

SECTION V.1. INTERDEPENDENT PERSONS AND MULTINATIONAL GROUPS OF COMPANIES. GENERAL PROVISIONS CONCERNING PRICES AND TAXATION. TAX CONTROL IN CONNECTION WITH THE CONCLUSION OF TRANSACTIONS BETWEEN INTERDEPENDENT PERSONS. PRICING AGREEMENT. DOCUMENTATION FOR MULTINATIONAL GROUPS OF COMPANIES

*[title as reworded by Federal Law No. 340-FZ of 27.11.2017]
(inserted by Federal Law No. 227-FZ of 18.07.2011]*

CHAPTER 14.1. INTERDEPENDENT PERSONS. PROCEDURE FOR DETERMINING THE PARTICIPATING INTEREST HELD BY ONE ORGANIZATION IN ANOTHER ORGANIZATION OR HELD BY A PHYSICAL PERSON IN AN ORGANIZATION

Article 105.1. Interdependent Persons

1. Where specific factors in relations between particular persons may exert an influence on the conditions and (or) results of transactions concluded by those persons and (or) the economic results of activities of those persons or activities of persons represented by them, the persons referred to in this clause shall be deemed to be interdependent for taxation purposes (hereinafter referred to as “interdependent persons”).

For the purpose of recognising persons as interdependent, account shall be taken of the influence which is able to be exerted by virtue of the participation of one person in the capital of other persons, in accordance with an agreement concluded between the persons concerned or by reason of other means by which one person is able to influence decisions made by other persons. In this respect, such influence shall be taken into account irrespective of whether it is able to be exerted by one person directly and independently or in conjunction with interdependent persons of that person who are recognised as such in accordance with this Article.

2. Due regard being had to clause 1 of this Article, the following shall be deemed to be interdependent persons for the purposes of this Code:

1) organizations, where one organization holds a direct and (or) indirect participating interest in another organization and that participating interest amounts to more than 25 per cent;

2) a physical person and an organization, where the physical person holds a direct and (or) indirect participating interest in that organization and that participating interest amounts to more than 25 per cent;

3) organizations, where one and the same person holds a direct and (or) indirect participating interest in those organizations and the size of the participating interest in each organization is greater than 25 per cent;

4) an organization and a person (including a physical person jointly with interdependent persons of that person such as are referred to in subsection 11 of this clause) who has the authority to appoint (elect) the individual executive body of that organization or to appoint

(elect) not less than 50 per cent of the members of the collegiate executive body or board of directors (supervisory board) of the organization;

5) organizations whose individual executive bodies or not less than 50 per cent of the members of whose collegiate executive body or board of directors (supervisory board) have been appointed or elected by decision of one and the same person (a physical person jointly with interdependent persons of that person such as are referred to in subsection 11 of this clause);

6) organizations in which the same physical persons jointly with interdependent persons such as are referred to in subsection 11 of this clause make up more than 50 per cent of the members of the collegiate executive body or board of directors (supervisory board);

7) an organization and the person who exercises the powers of its individual executive body;

8) organizations in which the powers of the individual executive body are exercised by one and the same person;

9) organizations and (or) physical persons where the direct participating interest held by each preceding person in each successive organization is more than 50 per cent;

10) physical persons where one physical person is subordinate to another by reason of job position;

11) a physical person and his (her) spouse, parents (including adoptive parents), children (including adopted children) and full and half siblings; a guardian (custodian) and his ward.

3. For the purposes of this Article, the participating interest of a physical person in an organization shall be taken to mean the aggregate participating interest which the physical person and persons interdependent with him such as are referred to in subsection 11 of clause 2 of this Article have in that organization.

[clause 3 as reworded by Federal Law No. 376-FZ of 24.11.2014]

4. Where influence on the conditions and (or) results of transactions concluded by particular persons and (or) the economic results of their activities is exerted by one or more other persons by virtue of their dominant position on the market or by virtue of other similar circumstances attributable to particular characteristics of transactions concluded, that influence shall not constitute a basis for those persons to be recognised as interdependent for taxation purposes.

5. The direct and (or) indirect participation of the Russian Federation, constituent entities of the Russian Federation or municipalities in Russian organizations shall not in and of itself constitute a basis for those organizations to be deemed interdependent.

Organizations such as are referred to in this clause may be deemed interdependent on other grounds provided for in this Article.

6. Where the circumstances referred to in clause 1 of this Article exist, organizations and (or) physical persons which are parties to a transaction may independently declare themselves to

be interdependent persons for taxation purposes on grounds not provided for in clause 2 of this Article.

7. A court may deem persons to be interdependent on other grounds not provided for in clause 2 of this Article if the relationship between those persons has the attributes referred to in clause 1 of this Article.

Article 105.2. Procedure for Determining the Participating Interest of a Person in an Organization *[article as reworded by Federal Law No. 32-FZ of 15.02.2016]*

1. For the purposes of this Code, the participating interest of a person in an organization shall be determined as the sum of the percentages of direct and indirect interest held by that person in the organization.

2. The direct participating interest of a person in an organization shall be the proportion of voting shares directly held by the person concerned in that organization or the interest directly held by the person concerned in the charter (pooled) capital (fund) of that organization, or, where it is impossible to determine that proportion or that interest, the interest directly held by the person concerned, as a participant in that organization, which is determined in proportion to the total number of participants in that organization.

Where shares in (interests in the charter (pooled) capital (fund) of) an organization form part of the assets of an investment fund or a non-state pension fund established in accordance with the legislation of the Russian Federation, a direct participating interest in the organization concerned shall be determined in proportion to the participating interest (share of invested property) of persons in that investment fund (non-state pension fund) or, if that participating interest cannot be determined, in proportion to the number of persons.

3. The indirect participating interest of a person in another organization shall be deemed to be an interest which is determined as follows:

1) all the chains of participation of the person in an organization through the direct participation of each preceding organization (other person) in each successive organization within a particular chain are determined;

2) the direct participating interests of each preceding organization (other person) in each successive organization within a particular chain are determined;

3) the indirect participating interests of one organization (other person) in another organization within each chain are determined, an indirect participating interest being determined as the product of the direct participating interests of the first two organizations (other persons) in a chain and, if there is subsequent participation, by means of multiplying the product obtained by the next direct participating interest in the chain and each ensuing product by each ensuing direct participating interest up to the last organization in the chain;

4) if there are multiple chains of interest, all the indirect participating interests held by a person in an organization which are determined in accordance with clause 3 of this clause shall be added together.

4. In determining the participating interest of a person in an organization, account shall not be taken of participation which is exercised by means of the possession of securities acquired through a repo contract concluded in accordance with the Federal Law “Concerning the Securities Market” or an operation which is deemed to be a repo operation in accordance with the legislation of a foreign state. In this respect, for the purposes of determining a direct and (or) indirect participating interest such securities shall be taken into account for the person who is the seller of the securities in the first leg of the repo, except in cases where securities sold by the seller in the first leg of a repo were received by that seller through another repo operation or a securities lending operation.

In the event that the second leg of a repo is not performed or is not performed in full, the participating interest of a person in an organization shall be determined without taking into account the special considerations which are established by this clause.

5. In determining the participating interest of a person in an organization, account shall not be taken of participation which is exercised by means of the possession of securities acquired through a securities lending contract concluded in accordance with the legislation of the Russian Federation or the legislation of a foreign state. In this respect, for the purposes of determining a direct and (or) indirect participating interest such securities shall be taken into account for the person who is the creditor (lends securities), except in cases where securities transferred under a securities lending contract were received by the creditor through another securities lending operation or through a repo operation.

In the event that obligations to return securities in the context of securities lending operations are not fulfilled or are not fulfilled in full, the participating interest of a person in an organization shall be determined without taking into account the special considerations which are established by this clause.

6. In determining the participating interest of a person in an organization, account shall also be taken of interest which is exercised using a foreign unincorporated entity where the person concerned is deemed to be a controlling person of that entity. In this respect, such a participating interest using a foreign unincorporated entity shall be determined in accordance with a procedure similar to the procedure established by clause 3 of this Article for the determination of an indirect participating interest of a person in an organization which is exercised using another organization, subject to the special considerations established by paragraph 2 of this clause.

For the purpose of determining the indirect participating interest of a person in an organization where there is more than one controlling person of a foreign unincorporated entity, the interest of each of the controlling persons in the organization concerned shall be determined in proportion to the contribution made by each controlling person to the property transferred to that entity. Where the amount of the contribution made to property transferred to such a entity cannot be determined, the interests of all the controlling persons shall be deemed equal for the purposes of determining their participating interest in the organization, and the size of those interests shall be determined on the basis of the number of controlling persons of the entity concerned.

The rules laid down in this clause shall also apply in determining a participating interest in an organization which is exercised using a foreign legal entity whose personal law does not provide for participation (there is no charter capital or fund).

7. Additional circumstances in the determination of the participating interest of a person in an organization shall be taken into account by judicial process.

**CHAPTER 14.2. GENERAL PROVISIONS CONCERNING PRICES AND
TAXATION. INFORMATION TO BE USED IN COMPARING THE
CONDITIONS OF TRANSACTIONS BETWEEN INTERDEPENDENT
PERSONS WITH THE CONDITIONS OF TRANSACTIONS BETWEEN
NON-INTERDEPENDENT PERSONS**

Article 105.3. General Provisions Concerning Taxation in Transactions Between Interdependent Persons

1. Where, in transactions between interdependent persons, commercial or financial conditions are made or imposed which differ from those which would apply in transactions recognised as comparable in accordance with this Section between non-interdependent persons, any income, profit or receipts which might have been received by one of those persons, but by reason of that difference was not received, shall be recognised for taxation purposes for the person concerned.

Income (profit, receipts) shall be recognised for taxation purposes in accordance with this clause as long as this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased. The provisions of this paragraph shall not apply in cases where a taxpayer applies a symmetrical adjustment in accordance with this Section in cases provided for in a pricing agreement for taxation purposes concluded in accordance with clause 2 or paragraph 1 of clause 3 of Article 105.20 of this Code, or as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 436-FZ of 28.12.2017, No. 325-FZ of 29.09.2019]*

For the purposes of this Code the prices used in transactions whose parties are persons who are not deemed to be interdependent and income (profit, receipts) received by persons who are parties to such transactions shall be deemed to be at market level.

2. Income (profit, receipts) of interdependent persons who are parties to a transaction which might have been received by those persons but was not received by reason of differences between the commercial and (or) financial conditions of that transaction and the commercial and (or) financial conditions of an identical transaction whose parties are persons who are not deemed to be interdependent shall be determined by the federal executive body in charge of control and supervision in the area of taxes and levies using the methods established by Chapter 14.3 of this Code.

3. Where the tax base is determined on the basis of the price for a good (work or service) which was used by the parties to a transaction for taxation purposes (hereafter in this Section referred to as “price used in a transaction”), that price shall be deemed to be the market price

until the federal executive body in charge of control and supervision in the area of taxes and levies proves otherwise or the taxpayer independently adjusts amounts of tax (losses) in accordance with clause 6 of this Article. *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

A taxpayer may use a price other than the price used in the above-mentioned transaction of its own accord for taxation purposes if the price actually used in that transaction does not conform to the market price.

4. In exercising tax control in the manner laid down by Chapter 14.5 of this Code, the federal executive body in charge of control and supervision in the area of taxes and levies shall check the proper calculation and payment of the following taxes:

1) tax on profit of organizations, with the exception of the part of tax on profit of organizations which is calculated in relation to profit of controlled foreign companies; *[as amended by Federal Law No. 436-FZ of 28.12.2017]*

2) tax on income of physical persons which is payable in accordance with Article 227 of this Code;

3) mineral extraction tax (where one of the parties to a transaction is a taxpayer of that tax and the subject of the transaction is an extracted commercial mineral which is recognised for the taxpayer concerned as an object of assessment to mineral extraction tax for which tax on extraction is levied at a tax rate established as a percentage);

4) value added tax (where one of the parties to a transaction is an organization (private entrepreneur) which (who) is not a taxpayer of value added tax or is exempt from performing the duties of a taxpayer of value added tax);

5) tax on additional income from hydrocarbon extraction.
[subsection 5 inserted by Federal Law No. 199-FZ of 19.07.2018]

5. Where amounts of taxes referred to in clause 4 of this Article are found to have been understated or the amount of losses determined in accordance with Chapter 25 of this Code is found to have been overstated, the federal executive body in charge of control and supervision in the area of taxes and levies shall make adjustments to the corresponding tax bases. *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

6. Where, in a transaction between interdependent persons, a taxpayer uses prices for goods (work and services) which are not consistent with market prices and that discrepancy has caused amounts of one or more of the taxes (advance payments) referred to in clause 4 of this Article to be understated or the amount of losses determined in accordance with Chapter 25 of this Code to be overstated, the taxpayer shall have the right independently to adjust the tax base and amounts of relevant taxes (losses) after the end of the calendar year which includes the tax period (tax periods) for the taxes for which amounts are to be adjusted. Information which enables the identification of a transaction in relation to which a taxpayer has independently adjusted the tax base and the amount of tax shall be given in explanations accompanying a revised tax declaration such as is referred to in this clause. *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

In this respect, the adjustments referred to in this clause may be made:

- by organizations at the same time as submitting a tax declaration for tax on profit of organizations for the relevant tax period (or, where an organization is not a payer of tax on profit of organizations, within the time limits established for the submission of a tax declaration for tax on profit of organizations);
- by physical persons at the same time as submitting a tax declaration for tax on income of physical persons.

Adjustments for value added tax and mineral extraction tax in cases provided for in clause 4 of this Article shall be reflected in revised tax declarations for each tax period in which price deviation occurred, to be submitted together with the tax declaration for tax on profit of organizations (tax on income of physical persons).

In the event that a taxpayer applies prices (interest rates) which are not consistent with market prices (interest rates) under an agreement such as is referred to in clause 11 of Article 261 of this Code and this has caused the amount of tax on profit of organizations to be understated or the amount of a loss determined in accordance with Chapter 25 of this Code to be overstated, the taxpayer shall have the right to adjust the tax base and the amount of tax (loss) independently after the end of the calendar year in which income from the transaction concerned was recognised as income in accordance with paragraphs 5 to 16 of clause 6 of Article 271 of this Code. *[paragraph inserted by Federal Law No. 199-FZ of 19.07.2018]*

An amount of arrears which has been discovered by a taxpayer independently on the basis of an adjustment made in accordance with this clause must be settled not later than the date of payment of tax on profit of organizations (tax on income of physical persons) for the relevant tax period. In this respect, penalties shall not be charged on the amount of arrears for the period from the date on which the arrears arose up to the date of expiry of the established time limit for settlement of the arrears.

7. For the purposes of calculating taxes (advance payments) for tax periods (reporting periods) which end during a calendar year, a taxpayer shall have the right to use the prices of transactions whose parties are interdependent persons which were actually used in those transactions.

8. Where prices are used in transactions in accordance with instructions issued by an anti-monopoly body, those prices shall be recognised as market prices for taxation purposes with account taken of the special considerations laid down in Article 105.4 of this Code for transactions in which regulated prices are used.

9. Where a transaction was concluded on the basis of exchange trading conducted in accordance with the legislation of the Russian Federation or legislation of a foreign state, that price shall be recognised as the market price for taxation purposes.

10. Where the legislation of the Russian Federation makes it compulsory for a valuation to be performed when a particular transaction is concluded, the value of the subject of valuation which is determined by the appraiser in accordance with the legislation of the Russian

Federation concerning valuation activities shall form the basis for determining the market price for taxation purposes.

11. Where the price used in a transaction has been determined in accordance with a pricing agreement concluded in accordance with Chapter 14.6 of this Code, that price shall be deemed to be at market level for taxation purposes.

11.1. The price applied in a transaction involving the assignment of rights (claims) by a taxpayer which is a bank where the assignment of rights (claims) takes place as part of measures provided for in a plan for the participation of the Bank of Russia in the implementation of bankruptcy prevention measures in relation to a bank or where the assignment of rights (claims) takes place in accordance with the procedure prescribed by part 1 of Article 5 of Federal Law No. 263-FZ of 29 July 2018 “Concerning the Introduction of Amendments to Certain Legislative Acts of the Russian Federation” shall be deemed to be at market level for taxation purpose.

[clause 11.1 inserted by Federal Law No. 125-FZ of 06.06.2019]

12. Where chapters of Part Two of this Code governing the calculation and payment of particular taxes lay down different rules for determining the market price of a good (work or service) for taxation purposes, the rules of Part Two of this Code shall apply.

13. The rules laid down in this Section shall apply to transactions which give rise to the need for at least one of the parties to those transactions to record income, expenses and (or) the value of extracted commercial minerals, resulting in an increase and (or) decrease in the tax base for taxes specified in clause 4 of this Article.

Article 105.4. Special Considerations Relating to the Recognition of Prices as Market-Conforming for Taxation Purposes Where Regulated Prices Are Used

1. Where taxpayers conclude transactions in relation to which price regulation is applicable by means of the setting of a price or the negotiation of a price formula with an authorized executive body or the setting of maximum and (or) minimum prices, price increments or price discounts or by means of other limitations on profit margins or profit in such transactions, the prices of such transactions shall be recognised as market-conforming for taxation purposes with account taken of the special considerations established by this Article.

The above-mentioned special considerations shall be taken into account where price regulation is carried out in accordance with the legislation of the Russian Federation, acts of the Government of the Russian Federation, the legislation of constituent entities of the Russian Federation, municipal legal acts, regulatory legal acts of authorized bodies, regulatory legal acts of foreign states or authorized bodies and international agreements of the Russian Federation.

2. Where a minimum price has been set, that price shall not be taken into account in determining the market price if the lowest value of the market price range determined in accordance with Chapter 14.3 of this Code without taking that minimum price into account exceeds that minimum price. Otherwise, the market price range shall be a range whose lowest value is equal to that minimum price and whose highest value is taken to be equal to the highest value thereof determined in accordance with Chapter 14.3 of this Code.

Where a maximum price has been set, that price shall not be taken into account in determining the market price if that maximum price exceeds the highest value of the market price range determined in accordance with Chapter 14.3 of this Code without taking that maximum price into account. Otherwise, the market price range shall be a range whose highest value is equal to that maximum price and whose lowest value is taken to be equal to the lowest value thereof determined in accordance with Chapter 14.3 of this Code.

3. Where both minimum and maximum prices have been set, those prices shall not be taken into account in determining the market price if the lowest value of the market price range determined in accordance with Chapter 14.3 of this Code without taking those minimum and maximum prices into account exceeds that minimum price and the maximum price set exceeds the highest value of that market price range. Otherwise, the highest and (or) lowest value respectively of the market price range shall be adjusted in the manner provided for in clause 2 of this Article.

4. Where, in relation to a transaction, minimum and (or) maximum price increments or price discounts have been established or other limitations have been imposed on the level of profit margin or profit, the market price ranges (profit margin ranges) determined in accordance with Chapter 14.3 of this Code must be adjusted in a manner similar to that laid down in clauses 2 and 3 of this Article.

