

Pricing Knowledge Network

Focusing on the impact of major intercompany pricing issues

November 22, 2011

PKN Alert Venezuela - New law on fair costs and prices (price controls)

A Transfer Pricing Publication

A Decree with status of Law on Fair Costs and Prices (hereinafter “LCYPJ” as per its Spanish Acronym) was published in July 2011 in the official Gazette N° 39.715. This Law will enter into effect after 90 business days from the publication date. The objective of this Law is to establish and regulate prices on goods and services in the local market.

The purpose and goals of this Decree-Law will be materialized in the National System of Costs and Prices constituted by the National Superintendence of Costs and Prices (hereinafter the “SUNACOPRE” as per its Spanish Acronym). SUNACOPRE shall establish the standards for the National Registry of Prices of Goods and Services, and will have overall responsibility to regulate, supervise, control, and monitor prices, and it will also have the authority to establish Maximum Retail Prices (PMVP) or the price range for goods and services, among other activities.

This Law is applicable to all individuals, and corporations (either public and private; national or foreign) which produce, import or trade goods or services within the national territory. Financial institutions are excluded from this regulation.

For the determination of the fair price of goods and services, SUNACOPRE will base its decision mostly on the information provided by the parties previously indicated,



which should be consistent with their structure of direct and indirect costs, as well as general, administrative, distribution and sale expenses when applicable, and the expected profit based on the expectations and risks undertaken.

Relation of the Law on Fair Costs and Prices with Transfer Pricing

All those companies which carry out transactions with foreign related parties should evaluate their cost and pricing structure, given that this regulation may affect them directly. For instance, depending on the type of adjustment that SUNACOPRE may apply by virtue of the powers granted thereto, the following scenarios may emerge:

Adjustments in the Price	Adjustments to Costs
Should SUNACOPRE determine a new price for a given product or service for not considered it “fair”, the level of the local entity’s profitability may decrease. Thus, potential transfer pricing adjustment might occur due to lower profitability at the local level.	If the cost structure of the product or service is adjusted (assuming that SUNACOPRE considers that such cost structure is high for that product or service), transfer prices would be affected.

Based on this new regulation and potential requirements, detailed documentation on the cost structure for products and services as well as the support of the terms of operation established by the parties subject to this law are highly recommended. Thus, a detailed analysis on segmented financial information, as well as the documentation of functions, assets and risks will become relevant as part of the elements of documentation and analysis of the information which is to be provided, under the standard relating to Fair Costs and Prices and in the case of eventual requirements of SUNACOPRE.

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