

IRS Ramps Up Scrutiny on Low-Profit Inbound Distributors – Strategic Insight for LATAM Businesses Operating in the U.S.



As part of the IRS tax enforcement activities using Inflation Reduction Act funding the tax authority has targeted U.S. subsidiaries of foreign companies operating as distributors and consistently reporting losses or minimal profits. Specifically, under the “large foreign-owned corporations transfer pricing initiative” during the last months of 2023, the IRS sent compliance letters encouraging them to self-correct their transfer pricing.

These letters indicate that the taxpayer has been flagged for transfer pricing compliance risk based on their tax returns from 2017 to 2021. Recipients were requested to respond under the threat of perjury and either clarify their compliance with Section 482 or amend any noncompliant returns to increase their U.S. taxable income.

Latin American businesses with operations in the United States should take particular note of the IRS's intensified focus on transfer pricing. As part of the IRS's efforts to enhance compliance among multinational corporations, Latin American entities conducting trade or providing services in the U.S. may face increased audit activity.

U.S. subsidiaries of Latin American businesses should not assume that their classification as small organizations will safeguard them from audits or scrutiny by U.S. tax authorities. This is particularly significant since small taxpayers frequently opt for settlements instead of litigation, potentially introducing bias in case selection. Additionally, a transfer pricing adjustment mandated by the IRS could result in scenarios of double taxation, and only a few Latin American countries have tax treaties in place with the United States to address or alleviate such double taxation situations.

Ready to elevate your transfer pricing practices and minimize risk? Reach out to us today for tailored solutions and expert guidance.

Altus Transfer Pricing