Article 105.5. Comparability of Commercial and (or) Financial Conditions of Transactions and Functional Analysis

1. In determining income (profit, receipts) in transactions whose parties are interdependent persons, the federal executive body in charge of control and supervision in the area of taxes and levies shall, for the purposes of applying the methods provided for in Article 105.7 of this Code, compare the transactions or class of transactions in question (hereafter in this Code referred to as “tested transaction”) with one or more transactions whose parties are not interdependent persons (hereinafter in this Code referred to as “compared transactions”).

2. For the purposes of this Code, compared transactions shall be deemed to be comparable with a tested transaction if they are concluded under the same commercial and (or) financial conditions as the tested transaction.

3. Where the commercial and (or) financial conditions of compared transactions differ from the commercial and (or) financial conditions of a tested transaction, the transactions in question may be deemed to be comparable with the tested transaction if the differences between those conditions of the tested transaction and the compared transactions do not have a significant bearing on the results of the transactions or if the differences may be taken into account with the aid of the use for taxation purposes of appropriate adjustments to the conditions and (or) results of the compared transactions or the tested transaction.

4. In determining the comparability of transactions and for the purpose of making adjustments to commercial and (or) financial conditions, an analysis shall be made of the following characteristics of the tested transaction and compared transactions which may have a significant bearing on the commercial and (or) financial conditions of transactions whose parties are not interdependent persons:

- 1) characteristics of goods (work and services) which are the subject of a transaction;
- 2) characteristics of the functions performed by the parties to a transaction in accordance with customary business practices, including the characteristics of assets used by the parties to the transaction, risks assumed by them, the allocation of responsibility between the parties to the transaction and other conditions of the transaction (hereafter in this Code referred to as “functional analysis”);
- 3) the conditions of agreements (contracts) concluded between the parties to a transaction which affect the prices of goods (work and services);
- 4) characteristics of the economic conditions of the activities of the parties to a transaction, including characteristics of relevant markets for goods (work and services) which affect the prices of goods (work and services);
- 5) characteristics of the market (commercial) strategies of the parties to a transaction which affect the prices of goods (work and services).

5. In determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of the tested transaction, account may be taken in particular of the following conditions:

- 1) the quantity of goods and the volume of work performed (services rendered);
- 2) the time limits for the fulfilment of transaction obligations;
- 3) the conditions of payment which are applicable in such transactions;
- 4) the exchange rate of the foreign currency used in the transaction to the rouble or to another currency, and changes therein;
- 5) other conditions of the allocation of rights and responsibilities between the parties to the transaction (on the basis of the results of a functional analysis).

6. In determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of a tested transaction, consideration of the functions performed by the parties to a transaction shall include consideration of tangible and intangible assets available to the parties to the transaction. In this respect, for the purposes of this Chapter assets shall be understood to mean resources (property, including monetary resources, and property rights, including intellectual rights) which a person owns, uses or has available for the purpose of receiving income. The principal functions of the parties to a transaction which are to be taken into account in determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of a tested transaction include, in particular:

- 1) product design and engineering;
- 2) manufacturing of goods;

- 3) assembly of goods or components thereof;
- 4) erection and (or) installation of equipment;
- 5) performance of research and development work;
- 6) acquisition of goods and materials;
- 7) conduct of wholesale or retail trade in goods;
- 8) repair and warranty maintenance functions;
- 9) promotion of goods (work and services) to new markets, marketing and advertising;
- 10) storage of goods;
- 11) transportation of goods;
- 12) insurance;
- 13) consulting and information services;
- 14) accounting work;
- 15) provision of legal support;
- 16) employee (personnel) secondment;
[subsection 16 as amended by Federal Law No. 116-FZ of 05.05.2014]
- 17) performance of agency functions and mediation;
- 18) financing and performance of miscellaneous financial operations;
- 19) quality control;
- 20) strategic management, including determination of pricing policy, strategies for the production and sale of goods (work and services), sales volumes, the range of goods (work and services offered) and their consumer attributes, and operational management;
- 21) training and advanced training of employees;
- 22) organization of the sale and (or) production of goods with the involvement of other persons possessing the required facilities;
- 23) the development, improvement, maintenance, protection and use of intangible assets, and monitoring of the performance of those functions.
[subsection 23 inserted by Federal Law No. 325-FZ of 29.09.2019]

7. The following risks which are assumed by each of the parties to a transaction in carrying out their activities and have a bearing on the conditions of the transaction shall also be taken into account in determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of a tested transaction:

- 1) production risks, including the risk of under-utilization of production capacity;
- 2) the risk of changes in market prices for materials acquired and products manufactured as a result of changes in the economic situation, and the risk of changes in other market conditions;
- 3) the risk of the depreciation of inventory and the loss by goods of their quality and other consumer attributes;
- 4) risks associated with the loss of property and property rights;
- 5) risks associated with changes in the exchange rate of foreign currency to the rouble or another currency or changes in interest rates, and credit risks;
- 6) the risk that research and development work may not yield any result;
- 7) investment risks associated with possible financial losses as a result of errors made in making investments, including the selection of investment targets;
- 8) the risk of damage to the environment;
- 9) entrepreneurial (commercial) risks associated with strategic management, including price policy and strategies for the sale of goods (work and services);
- 10) the risk of absence of demand for goods (inventory risk, stocking risk);
- 11) the risk of loss of business reputation as a result of goods losing their quality and other consumer attributes for reasons outside the control of the parties to a transaction;
[subsection 11 inserted by Federal Law No. 325-FZ of 29.09.2019]
- 12) risk associated with the development, improvement, maintenance, protection and use of intangible assets.
[subsection 12 inserted by Federal Law No. 325-FZ of 29.09.2019]

8. In determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of a tested transaction, account must be taken of the characteristics of the markets for goods (work and services) on which comparable transactions and the tested transaction are concluded. In this respect, differences in the characteristics of markets for goods (work and services) on which compared transactions and the tested transaction are concluded should not have a material effect on the commercial and (or) financial conditions of transactions concluded on those markets, or it should be possible to eliminate the effect of any such differences by means of making appropriate adjustments.

The market for goods (work and services) shall be deemed to be the sphere of circulation of those goods (work and services), which is determined by the extent to which it is possible for a purchaser (seller) to acquire (sell) a good (work or service) in the area of the Russian Federation which is closest to the purchaser (seller) or outside the Russian Federation without incurring significant additional expense.

9. The following factors shall be taken into account in the determining the comparability of the characteristics of markets for goods (work and services):

- 1) the geographical location and size of markets;
- 2) the existence of competition on markets and the relative competitiveness of sellers and purchasers on a market;
- 3) the existence of similar goods (work and services) on a market;
- 4) demand and supply on a market, and the purchasing power of consumers;
- 5) the level of state interference in market processes;
- 6) the level of development of the production and transport infrastructure;
- 7) other characteristics of a market which affect the price of a transaction.

10. In determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of the tested transaction, account shall be taken of the commercial strategies of the parties to the compared transactions and the tested transaction, which shall include, in particular, strategies aimed at updating and improving manufactured products and entering new sales markets.

11. Where, for the purpose of determining the comparability of the commercial and (or) financial conditions of transactions, it is necessary to determine the comparability of the conditions of a loan agreement, a credit agreement, a surety agreement or a bank guarantee, when comparing the conditions of those agreements account shall also be taken of the credit history and solvency of, respectively, the recipient of the loan or credit or the person whose obligations are secured by the surety bond or bank guarantee, the nature and market value of security provided for an obligation, the period for which a loan or credit is granted, the currency which is the subject of the loan or credit agreement, the procedure for determining the interest rate (fixed or floating) and other conditions which affect the level of the interest rate (commission) for the agreement concerned.

11.1. In determining the comparability of the commercial and (or) financial conditions of compared transactions with the conditions of a tested transaction, the following characteristics of intangible assets which the parties to transactions own, use or dispose of or which are controlled by them shall be taken into account: the type of intangible asset, the exclusivity of the intangible assets, the existence and duration of legal protection, the geographic scope of rights to use the intangible assets, the useful life, the stage of the life cycle of the intangible assets (development, improvement, use), the rights and functions of the parties with respect to any increase in the value of the intangible assets resulting from the

improvement thereof, and whether income may be received from the use of the intangible assets.

[clause 11.1 inserted by Federal Law No. 325-FZ of 29.09.2019]

12. Taking into account the analysis of the conditions of compared transactions in accordance with clause 4 of this Article, adjustments aimed at ensuring that the conditions of compared transactions are adequately comparable with the conditions of the tested transaction shall be made by the federal executive body in charge of control and supervision in the area of taxes and levies on the basis of the following principles:

1) income (profit, receipts) of the parties to an uncontrolled transaction is determined with account taken of assets used and economic (commercial) risks assumed under the economic conditions prevailing on the market for goods (work and services) and reflects the functions performed by each party to the transaction in accordance with the conditions of the agreement and customary business practices;

2) the performance of additional functions, the use of assets which materially affect the amount of income (profit, receipts) and the assumption of additional commercial (economic) risks by the parties to a transaction in accordance with a market (commercial) strategy is accompanied, all other things being equal, by an increase in expected income (profit, receipts) from the transaction.

Article 105.6. Information to be Used in Comparing the Conditions of Transactions Between Interdependent Persons with the Conditions of Transactions Between Non-Interdependent Persons

1. In exercising tax control in connection with the occurrence of transactions in which the parties are interdependent (including when comparing the commercial and (or) financial conditions of a tested transaction with the commercial and (or) financial conditions of comparable transactions), the federal executive body in charge of control and supervision in the area of taxes and levies shall use the following information:

1) information on prices and quotations on Russian and foreign exchanges;

2) customs statistics relating to foreign trade of the Russian Federation which are published or presented on request by the federal executive body in charge of the customs sphere;

3) information on prices (price fluctuation limits) and exchange quotations which is contained in official information sources of authorized state government bodies and local government bodies in accordance with the legislation of the Russian Federation, the legislation of constituent entities of the Russian Federation and municipal legal acts (including, in particular, in the area of pricing regulation and statistics), in official information sources of foreign states or international organizations or in other published and (or) publicly available publications and information systems;

4) data produced by price information agencies;

5) information on transactions concluded by the taxpayer.

2. Where information such as is referred to in clause 1 of this Article does not exist (or is not sufficient), the federal executive body in charge of control and supervision in the area of taxes and levies shall use the following information:

1) information on prices (price fluctuation limits) and quotations which is contained in published and publicly available publications and information systems;

2) information obtained from accounting (financial) statements and statistical reports of organizations, including where that information is published in publicly available Russian or foreign publications and (or) is contained in publicly available information systems and on the official Internet sites of Russian and (or) foreign organizations. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

Information obtained from accounting (financial) statements of foreign organizations may be used in determining the profit margin range for Russian organizations (foreign organizations whose activities in the territory of the Russian Federation give rise to a permanent establishment) only if it is not possible for that profit margin range to be calculated on the basis of data in the accounting (financial) statements of Russian organizations which have performed comparable transactions; *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

3) information on the market value of subjects of valuation which has been determined in accordance with legislation of the Russian Federation or foreign states concerning valuation activities;

4) other information which is used in accordance with Chapter 14.3 of this Code.

3. Information constituting tax secrets and other information which is subject to restricted access in accordance with the legislation of the Russian Federation may not be used for the purposes of comparing the conditions of transactions between interdependent persons with the conditions of transactions between non-interdependent persons for taxation purposes.

The restriction established by this clause shall not apply to information concerning a taxpayer in relation to whom the federal executive body in charge of control and supervision in the area of taxes and levies is carrying out an audit of the proper calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons.

4. Only publicly available information sources and information concerning a taxpayer shall be used for the purpose of comparing transactions between interdependent persons with the conditions of transactions between non-interdependent persons for taxation purposes.

5. A taxpayer may use any publicly available sources of information, in addition to information concerning its own activities, for the purpose of comparing transactions between interdependent persons with the conditions of transactions between non-interdependent persons for taxation purposes and in preparing and presenting documentation in accordance with Article 105.15 of this Code.

6. Where, when carrying out an audit of the proper calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons, the federal executive body in charge of control and supervision in the area of taxes and levies has

information concerning comparable transactions concluded by the taxpayer in relation to whom the audit is being performed in which the other parties are persons who are not deemed to be interdependent with that taxpayer, in assessing the comparability of such transactions with a tested transaction the federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to use other information for the purpose of determining the market price (profit margin) range.

**CHAPTER 14.3. METHODS TO BE USED IN DETERMINING FOR
TAXATION PURPOSES INCOME (PROFIT, RECEIPTS) IN TRANSACTIONS
IN WHICH THE PARTIES ARE INTERDEPENDENT PERSONS**

Article 105.7. General Provisions Concerning Methods to be Used in Determining for Taxation Purposes Income (Profit, Receipts) in Transactions in Which the Parties Are Interdependent Persons

1. The federal executive body in charge of control and supervision in the area of taxes and levies shall use the following methods in accordance with the procedure established by this Chapter in exercising tax control in connection with the conclusion of transactions between interdependent persons (including when comparing the commercial and (or) financial conditions of a tested transaction and the results thereof with the commercial and (or) financial conditions of comparable transactions and the results thereof) and in considering an application for the conclusion of a pricing agreement for taxation purposes: *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

- 1) the comparable market price method;
- 2) the resale price method;
- 3) the cost plus method;
- 4) the comparable profits method;
- 5) the profit split method.

2. It shall be permissible to use a combination of two or more of the methods provided for in clause 1 of this Article.

2.1. When the federal executive body in charge of control and supervision in the area of taxes and levies considers an application for the conclusion of a pricing agreement for taxation purposes in relation to a foreign trade transaction in which at least one party is a tax resident of a foreign state with which a double taxation treaty (agreement) has been concluded with the participation of the authorized executive body of the foreign state in question, the methods provided for in clause 1 of this Article may be applied with account taken of special considerations established by the legislation of that foreign state for equivalent versions of those methods provided that the results obtained from applying the methods provided for in clause 1 of this Article in the transaction concerned are comparable with the results obtained from applying those methods with account taken of those special considerations. In this respect, the results in question shall be deemed comparable if there are no differences between those results or the differences between them do not materially affect the tax base

and amounts of taxes referred to in clause 4 of Article 105.3 of this Code.

[clause 2.1 inserted by Federal Law No. 6-FZ of 17.02.2021]

3. The comparable market price method shall be used on a priority basis for the purpose of determining the conformity of prices used in transactions to market prices, except as otherwise provided by clause 2 of Article 105.10 of this Code. The use of the other methods which are specified in subsections 2 to 5 of clause 1 of this Article shall be permitted where the comparable market price method cannot be used or where the use of that method would not enable a conclusion to be drawn on whether or not prices used in transactions conform to market prices for taxation purposes.

The comparable market price method shall be used to determine the conformity of the price used in a controlled transaction to the market price in accordance with the procedure established by Article 105.9 of this Code where there has been at least one comparable transaction on the relevant market for goods (work and services) which involved identical (or, if these do not exist, similar) goods (work and services) and provided that sufficient information is available concerning that transaction.

In this respect, for the purpose of applying the comparable market price method to determine the conformity of a price used by a taxpayer in a controlled transaction, a transaction concluded by that taxpayer with persons who are not interdependent with the taxpayer may be used as a compared transaction provided that the transaction in question is comparable with the tested transaction.

4. Where there is no publicly available information on prices in comparable transactions involving identical (similar) goods (work and services) for the purpose of determining the proper calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons, one of the methods referred to in subsections 2 to 5 of clause 1 of this Article shall be used.

Except as otherwise provided in this Chapter, the method to be used shall be that which, taking into account the actual circumstances and conditions of a controlled transaction, best enables a reasoned conclusion to be drawn as to whether or not the price used in a transaction conforms to market prices.

5. The methods referred to in subsections 2 to 5 of clause 1 of this Article may also be used in determining income (profit, receipts) for taxation purposes for a group of similar transactions in which the parties are interdependent persons.

For the purposes of Chapters 14.2 of this Code, this Chapter and Chapters 14.4 to 14.6 of this Code, similar transactions shall be transactions which may involve identical (similar) goods (work and services) and which have been concluded under comparable commercial and (or) financial conditions.

6. In selecting the method to be used in determining for taxation purposes income (profit, receipts) in transactions in which the parties are interdependent persons, account must be taken of the completeness and reliability of source data and of the appropriateness of adjustments made for the purpose of rendering compared transactions comparable with the tested transaction.

7. For the purposes of applying the methods provided for in clause 1 of this Article, besides information on specific transactions publicly available information on the prevailing level of market prices and (or) exchange quotations and data produced by price information agencies on prices (price ranges) for identical (similar) goods (work and services) on the relevant markets for those goods (work and services) may also be used. The sources of information on market prices which are referred to in this clause may be used in applying the methods provided for in clause 1 of this Article provided that it is ensured that the transactions for which data are contained in those information sources are comparable with the tested transaction.

8. For the purposes of applying the methods referred to in subsections 2 and 3 of clause 1 of this Article, data in accounting (financial) statements on the basis of which the profit margin range is calculated must be put into a comparable form which ensures that differences in the treatment of expenses have no material effect on profit margin values and the profit margin range which are calculated in accordance with the methods referred to in subsections 2 and 3 of clause 1 of this Article. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

Where it is impossible to guarantee the comparability of data in accounting statements, the methods referred to in subsections 4 and 5 of clause 1 of this Article shall be used for the purpose of calculating the profit margin range and determining for taxation purposes income (profit, receipts) in transactions in which the parties are interdependent persons. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

9. Where the methods referred to in clause 1 of this Article do not make it possible to determine whether the price of a good (work or service) which was used in a one-time transaction conforms to the market price, the conformity of the price used in that transaction to the market price may be determined on the basis of the market value of the subject of the transaction which is established as a result of an independent valuation in accordance with the legislation of the Russian Federation or foreign states concerning valuation activities.

In this respect, for the purposes of this Article a one-time transaction shall be understood to mean a transaction whose economic essence differs from the organization's main activity and which takes place on a one-time basis.

10. The methods referred to in subsections 4 and 5 of clause 1 of this Article may be applied without direct calculation of market price values. When using these methods the federal executive body in charge of control and supervision in the area of taxes and levies shall compare the financial indicators (results) of the tested transaction (or a group of similar tested transactions) with the profit margin range (financial indicators calculated on the basis of the profit margin range) for comparable transactions, and on that basis shall calculate the amount of income (profit, receipts) which would have been received if the parties to the transaction had been non-interdependent persons.

11. A court may take into account other circumstances which are relevant to the determination of the conformity of the price used in a transaction to the market price without being subject to the limitations provided for in Chapter 14.2 of this Code and this Chapter.

12. Taxpayers shall not be obliged, when concluding transactions, to adhere to the methods referred to in clause 1 of this Article in justifying their pricing policies for purposes other than those provided for in this Code.

