

INTERNATIONAL COMPARISON

November 2018



What's in this issue: Transfer Pricing

Auren International Comparison is a quarterly publication that provides you an overview of trends and international tax developments by comparing tax issues in different legislations around the world, that may affect those doing business in multiple locations.

Constant legislative, regulatory, and judicial changes, along with globalization, economic shifts, and operational adjustments, are challenging issues. Now more than ever, in an increasingly globalized world, companies must have a total perspective and awareness of tax issues, and this publication aims to cover key tax topics which should be of interest to businesses operating internationally.

This edition includes numerous country focus pieces, in which it is analyzed; the transfer pricing legislation and guidelines in several countries.

We hope you that you find this publication helpful.

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Albania

Please describe your country Transfer Pricing Regulations.	E The transfer pricing legislation is covered by Article 2 and Articles 36-36/7 of the Income Tax Law, as well as by the instruction on transfer pricing introduced in 2014 (no 16 of 18 June 2014) and the instruction on advance pricing agreement introduced in 2015 (no. 9, dated 27 February 2015).		The taxpayer has the potential to apply a transfer pricing method other than the abovementioned methods, only if it can be proven that none of the above methods can reasonably determine consistency with the Arm's length Principle for the controlled transaction.
Who is affected? / Whom it concerns?	<p>Only cross-border transactions between related parties are covered by transfer pricing regulation. More specifically, a controlled transaction is any transaction between:</p> <ul style="list-style-type: none"> • associated parties where one party of the transaction is an Albanian resident and the other party is a non-resident of Albania; • one transaction's party is a non-resident and has a permanent establishment in Albania to which the transaction is attributable and the other party is another non-resident of Albania; • one party of the transaction is an Albanian resident and the other party is also an Albanian resident that has a permanent establishment outside of Albania to which the transaction is attributable 	Please describe the processes of Transfer Pricing Audit and Penalties.	<p>In case of abusive transactions that are considered as tax evasion by the tax administration, a penalty amounting to 100% of the tax liability's amount that was reduced or concealed can be imposed.</p> <p>Criminal penalties can be imposed in case of severe tax avoidance issues.</p>
Please specify the legal definition of related parties in your country.	<p>An entity is considered to be a related party if there is a possibility of exercising control over or exerting considerable influence on the business decisions made.</p> <p>The direct or indirect possession of 50% or more of capital's shares indicates a possibility of control over the taxpayer, while owning at least 50% of the voting rights is considered as having an influence on business decisions.</p>	What are the reporting deadlines?	<p>Transfer pricing documentation shall be provided upon request of the tax administration within 30 days.</p> <p>Moreover, according to the income tax law, taxpayers engaged in controlled transactions (including loan balances) that exceed the value of ALL 50 million, are required to submit the "Annual controlled transactions notice". The form of the notice is specified in Appendix 2 of the instruction on transfer pricing. The due date for submission is the end of March of the following year.</p>
Please specify the accepted Transfer Pricing Methods & Data used in your country.	<p>The transfer pricing legislation provides as the most appropriate transfer pricing methods the ones that OECD guidelines suggest:</p> <ul style="list-style-type: none"> • Comparable Uncontrolled Price Method • Resale Price Method • Cost Plus Method • Transactional Net Margin Method • Transactional Profit Split Method 	Please list any additional unique information about transfer pricing in your country.	<p>The Statute of limitations on transfer pricing assessments is five years from the date the related corporate income tax return is filed.</p>



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Argentina

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Argentina applies the OECD Transfer Pricing Guidelines. It has however a few aspects that are particular to the Argentine Law. All Transfer Pricing documentation is mandatory and must be filed to the Fiscal Authority in specific due dates, not upon request. As of October 2018, there is no materiality threshold for Transfer Pricing reports, however, the latest modification to the Income Tax Law (Ley 27.430/2017) states that a materiality threshold should be established by a Regulatory Decree that has not yet been issued.</p>		<p>Moreover, jurisdictions that do have one of said agreements but fail to comply with them should also be considered Non-Cooperative Jurisdictions. A list of Non-Cooperative Jurisdictions shall be provided by the Executive Power.</p> <p>Countries, domains, jurisdictions, territories, associated states or special tax regimes whose maximum income tax rate for companies is inferior to 60% of the tax rate imposed by Argentina for the same purposes should be considered Low or Null Tax Jurisdictions.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>The latest Income Tax Law (Ley 27.430/2017) states that all international transactions carried out by a local company and:</p> <ul style="list-style-type: none"> • A related party, as defined by Art. 15; • An unrelated company located in a Low or Null Tax Jurisdiction ("LNTJ"); or • An unrelated company located in a Non-Cooperative Jurisdiction ("NCJ") <p>will not be considered at arm's length and will be subject to Transfer Pricing documentation.</p> <p>Although, as stated earlier, a materiality threshold is likely to be installed in future regulation, to this date, all companies satisfying the abovementioned criteria are subject to Transfer Pricing Analysis and must prepare the corresponding Transfer Pricing Documentation.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>Transfer pricing accepted methods:</p> <ul style="list-style-type: none"> • Comparable Uncontrolled Price (CUP) method • Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • Sixth Paragraph Method (SPM) – Local method applicable to transactions involving commodities exported through an international trader with specific characteristics. Under this method, it is mandatory to use the prices from transparent markets at shipping date as comparable prices. New legislation provides tools to avoid the use of this method as it can sometimes distort results. <p>Tested Party: The comparability analysis and justification for transfer prices shall be made directly on the basis of the local taxpayer's situation. Financial information on the foreign parties involved in the transactions under analysis will not be accepted as proof that said transactions were carried out at arm's length.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>A person or company, or equivalent figure, with whom a local entity carries out transactions, is considered a related party if both are directly or indirectly directed or controlled by the same human or legal persons, or if the same human or legal persons have the power to direct or define the activities of the aforementioned companies, be it because they owe a significant share of their capital, are their main creditors, have functional or any other type of influence over them.</p> <p>Jurisdictions that do not have a tax information exchange agreement or a double taxation agreement in force with Argentina should be considered Non-Cooperative Jurisdictions.</p>	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>There is no specific tax audit procedure related to transfer pricing issues. However, transfer pricing audits are not uncommon, especially in the case of big companies, or companies that have not fulfilled their transfer pricing obligations on time.</p>



Argentina

	<p>As far as penalties go, the main objective of transfer pricing documentation is to prove that transactions are at arm's length, so when this cannot be proved, an adjustment should be introduced to the company's income tax: The difference between the price / result obtained in the controlled transaction under analysis and the price / result at arm's length is considered undeclared income and should be taxed accordingly (currently 30%).</p> <p>Other Penalties include:</p> <ul style="list-style-type: none"> • Failure to inform the company's ultimate parent company or surrogate in charge of presenting the Country by Country Report (AR\$ 15,000 to AR\$ 200,000) • Failure to file the Country by Country Report if applies (AR\$ 600,000 to AR\$ 900,000) • Unpaid taxes by involuntary error (fine equal to 100% of the unpaid tax) • Unpaid taxes due to fraud (fine equal to two to six times the amount of the unpaid tax) • Failure to file sworn statements on imports and exports carried out with related parties (AR\$ 10,000 to AR\$ 20,000) • Failure to file sworn statements on imports and exports carried out with third parties (AR\$ 1,500 to AR\$ 9,000). 		<ul style="list-style-type: none"> • Sworn statement on imports and exports of commodities carried out with third parties (F 741): 5 months after the end of the first semester of the fiscal year / On the date of Income Tax filing. • Sworn statement on all transactions carried out with related parties during the first semester of the fiscal year (F 742): 5 months after the end of the semester. • Information on ultimate parent company in charge of CbCR report filing: Last day of the third month after fiscal year end. • CbCR filing if applies: Last day of the twelfth month after fiscal year end. • CbCR filing by ultimate parent company confirmation: Last day of the second month after fiscal year end. <p>Regarding audits, TP documentation must be provided by the controlled entity upon a request from the tax auditors. The time frame for submission of the TP file in such cases is usually 15 (fifteen) days as from the day the request is issued. Deferrals can be requested before the original deadline.</p>
<p>What are the reporting deadlines?</p>	<p>Reporting deadlines for mandatory filings depend on the end of each company's fiscal year:</p> <ul style="list-style-type: none"> • Transfer Pricing Report and sworn statement on all transactions carried out with related parties (Forms 4501 and 743): 8 months after fiscal year end. • Sworn statement on all transactions carried out with related parties (More detailed – Form 969): 15 days after Income Tax filing. • Sworn statement on imports and exports of goods with third parties (Form 867): 7 months after fiscal year end. 	<p>Please list any additional unique information about transfer prices in your country.</p>	<p>Transfer Pricing period of prescription is 5 (five) years in Argentina, counting from the beginning of the year after the transfer pricing report is due.</p>



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Austria

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>As a member of the OECD Austria applies the OECD Guidelines on Transfer Pricing. Following the international trends, a Manual providing guidance on Transfer Pricing issues was published in November 2010 by the Austrian Tax Authorities. It has the intention to facilitate the implementation of the OECD Guidelines. Additionally, a Transfer Pricing Documentation Law was introduced in August 2016. No other binding regulations on TP have been published, however, taxpayer may submit questions on a particular transfer pricing problem to the Austrian Ministry of Finance to obtain a comment of their interpretation (Express Answer Service (EAS)).</p>	
<p>Who is affected? / Whom it concerns?</p>	<p>Related parties who perform cross boarder activities are affected by the Transfer Pricing Guidelines. The transfer of assets or services into and out of the country must be valued at the price that would be realized if the assets were sold to unrelated parties.</p>	
<p>Please specify the legal definition of related parties in your country.</p>	<p>Austrian law does not provide a definition of related parties. Following Sec.6(6) of the Income Tax Act, taxpayers holding over 25% of the share capital in a foreign company or foreign taxpayers holding over 25% of the share capital in an Austrian company, as well as taxpayers under the management, control or influence of a third taxpayer, are treated as related/ associated parties. Also, the owner is regarded as a related party to its enterprise and the partners of a partnership are regarded as related parties to the partnership.</p>	
<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • Other methods are allowed (only if other methods do not lead to correct results) but in practice not often used. 	
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In Austria there is no special procedure for transfer pricing investigations. They are seen as a part of the usual tax audit. As far as transfer pricing is concerned tax inspectors request a summary of the transfer pricing system applied and ask for the documentation. There are no specific penalties defined neither in the Transfer Pricing Guidelines no in the financial criminal law. However, if the tax base is increased as a result of the tax audit, interest has to be paid. Fines and imprisonment charges may be assessed in cases of tax evasion and tax fraud.</p> <p>Nevertheless, there exist specific penalties regarding the transfer pricing documentation i.e. late/no or incorrect filing fine up to EUR 50.000, -</p>	
<p>What are the reporting deadlines?</p>	<p>Following the Austrian Transfer Pricing Documentation Act the taxpayer has to submit the documentation upon the request of the competent tax authority within 30 days from the date filing of the corporate tax return.</p> <p>Following the EU Directive, the documentation consists of the master file, the local file and the country by country report if the revenue of the entity of a MNE Group exceeded the amount of EUR 50 million during the two preceding fiscal years. As well as any entity of an MNE Group resident in Austria is required to file the master file if under the rules of any other country or jurisdiction, preparation of a master file by any entity resident there is required. The documentation must be submitted in an official language permitted in tax proceedings or in English.</p>	
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>There are no safe harbor rules or other simplification methods</p>	<div style="text-align: center;">  <p>HUBNER & ALLITSCH www.hubner-allitsch.at</p> </div> <div style="text-align: right;"> <p>Member of</p>  <p>Antea Alliance of independent firms</p> </div>

