

A transfer pricing audit: the commercial court's position and practical recommendations

FAO CEOs, in-house legal staff, finance directors, chief accountants and tax managers

Pepeliaev Group advises that the Commercial Court for the City of Moscow has published its judgment dated 8 December 2025 in case No. A40-299167/2024 concerning a dispute between the Russian Federal Tax Service (the “Federal Tax Service”) and PJSC Vimpel-Communications on whether to invalidate a decision of the tax authority issued following a transfer pricing audit. This is the first court decision to confirm errors made by the Federal Tax Service in applying transfer pricing legislation.

By way of a reminder, section V.I of the Russian Tax Code (the “Tax Code”) on tax control over transactions between related parties (referred to as “transfer pricing audits”) entered into force in 2012. Audits of such transactions are conducted by the central office of the Federal Tax Service, and until recently all disputes with the tax authorities had been resolved by the courts exclusively in favour of the state.

For the first time, a judgment of the Federal Tax Service issued following a transfer pricing audit was declared unlawful by a court in February 2025 in the case involving PJSC VimpelCom, on procedural grounds (because the audit had been initiated outside the statutory time limits)¹. Subsequently, in October 2025, in the case involving JSC UMMC, the Commercial Court for the City of Moscow declared unlawful a decision of the Federal Tax Service to initiate a transfer pricing audit in December 2024 in respect of the 2021 tax period, likewise because it had been issued outside the statutory time limits². Finally, in a third case, the court examined the arguments of the Federal Tax Service regarding the substantive application of transfer pricing rules and formulated a number of fundamental positions that may serve as a guide for many taxpayers³.

The commercial court confirmed that, when alleging a taxpayer has applied a non-market price, the burden of proof lies with a tax authority. The tax agency must prove it has complied with the conditions for applying the pricing method it has chosen, and must document that comparable companies and comparable transactions exist, as

¹ Case No. A40-74689/2024.

² Case No. A40-72524/2025.

³ All three cases were handled by lawyers of Pepeliaev Group.

well as that the terms and conditions are comparable with those of the controlled transactions.

The court took into account that the financial figures of foreign companies are determined based on their accounting (financial) statements, and that the sources of information about such statements must be publicly available information systems or the official websites of foreign companies. The court concluded that the Orbis information system, which the Federal Tax Service used as a source of data from the accounting (financial) statements of allegedly comparable companies, was not publicly available at the time of the audit and therefore the tax authorities could not use such system to determine market prices.

The court concluded that the tax authority had failed to identify comparable companies and transactions, had been incorrect in applying the transactional net margin method, and had not proven that the prices the taxpayer had applied did not correspond to the market level.

What to think about and what to do

We recommend involving lawyers in transfer pricing audits as early as possible, carefully monitoring whether the inspectors comply with tax legislation, both in terms of the procedure for initiating and conducting the audit and collecting evidence, and in terms of complying with the statutory conditions for applying a particular pricing method. It is also important to pay close attention to the sources of information used by the tax authority and to verify whether they meet the requirements of section V.I of the Tax Code.

Help from your adviser

Pepeliaev Group's specialists are ready to:

- provide support during transfer pricing audits at all stages, from when the decision to initiate the audit is received through to when the dispute is resolved in court;
- analyse whether the tax authority has complied, during the transfer pricing audit, with the conditions for applying the pricing method the inspectors have chosen;
- assess the prospects for challenging the results of a transfer pricing audit;
- prepare a position for discussions with the tax authority both during the audit and once it is completed;
- assist in preparing calculations, professional opinions of economists and other materials necessary to substantiate that the price applied by the taxpayer is of market level.

Contact details



Rustem Ahmetshin
Senior Partner

Tel: +7 (495) 767 00 07
r.ahmetshin@pgplaw.ru



Alexander Kuznetsov
Senior Associate