Article 105.8. Financial Indicators and Profit Margin Range

1. The following profit margin indicators may be used in the manner prescribed by Articles 105.10 to 105.13 of this Code for the purpose of determining for taxation purposes income (profit, receipts) in transactions in which the parties are interdependent persons:

- 1) gross profit margin, which is determined as the ratio of gross profit to receipts from sales calculated exclusive of excise duties and value added tax;
- 2) gross return on costs, which is determined as the ratio of gross profit to the cost of production of goods (work and services) sold;
- 3) return on sales, which is determined as the ratio of profit from sales to receipts from sales calculated exclusive of excise duties and value added tax;
- 4) return on costs, which is determined as the ratio of profit from sales to the sum of the cost of production of goods (work and services) sold and commercial and management expenses associated with the sale of goods (work and services);
- 5) return on commercial and management expenses, which is determined as the ratio of gross profit to commercial and management expenses associated with the sale of goods (work and services);
- 6) return on assets, which is determined as the ratio of profit from sales to the current market value of assets (non-circulating and circulating) which are directly or indirectly used in the tested transaction. In the absence of required information on the current market value of assets, return on assets may be determined on the basis of data in accounting (financial) statements. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

2. For the purposes of this Chapter, the indicators referred to in clause 1 of this Article and other financial indicators shall be determined in the case of Russian organizations on the basis of data in accounting (financial) statements which are prepared in accordance with the accounting legislation of the Russian Federation. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

In the case of foreign organizations, the above-mentioned financial indicators shall be determined on the basis of data in accounting (financial) statements which are prepared in accordance with the legislation of foreign states. In this respect, adjustments shall be made to render the data comparable with data in accounting (financial) statements which are prepared in accordance with the accounting legislation of the Russian Federation. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

3. The profit margin range shall be determined using profit margin values determined for no less than four comparable transactions (including transactions concluded by the taxpayer provided that those transactions were concluded with persons who are not interdependent

with the taxpayer) or on the basis of data in the accounting (financial) statements of no less than four comparable organizations. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

The above-mentioned organizations shall be selected according to the sector in which they operate and the particular types of activity carried out by them under comparable economic (commercial) conditions relative to the tested transaction.

Where the sector to which a person who is a party to the tested transaction belongs does not have organizations which are not interdependent with that person, the selection of organizations for the purpose of carrying out the analysis shall be made by reference to the comparability of functions carried out by those organizations, the risks taken by them and assets used.

In the absence of information on four or more comparable transactions or in the absence of information on the accounting (financial) statements of four or more comparable organizations, the profit margin range may be determined using information on a lesser number of comparable transactions (the accounting (financial) statements of a lesser number of organizations). *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

4. For the purposes of applying the methods referred to in subsections 2 to 4 of clause 1 of Article 105.7, the lowest and highest values of the profit margin range must be determined, which shall be calculated in the following manner:

1) the set of profit margin values which are used to determine the profit margin range shall be arranged in ascending order, forming a sample set to be used in determining that range. In this respect, each profit margin value, starting with the lowest, shall be assigned a sequential number. In the event that a sample contains two or more identical profit margin values, all such values shall be included in the sample set. The profit margin of the tested transaction shall not be taken into account in determining the profit margin range;

2) the lowest value of the profit margin range shall be determined as follows:

- if the quotient from the division by four of the number of profit margin values in the sample set formed in accordance with subsection 1 of this clause is a whole number, the lowest value of the profit margin range shall be the arithmetic mean of the profit margin value whose sequential number in the sample set is equal to that whole number and the profit margin value which has the next sequential number in that sample set in ascending order;

- if the quotient from the division by four of the number of profit margin values in the sample set formed in accordance with subsection 1 of this clause is not a whole number, the lowest value of the profit margin range shall be the profit margin value whose sequential number in the sample set is equal to the whole part of that mixed number, plus one;

3) the highest value of the profit margin range shall be determined as follows:

- if the product of 0.75 and the number of profit margin values in the sample set formed in accordance with subsection 1 of this clause is a whole number, the highest value of the profit margin range shall be the arithmetic mean of the profit margin value whose sequential

number in the sample set is equal to that whole number and the profit margin value which has the next sequential number in that sample set in ascending order;

- if the product of 0.75 and the number of profit margin values in the sample set formed in accordance with subsection 1 of this clause is not a whole number, the highest value of the profit margin range shall be the profit margin value whose sequential number in the sample set is equal to the whole part of that mixed number, plus one.

5. The profit margin based on results of activity carried out under comparable economic (commercial) conditions may be calculated on the basis of data in an organization's accounting (financial) statements on condition that the following conditions are simultaneously met: *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

1) the organization carries out comparable activities and performs comparable functions related to those activities. The comparability of activities may be determined by reference to types of economic activity provided for in the All-Russian Classifier of Types of Economic Activity and international and other classifications;

2) the aggregate amount of the organization's net assets is not a negative value according to data in accounting (financial) statements as at 31 December of the last of the years for which the profit margin is calculated; *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

3) the organization's accounting (financial) statements do not show losses from sales in more than one of the years for which the profit margin is calculated; *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

4) the organization does not have a direct and (or) indirect participating interest amounting to more than 25 per cent in another organization (except where information on consolidated accounting statements of organizations is available which is used in calculating the profit margin range) or does not have as a participant (shareholder) another organization holding a direct participating interest of more than 25 per cent.

6. If fewer than four organizations remain as a result of applying the conditions set out in clause 5 of this Article, the participating interest criteria set out in subsection 4 of clause 5 of this Article may be raised from 25 to 50 per cent.

7. The profit margin range shall be calculated using information available as at the time of conclusion of a controlled transaction, but not later than 31 December of the calendar year in which a controlled transaction was concluded, or data in accounting (financial) statements for the three calendar years directly preceding the calendar year in which a tested transaction was concluded (or the calendar year in which prices in the tested transaction were established). *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

The above-mentioned information shall include information held by the taxpayer on transactions concluded by it with persons who are not interdependent with it.

8. For the purpose of ensuring comparability when determining the market profit margin range on the basis of data in accounting (financial) statements of comparable organizations, adjustments may be made to profit margin data to allow for differences in accounts

receivable, accounts payable and inventories indicated by data in accounting (financial) statements of the taxpayer and of organizations whose accounting (financial) statements contain data which are used for the purpose of determining the profit margin range. [as amended by Federal Law No. 97-FZ of 29.06.2012]

Article 105.9. The Comparable Market Price Method

1. The comparable market price method is a method of determining the conformity of the price of goods (work and services) in a tested transaction to the market price by comparing the price used in the tested transaction with the market price range which is determined in the manner prescribed by clauses 2 to 6 of this Article.

2. Where information is available concerning only one comparable transaction involving identical (or, if these do not exist, similar) goods (work and services), the price of that transaction may be taken as both the lowest and the highest value of the market price range only on condition that the commercial and (or) financial conditions of that transaction are wholly comparable with the commercial and (or) financial conditions of the tested transaction (or those conditions are rendered fully comparable with the aid of appropriate adjustments), and provided that the seller of goods (work and services) in the comparable transaction does not hold a dominant position on the market for those identical (or, if these do not exist, similar) goods (work and services). In this respect, the existence of a dominant position shall be assessed with account taken of the provisions of Federal Law No. 135-FZ of 26 July 2006 “Concerning the Protection of Competition” or with account taken of the provisions of corresponding legislation of foreign states.

3. Where information is available concerning a number of comparable transactions (including transactions concluded by the taxpayer provided that those transactions were concluded with persons not interdependent with the taxpayer) involving identical (or, if these do not exist, similar) goods (work and services), the market price range shall be determined as follows:

1) the set of prices used in comparable transactions which are to be used in determining the market price range shall be arranged in ascending order, forming a sample set to be used in determining that range. In this respect, each price value, starting with the lowest value, shall be assigned a sequential number. Where a sample set contains two or more identical price values, all such values shall be included in the sample set. The price used in the tested transaction shall not be taken into account in determining the market price range. Where there is a sufficient number of comparable transactions concluded by the taxpayer in which the parties are not interdependent persons, information on other transactions shall not be taken into account in determining the market price range;

2) the lowest value of the market price range shall be determined as follows:

- if the quotient from the division by four of the number of price values in the sample set formed in accordance with subsection 1 of this clause is a whole number, the lowest value of the market price range shall be the arithmetic mean of the price value whose sequential number in the sample set is equal to that whole number and the price value which has the next sequential number in that sample set in ascending order;

- if the quotient from the division by four of the number of price values in the sample set formed in accordance with subsection 1 of this clause is not a whole number, the lowest value of the market price range shall be the price value whose sequential number in the sample set is equal to the whole part of that mixed number, plus one;

3) the highest value of the market price range shall be determined as follows:

- if the product of 0.75 and the number of price values in the sample set formed in accordance with subsection 1 of this clause is a whole number, the highest value of the market price range shall be the arithmetic mean of the price value whose sequential number in the sample set is equal to that whole number and the price value which has the next sequential number in that sample set in ascending order;

- if the product of 0.75 and the number of price values in the sample set formed in accordance with subsection 1 of this clause is not a whole number, the highest value of the market price range shall be the price value whose sequential number in the sample set is equal to the whole part of that mixed number, plus one.

4. The market price range shall be determined on the basis of available information on prices used during the period examined or information as at the closest date prior to the conclusion of the controlled transaction.

5. Where exchange quotations are used, the market price range shall be determined on the basis of the prices of transactions involving identical (similar) goods that were registered by the relevant exchange on the basis of information published by or obtained upon request from that exchange. The market price range may, in particular, be taken to be the range between the lowest and highest price of transactions concluded on the exchange in a similar period of time under comparable conditions. In determining the market price range on the basis of exchange quotations, allowance may be made for differences in the economic (commercial) conditions of the above-mentioned transactions, for which purpose, in particular, adjustments may be made which take account of differences in the following economic (commercial) conditions: *[as amended by Federal Law No. 325-FZ of 29.09.2019]*

1) reasonable expenses needed to deliver goods (work and services) to a particular market which are supported by documents and (or) information sources;

2) expenses for the payment of export customs duties;

3) conditions of payment;

4) commission (agency) fees payable to a trade broker (trader or agent) for the performance of intermediary trading functions.

6. Where data from price information agencies concerning prices (price ranges) for identical (similar) goods (work and services) are used for the purposes of applying the comparable market price method in accordance with clause 7 of Article 105.7 of this Code, the lowest and highest values of the market price range may be taken to be the published lowest and highest values respectively of prices in transactions concluded over an equivalent period of time under comparable conditions.

7. Where the price used in a tested transaction is within the market price range determined in accordance with the provisions of this Article, that price shall be deemed to conform to the market price for taxation purposes.

Where the price used in a tested transaction is less than the lowest value of the market price range determined in accordance with the provisions of this Article, the price which corresponds to the lowest value of the market price range shall be taken for taxation purposes.

Where the price used in a controlled transaction exceeds the highest value of the market price range determined in accordance with the provisions of this Article, the price which corresponds to the highest value of the market price range shall be taken for taxation purposes.

The lowest or highest value of the market price range shall be taken for taxation purposes in accordance with this clause provided that this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased, except as otherwise provided as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 325-FZ of 29.09.2019]*

Article 105.10. The Resale Price Method

1. The resale price method is a method for determining the conformity of the price in a tested transaction to the market price whereby the gross profit margin obtained by the person who concluded the tested transaction upon the subsequent sale (resale) of a good which that person acquired in the tested transaction (or a group of similar transactions) is compared with the market range of gross profit margins determined in the manner prescribed by clause 3 of Article 105.8 of this Code.

2. The resale price method shall be used in preference to other methods for determining the conformity to market prices of prices at which a good is acquired through a tested transaction and is resold without being processed through a transaction in which the parties are non-interdependent persons. This method shall be used where the reseller does not have intangible assets which materially influence the level of its gross profit margin. The resale price method may also be used in cases where the following operations are carried out for the purpose of reselling a good:

1) preparation of the good for resale and transportation (consignment splitting, grouping of packages, sorting, repacking);

2) mixing of goods if the characteristics of the end products (semi-finished products) do not differ substantially from the characteristics of the goods that are mixed.

3. Where, in transactions concluded under comparable commercial and (or) financial conditions between a reseller and persons (a person) not interdependent with the reseller, a good is resold at different prices, the weighted-average price of the good in all such

transactions shall be used as the resale price of the good for the purpose of determining the market profit margin range.

4. Where the gross profit margin of a reseller is within the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the price at which the good was acquired in the controlled transaction shall be deemed to conform to the market price for taxation purposes.

5. Where the gross profit margin of a reseller is less than the lowest value of the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the controlled transaction price which is taken for taxation purposes shall be a price determined on the basis of the actual resale price of the good and a gross profit margin which corresponds to the lowest value of the profit margin range.

Where the gross profit margin of a reseller is greater than the highest value of the profit margin range determined according to the procedure laid down in clause 3 of Article 105.8 of this Code, the controlled transaction price which is taken for taxation purposes shall be a price determined on the basis of the actual resale price of the good and a gross profit margin which corresponds to the highest value of the profit margin range.

6. For the purposes of applying the resale price method it shall be permissible to use data from price information agencies concerning prices (price ranges) for identical (similar) goods (work and services) and to determine the market price range for identical (similar) goods (work and services) for the purposes of applying that method in the manner laid down in clause 6 of Article 105.9 of this Code.

7. The lowest or highest value of the profit margin range shall be taken for taxation purposes in accordance with clause 5 of this Article provided that this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased, except as otherwise provided as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 325-FZ of 29.09.2019]*

Article 105.11. The Cost Plus Method

1. The cost plus method is a method for determining the conformity of the price in a tested transaction to the market price whereby the gross return on costs of a person who is a party to the tested transaction (a group of similar tested transactions) is compared with the market range of gross return on costs in comparable transactions which is determined according to the procedure laid down in Article 105.8 of this Code.

2. The cost plus method shall be used, in particular, in the following cases:

1) where work is performed (services are rendered) by persons who are interdependent with the seller (except where the performance of work (rendering of services) involves the use of intangible assets which materially influence the level of the seller's return on costs);

2) in the case of the rendering of services involving the management of monetary resources, including the performance of trading operations on the securities market and (or) the currency market;

3) in the case of the rendering of services involving the performance of the functions of the individual executive body of an organization;

4) in the case of the sale of raw materials or semi-finished products to persons interdependent with the seller;

5) in the case of the sale of goods (work and services) under long-term agreements between interdependent persons.

3. Where for a seller who is a party to a tested transaction, its gross return on costs in respect of that transaction is within the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the price used in the controlled transaction shall be deemed to conform to market prices for taxation purposes.

4. Where a seller's gross return on costs is less than the lowest value of the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the price used in the tested transaction shall be taken for taxation purposes as a price determined on the basis of the actual cost of production of goods (work and services) sold and a gross return on costs which corresponds to the lowest value of the profit margin range.

Where a seller's gross return on costs is greater than the highest value of the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the price used in the tested transaction shall be taken for taxation purposes as a price determined on the basis of the actual cost of production of goods (work and services) sold and a gross return on costs which corresponds to the highest value of the profit margin range.

5. For the purposes of applying the cost plus method it shall be permissible to use data from price information agencies concerning prices (price ranges) for identical (similar) goods (work and services) and to determine the market price range for identical (similar) goods (work and services) for the purposes of applying that method in the manner laid down in clause 6 of Article 105.9 of this Code.

6. The lowest or highest value of the profit margin range shall be taken for taxation purposes in accordance with clause 4 of this Article provided that this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased, except as otherwise provided as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 325-FZ of 29.09.2019]*

Article 105.12. The Comparable Profits Method

1. The comparable profits method consists in comparing the operating profit margin of a person who is a party to a tested transaction with the market range of operating profit margins

in comparable transactions as determined in the manner laid down in Article 105.8 of this Code.

2. The comparable profits method may be used, in particular, where there is no information or insufficient information available as a basis for reaching a reasonable conclusion as to whether the commercial and (or) financial conditions of transactions taken for comparison are properly comparable or for using the methods referred to in subsections 2 to 3 of clause 1 of Article 105.7 of this Code.

3. The following indicators of operating profit margin which are determined in accordance with clause 1 of Article 105.8 of this Code may be used for the purposes of this Article:

1) return on sales;

2) return on costs;

3) return on commercial and management expenses;

4) return on assets;

5) another profit margin indicator reflecting the relationship between functions performed and assets used and the economic (commercial) risks assumed and level of remuneration.

4. The factors to be taken into account in selecting a specific profit margin indicator shall be the type of activity carried out by the party to the tested transaction, the functions which it performs, assets used and economic (commercial) risks assumed, the completeness, accuracy and comparability of data used to calculate the relevant profit margin and the economic justification for the indicator in question.

5. For the purposes of applying this Article, profit margin indicators shall be used with account taken of the following considerations:

1) return on sales shall be used where goods acquired from persons who are interdependent with the reseller are subsequently resold to persons who are not interdependent with the reseller, and where goods acquired from persons who are not interdependent with the reseller are subsequently resold to persons who are interdependent with the reseller;

2) gross return on commercial and management expenses shall be used in cases provided for in subsection 1 of this clause where the reseller bears minor economic (commercial) risks in connection with the acquisition and subsequent resale of goods within a short period, and in this respect there is a direct relationship between the amount of the reseller's gross profit from sales and the amount of commercial and management expenses incurred;

3) return on costs shall be used with respect to the performance of work, the rendering of services and the sale of property rights, and with respect to the production of goods;

4) return on assets shall be used with respect to the production of goods (in particular, where transactions being examined are concluded by persons who carry out capital-intensive activities).

6. The use of the comparable profits method shall involve making a comparison between the market profit margin range and the profit margin of a party to a tested transaction which meets the following requirements:

- 1) the party to the tested transaction carries out functions whose contribution to profit earned from transactions consecutively concluded with one and the same good is less than the contribution of the other party to the tested transaction;
- 2) the party to the tested transaction assumes lesser economic (commercial) risks than the other party to the tested transaction;
- 3) the party to the tested transaction does not possess intangible assets which materially influence the level of the profit margin.

7. Where a party to a tested transaction does not meet the requirements laid down in subsections 1 to 3 of clause 6 of this Article, the party to the tested transaction which comes closest to meeting those requirements shall be taken for the purpose of comparison with the market profit margin range.

8. Where the profit margin for a controlled transaction is within the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the price used in that transaction shall be deemed to conform to market prices for taxation purposes.

9. Where the profit margin for a controlled transaction is less than the lowest value of the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the lowest value of the profit margin range shall be recognised for taxation purposes.

Should the profit margin be greater than the highest value of the profit margin range determined according to the procedure laid down in Article 105.8 of this Code, the highest value of the profit margin range shall be recognised for taxation purposes.

On the basis of the lowest or highest value of a profit margin range which is recognised in accordance with this clause, profit (income, receipts) from the controlled transaction shall be adjusted for taxation purposes.

