**On approval of the Rules for the conclusion of the Agreement on the applicationof transfer pricing**

In accordance with subparagraph 6) of paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan dated July 5, 2008 “On Transfer Pricing” ORDER:

1. To approve the enclosed Rules for the conclusion of the Agreement on the application of transfer pricing.

2. To the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan, in accordance with the procedure established by law, to ensure:

1) the state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days from the date of state registration of this order, sending it in the Kazakh and Russian languages ​​to the Republican state enterprise on the right of economic management of the Republican Center for Legal Information of the Ministry of Justice of the Republic of Kazakhstan for official publication and inclusion into the Reference Control Bank of regulatory legal acts Republic of Kazakhstan;

3) the placement of this order on the Internet resource of the Ministry of Finance of the Republic of Kazakhstan;

4) within ten working days after the state registration of this order in the Ministry of Justice of the Republic of Kazakhstan, submission to the Legal Department of the Ministry of Finance of the Republic of Kazakhstan of information on the implementation of measures provided for in subparagraphs 1), 2) and 3) of this paragraph.

3. This order enters into force on January 1, 2019 and is subject to official publication.

**Minister of Finance of the**

**Republic of Kazakhstan A. Smailov**

Approved

byDecree of the Government

of the Republic of Kazakhstan

dated October 24, 2011 No. 1197

**"On approval of the Rules for the conclusion of the Agreement on the application of transfer pricing"**

*Changes are brought in by Decision of Government of Republic of Kazakhstan from August, 27, 2018 № 528.*

**1. General Provisions**

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

2. The following items are reflected in the Agreement:

1. General Provisions;

2) the parties to the Agreement;

3) the subject matter of the Agreement;

4) a list of submitted documents;

5) the method of determining the market price;

6) the source of information used to determine the market price;

7) the term of the Agreement;

8) the date of entry into force of the Agreement;

9) the term for providing information on applicable prices during the term of the Agreement;

10) confidentiality;

11) the consequences of non-fulfillment (violation) of the terms of the Agreement by the party to the transaction;

12) the grounds for the early termination of the Agreement;

13) additionalterms.

**2. The procedure for concluding of the Agreement on the application of transfer pricing**

3. The party to the transaction submits to the Committee an application for the conclusion of the Agreement in writing and in an arbitrary form, to which are attached copies of the documents necessary for the conclusion of the Agreement, including:

1) certificate \* or certificate of state registration (re-registration) of a legal entity, constituent documents (articles of association, memorandum of association), extracts from the register of holders of shares (shares) owning more than 5% of shares (shares);

note: \* certificate of state (accounting) registration (re-registration) of a legal entity (branch, representative office) issued prior to the enactment of the Law of the Republic of Kazakhstan of December 24, 2012 “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on State Registration legal entities and registration of branches and representative offices ", is valid until the termination of the legal entity;

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

4) an identity document;

6) contracts for the sale and purchase of goods (with additions and changes);

7) subsoil use contracts (with additions and changes) concluded with the Competent Body of the Republic of Kazakhstan and (or) with the Government of the Republic of Kazakhstan;

8) information on investments (shares) in companies of the Republic of Kazakhstan and foreign countries;

9) data on the interconnectedness of the parties;

10) the source of information on market prices used in the conclusion of transactions;

11) the method proposed for determining the market price;

12) business strategy, which includes marketing policy (product, sales, pricing, as well as product promotion policy), pricing methodology, including information relating to factors that affect pricing, market reputation.

If it is impossible to submit the documents specified in subparagraphs 6), 7), 8), 9), 10), 11) and 12) of this paragraph, the transaction participant shall submit a written justification for the impossibility of their presentation.

4. In the event of the sale (acquisition) of goods (works, services) to interconnected companies, the party to the transaction concluding the Agreement shall also submit documents related to the sale (acquisition) of these goods (works, services) to interconnected companies.

5. The Committee shall consider the application of the transaction participant for conclusion of the Agreement within sixty working days from the date of receipt of the said application from the transaction participant.

If a positive decision is made to conclude an Agreement, the Committee shall, within five working days from the date of the decision being made, send to the participant in the transaction the agreement signed by the Chairman of the Committee or an official responsible for acting as Chairman of the Committee, the Agreement valid for a period not exceeding three years from the day of its signing.

The participant in the transaction, after being signed by the Chairman of the Committee or by an official entrusted with the duties of the Chairman of the Committee, of the Agreement, within ten working days from the date of signing, sends it to the Committee.

If the decision is made to refuse to conclude the Agreement, the Committee shall send a written response with the reasons for the refusal to conclude the agreement within five working days from the date of the decision on the results of the consideration of the application of a party to the conclusion of the Agreement.

6. The Committee refuses the party to the transaction in the conclusion of the Agreement in the following cases:

1) if a party to the transaction fails to submit a written substantiation on the impossibility of providing a full list of documents required for the conclusion of the Agreement and provided for by clause 3 of these Rules;

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

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

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

1) government agencies;

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

3) insurance (reinsurance) organizations, insurance brokers;

4) professional participants of the securities market;

5) auditors, audit organizations;

6) other organizations.

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