



CLIENT ALERT

ALGERIA

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Increased control over foreign transfers of funds between affiliated companies

Several restrictions and control mechanisms have recently been introduced to regulate and control the transfer of funds abroad, particularly between affiliated companies.

1. Control of the transfer of remuneration paid by an Algerian company to a foreign affiliated company

On 21 April 2019, the General Directorate of Taxes published a note No. 252/MF/DGI/2019 dated 9 April 2019 concerning the request for a certificate of transfer of funds abroad in the case of affiliated companies, addressed to the Director of Large Enterprises, the Directors of Taxes of wilaya and the Regional Tax Directors and Inspectors.

This note is available at:
https://www.mfdgi.gov.dz/images/pdf/NOTE_252_en.PDF

As a reminder, transfers of funds to natural or legal non resident persons must be declared to the tax authorities in advance. A certificate specifying the tax treatment of the funds transferred is issued to the declarant for submission in support of the transfer request file with the local bank.

The purpose of this note is to instruct the tax authorities to pay particular attention, especially in the current economic climate, to the issue of certificates for the transfer of funds abroad paid in consideration for **intangible services rendered between affiliated companies** and especially when the amounts claimed or their frequencies exceed the **usual standards**.

Relationship ties and dependency ties are deemed to exist between an Algerian company and a foreign company when:

- the foreign company holds shares in the Algerian company;
- the foreign company and the Algerian company have the same manager;

- these companies are held by the same entity or family; or
- they belong to the same group.

In the event of the detection of such links or any other indices of dependency, the tax authorities must **systematically trigger a spot check** of the contracts or documents that have been the subject of requests for transfer of funds and possibly trigger a control of the transfer pricing policy.

In this situation, the burden of proof of absence of this type of relationship lies with the company requesting certificates of transfer of funds abroad.

2. Limitation on the deductibility of remuneration paid to foreign service providers

As a reminder, Law No. 18-18 of 27 December 2018 on the Finance Law for 2019 had set a ceiling on the deductibility of remuneration paid to service providers based abroad, as part of the calculation of corporate income tax.

Amounts intended to remunerate services rendered, by way of **technical, financial or accounting assistance**, by a company established abroad, shall be deducted from taxable profit only up to a maximum of:

- 20% of the debtor company's overheads and 5% of turnover;
- 7% of turnover for design and consulting engineering firms.

This limitation does not apply to the costs of technical assistance and studies relating to heavy installations in the context of an industrial activity, in particular the assembly of plants.

3. Strengthening the institutional framework

3.1. Committee to monitor and follow-up foreign currency transfers abroad

In order to increase vigilance in financial transactions with foreign countries and ensure better monitoring of these operations, the Ministry of Finance has set up a monitoring and follow-up committee to monitor the evolution of transfers abroad.

This committee is composed of senior officials from the Ministry of Finance, representatives of the Bank of Algeria and representatives of the Banking Community (ABEF).

The purpose of this committee is to ensure that foreign exchange transfer operations by banks, as approved intermediaries, are carried out in strict compliance with the exchange regulations issued by the Bank of Algeria.

3.2. Commission in charge of the fight against fraud and illegal transfer within customs

The customs administration has always played a key role in the fight against the illicit transfer of capital, in particular by tracking overbilling of imported goods and issuing the corresponding foreign exchange offence reports.

Recently, a commission has been set up within customs to combat fraud and the illegal transfer of capital to and from abroad. This commission is an additional tool to strengthen the fight against fraud and the illicit transfer of capital to and from abroad.

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