10. The lowest or highest value of the profit margin range shall be taken for taxation purposes in accordance with clause 9 of this Article provided that this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased, except as otherwise provided as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 325-FZ of 29.09.2019]*

Article 105.13. The Profit Split Method

1. The profit split method consists in comparing the actual division among the parties to a transaction of the aggregate profits received by all the parties to that transaction with the division of profit among parties to comparable transactions.

2. Where the parties to a tested transaction (a group of similar tested transactions) are at the same time parties to similar transactions involving persons interdependent with them and the prices of those similar transactions are assessed together with the tested transaction for taxation purposes, aggregate profits from the tested transaction and the above-mentioned similar transactions shall, for taxation purposes, be allocated in the same manner as profit from the tested transaction.

3. Where organizations whose aggregate profits are to be divided with account taken of the provisions of this Article maintain accounting records on the basis of different accounting requirements, for the purposes of applying the profit split method the accounting (financial) statements in question must be adapted to conform to common accounting requirements.

[clause 3 as reworded by Federal Law No. 97-FZ of 29.06.2012]

4. The profit split method may be used, in particular, in the following cases:

1) where it is impossible to use the methods provided for in subsections 1 to 4 of clause 1 of Article 105.7 of this Code and the activities carried out by the parties to a tested transaction (a group of similar tested transactions) are substantially interrelated;

2) where the parties to a tested transaction have ownership (use) of rights in intangible assets which substantially influence the level of the profit margin (in the absence of similar transactions involving intangible assets concluded with non-interdependent persons), or where a party to a tested transaction monitors the use of such intangible assets. *[as amended by Federal Law No. 325-FZ of 29.09.2019]*

5. The division of the amount of profits (losses) from a tested transaction among the parties to the tested transaction shall be carried out for the purpose of enabling the application of clause 1 of Article 105.3 of this Code. The choice of principles of profit division shall depend on the circumstances of the tested transaction (group of similar tested transactions) and must result in a division of profits from the tested transaction which corresponds to the division of profits among persons who carry out similar activities under comparable commercial and (or) financial conditions. In this respect, the division of profits among the parties to a tested transaction (group of similar tested transactions) in accordance with the profit split method shall take place by assessing the respective contributions of the parties to the tested transaction (group of similar tested transactions) to the aggregate profits from the tested transaction (group of similar tested transactions) in accordance with the following criteria or combinations thereof:

1) in proportion to the contribution to aggregate profit from the tested transaction by virtue of functions performed by the parties to the tested transaction, assets used by them and economic (commercial) risks assumed;

2) in proportion to the division among the parties to the tested transaction of return on invested capital which is used in the tested transaction;

3) in proportion to the division of profit among the parties to a comparable transaction.

6. The profit split method involves dividing among the parties to a tested transaction the aggregate profit or residual profit of all the parties to that transaction.

7. For the purposes of this Article, the aggregate profit of all the parties to a tested transaction shall be understood to be the sum of the operating profits of all the parties to the tested transaction for the period examined.

8. For the purposes of this Article, residual profit (loss) shall be determined as follows:

1) the methods referred to in subsections 1 to 4 of clause 1 of Article 105.7 of this Code are used to determine for each person who is a party to a tested transaction (group of similar tested transactions), on the basis of the market price range, the attributed profit (loss) for that party, which is calculated with account taken of functions carried out and assets used by the person concerned and economic and commercial risks assumed;

2) residual profit (loss) from a tested transaction is determined as the difference between aggregate profit (loss) earned (incurred) as a result of the tested transaction and the sum of attributed profits (losses) from sales for all parties to the tested transaction.

9. For the purpose of dividing the residual profit of all the parties to a tested transaction among the parties to that transaction, the total amount of the profit (loss) of each person who is a party to the tested transaction (group of similar tested transactions) shall be determined by means of adding together the respective imputed profit (loss) and residual profit (loss).

10. For the purpose of dividing the aggregate or residual profit (loss) of all the parties to a tested transaction among the parties to that transaction, the following indicators, inter alia, may be taken into account:

1) the amount of costs incurred by a person who is a party to the tested transaction for the creation of intangible assets the use of which directly influences the amount of profit (loss) actually made on the tested transaction;

2) characteristics of personnel employed by a person who is a party to the tested transaction, including the number and qualification level of personnel (time spent by personnel, wage expenses), which influence the amount of actual profit (loss) from sales resulting from the tested transaction;

3) the market value of assets which are used (controlled) by a person who is a party to the tested transaction and the use of which influences the amount of actual profit (loss) from sales resulting from the tested transaction;

4) other indicators reflecting the relationship between functions carried out, assets used and economic (commercial) risks assumed and actual profit (loss) from sales resulting from the tested transaction.

11. The division of profit among the parties to a tested transaction (a group of similar tested transactions) in accordance with the criterion laid down in subsection 3 of clause 5 of this Article shall be made subject to the availability of information on the division of profits (losses) from sales in relation to similar transactions concluded between non-interdependent

persons. The procedure set out in this clause for the division of profits (losses) from a tested transaction may be used as long as the following conditions are simultaneously met:

- 1) the accounting data of the parties to the tested transaction must be comparable with the accounting data of the parties to the comparable transactions or must be rendered comparable by means of appropriate adjustments;
- 2) the aggregate return on assets of the parties to the tested transaction must not differ substantially from the aggregate return on assets of the parties to the comparable transactions or must be rendered comparable by means of appropriate adjustments.

12. Should profit earned by a party to a tested transaction be equal to or greater than the profit calculated for that party in accordance with the profit split method, or should the loss incurred by such party be equal to or less than the loss calculated for that party in accordance with the profit split method, the profit actually earned or loss actually incurred respectively shall be recognised for taxation purposes.

13. Should profit earned by a taxpayer which is a party to a tested transaction be less than profit calculated for that party in accordance with the profit split method, the profit calculated for it in accordance with the profit split method shall be recognised for taxation purposes.

Should the loss incurred by a taxpayer which is a party to a tested transaction be greater than the loss calculated for that party in accordance with the profit split method, the loss calculated for it in accordance with the profit split method shall be recognised for taxation purposes.

On the basis of a comparison of profit or loss recognised for taxation purposes in accordance with this clause and the profit actually earned or loss actually incurred by a taxpayer, an adjustment shall be made to the taxpayer's profit for the purposes of tax on profit of organizations.

14. Profit or loss calculated in accordance with the profit split method shall be recognised for taxation purposes on the basis of clauses 12 and 13 of this Article provided that this does not cause the amount of tax payable to the budget system of the Russian Federation to be reduced or the amount of losses determined in accordance with Chapter 25 of this Code to be increased, except as otherwise provided as a result of the conduct of a mutual agreement procedure by the Ministry of Finance of the Russian Federation in accordance with an international tax agreement of the Russian Federation. *[as amended by Federal Laws No. 150-FZ of 08.06.2015, No. 325-FZ of 29.09.2019]*

CHAPTER 14.4. CONTROLLED TRANSACTIONS. PREPARATION AND PRESENTATION OF DOCUMENTATION FOR TAX CONTROL PURPOSES. NOTIFICATION OF CONTROLLED TRANSACTIONS

Article 105.14. Controlled Transactions

1. For the purposes of this Code controlled transactions shall be understood to mean transactions between interdependent persons (with account taken of the special considerations laid down in this Article). The following transactions shall be equated with transactions between interdependent persons for the purposes of this Code:

1) a set of transactions involving the sale (resale) of goods (performance of work, rendering of services) which are concluded with the involvement (mediation) of persons who are not interdependent (with account taken of the special considerations laid down in this subsection). A set of transactions such as is referred to in this subsection shall be equated with a transaction between interdependent persons notwithstanding the existence of third parties with whose involvement (mediation) the set of transactions is concluded provided that such third parties, who are not deemed interdependent and take part in the set of transactions:

- do not perform within that set of transactions any additional functions other than organizing the sale (resale) of goods (performance of work, rendering of services) by one person to (for) another person who is deemed to be interdependent with that person;

- do not assume any risks or use any assets in organizing the sale (resale) of goods (performance of work, rendering of services) by one person to (for) another person who is deemed to be interdependent with that party;

2) transactions in the area of foreign trade in goods that form part of one or more commodity groups provided for in clause 5 of this Article; *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

3) transactions in which one of the parties is a person whose place of registration, place of residence or place of tax residence is a state or territory included in the list of states and territories which is approved by the Ministry of Finance of the Russian Federation in accordance with subsection 1 of clause 3 of Article 284 of this Code. For the purposes of this subsection, where the activities of a Russian organization create a permanent establishment in a state or territory included in the list referred to in this subsection and a tested transaction is connected with those activities, the organization in question shall be regarded, insofar as that tested transaction is concerned, as a person whose place of registration is a state or territory included in the above-mentioned list.

2. A transaction between interdependent persons in which the place of registration, place of residence or place of tax residence of all parties and beneficiaries is the Russian Federation shall be deemed to be controlled (except as otherwise provided by clauses 3 and 4 of this Article) if any of the following circumstances exists: *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

1) the parties to the transaction apply different rates of tax on profit of organizations (with the exception of the rates provided for in clauses 2 to 4 of Article 284 of this Code) to profit from the activities in connection with which the transaction was concluded;

[subsection 1 as reworded by Federal Law No. 302-FZ of 03.08.2018]

2) one of the parties to the transaction is a taxpayer of mineral extraction tax calculated at a tax rate established as a percentage and the subject of the transaction is an extracted commercial mineral which is recognised for that party to the transaction as an object of assessment to mineral extraction tax for which tax on extraction is levied at a tax rate established as a percentage;

3) at least one of the parties to the transaction is a taxpayer that applies the taxation system for agricultural goods producers (the unified agricultural tax) (if the transaction in question

was concluded in the context of such activities) and there is a person that does not apply that special tax regime among the other persons that are parties to that transaction;

[subsection 3 as reworded by Federal Law No. 305-FZ of 02.07.2021]

4) one of the parties to the transaction is exempt from the obligations of a taxpayer of tax on profit of organizations;

[subsection 4 as amended by Federal Law No. 302-FZ of 03.08.2018]

[5) lost force – Federal Law No. 302-FZ of 03.08.2018]

6) the transaction simultaneously meets the following conditions:

- one of the parties to the transaction is a taxpayer such as is referred to in clause 1 of Article 275.2 of this Code and takes income (expenses) associated with the transaction into account in determining the tax base for tax on profit of organizations in accordance with Article 275.2 of this Code;

- any other party to the transaction is not a taxpayer such as is referred to in clause 1 of Article 275.2 of this Code, or is a taxpayer such as is referred to in clause 1 of Article 275.2 of this Code but does not take income (expenses) associated with the transaction into account in determining the tax base for tax on profit of organizations in accordance with Article 275.2 of this Code;

[subsection 6 inserted by Federal Law No. 268-FZ of 30.09.2013]

[7) lost force – Federal Law No. 302-FZ of 03.08.2018]

8) at least one of the parties to the transaction is a corporate research centre such as is referred to in the Federal Law “Concerning the “Skolkovo” Innovation Centre” (hereafter in this Code referred to as “corporate research centre”) or a project participant in accordance with Federal Law No. 216-FZ of 29 July 2017 “Concerning Science and Technology Innovation Centres and Concerning the Introduction of Amendments to Certain Legislative Acts of the Russian Federation” which applies an exemption from the performance of the duties of a taxpayer of value added tax in accordance with Article 145.1 of Part Two of the Tax Code of the Russian Federation;

[subsection 8 inserted by Federal Law No. 475-FZ of 28.12.2016; as amended by Federal Law No. 373-FZ of 30.10.2018]

9) at least one of the parties to the transaction applies the investment tax deduction for tax on profit of organizations which is provided for in Article 286.1 of this Code during the tax period;

[subsection 9 inserted by Federal Law No. 335-FZ of 27.11.2017]

10) one or more of the parties to the transaction is a taxpayer of tax on additional income from hydrocarbon extraction and income (expenses) associated with the transaction is (are) taken into account in determining the tax base for tax on additional income from hydrocarbon extraction.

[subsection 10 inserted by Federal Law No. 199-FZ of 19.07.2018]

3. The transactions provided for in clause 1 of this Article shall be deemed to be controlled if the amount of income from such transactions with one person (persons) for the relevant calendar year exceeds 60 million roubles. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

The transactions provided for in clause 2 of this Article shall be deemed to be controlled if the amount of income from such transactions between the persons concerned for the relevant calendar year exceeds 1 billion roubles. *[as amended by Federal Law No. 325-FZ of 29.09.2019]*
[clause 3 as reworded by Federal Law No. 302-FZ of 03.08.2018]

4. The following transactions shall not be deemed to be controlled irrespective of whether the transactions meet the conditions laid down in clauses 1 to 3 of this Article: *[as amended by Federal Law No. 321-FZ of 16.11.2011]*

1) transactions in which the parties are members of one and the same consolidated group of taxpayers formed in accordance with this Code (with the exception of transactions the subject of which is an extracted commercial mineral which is recognised as an object of assessment to mineral extraction tax for which tax is levied on extraction at a tax rate established as a percentage, and transactions for which associated income (expenses) is (are) taken into account in determining the tax base for tax on additional income from hydrocarbon extraction); *[as amended by Federal Laws No. 321-FZ of 16.11.2011, No. 199-FZ of 19.07.2018]*

2) transactions in which the parties are persons who simultaneously meet the following requirements:

- the persons concerned are registered in one constituent entity of the Russian Federation;
- the persons concerned do not have economically autonomous subdivisions in the territory of other constituent entities of the Russian Federation or outside the Russian Federation;
- the persons concerned do not pay tax on profit of organizations to the budgets of other constituent entities of the Russian Federation;
- the persons concerned do not have losses (including prior period losses to be carried forward to future periods) which are taken into account in calculating tax on profit of organizations;
- there are no grounds for transactions concluded by such persons to be recognised as controlled in accordance with subsections 2 to 7 of clause 2 of this Article; *[as amended by Federal Law No. 267-FZ of 30.09.2013]*

3) transactions between taxpayers such as are referred to in clause 1 of Article 275.2 of this Code which are concluded by them in the course of carrying out hydrocarbon extraction activities at a new offshore hydrocarbon deposit in relation to one and the same deposit (subsurface site – until the first new offshore hydrocarbon deposit has been designated at the site in question);

[subsection 3 inserted by Federal Law No. 268-FZ of 30.09.2013; as amended by Federal Law No. 335-FZ of 27.11.2017]

4) interbank credits (deposits) with a term of up to seven calendar days (inclusively);

[subsection 4 inserted by Federal Law No. 420-FZ of 28.12.2013]

5) in the area of military-technical co-operation of the Russian Federation with foreign states which takes place in accordance with Federal Law No. 114-FZ of 19 July 1998 “Concerning Military-Technical Co-Operation of the Russian Federation with Foreign States”;

[subsection 5 inserted by Federal Law No. 52-FZ of 02.04.2014]

6) transactions involving the provision of surety bonds (guarantees) where all the parties to the transaction in question are Russian organizations which are not banks;

[subsection 6 inserted by Federal Law No. 401-FZ of 30.11.2016]

7) transactions involving the provision of interest-free loans between interdependent persons where the place of registration of the transactions or the place of residence of all the parties to and beneficiaries of the transactions is the Russian Federation;

[subsection 7 inserted by Federal Law No. 401-FZ of 30.11.2016]

8) transactions involving the assignment of rights (claims) by a taxpayer which is a bank where the assignment of rights (claims) takes place as part of measures provided for in a plan for the participation of the Bank of Russia in the implementation of bankruptcy prevention measures in relation to a bank or where the assignment of rights (claims) takes place in accordance with the procedure prescribed by part 1 of Article 5 of Federal Law No. 263-FZ of 29 July 2018 “Concerning the Introduction of Amendments to Certain Legislative Acts of the Russian Federation”.

[subsection 8 inserted by Federal Law No. 125-FZ of 06.06.2019]

5. Transactions such as are provided for in subsection 2 of clause 1 of this Article shall be deemed to be controlled if the subject of the transactions is goods falling within one or more of the following commodity groups:

- 1) oil and goods manufactured from oil;
- 2) ferrous metals;
- 3) non-ferrous metals;
- 4) mineral fertilizers;
- 5) precious metals and precious stones.

6. The codes of the goods enumerated in clause 5 of this Article under the Goods Nomenclature for Foreign Economic Activities shall be determined by the federal executive body which carries out functions involving the formulation of state policy and statutory regulation in the area of foreign trade.

[7. Lost force – Federal Law No. 6-FZ of 17.02.2021]

8. For the purposes of this Chapter the concept of “foreign trade in goods” shall be used within the meaning defined by the legislation of the Russian Federation concerning foreign trade activities.

9. For the purposes of this Article the amount of income from transactions with one person (interdependent persons) for a calendar year shall be determined by means of adding together the amounts of income received from such transactions with one person (interdependent persons) over the calendar year, taking into account the rules for the recognition of income and expenses which are established by Chapter 25 of this Code. In determining the amount of income from transactions, the federal executive body in charge of control and supervision in the area of taxes and levies may, for the purposes of this Article, assess whether amounts of income received from transactions are consistent with the market level, taking into account the provisions of Chapter 14.2 and Chapter 14.3 of this Code. Where a person who receives income from transactions does not calculate tax on profit of organizations in accordance with Chapter 25 of this Code, the amount of income from such transactions that is used shall be an amount determined by calculation taking into account the rules established by Chapter 25 of this Code, using the accrual-basis method. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

Where transactions between interdependent persons or equated transactions are concluded with the involvement of a commission agent (agent) acting in its own name but on the instruction of the client (principal), for the purposes of this Article income from transactions between the client (principal) and the person with whom the commission agent (agent) concluded the transaction shall be taken into account in accordance with the rules established by Chapter 25 of this Code, using the accrual-basis method.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

10. On the petition of the federal executive body in charge of control and supervision in the area of taxes and levies, a court may deem a transaction to be controlled where there are sufficient grounds to consider that the transaction forms part of a group of similar transactions concluded with the object of creating conditions whereby the transaction in question would not meet the controlled transaction criteria established by this Article.

11. Transactions shall be recognised as controlled with account taken of the provisions of clause 13 of Article 105.3 of this Code.

