

Global Tax Alert

News from Americas Tax Center
and Transfer Pricing

Panama: Multinational headquarters companies are subject to transfer pricing regulations

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Panama published, in *Official Gazette* No. 28641, Law No. 57 (the Law) (24 October 2018), which amends the multinational headquarters regime (MHQ regime) and contains provisions on applying transfer pricing regulations to transactions conducted by entities with an MHQ license.

The Law establishes that the transfer pricing rules will apply, starting with tax year 2019, to any related-party transaction that an individual or entity conducts with companies with an MHQ license.

Even though companies with an MHQ license have a reduced rate of income tax, the transfer pricing rules also will apply to transactions conducted by those companies with related parties that are: (1) established in Panama; (2) tax residents of other jurisdictions; or (3) established in the Colón Free Zone. Additionally, the transfer pricing rules will apply if the related parties operate: (1) in the Oil Free Zone (*Zona Libre de Petróleo*) under Cabinet Decree 36 of 2003; (2) in the Special Economic Area of Panama-Pacifico; (3) under the MHQ regime; (4) under the City of Knowledge regime; or (5) in any other current or future free zones or special economic areas.

In all cases, the application of the transfer pricing regulations must accord with the provisions of the Fiscal Code (the Code), except for the provisions of Article 762-D of the Code. Article 762-D of the Code establishes that transactions that a taxpayer conducts with related parties that are tax residents of other jurisdictions are subject to the transfer pricing regulations if those transactions affect the determination of taxable income for income tax purposes, in the tax year in which the transaction is reported or takes place.

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