Bosnia and Herzegovina

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Bosnia and Herzegovina (BiH) consists of three territorial and administrative entities: the Federation of Bosnia and Herzegovina (FBiH), the Republic of Srpska (RS), as well as the District of Brcko (BD).</p> <p>In the territory of RS, the Law on Corporate Income Tax of RS (articles 31, 32, 33, 34 and 35) is applicable. Moreover, a rulebook on TP was published in the Official Gazette RS 47/16 on 13/06/2016.</p> <p>Concerning the territory of the FBiH, it is governed by the Law on Corporate Income Tax of FBiH (articles 44, 45 and 46). Moreover, a rulebook on transfer pricing was published in the Official Gazette 67/16 on 26/08/2016.</p> <p>Finally, the District of Brcko of BiH follows the Law on Corporate Income Tax (article 9), Official Gazette Brcko District BiH 60/10 and 54/11.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>In case related parties perform transactions, those transactions should be performed in accordance with the arm's length principle.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of related parties in FBiH, as well as in RS, includes situations where a person participates directly or indirectly in the management, control or capital of another person; when that person holds directly or indirectly at least 25% of shares or interest in another legal entity or when that person has a de facto ability to control business of the entity.</p>

<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>In accordance with both the CPT Law of FBiH as well as the Income Tax Law of RS, all OECD methods are applicable:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • Cost Plus Method (CPM) • The Resale Price Method (RPM) • Profit Split Method (PSM) • Transactional Net Margin Method (TNMM) <p>As far as tax auditors are concerned, the CUP method seems to be the preferred one. In case that none of the above-mentioned methods can be applied, any other equally applied method can be used, provided that this method is reasonably determined.</p>
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Bosnia and Herzegovina



Please describe the processes of Transfer Pricing Audit and Penalties.	<p>In the RS region, the non-submission penalty of the documentation for a legal entity can range between 10,000 and 30,000 EUR and for the responsible person from 2,500 to 7,500 EUR. Concerning the FBiH region, the penalty ranges from 1,500 to 50,000 EUR for the legal entity and for the responsible person from 1,250-5,000 EUR.</p> <p>Moreover, concerning tax avoidance issues, depending on what kind of tax is avoided, the following penalties may be imposed:</p> <ul style="list-style-type: none">• If the offense relates to VAT, the regulated penalty amounts to 50% of the tax avoided for the company and 50% of the amount of avoided tax payable by the director of the company.• Concerning the situation of income profit tax avoidance, there is a penalty of 10% on the avoided tax for the company and for the director in the RS region. In FBiH region there is a penalty in different cases of avoidance of income profit tax and avoidance of the rules regarding transfer pricing and submission of tax forms in amount between 1,500 EUR and 50,000 EUR for the company and in amount between 1,250 EUR and 5,000 EUR for the director of the company. For avoidance of income profit tax in Brcko District, there is a penalty for the company amounting to 10 % of the avoided amount for the company, while for the director the penalty is between 100 EUR and 1,000 EUR.	What are the reporting deadlines? <p>The taxpayers should prepare the TP documentation until the income tax return form submission deadline (31st of March). Moreover, upon tax administrations' request, the taxpayer should submit TP documentation within 30 days (RS region) or 45 days (FBiH region).</p> <p>Moreover, in the RS region, if the amount of controlled transactions (including loans) exceeds the amount of 700,000 BAM (350.000 EUR), the taxpayer has the obligation to submit the annual report of the controlled transactions along with the annual income tax return to the tax administration. If the income of the group to which the taxpayer belongs to exceeds 750 million EUR then the CBC report must be submitted as well.</p> <p>As for as the BiH region, in case the amount of the controlled transactions exceeds 500,000 BAM (250.000 EUR), the TP-902 form (annual report on controlled transactions) must be submitted. In any case, the taxpayer must submit the TP-900 form (annual return for TP double taxation avoidance).</p>
	The penalties for abusive tax avoidance are much heavier.	Please list any additional unique information about transfer pricing in your country. <p>The general statutory limitation period for tax liabilities is 5 (five) years, both for BiH and RS regions.</p>



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Bulgarian

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Bulgaria fully applies the OECD Transfer Pricing Guidelines. Bulgarian transfer pricing rules were initially introduced in the Corporate Income Tax Act (CITA), Tax and Social Security Procedures Code (TSSPC), as well as in the Ordinance № H-9 for implementation of the transfer pricing methods, issued by the Minister of Finance on 29 August 2006. Following the international trends, a Manual providing guidance on Transfer Pricing issues was published in 2010 by the Tax Authorities.</p>		<p>Differences between the transfer prices and the market prices can be considered as a hidden profit and a penal provision of 20% of the respective difference can be applied.</p> <p>Additionally to the above adjustment, every legal entity which no correctly determines its tax obligation is subject of a penalty, ranged between EUR 250 and EUR 1,500.</p> <p>In case the audited entity does not submit the required TP documentation during a regular tax audit, the effective penalty is in the range of EUR 125 up to EUR 250.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>Under the definition of related party and the rules set out in the legislation, if related parties perform transactions then those transactions should be performed in accordance with the arm's length principle.</p> <p>According the TP Guidelines of NRA, which has recommendable, but not obligatory character only the small businesses are exempted from preparation of TP documentation.</p>	<p>What are the reporting deadlines?</p>	<p>TP documentation must be provided by the controlled entity in case of tax audit upon a request from the tax auditors. The time frame for submission of the TP file in such cases is starting from 7 (seven) days after the request up to 30 (thirty) days, but in the practice it is required within 14 (fourteen) days after the request is provided.</p> <p>On January 2014, the National Revenue Agency published a table (Appendix 4 on the annual CIT return Form) which was initially approved by the Ministry of Finance on 17 December 2013, according to which, up to 31st March of the following year, every legal entity is obliged to fill in the table that contains information regarding the amount of transactions between related parties for the previous year. Disclosures related to transactions with entities based in a jurisdiction with a preferential tax system should also be included in the said appendix 4.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of related parties in Bulgarian jurisdiction is very broad, but also includes situations where one party directly or indirectly participates in the management, control, or capital of another party.</p> <p>However, it is important to be noted that in Bulgaria even 5% shareholding relationship is sufficient according to the TSSPC to define two entities as related parties.</p>	<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>The general statutory limitation period for tax liabilities in Bulgaria is 5 (five) years, effectively from 1st January of the following year, when the tax liabilities were payable.</p> <p>NRA could execute audits for the open tax years, as well as for the ones that are not covered by the statute of limitation period, but without any tax effects for considered diversions during the closed periods (more than 5 previous years).</p>
<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) 	<div style="text-align: right;">  <p>Eurofast Global www.eurofast.eu</p> </div> <div style="text-align: right;">  <p>Member of ntea Alliance of independent firms</p> </div>	
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In Bulgaria there is no a specific tax audit procedure related to transfer pricing issues. However related party transactions are matter of control performed as a part of the general tax audit procedures. It is important to be noted that in transactions related to goods, the tax authorities generally seek price adjustments but in services transactions they tend to focus on the real substance of the provided services.</p>		

Croatia

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Transfer pricing rules are included in the Croatian Corporate Income Tax Act (CIT) and more specifically in Article 13 and Article 14a. Moreover, transfer pricing rules are also defined in Article 40 of the CIT Bylaw. However, Croatian authorities are generally following OECD transfer pricing guidelines.</p>	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>There are no specific penalties which are related to transfer pricing.</p> <p>The fines that can be applied ranges:</p> <ul style="list-style-type: none"> • For tax violation issues, up to HRK 200,000 (approx. EUR 27,000) for a company and up to HRK 20,000 (approx. EUR 2,700) for the responsible individual within the company. Moreover, penalty interest from the date when the tax was due until the date when the tax is paid can be applied and calculated. • For abusive tax avoidance cases, the prescribed penalties range between HRK 2,000.00 and 200,000.00 for the taxpayer and between HRK 500 to 20,000.00 for the responsible person of a taxpayer.
<p>Who is affected? / Whom it concerns?</p>	<p>In case related parties perform transactions, those transactions should be performed in accordance with the arm's length principle.</p> <p>Apart from the cross-border transactions, subject to transfer pricing rules are also transactions between resident associated entities if one of the parties:</p> <ul style="list-style-type: none"> • has a privileged tax status or is subject to profit tax at a rate lower than the stipulated rates or is exempt from the payment of profit tax, or • in the given tax period a party carries forward the tax loss from previous tax periods 	<p>What are the reporting deadlines?</p>	<p>According to the Croatian Law, the transfer pricing documentation must be available and submitted to the local tax authorities upon request in a tax audit. The transfer pricing study should be available at the same time with the annual tax return submission, at the end of the 4th month after the taxpayer's year end (30th of April for the majority of companies).</p> <p>In addition to, on 01.01.2016 a new report called PD-IPO was introduced. The submission of this report is due together with the annual corporate income tax return.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of associated parties is very broad. It includes persons that directly or indirectly participate in the management, control, or capital of the other party.</p>		
<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>The Corporate Income Tax Act and the Regulation prescribe the use of different methods for determining whether the prices are agreed at arms' length.</p> <p>These methods are the same with the ones prescribed by the OECD:</p> <ul style="list-style-type: none"> • CUP method • Resale price method • Cost-plus method • Profit –split method • TNMM 	<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>According to the Croatian General Tax Act (GTA) of January 1st 2017, the statute of limitations for determining tax liabilities by the tax authorities and taxpayers' right for claiming a tax refund for a particular tax period expires at the end of the sixth year following the year in which the tax liability has arisen.</p>