Article 105.15. Preparation and Presentation of Documentation for Tax Control Purposes

1. Except as otherwise provided in clause 7 of this Article, upon the request of the federal executive body in charge of control and supervision in the area of taxes and levies, a taxpayer shall present documentation regarding a particular transaction (group of similar transactions) indicated in the request. Documentation shall be understood to mean a set of documents or a single document prepared in no particular form (unless the legislation of the Russian Federation prescribes a set form for the preparation of such documents) and containing the following information: *[as amended by Federal Law No. 340-FZ of 27.11.2017]*

1) information on the activities of the taxpayer (persons) who concluded a controlled transaction (group of similar transactions) related to that transaction:

- a list of persons (indicating the states and territories of which they are residents) with whom the controlled transaction was concluded, a description of the controlled transaction and the conditions thereof, including a description of pricing methods (if any) and the conditions and timing of payments in respect of that transaction and other information on the transaction;

- information concerning the functions of the persons who are parties to the transaction (where the taxpayer carries out a functional analysis), concerning assets used by them in connection with the controlled transaction and concerning the economic (commercial) risks assumed by them which the taxpayer took into consideration when concluding the transaction;

2) where the taxpayer has used the methods provided for in Chapter 14.3 of this Code, the following information on the methods used:

- an explanation of the reasons for the choice of method used and the manner in which it was applied;

- an indication of information sources used;

- a computation of the market price range (profit margin range) for the controlled transaction with a description of the approach used to the selection of comparable transactions;

- the amount of income (profit) received and (or) the amount of expenses (losses) incurred as a result of the controlled transaction, and the profit margin obtained;

- information on the economic gain received from the controlled transaction by a person who concluded that transaction as a result of the acquisition of information, results of intellectual activity, rights in symbols which distinguish an enterprise and its products, work and services (company name, trademarks, service marks) and other exclusive rights (where applicable);

- information on other factors which influenced the price (profit margin) used in a controlled transaction, including information on the market strategy of the person who concluded the controlled transaction if that market strategy influenced the price (profit margin) used in the controlled transaction (where applicable);

- adjustments which the taxpayer made to the tax base and amounts of tax (losses) in accordance with clause 6 of Article 105.3 of this Code (if any were made); *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

3) where a taxpayer which is a member of a multinational group of companies whose total income (revenue) does not meet the condition stipulated by subsection 3 of clause 6 of Article 105.16-3 of this Code concludes a controlled transaction (group of controlled transactions) in which one of the parties and (or) the beneficiary is another member of that multinational group of companies whose place of registration or place of residence or place of tax residence is not the Russian Federation, the following information in addition to the information specified in subsections 1 and 2 of this clause:

- information on the structure of the taxpayer's management bodies and identification details of persons to whom management reports must be presented and the states (territories) in which those persons carry on their main activities;

- information on the taxpayer's activities and market strategy, information on the restructuring of the taxpayer's activities within the framework of the multinational group of

companies (if this took place in the tax period in which the transaction was concluded or the preceding tax period) and the transfer (receipt) of intangible assets (in the tax period in which the transaction was concluded or the preceding tax period), and explanations as to how the transaction (transactions) affected the taxpayer's activities;

- information on the taxpayer's main competitors;
- a description of the factors based on which it was concluded that the price applied in the controlled transaction (group of similar transactions) was consistent with the market price;
- a description of adjustments to be made to render the conditions of transactions comparable (if any);
- copies of material agreements among members of the multinational group of companies which influence pricing in the controlled transaction (group of similar transactions);
- copies of pricing agreements and tax rulings of competent authorities of foreign states (territories) such as are applicable in transactions between members of the multinational group of companies, which are relevant to the tested controlled transaction (group of similar transactions) and in the preparation of which the federal executive body in charge of control and supervision in the area of taxes and levies did not take part;
- an auditor's report on the taxpayer's accounting (financial) statements for the last accounting period (if the taxpayer is subject to compulsory audit or has carried out a voluntary audit).

[clause 3 inserted by Federal Law No. 340-FZ of 27.11.2017]

2. A taxpayer shall have the right to provide other information which serves to demonstrate that the commercial and (or) financial conditions of controlled transactions are consistent with those which applied in comparable transactions with account taken of adjustments made to ensure the comparability of the commercial and (or) financial conditions of comparable transactions in which the parties are non-interdependent persons with the conditions of a controlled transaction.

3. The documentation which is referred to in clause 1 of this Article may be requested from a taxpayer by the federal executive body in charge of control and supervision in the area of taxes and levies not earlier than 1 June of the year following the calendar year in which controlled transactions were concluded.

4. The provisions of clauses 1 and 2 of this Article shall not apply in the following cases:

1) where prices are used in transactions in accordance with instructions of anti-monopoly bodies in accordance with clause 8 of Article 105.3 of this Code, or the price is regulated and is applied in accordance with Article 105.4 of this Code;

2) in the case of transactions concluded by a taxpayer with persons with whom the taxpayer is not interdependent;

3) in the case of transactions involving securities and derivative financial instruments which are circulated on the organized securities market (with account taken of the provisions of Chapter 25 of this Code); *[as amended by Federal Law No. 242-FZ of 03.07.2016]*

4) in the case of transactions in relation to which a pricing agreement for taxation purposes has been concluded in accordance with Chapter 14.6 of this Code.

5. A taxpayer shall have the right to present the above-mentioned documentation in relation to transactions such as are referred to in clause 4 of this Article on a voluntary basis.

6. The level of detail and comprehensiveness of documentation presented to the tax authorities must be consistent with the complexity of a transaction and the manner in which the transaction price is determined (the profit margin of the parties to the transaction).

7. Taxpayers, other than foreign organizations which receive only the types of income referred to in Article 309 of this Code, which are members of a multinational group of companies shall, in addition to the documentation provided for in this Article, be obliged to submit to the federal executive body in charge of control and supervision in the area of taxes and levies, in the cases, in accordance with the procedure and within the time limits which are established by Chapter 14.4-1 of this Code, the documentation provided for in clause 4 of Article 105.16-1 of this Code.

[clause 7 inserted by Federal Law No. 340-FZ of 27.11.2017]

Article 105.16. Notification of Controlled Transactions

1. Taxpayers shall be obliged to notify tax authorities of controlled transactions such as are referred to in Article 105.14 of this Code which they concluded in a calendar year.

2. Information on controlled transactions shall be given in notifications of controlled transactions which shall be sent by a taxpayer to the tax authority for its location (place of residence) not later than May 20 of the year following the calendar year in which controlled transactions were concluded. Taxpayers which have been classified in accordance with Article 83 of this Code as major taxpayers shall present the notifications referred to in this clause to the tax authority where they are registered as major taxpayers.

At the option of taxpayers, notifications of controlled transactions may be presented to a tax authority using a standard paper form or using prescribed formats in electronic form. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

The form (formats) of a notification of controlled transactions, the procedure for completing a form and the procedure for presenting a notification of controlled transactions in electronic form shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies in consultation with the Ministry of Finance of the Russian Federation. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

In the event that it is discovered that information was not entered fully or inaccuracies or errors were made when completing a submitted notification of controlled transactions, the taxpayer shall have the right to submit a revised notification.

In the event that a revised notification is submitted before the taxpayer becomes aware that the tax authority has discovered the entry in a notification of inaccurate information concerning controlled transactions, the taxpayer shall be released from the liability provided for in Article 129.4 of this Code. *[paragraph inserted by Federal Law No. 52-FZ of 02.04.2014]*

3. Information on controlled transactions must include the following:

1) the calendar year for which information on controlled transactions concluded by the taxpayer is provided;

2) the subject of transactions;

3) details of the parties to the transactions:

- the full name of an organization and its taxpayer identification number (if the organization is registered with tax authorities in the Russian Federation);

- the surname, first name and patronymic of a private entrepreneur and his taxpayer identification number;

- the surname, first name and patronymic and citizenship of a physical person who is not a private entrepreneur;

4) the amount of income received and (or) the amount of expenses (losses incurred) in connection with controlled transactions with a separate indication of amounts of income and (or) expenses attributable to transactions for which prices are subject to regulation in accordance with legislation.

4. The information referred to in this clause may be prepared in relation to a group of similar transactions.

5. A tax authority which has received a notification of controlled transactions shall, within 10 days after receiving that notification, forward it in electronic form to the federal executive body in charge of control and supervision in the area of taxes and levies. *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

6. Where a tax authority has discovered the occurrence of controlled transactions concerning which information was not submitted in accordance with clause 2 of this Article, that tax authority shall independently notify the federal executive body in charge of control and supervision in the area of taxes and levies of the discovery of the controlled transactions and shall send to it information on those transactions that has been received in accordance with the provisions of an international treaty of the Russian Federation, this Code and (or) another federal law. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

The tax authority shall be obliged to notify the taxpayer of the sending of the notice and relevant information to the federal executive body in charge of control and supervision in the area of taxes and levies not later than 10 days from the day on which the notice was sent. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

The form of the notice and the procedure for sending it shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

7. The sending by a tax authority which is conducting a tax audit of information received by it concerning controlled transactions to the federal executive body in charge of control and supervision in the area of taxes and levies shall not prevent the audit from being continued and (or) completed or a decision from being issued on the basis of the audit materials in accordance with the established procedure.

CHAPTER 14.4-1. SUBMISSION OF DOCUMENTATION FOR MULTINATIONAL GROUPS OF COMPANIES

[inserted by Federal Law No. 340-FZ of 27.11.2017]

Article 105.16-1. General Provisions Concerning Documentation for Multinational Groups of Companies *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. For the purposes of this Code, a multinational group of companies shall be understood to be a set of organizations and (or) foreign unincorporated entities which are connected with each other through participation in capital and (or) the exercise of control and for which all of the following conditions are met:

1) consolidated financial statements are prepared in relation to the set of organizations and (or) foreign unincorporated entities which is referred to in paragraph 1 of this clause in accordance with the requirements of the accounting legislation of the Russian Federation or the requirements of stock exchanges, including foreign stock exchanges, when a decision is made on the admission for trading of securities of any of those organizations and (or) foreign unincorporated entities;

2) the set of organizations and (or) foreign unincorporated entities which is referred to in paragraph 1 of this clause includes at least one organization (foreign unincorporated entity) which is deemed to be a tax resident of the Russian Federation or an organization or foreign unincorporated entity which, while not deemed a tax resident of the Russian Federation, is subject to taxation in respect of entrepreneurial activities carried on in the territory of the Russian Federation via a permanent establishment, and at least one organization (foreign unincorporated entity) which is not deemed to be a tax resident of the Russian Federation, or an organization or foreign unincorporated entity which, while deemed a tax resident of the Russian Federation, is subject to taxation in respect of entrepreneurial activities carried on in the territory of a foreign state (territory) via a permanent establishment.

2. The following shall be deemed to be a member of a multinational group of companies for the purposes of this Code:

1) a person forming part of a set of organizations and (or) foreign unincorporated entities which are recognised as a multinational group of companies;

2) a person that falls within the category of organizations and (or) foreign unincorporated entities which are referred to in clause 1 of this Article as at the end of the financial year and whose financial statements are not taken into account in preparing the consolidated financial

statements of the group in question solely by reason of the amount or immateriality of data about that person;

3) permanent establishments of persons such as are referred to in subsections 1 and 2 of this clause.

3. The Central Bank of the Russian Federation and state government bodies and local government bodies shall not be deemed to be members of a multinational group of companies for the purposes of this Code.

4. Documentation submitted by taxpayers which are members of multinational groups of companies (other than foreign organizations which receive only the types of income referred to in Article 309 of this Code) on the basis of clause 7 of Article 105.15 of this Code shall include the following documents:

1) a notification of participation in a multinational group of companies;

2) country-by-country information on the multinational group of companies of which the taxpayer is a member.

5. Country-by-country information on a multinational group of companies (hereinafter referred to as “country-by-country information”) shall, for the purposes of this Code, be understood to mean information which is submitted by members of a multinational group of companies on income (expenses) and profit (losses) received (incurred) in connection with activities of members of the multinational group of companies in the Russian Federation and (or) a foreign state (territory), on key indicators reflecting the activities of members of the multinational group of companies in the Russian Federation and (or) a foreign state (territory) and on amounts of taxes calculated and (or) paid to the budget system of the Russian Federation and (or) a foreign state (territory).

6. Country-by-country information shall include the following documents:

1) global documentation for a multinational group of companies (hereinafter referred to as “global documentation”);

2) national documentation of a member of a multinational group of companies (hereinafter referred to as “national documentation”);

3) a country-by-country report of a multinational group of companies for states (territories) of which members of the multinational group of companies are tax residents (hereinafter referred to as “country-by-country report”).

7. The following concepts and terms are used for the purposes of this Chapter:

1) parent company of a multinational group of companies – a member of a multinational group of companies which directly and (or) indirectly participates in or otherwise exercises control over the remaining members of that multinational group and whose participating interest (control) is sufficient for the financial statements of other members to be included in the consolidated financial statements of that member of the multinational group of companies

or sufficient that they would be included in those consolidated financial statements if the securities of the member in question were admitted for trading on a stock exchange, including a foreign stock exchange (except in cases where the financial statements of the member in question are required to be included in the consolidated financial statements of another member of that multinational group);

2) authorized member of a multinational group of companies – the member of a multinational group of companies to which the parent company of the multinational group of companies has assigned responsibility for submitting a country-by-country report on behalf of that multinational group of companies to the competent authorities of the foreign state (territory) of which that member is a tax resident or in which its activities give rise to a permanent establishment;

3) financial year – the period for which the consolidated financial statements of a multinational group of companies are or should have been prepared;

4) reporting period – the financial year following the financial year in which the total amount of income (revenue) of a multinational group of companies in accordance with the consolidated financial statements exceeds the total amount of income (revenue) which is stated in subsection 3 of clause 6 of Article 105.16-3 of this Code;

5) consolidated financial statements – financial statements of a multinational group of companies which are prepared in accordance with the legislation of the Russian Federation, International Financial Reporting Standards or other internationally recognised standards for the preparation of financial reports which are accepted by stock exchanges, including foreign stock exchanges, for the purpose of adopting a decision on the admission of its securities for trading, in which assets, obligations, capital, income, expenses and cash flows of the parent company of the multinational group of companies and members of the multinational group of companies are presented as assets, obligations, capital, income, expenses and cash flows of a single economic entity.

Article 105.16-2. Submission of Notifications of Participation in a Multinational Group of Companies *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. Taxpayers (other than foreign organizations which receive only the types of income specified in Article 309 of this Code) which are members of a multinational group of companies shall, in the cases, in accordance with the procedure and within the time limits which are established by this Article, submit notifications of participation in a multinational group of companies to the federal executive body in charge of control and supervision in the area of taxes and levies.

2. Taxpayers which are members of a multinational group of companies shall be exempt from the obligation to submit a notification of participation in a multinational group of companies in the following cases:

1) the parent company of the multinational group of companies or the authorized member of the multinational group of companies is a Russian organization or a foreign organization (a foreign unincorporated entity) which has voluntarily declared itself a tax resident of the Russian Federation and has submitted a notification of participation in the multinational

group of companies giving information on all members of that group which are deemed to be taxpayers in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code);

2) a notification of participation in the multinational group of companies has been submitted by a member of the multinational group of companies, which is a Russian organization or a foreign organization (a foreign unincorporated entity) which has voluntarily declared itself a tax resident of the Russian Federation, to which the parent company or the authorized member of that multinational group of companies, which are not tax residents of the Russian Federation, assigned responsibility for submitting a notification of participation in the multinational group of companies, giving information on all members of that multinational group of companies which are deemed to be taxpayers in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code).

3. The exemption which is provided for in clause 2 of this Article shall apply to taxpayers which are members of a multinational group of companies and concerning which information has been presented in an appropriate notification of participation in a multinational group of companies within the established time limit.

4. A notification of participation in a multinational group of companies shall be submitted in the prescribed format only in electronic form not later than eight months from the end date of the reporting period for the parent company of that multinational group of companies.

The format of a notification of participation in a multinational group of companies and the procedure for completing it and submitting it in electronic form shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

5. A notification of participation in a multinational group of companies must contain the following information as at the end date of a reporting period:

1) the name, main state registration number, taxpayer identification number and code of reason for registration of each taxpayer which is a member of the multinational group of companies;

2) information on whether the taxpayer submitting the notification is the parent company of the multinational group of companies or the authorized member of the multinational group of companies;

3) information on whether or not the taxpayer submitting the notification is on the list of strategic enterprises and strategic joint stock companies or whether the taxpayer is a subsidiary company of an enterprise or joint stock company which is on that list;

4) information on the federal executive body or state corporation responsible for issuing the prior consent provided for in paragraph 2 of clause 5 of Article 105.16-3 of this Code;

[subsection 4 as amended by Federal Law No. 125-FZ of 06.06.2019]

5) the name of the member which is the parent company of the multinational group of companies, its state (territory) of tax residence, the registration number (numbers) assigned to

the parent company of the multinational group of companies in its state (territory) of registration (incorporation), the code (codes) of the parent company of the multinational group of companies as a taxpayer in its state (territory) of registration (incorporation) (or equivalents thereof) and the address in the state (territory) of registration (incorporation) of the parent company of the multinational group of companies;

6) the name of the member which is the authorized member of the multinational group of companies, its state (territory) of tax residence, the registration number (numbers) assigned to the authorized member of the multinational group of companies in its state (territory) of registration (incorporation), the code (codes) of the authorized member of the multinational group of companies as a taxpayer in its state (territory) of registration (incorporation) (or equivalents thereof) and the address in the state (territory) of registration (incorporation) of the authorized member of the multinational group of companies;

7) grounds supporting the right of a member of a multinational group of companies to submit a country-by-country report and (or) a notification of participation in a multinational group of companies in relation to all members of that group which are deemed to be taxpayers in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code);

8) the date which is the last day of the reporting period.

6. In the event that a taxpayer discovers omissions or inaccuracies in a notification of participation in a multinational group of companies or errors made in completing it, the taxpayer shall have the right to submit a revised notification of participation in a multinational group of companies.

In the event that the above-mentioned revised notification is submitted before the taxpayer became aware that the federal executive body in charge of control and supervision in the area of taxes and levies or a territorial tax authority had found the notification to contain incorrect information, the taxpayer shall be exempt from the liability provided for in Article 129.9 of this Code.

7. The provisions of this Article shall not apply to taxpayers which are members of a multinational group of companies whose total income (revenue) meets the condition stipulated by subsection 3 of clause 6 of Article 105.16-3 of this Code.

Article 105.16-3. General Provisions Concerning the Submission of Country-by-Country Information *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. Taxpayers (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code) which are members of a multinational group of companies shall submit country-by-country information in the cases, in accordance with the procedure and within the time limits which are established by this Code.

2. A country-by-country report shall be submitted by the parent company of a multinational group of companies or the authorized member of a multinational group of companies if the parent company of the multinational group of companies or the authorized member of the multinational group of companies is a Russian organization or a foreign organization (foreign

unincorporated entity) which has voluntarily declared itself a tax resident of the Russian Federation.

A country-by-country report shall be submitted by a member of a multinational group of companies which is a taxpayer in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code) upon the request of the federal executive body in charge of control and supervision in the area of taxes and levies, except in cases provided for in clause 6 of this Article, within the time limit established by the federal executive body in charge of control and supervision in the area of taxes and levies, which may not be less than three months from the day on which the taxpayer received that request. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

A country-by-country report shall be submitted by the parent company of a multinational group of companies or the authorized member of a multinational group of companies not later than twelve months from the end date of the reporting period.

3. Global documentation and national documentation shall be submitted by a member of a multinational group of companies which is a taxpayer in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code).

