the international group (if the parent company of the international group has granted such member of the international group the authority to submit inter-country reporting) has not fulfilled its obligations to submit inter-country reporting (if the authorized body has information, including information received from the competent authority of a foreign state (territory));

a state (territory) in which the parent company of an international group or an authorized member of an international group (if the parent company of an international group has granted such a member of an international group the authority to submit inter-country reporting) is a resident, does not have a valid international Treaty (agreement) with the Republic of Kazakhstan providing for the provision on exchange of information on tax matters;

a state (territory) in which the parent company of an international group or an authorized member of an international group (if the parent company of an international group has granted such member of an international group the authority to submit inter-country reporting) is resident, allows for the systematic failure to perform obligations for the automatic exchange of information with the authorized body;

2) a non-resident who is a member of an international group and carries out business activities in the Republic of Kazakhstan through a structural unit, a permanent establishment, subject to one of the conditions similar to those specified in subparagraph 1) of this paragraph.

For the purposes of the fifth paragraph of subparagraph 1) of this paragraph under systematic failure to fulfill obligations for the automatic exchange of information refers to cases when the competent authority of a foreign state (territory) the competent authority rejected the representation of the information on inter-country reporting in the presence of the Republic of Kazakhstan of the international Treaty (agreement) to include a provision on the exchange of information on tax matters, or when the competent authority of a foreign state (territory) has not carried out an automatic exchange of information with the authorized body on the data of inter-country reporting in respect of an international group, one of the participants of which is a resident of the Republic of Kazakhstan or a non-resident engaged in entrepreneurial activity in the Republic of Kazakhstan through a structural unit, a permanent establishment, for more than two years after the direction of the relevant request by the authorized body.

4. The provisions of this article shall apply to the parent company of an international group or an authorized member of an international group (if the parent company of an international group has granted such member of an international group the authority to submit cross-country reporting), or other member of an international group who is responsible for the submission of cross-country reporting at the request of the authorized body, provided that the amount of revenue from the consolidated financial statements of the international group for the financial year, immediately prior to the reporting financial year for which intercountry reporting is submitted, the amount is not less than:

equivalent to EUR 750 million using the market average exchange rate determined in accordance with the tax legislation of the Republic of Kazakhstan for the relevant financial year-if the parent company of the international group is a resident of the Republic of Kazakhstan;

the parent company of an international group or an authorized member of an international group shall be obliged to submit inter - country reporting to the competent authority of such state for the purposes of the legislation of a foreign state, if the parent company of an international group or an authorized member of an international group is a non-resident of the Republic of Kazakhstan, and if there is legislation in such a foreign state for the submission of inter-country reporting.

5. The authorized body shall request and require the competent authority of a foreign state to submit through the automatic exchange of information on an annual basis on the basis of an international Treaty (agreement) providing for the provision on the exchange of information on taxation, data of inter-country reporting in respect of the activities of an international group, one of the participants of which is a resident of the Republic of Kazakhstan or a non-resident engaged in entrepreneurial activity in the Republic of Kazakhstan through a structural unit, a permanent establishment., in the order and terms which are established by the parties of such international Treaty (agreement).

6. The authorized body shall send on automatic exchange of information on the basis of the existing international Treaty (agreement), one of the parties of which is the Republic of Kazakhstan, providing for the provision on exchange of information on taxation, the relevant data of inter-country reporting submitted in the Republic of Kazakhstan by the parent company of the international group or an authorized member of the international group, to the competent authority of a foreign state (territory).), in which (in which) a member of an international group is a resident or non-resident engaged in entrepreneurial activity through a structural subdivision, a permanent establishment, at the request of a foreign state in the manner and terms established by the parties to such international agreement (agreement), subject to the competent authority of the foreign state (territory) the principle of reciprocity.

For the purposes of this article, the principle of reciprocity is understood as the mutual submission by the authorized body and the competent authority of a foreign state (territory) of data of inter-country reporting.