Cyprus

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>In Cyprus there is no specific legislation concerning Transfer Pricing, besides a provision in the Income Tax Law Cyprus 2002, which is codified in Article 33. This requires transactions between “related parties” to be in accordance with the arm’s length principle. The Arm’s length principle is when the parties to a transaction are independent and on an equal footing (arm’s-length transaction). It is mainly used in contract law to arrange an equitable agreement that will stand up to legal scrutiny, even though the parties may have shared interests or are too closely related to be completely independent. To determine if a transaction is at arm’s length, the Organization for Economic Co-operation and Development’s model and guidelines are applied.</p> <p>Based on Article 33 commercial or financial transactions between related parties are taxed on the profits that would have accrued if the transactions had been at arm’s length between independent parties. As off 1st July 2017 the interest rate on loans must be based on market conditions.</p> <p>The arm’s length principle is supervised by the Tax Department, which is a combination of two government departments, the old Inland Revenue Department and the VAT Service Department.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>Taxpayers should follow the implementation of one or combination of the following methods:</p> <p>Traditional Transaction Methods</p> <ol style="list-style-type: none"> 1. Comparable Uncontrolled Price method (CUP) 2. Resale Price Method (RPM) 3. Cost Plus Method (CPM) <p>Transactional Profit Methods</p> <ol style="list-style-type: none"> 1. Transactional Net Margin Method (TNMM) 2. Transactional Profit Split Method (TPSM) <p>To be able to determine the most appropriate method the below should be considered,</p> <ul style="list-style-type: none"> • Assets used, risks and functions performed by the company, • At the time when the contract was signed the data and the documents that were in existence, • Review financial terms made (payment terms)
<p>Who is affected? / Whom it concerns?</p>	<p>Transfer pricing offers important incentives when considering tax and corporate planning by company groups that use Cyprus companies. Transfer pricing in Cyprus aims to regulate the price at which goods and services are sold between associated enterprises, which is acknowledged to be the most important international tax issue facing multinational businesses.</p>		
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of related parties in Cyprus is basically parties who control one another. In addition, it includes situations where one party directly or indirectly participates in the management, control, or capital of another party and have a common control. This includes branches and head offices.</p>		

Cyprus

<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>All Cyprus companies need to submit Financial Statements each year. The TP Analysis should be prepared by a Transfer Pricing Expert for all transactions done after 01st of July 2017.</p> <p>The Transfer Pricing Analysis must be submitted with the Financial Statements of the company by a licensed auditor, to the Cypriot Tax Department and the Registrar of companies, confirming the quality and correctness of the analysis.</p> <p>The tax return (Form IR4) filed by the company is expected to be amended to indicate whether: (a) the simplification procedure has been applied and (b) a transfer pricing study exists. In case they are not submitted on time a penalty will incur.</p>
<p>What are the reporting deadlines?</p>	<p>TP Analysis and documentation must be provided by the controlled entity in case of tax audit upon a request from the tax authorities or in the case where an advance tax ruling is required.</p> <p>All tax rulings which have been issued up to 30th June 2017 in relation to back to back loans will become void and all loans between Cyprus Tax Resident Companies and their related companies, will now have to be supported by Transfer Pricing Studies as of 1st of July 2017.</p> <p>There is no specific deadline for reporting, for the submission of 2017 accounts. Accounts of 2017 with HE32 at the registrar need to be submitted by February 2019, and the IR4 at the Tax authorities need to be submitted by March 2019. In case they are not submitted a penalty will incur.</p>



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Dominican Republic

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Taxation in the Dominican Republic is governed by Law No. 11-92, which is commonly known as the Dominican Tax Code ("DTC"). The Dominican transfer pricing legislation is mainly set forth in Article 281 of the DTC. The DTC was amended extensively by Law 253-12 which, among other things, strengthened the collection powers of the State.</p> <p>The Dominican transfer rules are based on the internationally accepted arm's-length standard. This legislation does not specify any methods that make reference to the Organisation for Economic Co-operation and Development (OECD) standards.</p> <p>DR became the first country in the Caribbean to introduce the transfer pricing concept through the modifications made to Article 281 of the Dominican Tax Code.</p>	<p>Please specify the legal definition of related parties in your country.</p>	<p>when one directly or indirectly participates in the management, control or capital of the other. (For management: when one party occupies a position of senior management in both companies. For control or capital: having an interest of at least 50 percent of the capital or voting control)</p> <ul style="list-style-type: none"> • when one of the parties is a resident in the country has permanent establishments abroad • when a permanent establishment in the country has its headquarters abroad • when one of the parties enjoys exclusive agent, distributor or dealer status for the sale of goods, services or rights • when one of the parties agrees to contractual terms with 'preferred' conditions • when one of the parties assumes responsibility for any loss or expense of the other • when one of the parties receives or transfers 50 percent or more of its production to another company; and • when a company or business is a decision unit, or when a company is a 'partner' of another company <p>Taxpayers must document any commercial or financial operations with:</p> <ul style="list-style-type: none"> • a related party • individuals or legal entities domiciled, incorporated or based in countries or territories with preferential, nil or low tax regime or tax havens, regardless of its composition as related parties.
<p>Who is affected? / Whom it concerns?</p>	<p>Following the enactment and approval of Law 253-12, Article 281 of the DTC requires that all companies, regardless of their corporative structure, provide information to the tax authorities on their commercial or financial intercompany operations, to the extent these operations involve:</p> <p>(i) an associated resident; or</p> <p>(ii) individuals or entities incorporated or located in Special Fiscal Regimes.</p> <p>General Rule 04-2011 establishes that inter-company transactions subject to analysis include those that take place with foreign related parties, as well as transactions with low tax jurisdictions and free trade zones. Also, the rule establishes that even if there is not ownership, an exclusive relationship, favorable conditions in the transaction, or a permanent establishment may indicate that the parties are acting as related parties. For these transactions, a comparability analysis needs to be prepared considering the comparability factors stipulated in the OECD Guidelines and included in the General Rule 04-2011.</p> <p>Under the definition of related party and the rules set out in the legislation, if related parties perform transactions then those transactions should be performed in accordance with the arm's length principle.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM)

Dominican Republic

	<ul style="list-style-type: none"> • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) <p>Law 253-12 also presents an additional non-OECD method (the import and export valuation method), which is intended to be used for transactions involving imports or exports of goods with well-known prices in transparent markets.</p> <p>According to this rule, the most appropriate method shall be that which better fits the transaction evaluated. Nevertheless, the regulations establish that the transactional methods should be considered first.</p>	<p>What are the reporting deadlines?</p>	<p>Dominican taxpayers are required to file an informative return for related transactions (DIOR) within the next 60 calendar days after the Income Tax return is filed. Also, Contemporaneous documentation (transfer pricing report) must be available upon request by the Tax Administration).</p> <p>It is important to note that in the Dominican Republic, taxable years may end only on any of the following dates:</p> <ul style="list-style-type: none"> • 31 March • 30 June • 30 September; and • 31 December
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>The Dominican legislation does not specify any methods for transfer pricing audits.</p> <p>If a taxpayer does not file the DIOR or provide the Dominican Tax authorities with a transfer pricing study when requested, then a fine of 85,000 Dominican Republic Pesos (DOP) to DOP154,740 is applicable (approximately from 2,000 US dollars (USD) to USD4,000). *Other penalties may apply, such as generated interest and late penalties, for the income generated under intercompany transactions not complying with the arm's length principle.</p> <p>* Failure to supply transfer pricing documentation on time or failure to provide true, complete or accurate information could result in penalties up to 0.75% of the previous year's income. In addition, any additional tax generated by price adjustments made by the DGII should be subject to surcharges and penalty interest.</p> <p>Penalty relief</p> <p>A taxpayer might benefit from the reduction of the surcharges assessed as a result of any adjustments made by the DGII. These reductions might be as follows:</p> <ul style="list-style-type: none"> • 40% reduction of the surcharges assessed, if the company decides to voluntarily amend its tax return without any prior notice from tax authorities • 30% reduction of the surcharges, if after being audited, the difference between the estimated tax and the effectively paid tax represents less than 30% of the latter 	<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>1-DR has minimal Tax treaty network, only with Canada and Spain.</p> <p>2-Advanced pricing agreements (APA) The Tax Administration is empowered to subscribe APAs with taxpayers pertaining to the all-inclusive hotel industry, which are represented by the National Hotel and Restaurants Association, pursuant to Article 281 paragraph II of the Dominican Tax Code. The APAs incorporate prices based on a standard parameter by zones, cost analysis and other variables that impact the tourism industry. These APAs have a duration of 18 months and once renewed they may remain in force for up to 36 months. In addition, the Tax Administration may challenge the prices included in the APA and, consequently, impose penalties stipulated in the Tax Code on taxpayers who do not meet the terms and requirements of the agreed APA. APAs may also be obtained in other industries with foreign involvement, such as the pharmaceutical, power and insurance industries.</p>