Global documentation shall be submitted upon the request of the federal executive body in charge of control and supervision in the area of taxes and levies within three months from the day on which that request is received. Global documentation may be requested from a member of a multinational group of companies which is a taxpayer in accordance with this Code (with the exception of foreign organizations which receive only the types of income specified in Article 309 of this Code) not earlier than upon the lapse of twelve months and not later than upon the lapse of thirty six months from the end date of the reporting period specified in the request. In the event that the above-mentioned request is sent in connection with a request from a competent authority of a foreign state (territory) which was received in accordance with this Code and the provisions of international agreements of the Russian Federation, it shall be accompanied by a copy of that request.

The federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to require a taxpayer which is a member of a multinational group of companies to present global documentation which was previously submitted on the request of the federal executive body in charge of control and supervision in the area of taxes and levies by another member of that multinational group of companies for the reporting period concerned. This restriction shall not apply to cases where global documentation submitted by a taxpayer was lost as a result of circumstances of force majeure.

National documentation shall be submitted upon the request of the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with the procedure and within the time limits which are established by Articles 105.15 and 105.17 of this Code.

4. A country-by-country report shall be submitted in the prescribed format only in electronic form.

The format of a country-by-country report and the procedure for completing it and submitting it in electronic form shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

Country-by-country information shall be presented in Russian with amounts stated in the currency of the Russian Federation, except as otherwise provided in this clause. In this respect, a taxpayer shall retain the right to present country-by-country information in a foreign language at the same time.

A country-by-country report for a financial year in which the parent company of the multinational group of companies for which country-by-country information is submitted was not deemed to be a tax resident of the Russian Federation may be submitted in a foreign language.

The values of value indicators in global documentation and a country-by-country report may be stated in the currency in which the parent company of the multinational group of companies prepares consolidated financial statements.

The values of value indicators for controlled transactions in relation to which national documentation is prepared may be stated in the currency in which those transactions are denominated.

For the purposes of calculating the values of value indicators in global documentation and a country-by-country report, the reporting currency of members of a multinational group of companies may, where it differs from the reporting currency of the parent company of the multinational group of companies, be translated according to the rules for the preparation of the consolidated financial statements of the parent company of that multinational group of companies. Information on the exchange rate used shall be provided in the explanatory notes to the global documentation and the country-by-country report.

5. A country-by-country report and global documentation containing information which constitutes state secrets and (or) information which is directly and (or) indirectly indicative of military-industrial co-operation with foreign states which is carried on in accordance with Federal Law No. 114-FZ of 19 July 1998 “Concerning Military-Industrial Co-Operation of the Russian Federation with Foreign States” shall be submitted without the inclusion of information which constitutes state secrets and (or) information which is directly and (or) indirectly indicative of military-industrial co-operation with foreign states.

Where a country-by-country report contains information regarding members of multinational group of companies which have been included in the list of strategic enterprises and strategic joint stock companies in accordance with the legislation of the Russian Federation and regarding subsidiary companies thereof, information concerning the activities of those members shall be transmitted to the competent authorities of foreign states (territories) in accordance with Article 142.5 of this Code only on condition that the taxpayer submitting the country-by-country report presents in relation to those members the appropriate prior consent to the transmission of that information issued by a federal executive body authorized by the Government of the Russian Federation or a state corporation charged with exercising the rights of the owner of the property of those members. *[as amended by Federal Law No. 125-FZ of 06.06.2019]*

6. A taxpayer which is a member of a multinational group of companies and has submitted a notification of participation in that group to the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with this Code (or in relation to which such a notification has been submitted) shall have the right not to submit a country-by-country report in the following cases:

1) the taxpayer is a member of a multinational group of companies with respect to which the parent company of the multinational group of companies or the authorized member of the multinational group of companies submits a country-by-country report in accordance with clause 2 of this Article;

2) the taxpayer is a member of a multinational group of companies with respect to which the parent company of the multinational group of companies or the authorized member of the multinational group of companies is deemed to be a tax resident of a foreign state (territory) in relation to which all of the following conditions are met:

- the legislation of the state (territory) in question requires the submission to the competent authorities of a country-by-country report containing information similar to the information provided for in clause 1 of Article 105.16-6 of this Code;

- the state (territory) in question is a party to an international agreement of the Russian Federation on the international automatic exchange of country-by-country reports as at the end of the period specified in paragraph 3 of clause 2 of this Article for the submission of a country-by-country report for the relevant reporting period;

- the state (territory) in question is not on the list of states (territories) which systematically fail to fulfil obligations associated with the automatic exchange of country-by-country reports, as approved by the federal executive body in charge of control and supervision in the area of taxes and levies;

- the state (territory) in question has been notified by the appropriate member of the multinational group of companies of the member of the multinational group of companies which is responsible for submitting the country-by-country report (if the legislation of the state (territory) in question contains a requirement for such notification);

3) the taxpayer is a member of a multinational group of companies whose total income (revenue) in accordance with consolidated financial statements for the financial year comprising the twelve consecutive calendar months immediately preceding the reporting period amounts or may amount (if consolidated financial statements were prepared) to:

- less than 50 billion roubles – if the parent company of the multinational group of companies is deemed to be a tax resident of the Russian Federation;

- less than the amount of total income (revenue) which is established by the legislation of a foreign state (territory) as giving rise to an obligation to submit to the competent authority of that foreign state (territory) a country-by-country report containing information similar to the information specified by clause 1 of Article 105.16-6 of this Code – if the parent company of the multinational group of companies is deemed to be a tax resident of the foreign state

(territory) in question. If the parent company of the multinational group of companies or the authorized body of the multinational group of companies prepares consolidated financial statements in a currency other than the currency of the Russian Federation, whether the condition of the amount of total income (revenue) which is specified in this subsection is met shall be determined using the average exchange rate of the currency of the consolidated financial statements to the rouble of the Russian Federation which was established by the Central Bank of the Russian Federation for the financial year preceding the reporting period.

7. The federal executive body in charge of control and supervision in the area of taxes and levies shall send to a taxpayer which is a member of a multinational group of companies such as is referred to in subsection 2 of clause 6 of this Article a request to provide a country-by-country report within the time limit established by the federal executive body in charge of control and supervision in the area of taxes and levies, which may not be less than three months from the date on which the taxpayer receives that request, in the following cases:

1) if the federal executive body in charge of control and supervision in the area of taxes and levies possesses information received from competent authorities of foreign states (territories) to the effect that the parent company of the multinational group of companies or the authorized member of the multinational group of companies failed to fulfil the obligation established by the legislation of a foreign state (territory) to submit a country-by-country report to a competent authority;

2) the state (territory) of which the parent company of a multinational group of companies or the authorized member of a multinational group of companies is a tax resident has been included in the list of states (territories) which systematically fail to fulfil obligations associated with the automatic exchange of country-by-country reports, as approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

8. A state (territory) shall be included in the list of states (territories) which systematically fail to fulfil obligations associated with the automatic exchange of country-by-country reports if the competent authority of that state (territory) fails to fulfil (suspends the fulfilment of) obligations laid down in an international agreement of the Russian Federation on the automatic exchange of country-by-country reports or if for other reasons the automatic exchange of country-by-country reports with the Russian Federation is not maintained.

9. A taxpayer which is a member of a multinational group of companies for which an obligation to submit a country-by-country report arose on the basis of a request of the federal executive body in charge of control and supervision in the area of taxes and levies which was sent in accordance with clause 7 of this Article shall be exempt from the liability provided for in Article 129.10 of this Code for failure to submit a country-by-country report within the time limit established by clause 3 of this Article if a country-by-country report is submitted within the time limit established by the federal executive body in charge of control and supervision in the area of taxes and levies.

Article 105.16-4. Global Documentation *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. Global documentation for a reporting period shall be prepared in any form and must contain:

1) information on the structure of participation in the capital and the exercise of control of the multinational group of companies and information on the markets for goods (work and services) on which members of the multinational group of companies carry on their activities (in the form of charts);

2) information on the activities of the multinational group of companies:

- a description of the main factors affecting the financial performance of the multinational group of companies;

- a description of the supply chain for the five largest goods (work, services) in terms of income (revenue) of the multinational group of companies and the supply chain for other goods (work, services) and other activities which account for more than 5 per cent of the income (revenue) of the multinational group of companies for the reporting period, and the main geographical locations of the markets for goods (work and services) on which those goods (work, services) are sold (performed, rendered);

- a list and brief description of material service contracts concluded among members of the multinational group of companies (other than contracts for research and development work), including a description of the capabilities of the principal members of the multinational group of companies involved in providing the services in question and approaches to pricing for services provided within the multinational group of companies;

- a brief functional analysis of the members of the multinational group of companies which influence the group's financial performance, including a description of key functions performed, assets used and economic (commercial) risks assumed;

- information on material transactions involving the restructuring of activities within the multinational group of companies and the acquisition and alienation of assets in the reporting period;

3) information on intangible assets of the multinational group of companies:

- a description of the development strategy of the multinational group of companies with respect to the development, ownership and use of intangible assets, including the location of principal research and development centres and the location of management bodies thereof;

- a description of intangible assets (groups of intangible assets) which have a material influence on pricing methodology in transactions (operations) among members of the multinational group of companies and a list of members of the multinational group of companies which possess such assets;

- a list of material agreements relating to intangible assets concluded among members of the multinational group of companies;

- a general description of pricing methodologies for transactions among members of the multinational group of companies which relate to the development, ownership and use of intangible assets;

- a general description of transactions (operations) involving the transfer of rights in intangible assets among members of the multinational group of companies in the reporting period, including the members involved and the level of consideration associated with such transfer;

4) information on financial activities in the multinational group of companies:

- a brief description of the system of financing of the multinational group of companies (including information on financing obtained from persons which are not members of the multinational group of companies);

- an indication of members of the multinational group of companies which perform the main financing functions in the multinational group of companies, including the states (territories) in which those members are registered and (or) their place of management;

- a general description of pricing methodologies applied among members of the multinational group of companies for transactions relating to the financing of members of the multinational group of companies;

5) other information:

- consolidated financial statements for the last reporting period or, if these are not available, other consolidated reports for the last reporting period prepared for management, tax and other purposes;

- a list and brief description of pricing agreements and tax rulings of competent authorities of foreign states (territories) in the preparation of which the federal executive body in charge of control and supervision in the area of taxes and levies did not participate, which are applicable in transactions among members of the multinational group of companies and relate to the allocation of income among states (territories).

2. If a taxpayer discovers omissions or inaccuracies in global documentation which has been submitted or errors made in completing it, the taxpayer shall have the right to submit revised global documentation.

3. The provisions of this Article shall not apply to taxpayers which are members of a multinational group of companies whose total income (revenue) meets the condition stipulated by subsection 3 of clause 6 of Article 105.16-3 of this Code.

Article 105.16-5. National Documentation *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. National documentation shall be documentation prepared in any form by a member of a multinational group of companies in relation to a controlled transaction (a group of similar transactions) one of the parties to which and (or) the beneficiary of which is another member of that multinational group of companies whose place of registration, place of residence or place of tax residence is not the Russian Federation and containing the information provided for in clause 1 of Article 105.15 of this Code.

2. Where information to be disclosed in national documentation was presented for the same reporting period in accordance with Article 105.16-4 of this Code as part of global documentation, the information need not be presented again provided that reference is made in the national documentation to the sections of the global documentation which contain the required information.

3. A taxpayer shall have the right to present other information confirming that the commercial and (or) financial conditions of controlled transactions correspond to those which occurred in comparable transactions, with adjustments made to render the commercial and (or) financial conditions of comparable transactions involving non-related parties comparable with the conditions of the controlled transaction.

4. If a taxpayer discovers omissions or inaccuracies in national documentation which has been submitted or errors made in completing it, the taxpayer shall have the right to submit revised national documentation.

5. The provisions of this Article shall not apply to taxpayers which are members of a multinational group of companies whose total income (revenue) meets the condition stipulated by subsection 3 of clause 6 of Article 105.16-3 of this Code.

Article 105.16-6. Country-by-Country Report *[inserted by Federal Law No. 340-FZ of 27.11.2017]*

1. A country-by-country report must contain information:

1) on the total amount of income (revenue) from transactions for a reporting period, including a breakdown into the amount of income (revenue) from transactions with members of that multinational group of companies and the amount of income (revenue) from transactions with other persons, including associated organizations;

2) on the amount of pre-tax profit (loss) for the reporting period;

3) on the amount of tax on profit of organizations (income (profits) tax or equivalent) calculated for the reporting period;

4) on the amount of tax on profit of organizations (income (profits) tax or equivalent) paid in the reporting period;

5) on the amount of capital as at the end date of the reporting period;

6) on the amount of accrued profit as at the end date of the reporting period;

7) on the number of employees for the reporting period;

8) on the amount of tangible assets as at the end date of the reporting period;

9) identification details for each member of the multinational group, including the state (territory) under whose laws the member was founded and the state (territory) of tax residence and the main activities of each member of the multinational group of companies.

2. Requirements relating to the composition of information which is provided for in clause 1 of this Article shall be determined by the federal executive body in charge of control and supervision in the area of taxes and levies in the procedure for completing the country-by-country report which is provided for in clause 4 of Article 105.16-3 of this Code.

3. The information provided for in subsections 1 to 8 of clause 1 of this Article shall be stated in aggregated form in relation to the activities of members of a multinational group of companies which are tax residents and (or) permanent establishments in one state (territory), without the information being broken down by individual member of the multinational group of companies.

The information provided for in subsections 1 to 8 of clause 1 of this Article shall be stated on the basis of data in consolidated financial statements prepared by the parent company of a multinational group of companies in accordance with International Financial Reporting Standards or other internationally recognised standards for the preparation of financial statements, or on the basis of data in accounting and (or) tax records maintained in accordance with the rules in force in the state (territory) of tax residence of a member of a multinational group of companies, or on the basis of other information which ensures the completeness and accuracy of information in the country-by-country report. In this respect, the taxpayer shall also ensure that the same sources of information for completing the relevant items are used consistently from one year to the next and that, if changes occur, the reasons for those changes are disclosed.

A taxpayer which is a member of a multinational group of companies shall have the right to disclose the methodology and principles for the preparation of the country-by-country report and to present other additional information which elaborates on information compulsorily presented in accordance with clause 1 of this Article.

4. If a taxpayer discovers omissions or inaccuracies in the country-by-country report or errors made in completing it, the taxpayer shall have the right to submit a revised country-by-country report.

If the above-mentioned revised country-by-country report is submitted before the taxpayer became aware that the federal executive body in charge of control and supervision in the area of taxes and levies or a territorial tax authority had found the country-by-country report to contain incorrect information, the taxpayer shall be exempt from the liability provided for in Article 129.10 of this Code.

CHAPTER 14.5. TAX CONTROL IN CONNECTION WITH THE CONCLUSION OF TRANSACTIONS BETWEEN INTERDEPENDENT PERSONS

Article 105.17. Audit by the Federal Executive Body in Charge of Control and Supervision in the Area of Taxes and Levies of the Proper Calculation and Payment of Taxes in Connection with the Conclusion of Transactions Between Interdependent Persons

1. An audit of the proper calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons (hereinafter referred to as “audit”) shall be

conducted by the federal executive body in charge of control and supervision in the area of taxes and levies at its location.

An audit shall be conducted on the basis of a notification of controlled transactions or a notice from a territorial tax authority, sent in accordance with Article 105.16 of this Code, or when a controlled transaction is discovered as a result of the conduct by the federal executive body in charge of control and supervision in the area of taxes and levies of a repeat on-site tax audit by way of reviewing the activities of a tax authority that conducted an audit. *[as amended by Federal Laws No. 348-FZ of 04.11.2014, No. 6-FZ of 17.02.2021]*

A decision to conduct an audit may not be made in relation to a controlled transaction concluded by a taxpayer in a calendar year with respect to which the taxpayer has filed an application with the federal executive body in charge of control and supervision in the area of taxes and levies for the conclusion of a pricing agreement for taxation purposes for the same calendar year in accordance with the procedure prescribed by Chapter 14.6 of this Code, unless the federal executive body in charge of control and supervision in the area of taxes and levies has made any of the decisions provided for in subsections 1 and 2 of clause 5 of Article 105.22 of this Code.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

When conducting audits, the federal executive body in charge of control and supervision in the area of taxes and levies shall have the right to perform the tax control measures established by Articles 95 to 97 of this Code. In this respect, the conformity of prices used in controlled transactions to market prices may not be inspected in the context of on-site and in-house tax audits.

2. An audit shall be carried out by officials of the federal executive body in charge of control and supervision in the area of taxes and levies on the basis of a decision of the director (deputy director) of that body concerning the conduct of an audit. Such a decision may be issued not later than two years after the receipt of a notification or notice such as are referred to in clause 1 of this Article, except as otherwise provided in this Article.

In the event that a taxpayer submits a revised tax declaration in which the amount of tax calculated in accordance with clause 6 of Article 105.3 of this Code is stated as a lesser amount (the amount of losses is stated as a greater amount) than was previously declared, a decision to conduct an audit may be issued not later than two years after the submission of that revised tax declaration. In this respect, the audit shall be conducted only in relation to the controlled transaction for which an adjustment has been made in accordance with clause 6 of Article 105.3 of this Code.

Where a taxpayer submitted an application for the conclusion of a pricing agreement for taxation purposes in accordance with clause 1 of Article 105.19 of this Code, upon consideration of which the federal executive body in charge of control and supervision in the area of taxes and levies made the decision provided for in subsection 2 of clause 5 of Article 105.22 of this Code, a decision to conduct an audit in relation to the controlled transaction that was the subject of the taxpayer's application for the conclusion of a pricing agreement for taxation purposes may be issued no later than two years from the day on which the decision provided for in subsection 2 of clause 5 of Article 105.22 of this Code was made.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

The running of the time period provided for in paragraph 3 of this clause shall be suspended if the federal executive body in charge of control and supervision in the area of taxes and levies receives information to the effect that the decision provided for in subsection 2 of clause 5 of Article 105.22 of this Code is being appealed through the courts. That suspension shall have effect until the day on which the relevant court ruling enters into legal force.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

The federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to conduct two or more audits in relation to one controlled transaction (group of similar transactions) for one and the same calendar year, except as otherwise provided in this clause.

The federal executive body in charge of control and supervision in the area of taxes and levies shall have the right to conduct repeat audits in relation to one controlled transaction (group of similar transactions) in the event that a taxpayer submits a revised tax declaration in which the stated amount of tax is less (the stated amount of losses is greater) than was previously declared in a tax declaration submitted in accordance with clause 6 of Article 105.3 of this Code.

Where a taxpayer which is a party to a controlled transaction (a group of similar transactions) has been subjected to an audit in accordance with this Article in relation to that transaction (group of similar transactions) for a calendar year and the conditions of the controlled transaction (group of similar transactions) were found to conform to the conditions of transactions between non-interdependent persons, taxpayers which are other parties to that transaction (group of similar transactions) may not be subjected to audits in relation to that transaction (group of similar transactions).

