



Global Transfer Pricing Guide 2009



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Foreword

This guide has been developed to provide an easy reference for finance and tax specialists within multi-national companies or those considering cross-border ventures. It presents the relevant rules and legislation in each country including pricing methods, documentation requirements and penalties. We hope you find this a useful and easy to use guide to what is an increasingly complex area of tax legislation.

The contents of this guide have been carefully compiled by individual member firms of UHY, an international association of independent accounting and consulting firms. The tax partners and staff of UHY member firms throughout the world combine knowledge with regional, national and international skill sets to help our clients achieve further business success.

These details are intended for general guidance only. Each individual country's tax rules are continually changing; therefore, this guide cannot and does not provide definitive guidance on which to base specific decisions. When more information is required on a country, reference should be made to the laws, regulations and tax treaties of the specific country.

UHY works closely with clients to:

- Ensure selected transfer pricing methods comply with the requirements of the jurisdictions concerned
- Provide the best overall results for the business by reducing the potential for double tax and minimising the worldwide tax burden
- Meet all documentation and reporting requirements
- Assist with any tax authority audits
- Make appropriate applications for advance pricing agreements (APAs).

UHY continues to monitor changes in national tax regimes; to discuss the implications of transfer pricing on your business please contact any one of our national tax specialists who will help you with any queries you may have regarding a tax jurisdiction.

For details of UHY offices worldwide please visit www.uhy.com

July 2009

UHY International

The tax rates and rules indicated in this guide are those in effect at June 2009. Every effort has been made to ensure the facts in this booklet are correct at the time of going to press, however, no responsibility can be accepted for loss occasioned to any person acting or refraining from acting as a result of any material in this publication.

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Angola

<p>Tax law: There are, at present, no laws, regulations or rules governing transfer pricing in Angola.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: Not applicable.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Not applicable.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Not applicable.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: Not applicable.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Argentina

Tax law:

Argentine Internal Revenue Service (AFIP). Income Tax Act (ITA), Sections 8, 14, 15, 15.1, 129 & 13.

Types of documentation required:

Taxpayers are required to submit to AFIP (the Argentine tax authority):

Transactions with related, deemed related and tax haven parties:

- Transfer pricing report, including certain data from transfer pricing study signed by an independent CPA

- Financial statements

- Annual form 743 return

- Semi-annual form 742 return (first 6 months of fiscal year).

Unrelated parties' commodities imports and exports transactions with international price available from transparent markets:

- Semi-annual forms 741 return.

Unrelated parties' imports and exports transactions (except commodities with international price available from transparent markets) in excess of AR\$ 1 million:

- Annual form 867 return.

Representatives of foreign parties that entered into transactions with Argentine residents:

- Tri-annual form 886 return.

Service providers of transactions entered into between representatives of foreign parties and Argentine residents:

- Tri-annual form 887 return.

Taxpayers are required to maintain as supporting documentation:

- Annual transfer pricing study for transactions with related, deemed related and tax haven parties

- Documentation and paperwork of tangible goods imports and exports between independent parties.

Argentina

<p>Regulations & rulings: ITA Regs., Sections 10, 11 & 19 through 21.11. AFIP Reg. No. 1122 (t.o. 2005, as amended).</p>	<p>Deadline to prepare and submit documentation: Transfer pricing study, report, annual form 743 and financial statement: 8th month as from fiscal year-end. Semi-annual form 742: 5th month as from second quarter end. Semi-annual form 741: 5th month as from second and fourth quarter end. Annual form 867: 7th month after fiscal year-end. Tri-annual forms 886 and 887: next month following end of each 4-month period.</p>
<p>Interpretation of arm's length principle (ALP): Generally follows OECD Guidelines with certain domestic departures.</p>	<p>Return disclosure related party disclosure: The arm's length principle (ALP) test is mandatory for cross-border related parties' transactions, including common control or management situations, certain intermediaries (in commodities exports transactions), functionally related parties (eg: main creditors or debtors) and tax haven entities.</p>
<p>Pricing methods priorities: International Price (in transparent markets) is regarded as the best method for tangible goods imports and exports of commodities, or most appropriate method between comparable uncontrolled price (CUP), resale price (RPM), cost plus (CP), profit split (PSM), transactional net margin (TNMM), transaction or spot price at load date (for commodities exports using certain intermediaries) and other methods (not specified).</p>	<p>Statute of limitations: 5 years as from 1 January after the transfer pricing return deadline for registered taxpayers and 10 years for unregistered taxpayers. Transfer pricing documentation must be kept 5 years on top of the statute of limitation.</p>