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Germany

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Germany is a member country of the OECD. The OECD Guidelines do not constitute binding law in Germany but they are often applied and used as a point of reference in tax audit practice and in tax court procedures.</p> <p>German transfer pricing regulations and practices do differ from those of the OECD Guidelines with regard to certain issues.</p> <p>German transfer pricing rules are included in several provisions:</p> <ul style="list-style-type: none"> • Constructive dividend, § 8 (3) Corporate Income Tax Act; • Hidden capital contribution, § 4 (1) Income Tax Act, § 8 (1) CIT; • Contribution/withdrawal, § 4 Income Tax Act, • Section 1 Foreign Tax Act. • Other relevant circulars: Verordnung zu Art, Inhalt und Umfang von Aufzeichnungen im Sinne des § 90 Absatz 3 der Abgabenordnung 		<p>A Master file is mandatory (for 2017 onward) if a Local file has to be prepared and the non-consolidated turnover of the entity was at least EUR 100m in the preceding fiscal year.</p> <p>CbC-reporting legislation applies to entities as part of multinational groups with a (consolidated) annual turnover of at least EUR 750m in the preceding year.</p> <p>A German entity has to submit such CbC reporting if:</p> <ul style="list-style-type: none"> • it is the ultimate parent, • a German entity commissioned by a foreign ultimate parent to produce such reporting (commissioned entity) or • a German entity whose foreign parent has not submitted a CbC-report.
<p>Who is affected? / Whom it concerns?</p>	<p>Under the definition of related party and the rules set out in the legislation, if related parties perform transactions then those transactions should be performed in accordance with the arm's length principle.</p> <p>German law requires the taxpayer has to prepare documentation at all for years up to and including 2016 and for 2017 onwards a Local file for business transactions involving foreign countries.</p> <p>A small enterprise does not have to prepare transfer pricing documentation if:</p> <ul style="list-style-type: none"> • the sum of charges for the purchase/sale of goods from business transactions with related parties exceeds 6 million €, • or the sum of charges for other services/supplies from business transactions with related parties exceeds 600,000 €, during the current fiscal year. <p>If these amounts are exceeded in one fiscal year, the exemption will not be applicable during the following fiscal year.</p>	<p>Please specify the legal definition of related parties in your country.</p>	<p>A party is 'related' to a taxpayer if:</p> <ul style="list-style-type: none"> • has a direct or indirect participation of at least 25%. <p>However, if this threshold is not met, adjustments can be made based on § 8 (3) CIT Act (constructive dividend) or § 4 Income Tax Act (hidden capital contribution) with no need of minimum shareholding percentage.</p> <ul style="list-style-type: none"> • can directly or indirectly exercise a controlling influence over the other party or has an interest in the income generated by the other party.
		<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>If full comparability of third-party is possible (with adjustments), the law prioritizes the traditional transaction methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) <p>In case of limited comparability, all OCDE methods are allowed:</p> <ul style="list-style-type: none"> • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) <p>If no comparable data exists, a hypothetical arm's-length analysis is applied.</p>

Germany

<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>1. Administrative penalties for:</p> <ul style="list-style-type: none"> • Not submitting TP documentation: 5% to 10% on the income adjustment (minimum 5,000€). • Late submission: up to 1 million € (minimum 10 €/day of delay). • Not providing documents to tax auditors upon request: up to 250,000€. • Noncompliance with the CbCR: up to 10,000€. <p>2. Penalties in case of a TP-adjustment:same rules above mentioned.</p> <p>3. The penalties constitute non-deductible expenses.</p> <p>If the taxpayer submits insufficient or no documentation, or if extraordinary transactions have not been recorded: the tax authority could estimate the income, according to the arm's length transfer prices. If it is a range, this may be fully exploited to the taxpayer's detriment.</p>
<p>What are the reporting deadlines?</p>	<ul style="list-style-type: none"> • Transfer pricing documentation (master/local file) for ordinary business transactions: within 60 days upon request. Such request typically comes within a tax audit, which takes place a number of years after. • For extraordinary business transactions: within 30 days upon request. • The CbC Report: is one year after the end of the fiscal year. • The CbC notification: with the tax return for the fiscal year (31st Mai of 31st December if the tax payer is represented by tax advisor).
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>There are no transfer pricing documentation obligations for domestic intercompany transactions. However, taxpayers still have a duty to respond to tax authority enquires and to cooperate with them.</p>



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Greece

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Greece fully applies the OECD Transfer Pricing Guidelines and is one of the first countries within the Balkan region which introduced specific TP legislation in 2008. Currently the TP framework is covered by CITL 4172/2013 amended by Circulars 1144/2014, 1142/2015, 1227/2015 and 4410/2016. The incompliance penalties are defined in Circular 1252/5015.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>The regulation concerns all entities having intragroup transactions with related parties above the defined thresholds. Companies operating in Greece are obligated to submit Intra-group transactions' Summary Information Table (SIT) and to prepare a Transfer Pricing Documentation (TPD) File for their transactions with both domestic and foreign affiliated entities in the event that the value of all intra-group transactions performed during a specific fiscal year exceeds:</p> <ul style="list-style-type: none"> • the amount of Euro 100,000 in total, for entities generating an annual turnover up to Euro 5,000,000 or • the amount of Euro 200,000 in total, for entities generating an annual turnover exceeding the Euro 5,000,000 threshold.
<p>Please specify the legal definition of related parties in your country.</p>	<p>The TP rules apply to transactions between related parties. Two legal entities are considered 'related parties' in the following cases:</p> <ul style="list-style-type: none"> • one legal entity participates in the share capital of another legal entity, through direct or indirect holding of shares/stocks or other participation rights, of at least 33%, based on the value or the number; • when they relate to another undertaking that directly or indirectly owns shares/stocks/voting rights or participation in the share capital of at least 33%, based on value or number, or is entitled to the profits or voting rights; and • when there is a relation to another legal entity with which a material direct or indirect administrative dependence or control exists, or the legal entity exercises decisive influence in relation to an undertaking's decision-making.



<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • Other methods (if none of the above is applicable)
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>The legislation in Greece has been in place for ten years already and the legal framework is clear, solid and detailed. Tax audits in the field of intra-group transactions have intensified in recent years, hundreds of infringements have been identified and fines of significant value have been established. The penalty for no submission of SIT equals 1/1000 of the cumulative value of the taxpayer's intercompany transactions (in any case, not below €500 and not exceeding €2,000). In case of delayed submission or non-submission of the TPD File the penalties start from 5,000€ and could reach 20,000€ depending on the submission date compared to the tax request date.</p>

Greece

<p>What are the reporting deadlines?</p>	<p>Pursuant to article 21 of Law 4174/2013, as amended by Circular 4410/2016, a TPD File must be prepared before the deadline for submission of the corporate income tax return (up to 6 months from the end of the company's tax year). The TPD File must be submitted to the competent tax authority in case of a tax audit within 30 days of request. If the entity has opted to obtain an Annual Tax Certificate by the certified auditors, it will be reviewed by the auditors before the issuance of the Tax Certificate and before the end of the tenth month from year-end. Furthermore, the SIT should be submitted until the corporate income tax return date.</p>
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>In recent years, Independent Public Revenue Authority, former General Secretariat of Public Revenue, publishes in its Electronic Library decisions on appeals concerning the transfer of assets with prices not in accordance to the arm's length principle. The publication of these decisions is an additional tool in the hands of tax authorities as well as tax advisors.</p>
<p>Please refer to the current legislation concerning CbC report in your country if exists?</p>	<p>Greece adopted EU directive 2016/881 concerning CbC reporting by introducing and implementing Law 4484/2017. According to this framework, the obligated entities must submit CbC report annually for every tax year starts after 1st of January 2016. The CbC report should be submitted within 12 months after the end of the period to which the Report refers to.</p>



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Israel

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>The transfer pricing rules in Israel went into effect November 2006 with legislation found in Section 85A of the Income Tax Ordinance (New Version), 5721 – 1961. The transfer pricing regulations are delineated in Section 6 of the Income Tax Regulations (Determination of Market Conditions), 5767 – 2006. In general, the regulations in Israel are consistent with the OECD Guidelines, although there are some country specific nuances.</p>		<p>all whether by virtue of shares, rights to shares or other rights, or in any other manner, including through voting or trusteeship agreements.</p> <p>Together with another – Together with his relative, and also together with a person who is not his relative, if they regularly – directly or indirectly – cooperate by agreement on matters substantive to the body of persons.</p>
<p>Who is affected? / Whom does it concern?</p>	<p>Israeli taxpayers that have any special relationship (controlled directly or indirectly by the same interest) with a foreign taxpayer between which exists an international transaction.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods (consistent with the OECD Guidelines) according to the most appropriate method, although there is a hierarchy:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • Unspecified Method <p>No specific transfer pricing database is preferred by the tax authority.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>Related parties include relationships between a person and his relative, as well as control of one party to a transaction over the other, or control of one person over the parties to the transaction, directly or indirectly, alone or together with another.</p> <p>Control – a holding, directly or indirectly, of 50% or more in one of the means of control, at least one day during the tax year.</p> <p>Relative – spouse, brother, sister, parent, parent’s parent, descendant, the spouse’s descendants and the spouse of any of these.</p> <p>Means of control – each of the following:</p> <ol style="list-style-type: none"> (1) the right to profits; (2) the right to appoint a Director or General Manager of the company; holders of similar positions in other bodies of persons; (3) the right to vote at the company’s General Meetings, or in the corresponding body of another body of persons; (4) the right to a share of the balance of assets after debts have been paid at liquidation; (5) the right to instruct the holder of one of the rights said in paragraphs (1) to (4) how to exercise that right; 	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In Israel there is no a specific tax audit procedure related to transfer pricing issues. However related party transactions are matter of control performed as a part of the general tax audit procedures, and transfer pricing is considered a high priority issue. In most cases where intercompany transactions exist the assessing officer will request to receive a transfer pricing study.</p> <p>There are no specific transfer pricing penalties; however, general tax penalties apply. If a transfer pricing adjustment is imposed the Israel Tax Authority will also impose secondary adjustments.</p>

Israel

<p>What are the reporting deadlines?</p>	<p>Companies must file Form 1385 with their tax return stating that all intercompany transactions were conducted at arm's length which must be signed by an officer of the company.</p> <p>TP documentation must be provided by the controlled entity in case of tax audit upon a request from the tax assessing officer. The time frame for submission of the TP file in such cases is 60 days from the date of request (per the regulations).</p>
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>One of the biggest issues for companies operating in Israel, and especially those performing contract R&D services, relates to employee stock-based compensation. According to the ITA's interpretation and supported by case law, stock-based compensation expenses must be included in the cost base when applying the cost plus method (under the TNMM). However, as most option plans are under the capital gains track, the stock-option expense is not deductible for tax purposes.</p> <ul style="list-style-type: none"> • A second large issue relates to IP migration from Israeli hi-tech companies (especially startups) to other group companies located in other jurisdictions. The ITA takes a very aggressive approach in valuing such IP transfers and has recently won a court case on the matter. These IP transactions cases generally occur following an acquisition of an Israeli startup by a foreign multinational. • While Israel has signaled its intention to apply the recent BEPS initiative, so far it has not yet been approved into law.



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Japan

Please describe your country Transfer Pricing Regulations.	Transactions with overseas related party is subject to transfer pricing (TP) regulations. Such transactions shall be based on arms length price (ALP). And departure from ALP is treated as taxable income of the company.
Who is affected? / Whom it concerns?	Every company which has transaction with overseas related party is subject to TP regulations.
Please specify the legal definition of related parties in your country.	Definition of related party is equal to or more than 50% ownership directly or indirectly.
Please specify the accepted Transfer Pricing Methods & Data used in your country.	For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods: <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM)
Please describe the processes of Transfer Pricing Audit and Penalties.	Guideline for TP tax audit is made by National Tax Agency (NTA) and tax audit on TP is conducted following the guideline. Process of tax audit on TP is the same as other regular tax audit. TP tax audit is usually conducted at the same time as regular tax audit. Penalty on TP is the same as other penalty.
What are the reporting deadlines?	In case consolidated revenue of ultimate parent company in the preceding fiscal year is JPY100 billion or more constituent entity of the multinational enterprise (MNE) shall file following documents with the tax authority with which such constituent entity files income tax return: <ol style="list-style-type: none"> a) Country by county report (CbC R) b) Master file and c) Local file.