In this respect, the conduct of an audit in relation to a transaction concluded in a tax period shall not affect the conduct of on-site and (or) in-house tax audits or tax monitoring for that tax period.

[clause 2 as reworded by Federal Law No. 150-FZ of 08.06.2015]

2.1. A decision to conduct an audit may not be issued and (or) a notice of a territorial tax authority such as is referred to in clause 1 of this Article may be sent on the basis of a special declaration submitted in accordance with the Federal Law “Concerning the Voluntary Declaration of Assets and Bank Accounts (Deposits) by Physical Persons and Concerning the Introduction of Amendments to Certain Legislative Acts of the Russian Federation” and (or) accompanying documents and (or) information, or on the basis of information contained in such special declaration and (or) documents.

[clause 2.1 inserted by Federal Law No. 150-FZ of 08.06.2015]

3. The period of conduct of an audit shall be measured from the date of issuance of the decision ordering the audit to the day on which the certificate of completion of the audit is drawn up.

The federal executive body in charge of control and supervision in the area of taxes and levies shall notify the taxpayer of the adoption of the above-mentioned decision within three days from the date of its adoption.

4. An audit shall be carried out within a period not exceeding six months. In exceptional cases that period may be extended to 12 months by decision of the director (deputy director) of the federal executive body in charge of control and supervision in the area of taxes and levies.

The grounds and procedure for extending the time period for the conduct of an audit shall be established by the federal executive body in charge of control and supervision in the area of taxes and levies.

Should the need arise for information to be obtained from foreign state bodies, for expert examinations to be performed and (or) for documents presented by the taxpayer in a foreign language to be translated into Russian, the time period for the conduct of an audit may be extended for a further period not exceeding six months, and where an audit was extended for the purpose of obtaining information from foreign state bodies and the federal executive body in charge of control and supervision in the area of taxes and levies has been unable to obtain the requested information within a period of six months, the extension period the audit may be increased by three months.

A copy of the decision on the extension of the time period for the conduct of an audit shall be sent to the taxpayer within three days from the day on which it was adopted.

5. An audit may cover controlled transactions concluded over a period not exceeding the three calendar years (or, in the case provided for in paragraph 3 of clause 2 of this Article, a period not exceeding five calendar years) preceding the calendar year in which the decision ordering the audit was issued. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

Where a taxpayer has used the methods or a combination of the methods referred to in clause 1 of Article 105.7 of this Code to assess the comparability of the commercial and (or) financial conditions of controlled transactions with the conditions of compared transactions between non-interdependent persons, the federal executive body in charge of control and supervision in the area of taxes and levies shall, in exercising tax control in connection with the performance of transactions between interdependent persons, apply the method (combination of methods) used by the taxpayer.

A different method (combination of methods) may be applied in the event that the federal executive body in charge of control and supervision in the area of taxes and levies is able to prove that, by reason of the conditions under which a controlled transaction was concluded, the method (combination of methods) used by the taxpayer does not make it possible to assess the comparability of the commercial and (or) financial conditions of controlled transactions with the conditions of compared transactions between non-interdependent persons.

The federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to use other methods not provided for in this Section in exercising tax control in connection with the performance of transactions.

5.1. A taxpayer that has submitted an application for the conclusion of a pricing agreement for taxation purposes to the federal executive body in charge of control and supervision in the area of taxes and levies shall be obliged to ensure the retention for six years of accounting and tax records and other documents needed for the calculation and payment of taxes referred to

in clause 4 of Article 105.3 of this Code in the calculation of which income (expenses) relating to the relevant transaction was (were) taken into account, except as otherwise provided by this clause.

A taxpayer that has submitted an application for the conclusion of a pricing agreement for taxation purposes to the federal executive body in charge of control and supervision in the area of taxes and levies in relation to a controlled transaction in which any of the parties is a tax resident of a foreign state with which a double taxation treaty (agreement) has been concluded shall be obliged to ensure the retention for 10 years of accounting and tax records and other documents needed for the calculation and payment of taxes referred to in clause 4 of Article 105.3 of this Code in the calculation of which income (expenses) relating to the relevant transaction was (were) taken into account.

[clause 5.1 inserted by Federal Law No. 6-FZ of 17.02.2021]

6. The federal executive body in charge of control and supervision in the area of taxes and levies shall have the right to send to a taxpayer in the manner prescribed by clauses 1, 2 and 5 of Article 93 of this Code a request for the presentation of documentation such as is provided for in Article 105.15 of this Code in relation to a transaction (group of similar transactions) being inspected. Documentation requested in accordance with this clause shall be presented by a taxpayer within 30 days from the date of receipt of the relevant request, except as otherwise provided in Chapter 14.4-1 of this Code. *[as amended by Federal Law No. 340-FZ of 27.11.2017]*

7. An official of the federal executive body in charge of control and supervision in the area of taxes and levies who is conducting an audit shall have the right to request documents (information) from participants in transactions being inspected or from other persons who possess documents (information) relating to those transactions. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

The requesting of documents in accordance with this clause shall take place according to a procedure similar to the procedure for the requesting of documents which is established by Article 93.1 of this Code and within the time limits established by this clause. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

Documents (information) requested in accordance with this clause shall be submitted by the persons referred to in paragraph 1 of this clause within 10 days from the day on which the request was received.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

Where requested documents (information) cannot be submitted within the time limit established by this clause, the federal executive body in charge of control and supervision in the area of taxes and levies, on receiving from the person from which the documents (information) were requested a notification of the fact that the documents (information) cannot be submitted and of the time period (if necessary) within which the documents (information) can be submitted, shall have the right to extend the time limit for the submission of the documents (information) concerned. That notification shall be submitted in the manner prescribed by clause 3 of Article 93 of this Code.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

8. On the last day of an audit the inspector shall be obliged to draw up a certificate of audit completion, specifying the subject-matter and dates of the audit.

The certificate of audit completion shall be handed to the person in relation to whom the audit was conducted or that person's representative against receipt or shall be transmitted by another means which provides evidence of the date of receipt of the certificate.

In the event that the taxpayer (the taxpayer's representative) evades receipt of the certificate of audit completion, that certificate shall be sent to the taxpayer by registered mail.

Where a certificate of audit completion is sent by registered mail, the date of delivery shall be considered to be the sixth day counting from the date on which the registered letter was sent.

9. Where an audit has revealed deviations in the price used in a transaction from the market price which have caused the amount of tax to be understated (the amount of losses to be overstated), within two months from the date of preparation of the certificate of audit completion the authorized officials who carried out the audit must draw up an audit report in the prescribed form. *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

The form of an audit report and requirements relating to the preparation of a report shall be established by the federal executive body in charge of control and supervision in the area of taxes and levies.

10. The audit report shall be signed by the officials who carried out the audit and the person in relation to whom the audit was carried out (or a representative of that person).

A refusal by the person in relation to whom the audit was carried out or a representative of that person to sign the audit report shall be noted in that report.

11. An audit report shall be prepared with account taken of the requirements set out in clause 3 of Article 100 of this Code. The audit report must also indicate documented instances in which the price used in a transaction deviated from the market price by being above the highest price or below the lowest price (profit margin) with account taken of applicable price increments or price discounts, and present evidence that the deviation caused the amount of tax to be understated (the amount of losses to be overstated) and a computation of the amount of that understatement (overstatement). *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

12. An audit report must be handed within five days of the date of the report to the person in relation to whom the audit was conducted or a representative of that person against receipt, or must be transmitted by another means which provides evidence of the date of receipt of the report by that person (the person's representative).

Should the person in relation to whom an audit was conducted or a representative of that person evade receipt of the audit report, that fact shall be noted in the audit report, and the audit report shall be sent by registered mail to the location of the organization concerned or the place of residence of the physical person concerned.

Where an audit report is sent by registered mail, the date of delivery of the report shall be considered to be the sixth day from the date on which the registered letter was sent.

13. A person in relation to whom an audit has been conducted or a representative of that person shall have the right, in the event that he disagrees with statements made in the audit report or with the conclusions and recommendations of the inspectors and within 20 days of receiving the report, to present to the federal executive body in charge of control and supervision in the area of taxes and levies written objections in relation to that report as a whole or in relation to individual points therein. In this respect, the person in question shall have the right to attach to the written objections, or to transmit to the federal executive body in charge of control and supervision in the area of taxes and levies within an agreed time limit, documents (certified copies of documents) substantiating the objections.

14. The examination of a report, other audit materials and written objections presented by a taxpayer in relation to a report and the adoption of a decision based on the results of an audit shall take place in a similar manner as is provided for in Article 101 of this Code for the examination of materials relating to a tax audit.

15. Materials and information obtained by the federal executive body in charge of control and supervision in the area of taxes and levies in carrying out tax control measures in connection with the conclusion of a transaction between interdependent persons may be used in auditing other persons who are participants in the same controlled transaction.

Article 105.18. Symmetrical Adjustments *[article as reworded by Federal Law No. 150-FZ of 08.06.2015]*

1. Russian taxpayer organizations which are other parties to a controlled transaction (hereinafter referred to as “other party to a transaction”) may, in calculating the taxes referred to in clause 4 of Article 105.3 of this Code, use prices on the basis of which the federal executive body in charge of control and supervision in the area of taxes and levies has adjusted the tax base and the amount of tax (where additional tax is charged, following an inspection by the federal executive body in charge of control and supervision in the area of taxes and levies of the full calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons, by assessing the results of the transaction with reference to market prices) or on the basis of which taxpayers have adjusted the tax base and the amount of tax (losses) (in the case provided for in clause 6 of Article 105.3 of this Code).

The use of such prices shall be deemed to be a symmetrical adjustment for the purposes of this Code.

Symmetrical adjustments shall be made in accordance with the procedure established by this Article.

2. The other party to a transaction shall have the right to apply a symmetrical adjustment where:

1) a decision of the federal executive body in charge of control and supervision in the area of taxes and levies to impose (not to impose) sanctions for the commission of a tax offence which provides for additional tax to be charged or the amount of losses to be reduced has been fulfilled by the taxpayer in relation to which that decision was issued. The right to

symmetrical adjustments in this case shall arise from the day of the receipt of a notification of the possibility of symmetrical adjustments which is issued (sent) by the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with the procedure laid down in clauses 5 to 9 of this Article;

2) a taxpayer which independently adjusted the tax base and the amount of tax (losses) in accordance with clause 6 of Article 105.3 of this Code has submitted a tax declaration in which the relevant adjustment is reflected and has settled the amount of arrears which arose as a result of that adjustment (if any).

3. Adjustments shall not be made to tax ledgers or primary documents for the purposes of applying symmetrical adjustments. Symmetrical adjustments shall be reflected:

1) where the right to such adjustments arose for the other party to a transaction in accordance with subsection 1 of clause 2 of this Article - in tax declarations for the taxes referred to in clause 4 of Article 105.3 of this Code which were submitted for the tax period in which the other party to the transaction has received a notification of the possibility of symmetrical adjustments;

2) where the right to such adjustments arose for the other party to a transaction in accordance with subsection 2 of clause 2 of this Article - in tax declarations for the taxes referred to in clause 4 of Article 105.3 of this Code which were submitted for the tax period for which the taxpayer independently adjusted the tax base and the amount of tax (losses) in accordance with clause 6 of Article 105.3 of this Code.

4. Where, as a result of a symmetrical adjustment, the other party to a transaction receives the right to a credit or refund of tax, the rules established by this Code in relation to the crediting and refund of overpaid amounts of tax shall apply.

5. Symmetrical adjustments such as are provided for in subsection 1 of clause 2 of this Article shall be made by the other party to a transaction on the basis of information contained in a notification of the possibility of symmetrical adjustments which is sent to it by the federal executive body in charge of control and supervision in the area of taxes and levies.

The standard form of a notification of the possibility of symmetrical adjustments and the procedure for the issue thereof shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

In the event that the federal executive body in charge of control and supervision in the area of taxes and levies, after inspecting the full calculation and payment of taxes in connection with the conclusion of transactions between interdependent persons, adopts a decision to impose (not to impose) sanctions for the commission of a tax offence which provides for additional tax to be charged or the amount of losses to be reduced, it shall notify the other party to a transaction of the possibility of symmetrical adjustments by means of issuing an appropriate notification or sending such a notification by registered mail or in electronic form via telecommunications channels within one month from the day on which that decision is complied with.

The running of the time limit for the issue or sending to the other party to a transaction of a notification of the possibility of symmetrical adjustments shall be suspended in the event that the federal executive body in charge of control and supervision in the area of taxes and levies receives notice of the lodging of a judicial appeal against the decision to impose (not to impose) sanctions for the commission of a tax offence which provides for additional tax to be charged or the amount of losses to be reduced and on the basis of which symmetrical adjustments are made. That suspension shall continue in effect until the day on which a relevant judicial act enters into force.

In the event that the federal executive body in charge of control and supervision in the area of taxes and levies fails to comply with the time limit stipulated by this clause for the issue or sending to the other party to a transaction of a notification of the possibility of symmetrical adjustments, interest payable to the taxpayer concerned shall be charged on the amount of overpaid tax which is required to be credited or refunded to that taxpayer as a result of a symmetrical adjustment for each calendar day commencing from the last day of the time limit established by this clause for the issue or sending of the relevant notification to the taxpayer.

The interest rate shall be taken to be equal to the refinancing rate of the Central Bank of the Russian Federation which was effect in the period in which the federal executive body in charge of control and supervision in the area of taxes and levies violated the time limit for sending a relevant notification.

6. In the case provided for in subsection 1 of clause 2 of this Article (where a notification of the possibility of symmetrical adjustments is not received within the time limits specified in clause 5 of this Article), the other party to a transaction shall have the right to file an application with the federal executive body in charge of control and supervision in the area of taxes and levies for the issue of a notification of the possibility of symmetrical adjustments.

An application for the issue of a notification of the possibility of symmetrical adjustments must be accompanied by copies of documents confirming information on the decision to impose (not to impose) sanctions for the commission of a tax offence which was issued in relation to the taxpayer and which provides for additional tax to be charged or the amount of losses to be reduced, and confirming that the decision has been complied with.

7. The federal executive body in charge of control and supervision in the area of taxes and levies, after considering an application for the issue of a notification of the possibility of symmetrical adjustments, shall, within 15 days from the day on which the other party to a transaction submitted the application for the issue of a notification of the possibility of symmetrical adjustments, adopt one of the following decisions:

- 1) to issue a notification of the possibility of symmetrical adjustments;
- 2) to refuse to issue a notification of the possibility of symmetrical adjustments;
- 3) to give notice of the suspension of the time limit for the issue of a notification of the possibility of symmetrical adjustments in the event of the contesting of the decision to impose (not to impose) sanctions for the commission of a tax offence which provides for additional tax to be charged or the amount of losses to be reduced and on the basis of which symmetrical adjustments are made.

8. The issue of a notification of the possibility of symmetrical adjustments may be refused:

- 1) in the event of a failure to comply with the procedure for submitting an application for the issue of a notification of the possibility of symmetrical adjustments;
- 2) in the event that information given in the application is not confirmed;
- 3) in the event that, while the application for the issue of a notification of the possibility of symmetrical adjustments is being considered, the taxpayer submits a revised tax declaration in which the tax base and the amount of tax (losses) have changed.

9. Where the federal executive body in charge of control and supervision in the area of taxes and levies has adopted a decision to issue a notification of the possibility of symmetrical adjustments, a notification of the possibility of symmetrical adjustments shall be issued to the other party to a transaction or sent to that party by registered mail or in electronic form via telecommunications channels not later than one day from the day on which that decision is adopted.

The other party to a transaction which has applied for the issue of a notification of the possibility of symmetrical adjustments shall be notified of the adoption of a decision such as is provided for in subsection 2 or 3 of clause 7 of this Article not later than one day from the day on which the decision in question is adopted.

The standard form of the decisions referred to in clause 7 of this Article and the procedure for adopting them shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

10. Symmetrical adjustments such as are provided for in subsection 2 of clause 2 of this Article shall be made by the other party to a transaction on the basis of information sent to it by a taxpayer which has adjusted the tax base and the amount of tax (losses) on the basis of clause 6 of Article 105.3 of this Code, accompanied by documents (information) confirming the fulfilment of the tax payment obligation which arose as a result of that adjustment.

11. In the event that a tax declaration such as is provided for in subsection 2 of clause 3 of this Article is submitted to a tax authority after the deadline for the submission of a notification of controlled transactions, the other party to a transaction shall present, at the same time as that declaration, documents (information) received from the taxpayer in accordance with clause 10 of this Article.

In the event that the other party to a transaction has not presented the documents (information) referred to in this clause (or has presented documents containing inaccurate information), and (or) the conditions referred to in subsection 2 of clause 2 of this Article have not been fulfilled, the amount of tax (losses) must be restored, and in this respect the amount of tax shall be payable to the budget in accordance with the established procedure with appropriate amounts of tax sanctions and penalties being recovered from the other party to the transaction.

The amount by which the amount of the tax base (losses) has changed as a result of a symmetrical adjustment made on the grounds provided for in subsections 1 and 2 of clause 2 of this Article must correspond to the amount by which the amount of the tax base (losses) has changed in the cases provided for in clauses 5 and 6 of Article 105.3 of this Code.

12. In the event that a taxpayer which is the other party to a controlled transaction made an adjustment in accordance with a notification of the possibility of symmetrical adjustments, and the decision to impose (not to impose) sanctions for the commission of a tax offence which provided for additional tax to be charged or the amount of losses to be reduced was subsequently amended (rescinded) or invalidated through the courts, the taxpayer in question must make an appropriate reverse adjustment.

In the event that a taxpayer which is the other party to a controlled transaction made an adjustment in accordance with a tax declaration submitted by a taxpayer in accordance with clause 6 of Article 105.3 of this Code, and that taxpayer subsequently submitted a revised tax declaration indicating a lower tax base and (or) amount of tax, the taxpayer which is the other party to a controlled transaction must make an appropriate reverse adjustment.

Reverse adjustments shall be made by the other party to a transaction on the basis of a notification of the need to make reverse adjustments received from the tax authority with which the other party to the transaction is registered, within one month from the date on which that notification is received. In this respect, penalties shall not be charged on amounts of tax payable which have increased on the basis of reverse adjustments such as are referred to in paragraph 1 of this clause.

The standard form of and procedure for the issue of a notification of the need to make reverse adjustments shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

A notification of the need to make reverse adjustments in connection with the amendment (rescission) or invalidation of a decision to impose (not to impose) sanctions for the commission of a tax offence which provides for additional tax to be charged or the amount of losses to be reduced shall be accompanied by a computation of reverse adjustments prepared in any form, and by a copy of the relevant judicial act which rescinds (amends) or invalidates the decision in question or relevant judicial acts.

