

## TRANSFER PRICES – CHANGES

22.09.2022

### Dear customers and partners!

We would like to draw your attention to the recent changes in transfer pricing legislation.

On 26 March 2022 the Law No. [67-FZ](#) was adopted, later clarifications of the Ministry of Finance were published – in the Letter No. 03-12-12/1/37761 of 26 April 2022 the Ministry of Finance informed that from 1 January 2022 the threshold for recognizing transactions as controlled was raised to [120 million rubles](#) instead of the previous 60 million rubles valid for transactions in 2021. Similar clarifications were also issued later by the [Federal Tax Service](#) (No. ШЮ-4-13/6548@ of 27 May 2022).

The Tax Service also previously published a [letter](#) (No. ШЮ-4-13/2724@ of 5 March 2022) on the application of discounted prices that could result in transaction losses if certain legal entities are subject to sanctions. Such circumstances should be taken into account by the tax authorities when considering transactions and price levels.

Another novelty is the non-application of the 40% penalty on unpaid tax (at least RUB 30,000) for transactions in 2022-2023, regardless of the date of the contract (Russian Tax Code, Article 129.3). However, transfer documentation defining the price corridor and level must be available. Please note that the cancellation of penalties does not remove the risk of additional tax charges from the tax authorities.

In addition to updating the limit and removing the penalty mentioned above, a number of other changes have been spelled out in Law 67-FZ of 26.03.2022.

With the new amendments, the so-called "safe margin" for interest rates in intragroup loan agreements will change between 2022 and 2023. If the interest is within this range (not above the maximum and not below the minimum), the company may recognise it as an expense in full for tax purposes. If the interest rate is outside this range, there is a risk of the expense not being recognised.

Based on the example of the euro ([Euro short-term rate](#)), the following interest rate ceilings for liabilities denominated **in euro** will be established as of 1 January 2022 (for USD or any other currency other than RUB, the values will be equivalent, applying the rates corresponding to the currency, such as SOFR for USD, SHIBOR for CNY, SONIA for GBP):

**Minimum:** STR rate in EUR +0% (previously stated as + 4% in the Tax Code)

**Maximum:** STR rate in euros +7% (+5% for SARON rates and contracts in Swiss francs, TONAR and Japanese yen)

For ruble-denominated liabilities, a range of 0 to 180% of the Bank of Russia key rate (previously 75 to 125%) has been adopted.

The interest rate ceilings for debt instruments have also been modified: for loans, overdrafts and intercompany receivables denominated in a foreign currency from 1 January 2022 to 31 December 2023, the maximum rate will be that of 01.02.2022 (86.5032 for euro); interest on liabilities during these two years will be determined at the rate on the last day of the reporting period and must not be higher than the rate on 01.02.2022.

Changes are also made to the calculation of the thin capitalisation rule - the value of liabilities (existing before 01.03.2022) in foreign currency for the purposes of

SWILAR 000

CEO  
Daria Pogodina  
ul. Lesnaja 43  
127055 Moscow  
Tel.: +7 (495) 648-69-44

swilar GmbH

CEO  
Tobias Schmid  
Erikaweg 32  
D-86899 Landsberg / Lech  
Tel.: +49 8191 9898377

CEO  
Dr. Georg Schneider  
Schlehenweg 14  
D-53913 Swisttal  
Tel.: +49 2226 908258

controlled debt is determined at the regulatory rate on the last reporting day, and the rate cannot be higher than the rate set by the Central Bank as of 01.01.2022.

We would also like to point out that as a result of the suspension of tax information exchange between Russia and certain countries, Russian tax residents who are members of an international group of companies will have to send a "Country Report" to the tax authorities upon request. It is currently known that the UK (from 17.03.2022), Germany (from 01.04.2022), USA (from 05.04.2022) have temporarily stopped the exchange of tax information with the Russian Federation.

We will be happy to answer your questions!

*Contacts:*

Eugenia Chernova, Project Leader Controlling and Reporting **swilar** OOO  
M: [eugenia.chernova@swilar.ru](mailto:eugenia.chernova@swilar.ru), T: +7 (495) 648 69 44 (ext. 310)

Olga Kireyeva, Deputy Project Leader, **swilar** OOO  
M: [olga.kireyeva@swilar.ru](mailto:olga.kireyeva@swilar.ru), T: +7 (495) 648 69 44 (ext. 311)