Argentina

Transfer pricing penalties:

Late filing of transfer pricing returns (independent parties tangible goods imports and exports): AR\$ 9,000.

Late filing of other transfer pricing returns: AR\$ 20,000.

Non-compliance with formal duties of furnishing information requested by AFIP or failure to keep supporting documentation and evidence, and failure to file transfer pricing returns upon request: up to AR\$ 45,000.

Not filing transfer pricing return after 3 requests: AR\$ 90,000 to 450,000 (if income is higher than AR\$ 10 million).

Unpaid amounts as a result of international transactions: 100% to 400%.

Fraudulently unpaid amounts: 2 to 10 times.

Criminal tax law: imprisonment for 2 to 6 years (tax balance in excess of AR\$ 100,000 for tax and fiscal year) and for 3½ to 9 years (tax balance in excess of AR\$ 1 million).

Regular interest on unpaid tax balances.

Reduction in penalties:

Voluntary amendment of transfer pricing return before special notice (vista) from AFIP, reduction to 1/3 of the minimum fine (for underpayment and fraud). Amendment of transfer pricing return within 15 days of receiving notice, reduction to 2/3 of the minimum fine (not for backsliders). If backsliders pay the amounts to AFIP, penalties are set at the minimum amount. No penalties apply if taxes due do not exceed AR\$ 1,000 and are paid voluntarily or within 15 days from special notice.

Documentation requirements:

Taxpayers are required to comply with certain documentation and information requirements to evidence that prices, considerations and profit margins meet the arm's length principle (ALP).

Advance pricing agreements (APAs):

APAs are not specifically addressed but binding rulings are available in non-double tax treaties contexts.

Mutual agreement procedures are available in double tax treaties contexts.

Burden of proof:

Transfer pricing assessment will be deemed correct and valid if made to taxpayers that fail to file transfer pricing returns upon AFIP request. Taxpayers will have a rebuttal right but it will have to be supported with actual documentation, and not grounded in general statements or based on general facts.

Principal differences with OECD Guidelines:

Local taxpayer must be the tested party. Commodities exports using certain intermediaries must be marked to market as of the date of load (ie: forwards and futures are disregarded unless price is higher than spot price at load date). Cross-border independent parties' transactions must be benchmarked under certain circumstances.

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Australia

<p>Tax law: Income Tax Assessment Act 1936, Division 13. Specific Double Tax Agreements may also be relevant.</p>	<p>Types of documentation required: No statutory requirement for documentation, however, a well-documented transfer pricing review may establish a reasonably arguable position.</p>
<p>Regulations & rulings: The Australian Taxation Office (ATO) has issued a number of public rulings on transfer pricing issues. Please see www.ato.gov.au</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Dealt with in ATO rulings, particularly Taxation Rulings TR94/14, TR97/20 and TR98/11.</p>	<p>Return disclosure related party disclosure: International related party dealings are disclosed by all taxpayers on a schedule to the income tax return.</p>
<p>Pricing methods priorities: No proscribed priorities. ATO preferred approach is first to apply 'traditional' transactional methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP). If these are not acceptable, 'profit methods' ie: profit split (PSM); or transactional net margin (TNMM) can be used.</p>	<p>Statute of limitations: Generally 4 years from date of assessment. No time limit in cases of fraud or evasion.</p>
<p>Transfer pricing penalties: Base penalty is 25% of tax avoided, or 50% where dominant purpose is tax avoidance. Can be increased for repeat offenders or hindering the ATO.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the ATO and bilaterally with foreign tax authorities. APAs cannot be retrospective. Valid for 3-5 years, with an option to extend.</p>
<p>Reduction in penalties: Penalties may be reduced to 10%, or 25% respectively, where taxpayer has a reasonably arguable position.</p>	<p>Burden of proof: Taxpayer must establish that dealings with related parties are on an arm's length principle (ALP) basis.</p>
<p>Documentation requirements: No statutory requirement for documentation, however, a well documented transfer pricing review may establish a reasonably arguable position.</p>	<p>Principal differences with OECD Guidelines: No significant differences.</p>