*The law is supplemented by article 7-4, in accordance with the Law of RK dated 25.12.17, No. 122-VI (entered into force on 1 January 2016.)*

Article 7-4. Use of transfer pricing reporting for tax purposes

The authorized body has the right to use transfer pricing reporting for tax purposes.

**Article 8. Interaction of authorized bodies with other organizations**

1. The authorized bodies have the right to request information necessary to determine the correct application of the transaction price from the following entities in accordance with the laws of the Republic of Kazakhstan:

1) state bodies;

2) banks, organizations engaged in certain types of banking operations;

3) insurance (reinsurance) companies, insurance brokers;

4) professional participants of the securities market;

5) auditors, audit organizations;

6) other organizations related to international business operations.

2. Requests for information and involvement of specialists of state bodies in inspections are mandatory for execution within thirty calendar days.

*Article 9 is amended in accordance with the Law of the ROK dated 17.07.09 No. 188-IV (see the old. ed.); law of the Republic of Kazakhstan dated 30.06.10 № 297-IV (effective from July 1, 2010) (see star. ed.); 3аконом of the RK from 06.01.11, № 378-IV (see the old. ed.); law of the Republic of Kazakhstan dated 07.11.14 g. № 248-V (see star. ed.)*

**Article 9. Conducting transfer pricing audits**

1. The authorized bodies carry out checks on transfer pricing in the following cases:

1) when determining the deviation of the transaction price from the market price;

2) on the basis of information on the facts of application of transfer prices received from state bodies;

Paragraph 3 is stated in edition of Law of RK dated 26.12.17, No. 124-VI (introduced from 1 January 2018) (see the old. ed.)

3) during the inspections carried out by the authorized bodies on compliance with the tax legislation of the Republic of Kazakhstan and the customs legislation of the Eurasian economic Union and (or) the Republic of Kazakhstan in the absence of sources of information on market prices.

*Paragraph 2 was amended in accordance with the law of the Republic of Kazakhstan dated 29.10.15 № 376-V (effective from 1 January 2016) (see star. edition); Law of RK dated 26.12.17, No. 124-VI (introduced from 1 January 2018) (see the old. ed.)*

2. State control in the field of transfer prices is carried out in the form of checks and other forms.

Verification is carried out in accordance with the Entrepreneurial code of the Republic of Kazakhstan. Other forms of state control shall be carried out in accordance with this Law.

Features of the order and terms of carrying out check and other forms of the state control performed by bodies of the state income are defined by the tax legislation of the Republic of Kazakhstan and the customs legislation of the Eurasian economic Union and (or) the Republic of Kazakhstan.

*Article 10 is set out in the wording Of the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.); amended In accordance with the law of the Republic of Kazakhstan dated 07.11.14 № 248-V (see star. ed.)*

**Article 10. Adjustment of objects of taxation and (or) objects related to taxation**

1. In establishing the fact of deviation of the transaction price from the market price, taking into account the range of prices during the inspections, the authorized bodies shall adjust the objects of taxation and (or) objects related to taxation in the manner provided for by this Law and other laws of the Republic of Kazakhstan.

2. For exchange goods, adjustment of objects of taxation and (or) objects related to taxation shall be made taking into account the range of prices and differential specified in the sources of information, unless otherwise provided by this article. The list of exchange goods is approved by the Government of the Republic of Kazakhstan.

3. For transactions with agricultural products, adjustment of objects of taxation and (or) objects related to taxation shall be made if the transaction price deviates from the market price by more than ten percent, unless otherwise provided in paragraph 4 of this article.

4. According to the export contracts signed in the period from March 15 to July 1 of the current calendar year concerning the agricultural products made (received) in one of the future months of the current calendar year, adjustment of objects of the taxation and (or) objects connected with the taxation is not made in case of, if the transaction price is not less than the price of a commercial procurement of a specialized organization for the current calendar year, provided that separate accounting of this agricultural production and the receipt of funds on the Bank account of the party to the transaction (the seller) from a non-resident in the amount of not less than fifty percent of the total amount of the export contract within fifteen working days after the conclusion of the export contract.