	<p>CbC R and Master file shall be filed by the end of the year. For instance, those report of 2017 year shall be filed by the end of 2018 year.</p> <p>Local file shall be prepared by due date of filing income tax return and it shall be ready for review of tax auditor in case of tax audit.</p> <p>Local file is ALP study report and basically shall be prepared even though consolidated revenue of ultimate parent company is less than JPY100 billion.</p>
Please list any additional unique information about transfer pricing in your country.	<p>Above TP guideline made by NTA says OECD guideline on TP shall be referenced when conducting tax audit. OECD guideline of hundreds of pages published in July 2017 are translated into Japanese and we can see it at NTA web site.</p> <p>OECD guideline has more detail than the guideline made by NTA. For instance, the OECD guideline says tax administrations may determine the searches in databases for comparable supporting part of the local file be updated every 3 years rather than annually as long as operating conditions remain unchanged but guideline made by NTA does not say particularly on the subject.</p>



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Nigeria

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>The Nigerian Transfer Pricing (TP) Regulations (the 'Regulations') was first introduced in 2012 and revised in 2018. The Regulations are divided into 6 parts as follows:</p> <ul style="list-style-type: none"> • Part 1 – Purpose, Objective and Scope of Application; • Part II – Compliance with Arm's Length Principle, Advanced Pricing Agreements and Corresponding Adjustments; • Part III – Comparability Factors and Connected Persons; • Part IV - TP Declaration, Disclosures and Documentation; • Part V – Applicability of Documents; • Part VI – Offences, Administrative Penalties and Dispute Resolution; • Part VII – Supplementary and General Provisions; <p>The Regulations adopts the arm's length principles of the UN and OECD Model Tax Conventions on Income and Capital; OECD Transfer Pricing Guidelines for Multi-National Enterprises and Tax Administration, as well as the United Nations' practical manual on Transfer Pricing for Developing countries.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>In determining whether a related party transaction is at arm's length, any of the following methods may be used:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Transactional Profit Split Method (TPSM) <p>There can be deviation from the foregoing methods provided a taxpayer can satisfactorily prove to the Federal Inland Revenue Service that none of those methods can be applied to determine that a transaction is consistent with the arm's length principle in the given case.</p> <p>While Nigeria currently does not have a universal database that can be assessed to inform a Connected Persons' choice of a TP method, private firms that specialize in assessing such data through technology exist.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>The Regulations apply to transactions between connected persons and shall include:</p> <ol style="list-style-type: none"> (a) Sale and purchase of goods and services; (b) Sale and purchase or lease of tangible assets; (c) Transfer, purchase, license or use of intangible assets; (d) Provision of services; (e) Lending or borrowing money; (f) Manufacturing arrangements; 	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In Nigeria there is no special tax audit procedure designed specifically for transfer pricing. Therefore, TP audits are carried out just like any other tax audit.</p> <p>That said, it must be noted that the Federal Inland Revenue Service has emphasized that contemporaneous documentation must be put in place and it shall be requesting for these documents during TP audits. The contemporaneous documentation includes (i) Master File and (ii) Local Files. The Master File shall provide an overview of the global operations of the Multinational Enterprise (MNE) group. The Master File shall contain the following information: (i) Organizational Structure (ii) Description of the MNE's Business (iii) Intangibles (iv) MNE's intercompany financial activities (v) Financial and tax positions. The Local File is expected to contain detailed information on an enterprise's related party transactions including the following: (i) Overview of the enterprise, (ii) Related party relationship (iii) Controlled Transactions.</p> <p>The following are infractions and applicable penalties under the Regulations</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>Under the Regulations, persons are deemed connected or related where one person has the ability to control or influence the other person in making financial, commercial or operational decisions, or where a third party has the ability to control or influence the financial, commercial or operational decisions of such persons. Furthermore, the Regulations recognizes the definition of related or connected persons as contained in the OECD Transfer Pricing Guidelines and the United Nationals Transfer Pricing manual.</p>		

Nigeria

Infraction	Penalty
Failure to file updated TP Declaration Form including when there is a change of Directorship	Daily fine of N25,000 (circa \$70).
Failure to file TP Declaration as at when due.	Lump sum fine of N10,000,000 (circa \$28,000) + daily fine of N10,000 (circa \$28).
Failure to disclose controlled transactions.	Whichever is higher between lump sum fine of N10,000,000 (circa \$28,000) or 1% of value of undisclosed controlled transaction + daily fine of N10,000 (circa \$28).
Incorrect disclosure of controlled transactions	Whichever is higher between lump sum fine of N10,000,000 (circa \$28,000) or 1% of value of undisclosed controlled transactions.
Failure to provide TP documentation within 21 days of receiving FIRS' request.	Whichever is higher between lump sum fine of N10,000,000 or 1% of value of controlled transactions + daily fine of N10,000 (circa \$28).
Failure to provide TP documentation within 90days of receiving FIRS' request.	Lump sum fine of 1% of the value of controlled transaction + daily fine of N10,000

What are the reporting deadlines?

Connected Persons are required to meet reporting deadlines as regards the following:

1. Declarations
2. Disclosure
3. Documentation

- A taxpayer is required to declare its relationship with all connected persons within 18 (eighteen) months after the date of incorporation or 6 (six) months after the end of the accounting year, whichever is earlier.

	<ul style="list-style-type: none"> • A tax payer is also required to without notice, or demand make disclosure of transactions subject to TP to the Federal Inland Revenue Service. This is expected to be done within the earlier of 18 months of incorporation or 6 months after the end of the accounting year. • A Connected Person is to maintain a master and local file. Both files are required to be maintained contemporaneously and provided upon request to the Federal Inland Revenue Service FIRS (TP Division) within 21 (twenty-one) days. A Group whose revenue is below N300 million (0.9 million dollars) however has 90 (ninety) days to comply
Please list any additional unique information about transfer pricing in your country.	<p>In the case of cross-border sale/purchase of commodities (hydrocarbons and derivatives inclusive), the relevant sale price for controlled transactions will be the sale price as obtainable among unrelated entities;</p> <p>Values attributable to the following controlled transactions will be disallowed for TP purposes:</p> <ol style="list-style-type: none"> a. Parent company charges for its shareholders' meeting; b. Parent company charges for the issuance of its shares; c. Parent company charges for its supervisory board functions; d. Parent company charges for its financial reporting functions including consolidation of its reports; and e. Fund raising costs for the acquisition of participations by a related entity. <p>The price of the transfer of rights in intangibles, other than by way of a true sale of intangible, is capped at 5% of Earnings before Interest, Tax, Depreciation and Amortization (EBITDA).</p>


The Netherlands

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Article 8b of the Dutch Corporate Income Tax Act codifies the obligation to apply the arm's length principle in in related party transactions, as well as the obligation for corporate taxpayers to have documentation on file from which the arm's length character of the transfer prices applied in related party transactions can be derived. Article 8b was codified in the year 2002 – however prior to the year 2002 the arm's length principle was already applied in Dutch tax law. While the law does not provide further guidance on the application of the arm's length principle, the Netherlands generally follows the OECD Transfer Pricing Guidelines. Further guidance, as well as some minor deviations in the Dutch tax authorities' view on transfer pricing, are laid down in a policy decree of 11 May 2018, number nr. 2018-6865. For group finance and license companies, special guidance on the at arm's length spread on conduit activities is provided in a decree from the year 2014. The Netherlands also generally endorses the OECD's recommendations on transfer pricing in the framework of the BEPS reports.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>In short, all related party transactions are affected. This includes transactions between affiliated corporate taxpayers, as well as dealings between corporate taxpayers and their direct or indirect shareholders that are natural persons.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of related parties in Dutch tax law is very broad. Next to companies, also natural persons can qualify as related parties. Parties qualify as related, in case one party directly or indirectly participates in the management, control, or capital of another party – as a consequence whereof one party is able to influence the price that another (related) party charges for intra group transactions.</p>

<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>As a general rule, all transfer pricing methods that are endorsed by the OECD, are acceptable in the Netherlands. These methods include:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price method • The Resale Price Method • Cost Plus Method • Transactional Net Margin Method • Profit Split Method <p>For some transactions, one method is more appropriate than other methods. In such case, the tax authorities may compare the outcomes of various methods. Further, the Comparable Uncontrolled Price method is in practice hardly ever applied, due to the fact that according to the tax authorities, a comparable uncontrolled transaction can mostly not be found in practice.</p>
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The Netherlands

<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In the Netherlands, there is no a specific tax audit procedure related to transfer pricing audits. Hence, the general Dutch rules for tax audits also apply in case transfer pricing is the, or one of, the topics of the tax audit. Similarly, the Netherlands has no specific penalty regime for transfer pricing violations. Generally however, the most feared sanction for not having appropriate transfer pricing documentation on file (in spite of the documentation requirement that is laid down in Dutch tax law), is that the tax authorities may estimate the correct transfer price. This estimation of the tax authorities will (provided it is reasonable) prevail, unless the taxpayer can substantiate why the estimation of the tax authorities is incorrect.</p> <p>For not meeting the obligations to have a country report, local file or masterfile available where such is required (i.e. for companies with a worldwide turnover of at least EUR 50 million), special monetary fines apply.</p> <p>A difference between the transfer price used and the at arm's length price, will result in an upward or downward adjustment of the profit of the taxpayer, as well as in a secondary adjustment consisting of, as the case may be, a construed dividend by the taxpayer or a construed informal capital contribution into the taxpayer. This is not a penalty however, but merely the result of the Dutch profit tax system.</p>	<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>The Netherlands is traditionally well known as a country to establish group finance and license companies. These companies may enter into back-to-back finance or license structures, leaving only a small profit margin in the Dutch conduit entity. For these types of entities, the Dutch tax authorities have provided special guidance in policy decrees. The guidance sees to the determination of an at arm's length profit for the Dutch company, as well as to the possibility for the Dutch company to obtain certainty in advance with regard to the at arm's length profit on the basis of a so-called Advance Pricing Agreement (APA).</p> <p>In general, the Netherlands has a well-established and well known practice to provide certainty in advance for taxpayers through APAs. The Dutch tax authorities are generally considered as approachable and responsive.</p>
<p>What are the reporting deadlines?</p>	<p>There is no general obligation for taxpayers to report to the tax authorities with regard to transfer pricing. However, TP documentation must be provided by the Dutch taxpayer in case of tax audit upon a request from the tax authorities. The so-called documentation requirement, which means that taxpayers must have documentation on file from which the at arm's character of their transfer prices can be established, hence applies continuously. Master and local files do not need to be provided to the tax authorities proactively, but must be available from the moment of submission of the profit tax return for a particular tax year.</p>		