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Austria

<p>Tax law: Austrian Income Tax (§6); Austrian Corporation Tax (§8).</p>	<p>Types of documentation required: As is common between third parties, a prior written contract is necessary.</p>
<p>Regulations & rulings: OECD Guidelines.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): See above tax law and double tax conventions.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method. Resale price (RPM); and cost plus (CP) if CUP is not applicable.</p>	<p>Statute of limitations: Generally 5 years; in special cases more than 5 years.</p>
<p>Transfer pricing penalties: No specific regulations. During a tax inspection tax audit adjustments may be carried out because of a discrepancy from arm's length principle (ALP). A penalty is possible only if there is proof of fraudulent intent.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Austrian Tax Authorities and multilaterally between tax authorities of several countries. APAs cannot be made retrospectively.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Austrian tax authorities have to prove the use of non-market values but the company must co-operate with the tax authorities.</p>
<p>Documentation requirements: The Austrian tax law requires documentation. Austrian entrepreneurs have the obligation to co-operate with the tax offices in several foreign affairs.</p>	<p>Principal differences with OECD Guidelines: There are no principal differences with OECD Guidelines.</p>

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Belgium

<p>Tax law: Article 185 §2 of tax law introduces arm's length principle (ALP), which is equivalent to OECD model treaty. Income Tax Code, articles 26,49,54,55,79,185§2,207,344 & 345.</p>	<p>Types of documentation required: The 1999 Circular Letter recommend at least the following documentation: -Activities of the group -Identification of intercompany transactions -Functional analysis -Transfer pricing methods -Economic analysis.</p>
<p>Regulations & rulings: Administrative guidelines on transfer pricing 1999, 2000, 2003. General ruling practices (APAs) have replaced traditional safe harbour regimes.</p>	<p>Deadline to prepare and submit documentation: No deadline for preparation.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: No specific disclosure requirements exist for filing the tax return.</p>
<p>Pricing methods priorities: Taxpayers are free to choose any OECD transfer pricing method as long as it results in arm's length principle (ALP) pricing for the transaction, and reasons for the decision are provided.</p>	<p>Statute of limitations: Three years starting from the closing of the accounting year. In the case of fraud, the tax authorities have the right to adjust the income during a 5-year period.</p>
<p>Transfer pricing penalties: The penalties that apply to transfer pricing adjustments can vary from 0% up to 200% of the additional tax depending on the degree of intent to avoid tax or of negligence of the company. Interest for late payment is due on additional tax assessments.</p>	<p>Advance pricing agreements (APAs): Rulings are published anonymously. Service for advanced decisions is an autonomous department, led by a committee of four, who, if necessary, are able to rule downward profit adjustments.</p>
<p>Reduction in penalties: If the taxpayer can prove his intention of establishing transfer prices in accordance with the arm's length principle (ALP), penalties can be reduced or eliminated.</p>	<p>Burden of proof:</p>

Belgium

Documentation requirements:

No statutory requirement, although the 1999 Circular letter states that documentation should demonstrate that the taxpayer's pricing complies with the arm's length principle (ALP) to avoid an in-depth transfer pricing audit.