5. Adjustment of objects of taxation and (or) objects related to taxation shall be made when the transaction price deviates from the market price determined as the average value specified in the source of information on the following transactions with the participants:

1) registered in the state with preferential taxation;

2) carrying out commodity exchange (barter) operations;

3) having a loss according to tax returns for the last two tax periods preceding the year of the transaction;

4) having tax benefits;

5) engaged in the performance of obligations under the transactions produced by offset of counter homogeneous requirements (including set-off during the assignment).

6. On the basis of adjustment of objects of taxation and (or) objects related to taxation, payment of taxes and other obligatory payments to the budget is made, calculated as if the income or expenses from these transactions and other objects of taxation for the reporting period were determined on the basis of the market price, taking into account the range of prices, with the use of fines and penalties in accordance with the legislation of the Republic of Kazakhstan.

7. In case of establishment of the fact of deviation of the transaction price from the market price taking into account the range of prices at the party of the transaction which has privileges on taxes and (or) customs payments, payment of taxes and payments for the period in which the deviation of the transaction price from the market price is established, is performed in the generally established order without application of special provisions of the legislation of the Republic of Kazakhstan reducing the tax and customs obligations.

8. Adjustment of objects of taxation and (or) objects related to taxation shall be made upon establishment of the fact of profit distribution carried out in accordance with article 16 of this Law, which does not meet the principle of "arm's length", in comparable economic conditions between the related parties at the end of the reporting tax period.

Adjustment in accordance with this paragraph is carried out by changing the objects of taxation and (or) objects related to taxation, without changing the payment documents and primary documents confirming the shipment of goods (works, services) with the registration of forms of documents required in accordance with the customs legislation of the Republic of Kazakhstan.

In case of adjustment made by the party to the transaction in accordance with subparagraph 5) of paragraph 1 of article 5 of this Law, with the simultaneous transfer of part of the total profit between the related parties, the profit is considered as income from the sale for the reporting tax period, and the transferred profit is considered as a decrease in income from the sale for the reporting tax period.

Adjustment of objects of the taxation and (or) objects connected with the taxation made according to this point is subject to reflection in the corresponding tax reporting submitted to bodies of the state income with Appendix of the corresponding calculations for each transaction separately, with observance of the conditions provided by point 9 of this article.

9. Adjustment is carried out on objects of taxation and (or) objects related to taxation, if such adjustment leads or may further lead to an increase in the amount of taxes and other mandatory payments to the budget.

*Paragraph 10 was amended in accordance with the law of the Republic of Kazakhstan dated 22.06.12 № 21-V (effective from 1 January 2009) (see star. ed.); law of the Republic of Kazakhstan dated 05.12.13 g. № 152-V (put into effect on January 1, 2014) (see star. ed.)*

10. Adjustment of objects of taxation and (or) objects related to taxation shall not be made if the transaction price deviates from the market price, taking into account the range of prices in the following cases::

1) establishment or determination of the transaction price and (or) the procedure (methodology) of pricing in the international Treaty ratified by the Republic of Kazakhstan;

2) setting the transaction price in agreements between the Government of the Republic of Kazakhstan and the governments of other States;

Sub-paragraph 2-1 was put into effect on 21 July 2011.

2-1) realization of the priority right of the state to purchase refined gold for replenishment of assets in precious metals;

3) establishment by the decision of the Government of the Republic of Kazakhstan of the transaction price and (or) order (methodology) pricing.

In case of deviation of the transaction price from the price established and (or)formed according to subparagraphs 1) -3) of part one of this point, adjustment of objects of the taxation and (or) objects connected with the taxation is made in the order established by this Law.