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Portugal

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>The OECD Transfer Pricing Guidelines where referred in the Portuguese legislation as a source of guidance in the application of the arm's length principle.</p> <p>The issue of transfer pricing in national legislation where made after the publication of: (i) Law (Lei) 30-G/2000, of the 29st of December, and the (ii) Ministerial Order (Portaria) n.º 1446-C/2001, of the 21st of December, pursuant to article 63º of the Corporate Income Tax Code (Código IRC), which established the rules on the transfer prices.</p> <p>The Transfer Pricing Files and the Transfer Pricing Report, are documents that are included in the tax documentation file ("Dossier Fiscal").</p>	<p>b) Entities in which the same equity owners, respective spouses, ascendants or descendants hold, directly or indirectly, a participation not lower than 20 per cent of the equity or voting rights;</p> <p>c) An entity and the members of its corporate bodies, or any administration, direction, management or supervising boards, as well as their spouses, ascendants or descendants;</p> <p>d) Entities the majority of whose members of the corporate boards or of the administration, direction, management or supervising boards are the same persons or, in case of different persons, are related with each other by marriage, common law marriage or direct parentage;</p> <p>e) Entities related under a subordination agreement, a parity group or any other agreement of a similar nature;</p> <p>f) Enterprises with a control or group relationship, as defined in article 486.º of the Commercial companies Code;</p> <p>g) Entities which legal relation allows, by its terms and conditions, that one entity conditions the management decisions of the other, due to facts or circumstances beyond or outside the commercial or professional relation;</p> <p>h) A resident entity or a non-resident entity with a permanent establishment situated in the Portuguese territory and an entity subject to a more favorable tax regime, resident in a country, territory or region listed in the Ministerial Order approved by the Minister of State and Finance.</p> <p>The arm's length principle is also applicable to any transaction between: a) a Portuguese company and its permanent establishments abroad, or between these permanent establishments;</p> <p>b) A non-resident entity and its permanent establishment in Portugal, or between these and other permanent establishments of that non-resident entity.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>Under the definition of related party and the rules set out in the legislation, if related parties perform transactions then those transactions should be performed in accordance with the arm's length principle.</p> <p>The Ministerial Order (Portaria) n.º 1446-C/2001, of the 21st of December establishes that the obligation to have a transfer pricing file is only for taxable persons who, in the previous year, have reached an annual net sales and other income equal to or greater than EUR 3,000,000.</p>	
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of related parties in Portugal is established in paragraph 4 of Article 63, of the Corporate Income Tax Code, which refers that, there shall be deemed to be a special relationship between two entities where one of them has the power to exert, directly or indirectly, a significant impact on the management decisions of the other; this shall be deemed to occur, namely, between:</p> <p>a) An entity and the owners of its equity, or the spouses, ascendants or descendants thereof, holding, directly or indirectly, a participation not lower than 20 per cent of the equity or voting rights;</p>	

Portugal

<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>According paragraph 3 of article 63 of Corporate Income Tax Code states that the methods to be used are as follows:</p> <p>a) The Comparable Uncontrolled Price (CUP) method, the Re-sale Price method (RPM) or the Cost Plus method (CPM);</p> <p>b) Whenever those methods as mentioned in the previous sub-paragraph cannot be applied or, otherwise they shall not allow for the most reliable measure of terms and conditions which would usually be agreed upon, accepted or used by independent entities, there shall apply the Profit Split method (PSM), the Transactional Net Margin method (TNMM) or any other.</p>
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>There is no specific tax audit procedure related to transfer pricing issues. However related party transactions are matter of control performed as a part of the general tax audit procedures.</p> <p>In case of the a regular tax audit, transactions between related parties can be adjusted, as well the corporate income tax of the that period will be adjusted, plus default interest.</p> <p>Additionally to the above adjustment, every legal entity which no correctly determines its tax obligation is subject of a penalty, ranged between EUR 75 and EUR 5,750.</p> <p>In case the audited entity does not submit the required Transfer Pricing documentation during a regular tax audit, the effective penalty is in the range of EUR 500 up to EUR 10,000.</p>
<p>What are the reporting deadlines?</p>	<p>There is no obligation to deliver the Transfer Pricing Files and the Transfer Pricing Report to the tax authorities, unless there is a tax audit and the company are notified for that purpose.</p> <p>The Transfer Pricing Report is part of the tax documentation file ("Dossier Fiscal"), and it must be available in the company by the 15th day of the 7th month after the date of expiration of fiscal period.</p>

<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>The general statutory limitation period for tax liabilities in Portugal is 4 (four) years, effectively from 1st January of the following year, when the tax liabilities were payable.</p> <p>Portuguese legislation requires that companies keep a tax documentation process for each tax period for a period of 10 years, however, corrections for tax inspections will only be effective for the previous 4 years.</p>
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Russian Federation

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Russia has its own transfer pricing regulations based on the 'arm's length' principle. The rules are described in section V.1 of the Russian Tax Code (RTC). The OECD Transfer Pricing Guidelines are only acceptable if they do not contradict the RTC. The three-tier documentation requirement has been in force since 1st January 2018.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>The 'best method' rule is not applicable. The applicability of each method must be checked following the order indicated below.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>Companies that belong to multinational enterprise groups (MNE), including legal entities or branches that are Russian taxpayers and transact with foreign entities when exceeding certain thresholds:</p> <ul style="list-style-type: none"> • RUB 0 for cross-border operations before 1st January 2019 • RUB 1bn for operations in Russia before 1st January 2019 • RUB 60mn for cross-border operations since 1st January 2019 • RUB 3bn for operations in Russia since 1st January 2019 		<p>For transfer pricing purposes, taxpayers should follow the implementation of one or a combination of the following methods:</p> <ol style="list-style-type: none"> 1. The Comparable Uncontrolled Price (CUP) method 2. The Resale Price Method (RPM) 3. The Cost Plus Method (CPM) 4. The Transactional Net Margin Method (TNMM) 5. The Profit Split Method (PSM) <p>For stand-alone transactions where one of the methods above could not be applied, it is possible to support the 'arm's length' nature of such transactions with an appraisal report.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The following are recognised as 'related parties' under the RTC:</p> <ul style="list-style-type: none"> • Entity and a person (or an entity) that owns directly or indirectly 25% share of that entity • Entities where one party (a person and their related parties) has more than a 25% direct or indirect participation in these entities • Entities where (i) more than 50% of the directors of these companies are the same individuals or (ii) no less than 50% of the directors are appointed/chosen by the same individual • Entities where the same individual/entity acts as the sole executive body; and by some other criteria • Persons if they are family, or one is subordinate to another <p>Courts also have the right to recognise parties as related.</p>	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In Russia, there is a specific tax-audit process focused on the identification of transfer mispricing.</p> <p>Under the procedure, TP auditing can be initiated by the Pricing Department of the Federal Tax Service (i) on the basis of a TP Notification filed by a taxpayer, or (ii) on the basis of information received from local tax offices, or (iii) controlled transactions were identified under the internal control process of the tax authorities.</p> <p>The audit must be completed within six months. However, this period can be extended to 12 months in exceptional cases or 18 months if the international exchange of information is required.</p> <p>The penalty for violating tax liabilities from transfer mispricing is 40% of the underpaid tax.</p>

Russian Federation

<p>What are the reporting deadlines?</p>	<p>National TP documentation (TPD) must be provided by the controlled entity in the event of a tax audit within 30 (thirty) days of the request from the tax auditors.</p> <p>Global TP Documentation (Masterfile) must be provided by the controlled entity in the event of a tax audit within three months of the request from the tax auditors.</p> <p>TP Notification must be filed with the tax authorities annually in XML format until 20th May of the following year of the reporting period.</p> <p>Country-by-country report must be annually filed with the tax authorities in XML format no later than 12 months after the end of the reporting period.</p> <p>Notification on participation in an MNE Group must be annually filed with the tax authorities in XML format no later than eight months after the end of the reporting period.</p>
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>An advanced pricing arrangement and bilateral advanced pricing arrangements are available for taxpayers.</p> <p>In respect of intra-group loan financing 'safe harbour' ranges are defined in the RTC.</p> <p>No 'safe harbour' ranges for any other types of transactions are defined. Therefore, these transactions are subject to benchmarking study.</p>



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Serbia

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>The transfer pricing legislation was introduced in the Serbian Corporate Income Tax Law, in 2012. Moreover, the transfer pricing rules were later expanded in the Transfer Pricing Rulebook, published on 12.07.2013 in the Official Gazette of the Republic of Serbia (RS no. 61/2013) by the Ministry of Finance.</p>		<ul style="list-style-type: none"> • it will become due the 15% of the corporate income tax on the difference between the arm's length principle prices and the prices used in respective related parties transactions; • Additional penalty interest can be charged on the amount of the understated corporate income tax. This amount shall be equal to the annual reference rate of the National Bank of Serbia increased by ten percent; • The taxpayer may be prohibited to carry out a specific business activity for a period ranging between three months and one year, in case of a proven indicator that a taxpayer understates on purpose the taxable base.
<p>Who is affected? / Whom it concerns?</p>	<p>In case related parties perform transactions, those transactions should be performed in accordance with the arm's length principle.</p>	<p>What are the reporting deadlines?</p>	<p>According to the TP Rulebook, Article 2, the taxpayer is obliged to submit, along with its tax balance/fiscal sheet, the transfer pricing documentation in the form of the report. The relevant deadline is set at 180 days from the observed period end.</p> <p>In case of a failure by the taxpayer's side to submit the transfer pricing documentation along with the corporate income tax calculation or if the submitted transfer pricing documentation is incomplete, the local tax office will proceed with a note issuance, asking for the submission of the proper documentation (or amendment of existing documentation) within a period from 30 to 90 days.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>An entity is considered to be a related party in case of exercising control possibility or exerting considerable influence on business decisions made. Moreover it is possible the control over a taxpayer in case of direct or indirect possession of 25% or more of the shares in capital.</p> <p>A case of direct or indirect possession of at least 25% of the voting rights is considered as having an influence on business decisions. In addition to, companies are also considered related parties if they have directly or indirectly the same persons in the management, ownership or control.</p> <p>Finally, any company which is a resident of a jurisdiction with a preferential tax system is considered to be related party, no matter the percentage of ownership or voting rights in a Serbian company.</p>	<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>The statute of limitation period for a tax audit is five years, starting from the first day of a year following a year in which tax liability became due. Moreover there also exist an absolute period of limitation which is 10 years and it is applicable under certain circumstances.</p>
<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>The taxpayer should choose one or a combination of the following methods, which are also described in the OECD Guidelines:</p> <ul style="list-style-type: none"> • Comparable Uncontrolled Price (CUP) method • Resale Price Method • Cost Plus Method • Transactional Net Margin Method (TNMM) • Profit Split Method. 		
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>The relevant penalties in case of failure to submit the required transfer pricing documentation within the period stated by the tax authorities are described below:</p> <ul style="list-style-type: none"> • between RSD 100,000 and 2,000,000 RSD for a legal entity • between RSD 10,000 and 100,000 for the responsible person 		