A notification of the need to make reverse adjustments in connection with the making of independent adjustments by a taxpayer in accordance with clause 6 of Article 105.3 of this Code shall be accompanied by a computation of reverse adjustments prepared in any form. The notification shall indicate the date of submission of the revised tax declaration.

The tax authority shall credit or refund overpaid tax to a taxpayer which is the other party to a controlled transaction and in relation to which a decision to impose (not to impose) sanctions for the commission of a tax offence was issued providing for additional tax to be charged or the amount of losses to be reduced, and which independently made an adjustment in accordance with clause 6 of Article 105.3 of this Code, only after reverse adjustments have been made and tax has been paid by the taxpayer which is the other party to the controlled transaction.

13. The federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to cite the absence of documents or the expiry of the retention period for documents for the purposes of crediting (refunding) amounts of tax shown in a tax declaration (a revised tax declaration) which is submitted by a taxpayer as a result of symmetrical or reverse adjustments made on the basis of an appropriate notification.

Article 105.18-1. Adjustments as a Result of a Mutual Agreement Procedure in Accordance with an International Tax Agreement of the Russian Federation *[inserted by Federal Law No. 325-FZ of 29.09.2019]*

1. Adjustments to tax ledgers and primary documents shall not be made for the purposes of applying adjustments as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation.

Such adjustments shall be reflected in tax declarations for the taxes referred to in subsections 1 and 2 of clause 4 of Article 105.3 of this Code.

2. Where, as a result of adjustments made as a result of a mutual agreement procedure in accordance with an international tax agreement of the Russian Federation, a Russian taxpayer organization acquires the right to a credit or refund of an amount of tax, that amount of tax must be credited or refunded in accordance with the procedure established by Article 78 of this Code.

CHAPTER 14.6. PRICING AGREEMENT FOR TAXATION PURPOSES

Article 105.19. General Provisions Concerning a Pricing Agreement for Taxation Purposes

1. A Russian organization which is a taxpayer classified as a major taxpayer in accordance with Article 83 of this Code (hereafter in this Chapter referred to as “taxpayer”) shall have the right to file an application with the federal executive body in charge of control and supervision in the area of taxes and levies for the conclusion of an agreement on pricing for taxation purposes (hereinafter referred to also as “pricing agreement”).

2. A pricing agreement shall constitute an agreement made between a taxpayer and the federal executive body in charge of control and supervision in the area of taxes and levies regarding the manner in which prices are to be determined and (or) pricing methods are to be applied in controlled transactions for taxation purposes during the term of the agreement with a view to ensuring compliance with the provision of clause 1 of Article 105.3 of this Code.

3. The subject of a pricing agreement shall include:

1) the types and (or) lists of controlled transactions and goods (work and services) in relation to which an agreement is concluded;

2) the procedure for determining prices and (or) a description of and the procedure for applying pricing methods (formulae) for taxation purposes;

- 3) a list of information sources to be used in determining the conformity of prices used in transactions to the conditions of the agreement;
 - 4) the term of the agreement;
 - 5) a list of and the procedure and time limits for presenting documents confirming fulfilment of the conditions of the pricing agreement.
4. Other conditions of a pricing agreement besides those set out in clause 3 of this Article may be established by arrangement between the parties.

Article 105.20. Parties to a Pricing Agreement

1. The parties to a pricing agreement shall be the taxpayer and the federal executive body in charge of control and supervision in the area of taxes and levies in the person of the director (deputy director) of that body, except as otherwise provided in clause 2 of this Article.

2. Where a pricing agreement is to be concluded in relation to a foreign trade transaction and at least one of the parties to that transaction is a tax resident of a foreign state with which a double taxation agreement (treaty) has been concluded, the taxpayer may file an application with the federal executive body in charge of control and supervision in the area of taxes and levies for such a pricing agreement to be concluded with the participation of the competent executive body of the relevant foreign state. The procedure for the conclusion of such a pricing agreement shall be established by the Ministry of Finance of the Russian Federation.

[as amended by Federal Law No. 436-FZ of 28.12.2017]

A pricing agreement such as is provided for in this clause shall be based on a mutual agreement between the federal executive body in charge of control and supervision in the area of taxes and levies and the authorized executive body of a foreign state, reached as a result of a mutual agreement procedure provided for in an international tax treaty of the Russian Federation that was conducted in line with the provisions of Chapter 20.3 of this Code.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

3. Where similar controlled transactions are concluded between a number of Russian interdependent organizations (a group of taxpayers), a multilateral pricing agreement may be concluded with those organizations. In this respect, the conditions of that agreement shall apply to the entire group of taxpayers who concluded it.

In the process of the conclusion of a pricing agreement, the amendment of the conditions and the performance of an inspection of the fulfilment of the conditions of a pricing agreement in accordance with the procedures established by Articles 105.22 and 105.23 of this Chapter respectively, the common interests of a group of taxpayers may be represented by one organization from the group of taxpayers, whose authority shall be confirmed by powers of attorney issued in accordance with the procedure established by the legislation of the Russian Federation.

4. A taxpayer who has concluded a pricing agreement shall have the right to notify persons with whom transactions are concluded of the conclusion of such an agreement and of the

procedure established therein for the determination of the price to be used for taxation purposes.

Article 105.21. Term of a Pricing Agreement

1. A pricing agreement may be concluded in relation to one or more transactions (a group of similar transactions) having one and the same subject for a period not exceeding three years.

In this respect, the validity of a pricing agreement may be extended to include the period which elapsed from the first day of the calendar year in which the taxpayer submitted the application to conclude the agreement to the federal executive body in charge of control and supervision in the area of taxes and levies up to the date of entry into force of that agreement, except as otherwise provided in this Article. *[as amended by Federal Laws No. 321-FZ of 16.11.2011, No. 6-FZ of 17.02.2021]*

The validity of a pricing agreement that is concluded in connection with the repeat submission by a taxpayer of an application for the conclusion of a pricing agreement on the basis of clause 8.1 of Article 105.22 of this Code may be extended to include the period that elapsed from the first day of the calendar year in which the taxpayer submitted to the federal executive body in charge of control and supervision in the area of taxes and levies the application for the conclusion of a pricing agreement upon consideration of which the decision to refuse to conclude a pricing agreement was made on the ground provided for in subsection 4 of clause 8 of Article 105.22 of this Code until the date of entry into force of that agreement.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

2. Provided that it has complied with all the conditions of a pricing agreement, a taxpayer shall have the right to file an application with the federal executive body in charge of control and supervision in the area of taxes and levies for the term of the pricing agreement to be extended.

3. A pricing agreement may be extended by agreement between the parties by not more than two years in accordance with the procedure laid down in Article 105.22 of this Code.

4. A pricing agreement shall enter into force from 1 January of the calendar year following the year in which it was signed except as otherwise provided by that agreement.

Article 105.22. Procedure for the Conclusion of a Pricing Agreement

1. A taxpayer's application for the conclusion of a pricing agreement which is submitted by the taxpayer to the federal executive body in charge of control and supervision in the area of taxes and levies shall be accompanied by:

- 1) a draft of the pricing agreement;
- 2) documents relating to activities of the taxpayer which are connected with controlled transactions and relating to controlled transactions in relation to which the taxpayer proposes the conclusion of a pricing agreement;

3) copies of the taxpayer's foundation documents;

[4) lost force – Federal Law No. 6-FZ of 17.02.2021]

[5) lost force – Federal Law No. 6-FZ of 17.02.2021]

6) the taxpayer's accounting (financial) statements for the last reporting period; *[as amended by Federal Law No. 97-FZ of 29.06.2012]*

7) a document confirming that the applicant has paid state duty for the consideration by the federal executive body in charge of control and supervision in the area of taxes and levies of the application for the conclusion of a pricing agreement;

8) other documents containing information relevant to the conclusion of the pricing agreement.

2. The information and documents enumerated in this clause shall be presented to the federal executive body in charge of control and supervision in the area of taxes and levies in no particular form, unless a different form is prescribed by the legislation of the Russian Federation.

3. The federal executive body in charge of control and supervision in the area of taxes and levies shall have the right to make a request to a taxpayer to supply other documents not provided for in clause 1 of this Article which are needed for the purposes of a pricing agreement.

The above-mentioned documents must be submitted by the taxpayer to the federal executive body in charge of control and supervision in the area of taxes and levies within 10 days of the receipt of the relevant request from the to the federal executive body in charge of control and supervision in the area of taxes and levies.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

If the requested documents cannot be submitted within the time period established by this clause, the federal executive body in charge of control and supervision in the area of taxes and levies, upon receiving from the taxpayer from whom the documents were submitted a notification of the fact that the documents (information) cannot be submitted and of the time period (if necessary) within which the documents can be submitted, shall have the right to extend the time limit for the submission of those documents. That notification shall be submitted in the manner prescribed by clause 3 of Article 93 of this Code.

[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]

3.1. A taxpayer shall, together with an application for the conclusion of a pricing agreement that is submitted to the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with clause 2 of Article 105.20 of this Code, submit information on the submission by the taxpayer's counterparty to the authorized executive body of the foreign state of which it is a tax resident of a similar application for the purposes of the conclusion of the agreement in question, except as otherwise provided by this clause.

If, as at the date on which an application for the conclusion of a pricing agreement is filed with the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with clause 2 of Article 105.20 of this Code, a similar application for the purposes of the conclusion of the pricing agreement in question has not been submitted to the authorized executive body of the foreign state of which the taxpayer's counterparty is a tax resident, once that application has been submitted by the taxpayer's counterparty the taxpayer must notify the federal executive body in charge of control and supervision in the area of taxes and levies in writing of the submission of that application by the taxpayer's counterparty. The information in question shall be submitted by the taxpayer not later than six months from the day on which it filed the application for the conclusion of a pricing agreement in accordance with clause 2 of Article 105.20 of this Code.

[clause 3.1 inserted by Federal Law No. 6-FZ of 17.02.2021]

4. The federal executive body in charge of control and supervision in the area of taxes and levies shall consider an application and other documents submitted by a taxpayer in accordance with clauses 1 to 3 of this Article within a period of not more than six months from the day on which the application was received, except as otherwise provided by this clause.

An application and other documents submitted by a taxpayer for the purposes of the conclusion of a pricing agreement in accordance with clause 2 of Article 105.20 of this Code shall be considered by the federal executive body in charge of control and supervision in the area of taxes and levies within a period of not more than 24 months from the day of the receipt of the application or, in the case provided for in clause 3.1 of this Article, from the day of the receipt from the taxpayer of information to the effect that its counterparty has submitted an application to the authorized executive body of the foreign state of which it is a tax resident for the purposes of the conclusion of the pricing agreement in question.

The time limit for the consideration of an application and other documents submitted by a taxpayer in accordance with clause 1 of this Article for the purposes of the conclusion of a pricing agreement such as is provided for in clause 2 of Article 105.20 of this Code shall be suspended for the period of time taken by the authorized executive body of the foreign state to submit documents and (or) information in accordance with a request sent by the federal executive body in charge of control and supervision in the area of taxes and levies in the context of the conduct of a mutual agreement procedure provided for in an international tax treaty of the Russian Federation in line with the provisions of Chapter 20.3 of this Code.

The time limit for the consideration of documents submitted by the taxpayer may be extended to nine months in the case referred to in paragraph 1 of this clause or to 27 months in the case provided for in paragraph 2 of this clause.

The grounds and procedure for the extension of the time limit for the consideration of documents submitted by a taxpayer shall be established by the federal executive body in charge of control and supervision in the area of taxes and levies.

[clause 4 as reworded by Federal Law No. 6-FZ of 17.02.2021]

5. Following consideration of the documents presented by the taxpayer in accordance with clauses 1 to 3 of this Article, the federal executive body in charge of control and supervision in the area of taxes and levies shall adopt one of the following decisions:

- 1) a decision consenting to the conclusion of a pricing agreement;
- 2) a substantiated decision to refuse the conclusion of such an agreement;
- 3) a decision requiring modification of the draft agreement in which the federal executive body in charge of control and supervision in the area of taxes and levies requests the taxpayer to modify in accordance with the requirements of this Code and re-submit the draft pricing agreement and the documents referred to in subsection 2 of clause 1 of this Article.

6. The relevant decision consenting to the conclusion (refusing the conclusion or requiring modification) of a pricing agreement (indicating the place, date and time of signing of the pricing agreement where a decision is adopted consenting to the conclusion of a pricing agreement) shall be sent to the taxpayer (the taxpayer's authorized representative) within five days from the date of adoption of the decision.

6.1. In the event that the federal executive body in charge of control and supervision in the area of taxes and levies makes the decision provided for in subsection 3 of clause 5 of this Article, the modified draft of the pricing agreement and the documents referred to in subsection 2 of clause 1 of this Article shall be submitted by the taxpayer not later than 30 days from the day on which the taxpayer received that decision.

[clause 6.1 inserted by Federal Law No. 6-FZ of 17.02.2021]

7. Where a draft pricing agreement and documents are re-submitted on the basis of a decision such as is provided for in subsection 3 of clause 5 of this Article or in accordance with clause 8.1 of this Article: *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

1) the state duty provided for in subsection 133 of clause 1 of Article 333.33 of this Code shall not be levied; *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

2) the federal executive body in charge of control and supervision in the area of taxes and levies shall adopt a decision within three months.

8. The grounds for the adoption of a decision refusing the conclusion of a pricing agreement shall include, in particular:

1) the non-submission or incomplete submission of the documents specified in clause 1 of this Article;

2) the non-payment of state duty, or failure to pay it in full;

3) a substantiated conclusion to the effect that applying the price determination procedure and (or) pricing methods proposed by the taxpayer in the draft pricing agreement would not enable compliance with the provisions of clause 1 of Article 105.3 of this Code;

4) a failure to reach mutual agreement with the authorized executive body of a foreign state for the purposes of the conclusion of a pricing agreement such as is provided for in clause 2 of Article 105.20 of this Code;

[subsection 4 inserted by Federal Law No. 6-FZ of 17.02.2021]

5) a failure to submit documents (information) provided for in clauses 3 and 3.1 of this Article in accordance with the procedure and within the time limits established by this Article;

[subsection 5 inserted by Federal Law No. 6-FZ of 17.02.2021]

6) the taxpayer's disagreement with a decision requiring modification of the draft pricing agreement (including in the form of the failure to submit a modified draft of the pricing agreement within the time limit established by clause 6.1 of this Article);

[subsection 6 inserted by Federal Law No. 6-FZ of 17.02.2021]

7) the taxpayer's disagreement with a decision to conclude a pricing agreement, expressed in the taxpayer's refusal to sign the pricing agreement (including in the form of a failure of the taxpayer (or its representative) to appear at the federal executive body in charge of control and supervision in the area of taxes and levies for the signing of the pricing agreement.

[subsection 7 inserted by Federal Law No. 6-FZ of 17.02.2021]

8.1. Where a decision to refuse to conclude a pricing agreement is made on the ground provided for in subsection 4 of clause 8 of this Article, the taxpayer may, within three months of receiving that decision, resubmit to the federal executive body in charge of control and supervision in the area of taxes and levies in the manner prescribed by clause 7 of this Article a draft pricing agreement in relation to a foreign trade transaction in which at least one party is a tax resident of a foreign state with which a double taxation treaty (agreement) has been concluded, without the participation of the authorized executive body of that foreign state.

[clause 8.1 inserted by Federal Law No. 6-FZ of 17.02.2021]

9. An appeal against a decision to refuse to conclude a pricing agreement may be lodged with a court in accordance with the legislation of the Russian Federation.

10. A copy of the pricing agreement concluded with a taxpayer shall be sent by the federal executive body in charge of control and supervision in the area of taxes and levies to the tax authority where the taxpayer is registered as a major taxpayer within three days from the day on which that agreement is signed.

11. A taxpayer's application for the conclusion of a pricing agreement that was submitted by the taxpayer to the federal executive body in charge of control and supervision in the area of taxes and levies may be withdrawn by that taxpayer. In this respect, the amount of state duty paid in accordance with subsection 133 of clause 1 of Article 333.33 of this Code shall not be refunded. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

12. A price agreement may be amended in accordance with the procedure laid down in this Article.

Article 105.23. Inspection of Compliance with a Pricing Agreement

1. Compliance by a taxpayer with a pricing agreement shall be inspected by the federal executive body in charge of control and supervision in the area of taxes and levies in accordance with the procedure laid down in Chapter 14.5 of this Code.

2. Where a taxpayer has complied with the conditions of a pricing agreement (including where this is established as a result of an inspection such as is referred to in clause 1 of this Article), the federal executive body in charge of control and supervision in the area of taxes and levies shall not have the right to adopt a decision to impose (not to impose) sanctions for the commission of a tax offence which provides for additional taxes, penalties and fines to be charged or amounts of losses to be reduced in relation to controlled transactions for which prices (price determination methods) were agreed upon in the pricing agreement. *[as amended by Federal Law No. 150-FZ of 08.06.2015]*

Article 105.24. Procedure for the Termination of a Pricing Agreement

1. A pricing agreement shall be terminated upon the expiry of its term or may be terminated before the expiry of its term in cases provided for in this Article.

2. A pricing agreement shall be terminated early by decision of the director (deputy director) of the federal executive body in charge of control and supervision in the area of taxes and levies in the event that the taxpayer has committed a violation of the pricing agreement during its effective term which has caused taxes to be underpaid and was discovered in the course of the performance of an inspection in the manner provided for in Chapter 14.5 of this Code.

A pricing agreement may also be cancelled early by agreement between the parties or by decision of a court.

3. A decision of the federal executive body in charge of control and supervision in the area of taxes to terminate a pricing agreement shall be handed to the taxpayer (a representative of the taxpayer) against receipt or transmitted by another means which provides evidence of the date of the receipt thereof by the taxpayer (the taxpayer's representative), or shall be sent to the taxpayer by registered mail within five days from the day on which the relevant decision is adopted.

A decision to terminate a pricing agreement which has been sent to a taxpayer by registered mail shall be considered to have been received upon the lapse of six days from the date on which the registered letter was sent.

A copy of the above-mentioned decision shall be sent within the same time period to the tax authority where the taxpayer is registered as a major taxpayer.

4. A taxpayer may appeal to an arbitration court in accordance with the procedure established by the arbitration procedure legislation of the Russian Federation against a decision of the federal executive body in charge of control and supervision in the area of taxes and levies to terminate a pricing agreement.

5. Tax, penalties and fines shall be paid only where the termination of a pricing agreement by reason of the non-fulfilment (violation) of its conditions has caused the amount of tax to be understated.



Article 105.25. Stability of the Conditions of a Pricing Agreement

1. The conditions of a pricing agreement shall remain unchanged in the event that amendments are introduced to tax and levy legislation with respect to the regulation of relations arising in connection with the conclusion, amendment or termination of a pricing agreement.

2. Should any other amendments be introduced to the tax and levy legislation of the Russian Federation and customs-related legislation of the Russian Federation which affect a taxpayer's activities, the parties to the agreement shall have the right to amend the text of the pricing agreement accordingly.