The statement on establishment by the decision of the Government of the Republic of Kazakhstan of the transaction price and (or) the order (technique) of pricing is submitted by the participant of the transaction to the authorized body exercising the management of the relevant sphere of public administration with Appendix of the economic justification of the offered price and (or) the order (technique) of pricing, the documents (calculations, justifications) confirming threat of emergence of adverse social and economic consequences, and substantiation of the need to establish by the decision of the Government of the Republic of Kazakhstan the transaction price and (or) order (methodology) pricing.

Not later than thirty working days from the date of receipt of the application, the authorized body that manages the relevant sphere of public administration shall take one of the following decisions:

1) on the expediency of establishing the transaction price and (or) the order (methodology) of pricing and sends to the Government of the Republic of Kazakhstan proposals on establishing the transaction price and (or) the order (methodology) of pricing;

2) about inexpediency of establishment of the transaction price and (or) the order (technique) of pricing and directs to the participant of the transaction the motivated refusal.

11. In case of self-adjustment by the taxpayer of objects of taxation and (or) objects related to taxation, before the start of a comprehensive tax audit (if transfer pricing issues are included) and a thematic audit on transfer pricing, the amounts of taxes and other mandatory payments to the budget are subject to be made without penalty by submitting additional tax reporting.

12. The differential referred to in paragraph 5 of article 13 of this Law shall not affect transactions, participants of which are registered in the state with preferential taxation, and adjustment of objects of taxation and objects related to taxation shall be made without taking into account the provisions of paragraph 5 of article 13 of this Law.

*The law is supplemented by article 10-1 in accordance with the law of the Republic of Kazakhstan dated 22.06.12 № 21-V (effective from January 1, 2009)*

Article 10-1. Determination of the market price and adjustment of objects of taxation and (or) objects related to taxation in certain cases

1. To the subjects of legal relations for which the transaction price is formed in accordance with the procedure (methodology) for determining the market price of goods sold under production sharing agreements, including transactions with parties registered in countries with preferential taxation approved by the Government of the Republic of Kazakhstan until June 30, 2012, the methods of determining the market price established by this Law shall not apply.

In case of deviation of the transaction price from the price formed according to the order (technique) of determination of the market price of the goods realized within production sharing agreements, including transactions with the parties registered in the countries with the preferential taxation, adjustment of objects of the taxation and (or) objects connected with the taxation is made to the price determined according to such order (technique).

2. This article applies to transactions concluded from the date of entry into force of the production sharing agreement.

*Article 11 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. ed.)*

**Article 11. Determination of the interconnectedness of the parties**

Related parties are individuals and (or) legal entities with special relationships that affect the economic results of transactions (operations) between them.

Such special relationships include the following conditions:

1) one person is recognized as an affiliate of another person;

2) the person is a major shareholder, a major participant (owning ten or more percent of the voting shares or interests) of the transaction participant;

3) a person is interconnected with a party to the transaction by the agreement, including trust management of property, according to which it has the right to determine the decisions taken by the Trustee;

4) the owner of the property is interconnected with the person to whom one or several powers of the owner of the property in respect of this property (possession, use, disposal) are transferred, including on the basis of the trust management agreement, according to which the owner has the right to determine the decisions taken by such person;

5) a person is an official of a party to the transaction or a legal entity specified in sub-paragraphs 2), 3), 6) - 10) of this article, except for the independent Director;

6) a legal entity is controlled by a person who is a major shareholder, a major participant or an official of a transaction participant;

7) a legal entity in relation to which a person who is a major shareholder, a major participant or an official of a party to the transaction is a major shareholder, a major participant entitled to a corresponding share in the property;

8) a legal entity in relation to which the party to the transaction is a major shareholder, a major participant entitled to an appropriate share in the property;

9) a legal entity together with a party to the transaction is under the control of a third party;

10) a person independently or jointly with its affiliates owns, uses, disposes of ten or more percent of the voting shares or interests of the transaction participant or legal entities specified in sub-paragraphs 2), 3), 6) - 9) of this article;