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Spain

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Spain fully applies the OECD Transfer Pricing Guidelines. Spanish transfer pricing rules were initially introduced by the Act 36/2006, 29th December, of Tax Fraud Prevention Measures which worded the text of Corporate Income Tax Act, approved by Royal Legislative Decree 4/2004, of 5th March.</p> <p>From January 2009 to December 2014, the compulsory Transfer Pricing documentation was developed pursuant to the provisions of the article 16 of the aforementioned Corporate Income Tax Act (from now on, CITA). After a tax reform, related transactions carried out on fiscal years beginning up to and including January 2015, are regulated under the content of article 18 of the new CITA, approved by Law 27/2014, of November 27.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>Spain fully applies the OECD Transfer Pricing Guidelines. Spanish transfer pricing rules were initially introduced by the Act 36/2006, 29th December, of Tax Fraud Prevention Measures which worded the text of Corporate Income Tax Act, approved by Royal Legislative Decree 4/2004, of 5th March.</p> <p>From January 2009 to December 2014, the compulsory Transfer Pricing documentation was developed pursuant to the provisions of the article 16 of the aforementioned Corporate Income Tax Act (from now on, CITA). After a tax reform, related transactions carried out on fiscal years beginning up to and including January 2015, are regulated under the content of article 18 of the new CITA, approved by Law 27/2014, of November 27.</p>



<p>Please specify the legal definition of related parties in your country.</p>	<p>The consideration of related parties under the new CITA are the following:</p> <ul style="list-style-type: none"> • An entity and their shareholders. • An entity and their administrators, except the retribution of their functions. • An entity and the spouses or persons linked by direct or collateral kinship, by consanguinity or affinity up to the third degree of the partners or shareholders or administrators. • Two entities belonging to a group. • An entity and the administrators of the other entity, when both belong to a group. • An entity and other entity held by the first one indirectly, at least, in the 25% of the equity or own funds. • Two entities in which the same partners, shareholders and their spouses or persons linked by direct or collateral kinship, by consanguinity or affinity up to the third degree, held, directly or indirectly, at least, in the 25% of the equity or own funds. • An entity resident in Spanish territory and their branches (EP´s). <p>In case that the relation is determined by the relation between the partners or shareholders and the entity, the participation it must be equal or over than the 25%.</p>
<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>For transfer pricing purposes, taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) Method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • In addition, when it is not possible to use any of the above methods, Spanish Law allows to use other methods or valuation techniques generally accepted and respectful of the arms 'length principle.

Spain

<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>There is not a specific tax audit procedure related to transfer pricing issues. However related party transactions are matter of control performed as a part of the general tax audit procedures.</p> <p>Under the Spanish Law (new CITA) constitutes a tax violation the lack of information or the provision of incomplete or false information, in the documentation which must be kept at the disposal of the Spanish Tax Administration:</p> <ul style="list-style-type: none"> • When the Tax Administration does not make corrections, this infringement should be considered as serious violation and it would be punished according to the following rules: the penalty will consist on a fixed pecuniary fine of: <ul style="list-style-type: none"> • 1.000 euros for each omitted or false data • 10.000 euros for each omitted or false dataset • When the Tax Administration make corrections, this infringement should be considered as serious violation and it would be punished according to the following rule: the penalty will consist on a proportional pecuniary fine of 15% of the amount resulting from the correction..
<p>What are the reporting deadlines?</p>	<p>There is not a regularly period within the transfer pricing documentation must be submitted to the Tax Administration. Nevertheless, this documentation must be available to the Tax Administration from the end of the voluntary declaration period of the Corporate Income Tax.</p> <p>Transfer pricing documentation must be provided by the tax payer, in case of tax audit, under request from the Tax Administration.</p>
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>The general statutory limitation period for tax liabilities in Spain is four years, effectively from the end of the voluntary declaration period of the previous year.</p> <p>In addition, Spanish Tax Administration could execute audits for the open tax years, as well as for the ones that are not covered by the statute of limitation period (up to ten years) when there may be some transfer pricing implications.</p>



United Kingdom

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>The United Kingdom (UK) transfer pricing legislation incorporates a specific requirement that it be interpreted as “best secures consistency” with the OECD Transfer Pricing Guidelines.</p> <p>The UK transfer pricing rules were initially introduced in 1988 but were heavily rewritten in 2010 and have been updated several times since then.</p> <p>The current legislation is based on the Transfer Pricing Guidelines approved by the OECD on 22 July 2010 and revised by the OECD BEPS report on Actions 8-10 which were published on 5 October 2015.</p> <p>In March 2018 the UK Government announced that the legislation would be updated to refer to the updated OECD Transfer Pricing Guidelines which were published by the OECD in July 2017. This new legislation has not yet been enacted.</p> <p>In practice many Multinational Enterprises (MNEs) adopt the latest OECD guidelines for UK tax purposes to provide consistency across the group.</p>	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>The methodologies are based on the OECD Guidelines, UK taxpayers should follow the implementation of one or combination of the following methods:</p> <ul style="list-style-type: none"> • The Comparable Uncontrolled Price (CUP) method • The Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM)
<p>Who is affected? / Whom it concerns?</p>	<p>Transactions between ‘connected parties’ (see below) should be performed in accordance with the “arm’s length principle”. This concept is applicable for all businesses however, there is an exemption from reporting obligations for SMEs. A SME business has less than 250 staff and either (i) an annual turnover of less than €50 million or (ii) a balance sheet total of less than €43 million.</p>	<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>In the UK there is no specific transfer pricing tax enquiry procedures. However under self-assessment, a company submits a corporation tax return and its statutory accounts, with a due date for submission normally within 12 months after the end of the accounting period to which the return relates.</p> <p>The UK tax authorities may commence an enquiry into the return by issuing a formal notice by the tax inspector with responsibility for the company, within specified time limits. Once an enquiry has been initiated, the scope may extend to anything covered in the tax return, including transfer pricing.</p> <p>Penalties may be levied for certain acts or omissions, depending on the offence. The penalties of most relevance to transfer pricing include ‘failure to provide information or documents under a formal notice to do so’, and ‘filing an incorrect tax return’.</p> <p>The amount of penalty that may be charged is based on the amount of potential lost tax and the tax payer’s behavior/culpability. Penalties may sometimes be reduced (sometimes to NIL) depending on the circumstances.</p>
<p>Please specify the legal definition of related parties in your country.</p>	<p>The definition of ‘connected parties’ in UK is very broad. It includes situations where one party directly or indirectly participates in the management, control, or capital of another party.</p> <p>For companies, ‘control’ means the ability to determine how the affairs of the company are conducted by virtue of a shareholding, voting rights or any powers conferred by the articles of association or other document regulating the company or any other company.</p>		

United Kingdom

<p>What are the reporting deadlines?</p>	<p>The tax return should be filed within 12 months following the end of the period it relates to. Transfer pricing documentation should be retained to support that transactions are of arms-length rate. Such documentation should be proportionate to the size and complexity of the transactions or business involved.</p> <p>Currently the UK does not require either a master or local file to be filed however, in practice many companies voluntarily use these OECD terms as they provide consistency across the international group.</p>
<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>Diverted Profits Tax</p> <p>In 2014 the UK government announced the introduction of the Diverted Profits Tax (DPT), designed to counter aggressive tax planning by some MNEs to divert profits from the UK. The DPT rules are targeted specifically at those MNEs that arrange their affairs to avoid having a UK permanent establishment, or else divert profits into companies with little economic substance.</p> <p>The DPT aims to change the behavior of MNEs and the UK is starting to see that change. Per the national statistics dataset the UK Government have collected in excess of £357 million from the two tax years from April 2016 to March 2018 as a direct result of DPT, plus further revenue may have been collected by MNEs changing their behavior in order to avoid the DPT which is effectively the main objective anyway.</p> <p>Digital Services Tax</p> <p>The development of the digital economy poses a challenge for the international corporate tax system. The UK Government believes that the long term answer is reform of a global tax system however, due to uncertainty around the World and time delay of this being implemented, the UK government has decided to take unilateral action and is planning to introduce a Digital Services Tax (DST) from April 2020.</p>

This is an interim measure until the World is in a position to tackle the issue together.

In brief, the DST applies a 2% tax on the revenues of specific digital business models where their revenues are linked to the participation of UK users. The tax will apply to: search engines; social media platforms; and online marketplaces. That is because the government considers that these business models derive significant value from the participation of their UK users. The DST is not a tax on online sales of goods – it will only apply to revenues earned from intermediating such sales.