11) an individual is a close relative (parent, son, daughter, adopter, adopted, brother, sister, grandmother, grandfather, grandson), as well as a characteristic (brother, sister, parent, son or daughter of the spouse (wife) of an individual who is a large shareholder, a large participant or official, with the exception of the independent Director of the transaction participant;

12) two Trustees are interconnected if the same person is the founder of trust management under both contracts of trust management of property and has opportunity to define the decisions made by them;

13) a Trustee and an organization in which the founder of the trust is a major shareholder or a major participant (owning ten or more percent of the voting shares or interests), if the founder of the trust management has the ability to determine the decisions taken by the Trustee;

14) the Trustee under one contract of trust management of property and the beneficiary under another contract of trust management of property are recognized as interconnected if the founder of trust management under both contracts of trust management of property is the same person who has an opportunity to define the decisions made by the Trustee;

15) transaction participants shall apply the transaction price at which there is a deviation from the market price, taking into account the range of prices, according to one of the authorized bodies.

**Article 12. Market price determination methods**

1. One of the following methods is used to determine the market price:

1) comparable uncontrolled price method;

2) the method of "cost plus»;

3) subsequent sale price method;

4) the profit split method;

5) net profit method.

2. If it is impossible to apply the comparable uncontrolled price method, one of the methods specified in paragraph 1 of this article shall be consistently applied.

*Article 13 is set out in the wording Of the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.)*

**Article 13. Comparable uncontrolled price method**

1. The method of comparable uncontrolled price is applied by comparing the transaction price for goods (works, services) with the market price, taking into account the range of prices for identical (and in their absence - homogeneous) goods (works, services) in comparable economic conditions, unless otherwise provided by this article.

In determining the market price of goods (work, services) takes into account information on the prices of goods (work, services) at the time of sale of the goods (work, services).

If the terms of the contract for the sale of goods (works, services) provide for the use of the quotation period, the price of exchange goods, as well as non-exchange goods, the prices of which are tied to the quotations for exchange goods, is defined as the arithmetic mean of any of the published in one source of information daily quotations for goods (works, services) for the quotation period, taking into account the differential.

The arithmetic mean of price quotes for the quotation period is determined by the following formula:

 

where:

S-the arithmetic mean of the arithmetic mean of daily quotations of prices for the corresponding goods (work, service) for the quotation period;

P1, P2...., P*n-*the arithmetic mean value of daily quotations of the prices of the corresponding goods (work, service) in days for which quotes of the prices during the quotation period are published;

*n* - the number of days in the quotation period for which the price quotes are published.

The average value of the daily price quotes for the corresponding product (work, service) for the quotation period is determined by the formula:

 

where:

P*n* -the arithmetic mean of daily quotations of prices of the corresponding goods (work, service);

C*n1* - the lowest value (min) of the daily price quotation for the corresponding product (work, service);

C *n2* - the highest value (max) of the daily price quotation for the corresponding product (work, service).

In the absence of the minimum and maximum values of price quotations for the day, the actual value of the quotation for the corresponding day is taken as the arithmetic mean.

Paragraph 2 is amended in accordance with the Law of RK from 05.12.13 g. № 152-IV (introduced with effect from 1 January 2014) (see the old. ed.)

2. For the purposes of this Law, a transaction is each documented delivery of goods (work performed, service rendered) under the contract, and the comparison of the sale price with the market price is carried out only with the relevant market of goods (works, services), regardless of the country of registration of the buyer.

The moment of sale of the goods is the date of transfer of ownership to the buyer, unless otherwise provided for in this article.

The quotation period established in the contract for the sale of goods (works, services) is not subject to change during the twelve-month period from the date of its establishment.

For the purposes of this Law, the quotation period shall be determined in accordance with the terms of the contract in the time period:

on oil:

1) in the sale of goods by sea no more than five quotation days before the date of transfer of ownership of the goods to the buyer and no more than five quotation days after the date of transfer of ownership of the goods to the buyer;

2) when selling goods, the main pipeline transport and other transport modes, with the exception of the implementation of Maritime transport, from the first to the last day of the month of the transfer of ownership to the buyer for the goods;

for commodities (works, services), with the exception of oil, not more than sixty calendar days prior to the date of transfer of ownership to the buyer for the goods (work, service) and not more than sixty calendar days after the date of transfer of ownership to the buyer for the goods (work, service);

for non-exchange goods, the prices of which are linked to the quotes for exchange goods - no more than sixty-two calendar days before the date of transfer of ownership of the goods to the buyer and no more than one hundred and twenty calendar days after the date of transfer of ownership of the goods to the buyer.

At discrepancy of the quotation period established in the contract for realization of goods (works, services), to conditions of determination of the quotation period established by this article, the market prices of goods (works, services) are accepted at the time of realization of this goods (works, services).

For long-term contracts with non-exchange goods (works, services), which specify the long-term price, the time of sale of goods (works, services) to determine the market price is the time of the contract, while complying with the following conditions:

1) transactions under the agreement shall begin within one month from the date of conclusion of the agreement;

2) the market price is determined from officially recognized sources of information established in accordance with this Law for long-term contracts on the last date preceding the date of conclusion of the contract;

3) the long - term price is applied for not more than one year and is confirmed by the final contract between the parties to the transactions or a subsequent contract between the trader affiliated with the transaction participant-a resident of the Republic of Kazakhstan and the end user, who is an independent party. Proof of performance of the contract are the documents submitted at the request of the authorized bodies.

3. The comparable uncontrolled price method is used to determine the market price by external or internal comparison. If the comparable uncontrolled price method cannot be applied by external comparison, the comparable uncontrolled price method is applied by internal comparison. In this case, the external comparison compares comparable transactions between the party to the transaction and the related party and between two or more independent parties. Internal comparison compares comparable transactions between a party to a transaction and an interrelated party and between the same party to the transaction and an independent party.

4. When applying the comparable uncontrolled price method, the market price is determined as follows:

1) for transactions with goods (works, services) for which there is documented information about the route of transportation to the relevant market, where there is a price in the source of information, the market price is defined as the price from the source of information, taking into account the range of prices. The transaction price is given by means of a differential to comparable economic conditions with the market price;

2) for transactions with goods (works, services) that do not comply with subparagraph 1) of this paragraph, the market price is determined by bringing the price from the source of information in the relevant market by means of a differential to comparable economic conditions with the transaction price, taking into account the range of prices.

5. The differential includes:

1) reasonable and documented and (or) sources of information costs necessary for the delivery of goods (works, services) to the relevant market;

2) conditions affecting the amount of deviation of the transaction price from the market price specified in paragraph 7 of this article;

3) quality of goods (works, services).

6. Differential components must be documented or supported by sources of information.

7. The conditions affecting the amount of deviation of the transaction price from the market price include:

1) quantity (volume) of the delivered goods, the performed works, the provided services;

2) terms of payments applicable in transactions of this type, as well as other conditions that may have an impact on prices;

3) price discounts or price surcharges applied in transactions, including those caused by:

seasonal fluctuations in consumer demand for goods (works, services);

loss of goods (works, services) of quality or other consumer properties;

partial improvement or restoration of the lost qualities and (or) other consumer properties of goods (works, services);

expiration (approaching the expiration date) of the shelf life or sale of goods (works, services);

marketing policy in the promotion of new products (works, services), which have no analogues, as well as in the promotion of goods (works, services) to new markets;

implementation of experimental models and samples of goods (works, services) in order to familiarize consumers with them;

4) market reputation, country of origin and trademark presence;

5) margin, Commission (Agency) remuneration of a trading broker, trader or agent or compensation for the performance of their trading and intermediary functions.