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Ukraine

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Transfer pricing in Ukraine is regulated by the Tax Code of Ukraine No.2755-VI dated December 2, 2010.</p> <p>Arm's length principle is a fundamental principle in transfer pricing, according to which a taxpayer, a participant in controlled transactions, determines the amount of profit to be taxed.</p>	<p>Please specify the legal definition of related parties in your country.</p>	<p>Related persons are legal entities and/or individuals, the relations between which may affect the conditions or economic results of their activities or the activities of the persons they represent, taking into account, in particular, but not exclusively, the following criteria for legal entities:</p>
<p>Who is affected? / Whom it concerns?</p>	<p>Under Ukrainian law, controlled transactions are subject to transfer pricing.</p> <p>A taxpayer participating in a controlled transaction must determine the amount of its tax profit in accordance with the arm's length principle.</p> <p>Business transactions are regarded as controlled transactions if the following conditions are met at the same time:</p> <ul style="list-style-type: none"> • the annual income of a taxpayer from any activity determined by the accounting rules exceeds UAH 150 million (net of indirect taxes) for the respective tax (reporting) year (EUR 4.7 million); • the volume of such business transactions of a taxpayer with each counterparty, determined by the accounting rules, exceeds 10 million hryvnia (net of indirect taxes) for the relevant tax (reporting) year (EUR 312.5 thousand). <p>Controlled transactions are business transactions of a taxpayer, which may affect the object of taxation with corporate income tax, namely:</p> <ol style="list-style-type: none"> a) business transactions with related non-resident parties; b) foreign economic business transactions for the sale and / or purchase of goods and / or services through non-resident commission agents; c) business transactions carried out with non-residents registered in the states (territories) included in the list of states (territories) approved by the Cabinet of Ministers of Ukraine No.1045 dated 27.12.2017, or which are residents of these states; d) business transactions carried out with non-residents with legal forms of organization according to the list of the Cabinet of Ministers of Ukraine No. 480 dated 04.07.2017; e) business transactions between a non-resident and his / her representative office in Ukraine. 	<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<ul style="list-style-type: none"> • one legal entity directly and/or indirectly (through related entities) owns the corporate rights of another legal entity in the amount of 20% or more; • the same legal entity or an individual makes a decision on appointment (election) of 50% or more members of the collective executive body or Supervisory Board of each such legal entity; • at least 50 percent of the members of the collective executive body and/or Supervisory Board of each such legal entity are the same individuals; • the amount of all loans (credits), repayable financial assistance from one legal entity and/or loans (credits), repayable financial assistance from other legal entities guaranteed by one legal entity relative to another legal entity exceeds the amount of equity capital by more than 3.5 times (for financial institutions and companies engaged exclusively in leasing activities - by more than 10 times).
			<p>Compliance of a controlled transaction conditions with the arm's length principle is established according to one of the following methods:</p> <ul style="list-style-type: none"> • Comparable Uncontrolled Price (CUP) method; • Resale Price Method (RPM); • Cost Plus Method (CPM); • Transactional Net Margin Method (TNMM); • Profit Split Method (PSM).

Ukraine

<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>Tax control over the compliance of controlled transactions with the arm's length principle is carried out through monitoring of controlled transactions, a survey on transfer pricing issues and audits of the taxpayer's compliance with the arm's length principle.</p> <p>The conditions of controlled transactions are monitored by analyzing reports on controlled transactions, transfer pricing documentation received, in particular, on the basis of requests, any other information sources and by obtaining tax information.</p> <p>If the results of the audit revealed that the conditions of the controlled transaction differ from the conditions of the arm's length principle, which resulted in an incorrect calculation of the amount of taxable profit of a taxpayer and/or understatement of the tax amount, a corresponding Reconciliation Report shall be drawn up and an additional tax liability in the amount of 18% of the additional charge base shall be charged.</p> <p>Also, a fine of 25 percent of the amount of additional tax liability shall be imposed.</p> <p>In case of a repeated estimated assessment within 1095 days on the corporate income tax, the imposition of a fine in the amount of 50 per cent of the amount of the accrued tax liabilities shall be applied.</p> <p>The amount of the monetary obligation is also charged with a penalty for each calendar day of delay in payment of the monetary obligation, including the repayment date, at the rate of 120 percent of the annual discount rate of the National Bank of Ukraine, effective for each such day.</p>	<p>In case of receiving a request from the controlling authorities, a taxpayer within 30 calendar days from the date of the request receipt shall submit documentation regarding the controlled transactions specified in the request. The request shall be sent not earlier than on May 1 of the year following the calendar year in which such controlled operation(s) was carried out.</p> <p>The legislation of Ukraine provides for the following penalties:</p> <ul style="list-style-type: none"> • 300 amounts of the living wage for able-bodied persons (300 x 1,762.00= UAH 528,600.00. (EUR 16,500.00) for 2018), established by the law as of January 1 of the tax (reporting) year, - in case of failure to submit a report on controlled transactions; • 1 percent of the amount of controlled transactions, undeclared in the report on controlled transactions, but not more than 300 amounts of the living wage for able-bodied persons (UAH 528,600.00 for 2018 (EUR 16,500.00), established by the law as of January 1 of the tax (reporting) year, for all undeclared controlled transactions; • 3 percent of the amount of controlled transactions with respect to which a taxpayer failed to submit documentation as requested by controlling authorities, but not more than 200 amounts of the living wage for able-bodied persons (200x1762,00= UAH 352,400.00 for 2018 (EUR 11,012.50), established by the law as of January 1 of the reporting year, for all controlled transactions carried out in the corresponding reporting year. <p>The payment of such financial sanctions (fines) does not release a taxpayer from the obligation to submit a report on controlled transactions and/or transfer pricing documentation.</p>
<p>What are the reporting deadlines?</p>	<p>For the purposes of tax control over transfer pricing, the reporting period is a calendar year.</p> <p>Taxpayers who carried out controlled transactions in the reporting year are required to submit a report on controlled transactions before October 1 of the year following the reporting one.</p>	

Ukraine

Please list any additional unique information about transfer pricing in your country.

- A controlling authority, in case of the audit of controlled transactions, has the right to audit and independently determine the amount of monetary obligations of a taxpayer not later than the end of 255th day following the last day of the deadline for filing a report on controlled transactions.
- A large taxpayer has the right to apply to the central executive body implementing the state tax and customs policy with an application for advance pricing agreement in controlled transactions.

A contract shall be concluded according to the results of advance pricing agreement for controlled transactions.

In case of compliance with the terms of the contract on pricing agreement, the regulatory authorities have no right to make decisions on additional tax liabilities, fines, penalties for controlled transactions that are the subject of such agreement.



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Uruguay

<p>Please describe your country Transfer Pricing Regulations.</p>	<p>Uruguay applies the OECD Transfer Pricing Guidelines. It has however a few aspects that are specific to the Uruguay Law. Transfer Pricing regulations in Uruguay are based on the principle that the prices agreed in controlled transactions should be consistent with those agreed in uncontrolled transactions. The Economic Activities Income Tax Law set the rules and methodology to be followed in order to prove this principle, while Resolution N° 2084/009 introduced the documentation obligations regarding Transfer Pricing.</p>	<ul style="list-style-type: none"> • The same company owns more than 10% of one or more of the companies involved and functional influence over other of the companies involved. • The same company has a functional influence over both of them simultaneously. • A company has enough votes to create the other's company will or to prevail in the competent board of the other. • Two or more companies have another entity in common, which has the power to create their company will or prevail in both of their competent boards. • The main activity of one of the companies derives from exclusivity contracts with the other. • One company participates in the design of the management, supply, production or distribution policies of the other company. • Two or more companies have a company in common that participates in the design of their management, supply, production or distribution policies. • One of the companies bears the responsibility for the losses or expenses of the other. <p>Countries, jurisdictions or special tax regimes shall be considered Low or Null Tax Jurisdictions if:</p> <ul style="list-style-type: none"> • Their maximum income tax rate for companies is inferior to 12%, or • They do not have a tax information exchange agreement or a double taxation agreement in force with Uruguay, or if, although having one, it is not entirely applicable to the taxes covered by the agreement, or is not effectively complied with. <p>The list of the Low or Null Tax Jurisdictions is provided by the DGI.</p> <p>Transactions carried out with companies located in free trade zones should also be subject to Transfer Pricing analysis, unless the products are fully consumed inside the free trade zone, and the companies involved in the transaction are not related.</p>
<p>Who is affected? / Whom it concerns?</p>	<p>There are two categories of taxpayers to which the Uruguay TP Regulations apply:</p> <p>The first category includes taxpayers that have carried out transactions with related parties located abroad or with companies located in low or null taxation countries, and meet at least one of the following criteria:</p> <ul style="list-style-type: none"> • Are included in the Great Taxpayers Division. • Carry out transfer pricing transactions for over 50.000.000 annually indexed monetary units. • Receive a DGI (General Tax Direction) notification. <p>These taxpayers are obliged to comply with all the transfer pricing documentation annually.</p> <p>The second category includes all taxpayers that have carried out transactions with related parties located abroad or with companies located in low or null taxation countries (that are excluded from the first category). These taxpayers are not obliged to file any of the transfer pricing documentation with the DGI, however, they must keep all the receipts and analysis that support their transfer prices.</p>	
<p>Please specify the legal definition of related parties in your country.</p>	<p>Two parties should be deemed related when the following criteria are met:</p> <ul style="list-style-type: none"> - A company owns 10% or more of another company's equity. - A company has the power to influence the other in relation to the functions they perform for each other. - Two or more entities satisfy at least one of the following: <ul style="list-style-type: none"> • The same company owns more than 10% of both of their equities. 	

Uruguay

<p>Please specify the accepted Transfer Pricing Methods & Data used in your country.</p>	<p>Transfer pricing accepted methods:</p> <ul style="list-style-type: none"> • Comparable Uncontrolled Price (CUP) method • Resale Price Method (RPM) • Cost Plus Method (CPM) • Transactional Net Margin Method (TNMM) • Profit Split Method (PSM) • Local method applicable to transactions involving commodities. In this case the comparable price used must be the price from transparent international markets. (Art 42 Ley 18.083) • Local method applicable to transactions involving commodities exported through an international trader with specific characteristics. In this case the use of the CUP Method is mandatory and the prices used as comparable must be those from transparent international markets on the shipping date. <p>(Art 42 Ley 18.083)</p>
<p>Please describe the processes of Transfer Pricing Audit and Penalties.</p>	<p>There is no specific tax audit procedure related to transfer pricing issues.</p> <p>As far as penalties go, failure to comply with any of the formal obligations related to Transfer Pricing can be punished with a fine of up to 1,000 times the maximum amount established for contraventions. As of October 2018, penalties can go up to UY\$ 7,660,000.</p>
<p>What are the reporting deadlines?</p>	<p>The reporting deadline for mandatory filings depend on the end of each company's fiscal year. The form containing basic information on the taxpayer's functions, assets and risks, as well as the methodology used to prove the Transfer Pricing transactions (Form 3001) together with the TP Report and Financial Statements must be filed nine months after the corresponding fiscal year end.</p>

<p>Please list any additional unique information about transfer pricing in your country.</p>	<p>Transfer Pricing period of prescription is 5 (five) years in Uruguay, counting from the end of the fiscal year in which the transactions under analysis were carried out.</p>
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