8. On the differential specified in point 5 of this article introduction by the participant of the transaction of changes and additions in the corresponding reporting on monitoring of transactions is not allowed:

1) of the audited tax period-during the period of complex and thematic inspections on transfer pricing issues;

*Paragraph 2 is stated in edition of Law of RK dated 07.11.14, No. 248-V (see the old. ed.)*

2) the appealed tax period - during the period of filing and consideration of the complaint to the notification of the results of the tax audit and (or) the decision of the higher authority of state revenue, made on the results of consideration of the complaint to the notification, taking into account the restored deadline for filing a complaint.

*Article 14 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. ed.); law of the Republic of Kazakhstan dated 07.11.14 g. № 248-V (see star. ed.)*

**Article 14. The method of "cost plus»**

1. When using the "cost plus" method, the market price of goods (works, services) is defined as the sum of costs (expenses) and mark-UPS.

2. To determine the costs (expenses) are taken into account the costs (expenses) for the production (purchase) and (or) sale of goods (works, services), costs (expenses) for transportation, storage, insurance and other costs (expenses). The margin is determined in such a way as to provide an average range of prevailing profitability standards for this field of activity, which is calculated based on the range of profitability standards in comparable economic conditions.

3. Profitability for this sphere of activity is determined on the basis of data of state statistics bodies of the Republic of Kazakhstan, state revenue bodies and other sources of information.

*Article 15 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2009) (see star. ed.)*

**Article 15. Follow-up price method**

The method of the price of the subsequent realization-a method at which the market price of goods (works, services) is defined as the difference between the price at which such goods (works, services) are realized by the buyer at the subsequent realization (resale), and the confirmed costs (expenses) incurred by the buyer at resale (without the price at which goods (works, services), and also its margin were acquired by the specified buyer from the seller. The margin must correspond to the margin range.

**Article 16. The profit split method**

The profit distribution method determines the profit from the transaction, which should be distributed among the participants of the transaction.

Such profits are distributed among the parties to the transaction in accordance with the economic justification, functional analysis, agreements adopted in accordance with the arm's length principle and on the basis of the profits that these companies would have received if they were independent.

**Article 17. Net profit method**

The net profit method is based on the determination of the net income that would have been received from the transaction by independent parties in comparable economic conditions.

Net income is determined taking into account one of the following indicators, which were formed according to accounting data:

1) residual value of assets;

2) scope of implementation;

(3) costs.

*Article 18 was amended in accordance with the law of the Republic of Kazakhstan dated 09.06.10 № 288-IV (effective from 1 January 2010) (see star. ed.)*

**Article 18. Sources of information used to determine the market price**

1. To determine the market price of goods (work, services) and other data necessary for the application of methods for determining the market price, the sources of information are used in the following order:

1) officially recognized sources of information on market prices;

2) sources of information on stock quotes;

3) data of state bodies, authorized bodies of other States and organizations on prices, differential, costs and conditions affecting the deviation of the transaction price from the market price;

4) information programs used for transfer pricing purposes, information provided by transaction participants, and other sources of information.

2. The list of officially recognized sources of information on market prices is approved by the Government of the Republic of Kazakhstan.

In order to determine the range of market prices, the list of officially recognized sources of information should contain one or more sources of information on market prices.

3. For a transaction, a participant of which is registered in a state with preferential taxation, only the sources of information specified in subparagraphs 1) and 2) of paragraph 1 of this article are used in determining the market price.

**Article 19. Responsibility for violation of the legislation of the Republic of Kazakhstan on transfer pricing**

Violation of the legislation of the Republic of Kazakhstan on transfer pricing shall entail liability established by the laws of the Republic of Kazakhstan.

**Article 20. The order of entry into force of this Law**

1. This Law shall enter into force on 1 January 2009.

2. Recognize become invalid the Law of the Republic of Kazakhstan of January 5, 2001 "about the state control at application of transfer prices" (sheets of Parliament of the Republic of Kazakhstan, 2001, No. 1, Art. 2).