Principal differences with OECD Guidelines:

Almost all OECD Guidelines are followed: arm's length principle (ALP); transfer pricing methods.

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Brazil

<p>Tax law: Secretaria da Receita Federal (SRF): Law 9430/96, Articles 18 to 24 and 28.</p>	<p>Types of documentation required: The annual tax return (DIPJ) including all foreign transactions and import and export forms (Forms 38A, 38B, 39, 40, 41 and 42).</p>
<p>Regulations & rulings: Normative Instructions 243/02 and 382/03.</p>	<p>Deadline to prepare and submit documentation: Documentation must be prepared by the end of December and must be submitted with the annual income tax return (DIPJ).</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Parties and transactions involved must be disclosed in the annual tax return.</p>
<p>Pricing methods priorities: The SRF accepts comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP). The SRF prefers the method that yields lowest taxable income.</p>	<p>Statute of limitations: The statute of limitations is 5 years.</p>
<p>Transfer pricing penalties: General penalties for underpayment are applied.</p>	<p>Advance pricing agreements (APAs): APAs are not available at this time.</p>
<p>Reduction in penalties: Penalties could be reduced by half if settled within 30 days.</p>	<p>Burden of proof:</p>
<p>Documentation requirements: Contemporaneous documentation is required by the SRF.</p>	<p>Principal differences with OECD Guidelines:</p>

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Bulgaria

<p>Tax law: Bulgarian Corporate Income Tax Law; Bulgarian Tax and Social Security Procedure Code.</p>	<p>Types of documentation required: Pursuant to Article 37 of the Bulgarian Tax and Social Security Procedure Code, the tax authorities may request to be provided with all documents, data, papers and other proofs with regard to the rights and obligations of the applicant in accordance with the facts and circumstances that have to be specified in the respective proceedings.</p>
<p>Regulations & rulings: Finance Ministry Decree N H-9/14.08.2006 for the order and ways for applying the pricing methods.</p>	<p>Deadline to prepare and submit documentation: The general deadline is 14 days from the date of receipt of the above-referred request from the tax authorities; however, the tax authorities reserve the right to determine another time limit with regard to each specific situation.</p>
<p>Interpretation of arm's length principle (ALP): In accordance with the present Bulgarian legislation, the arm's length principle (ALP) could be interpreted as an objective that the transfers made between related parties should be concluded for the same prices of those transfers made between non-related parties. For this purpose, the methods below, which meet the "best method" rule, are used.</p>	<p>Return disclosure related party disclosure: Only when requested by the tax authorities; see Art. 116 of the Bulgarian Tax and Social Security Procedure Code.</p>
<p>Pricing methods priorities: In principle, no priorities. The following methods are used: comparable uncontrolled price (CUP); market price; raised value price (RVP); transactional net margin (TNMM); profit split (PSM).</p>	<p>Statute of limitations: Pursuant to Article 38 of the Bulgarian Tax and Social Security Procedure Code, bookkeeping and commercial databases as well as any other information and documents significant to the taxation and the obligatory insurance payments should be kept as follows:</p> <ul style="list-style-type: none"> -Payrolls: for 50 years -Bookkeeping registers and financial reports: 10 years -Documents for tax-insurance control: 5 years after the expiration of the period of prescription for the redeeming of the respective public obligation -All other database forms: 5 years.

Bulgaria

Transfer pricing penalties:

In accordance with the Bulgarian legislation, there are several enumerated penalties:

- For non-cooperation with the tax authorities: 250 to 1000 leva
- For not declaring information requested by the tax authorities in the respective term: up to 10,000 leva
- Other minor violations: from 50 to 500 leva.

Reduction in penalties:

Not applicable.

Documentation requirements:

All transactions should be documented (including legal, accounting and business papers) for justification purposes in case of a tax inspection.

Advance pricing agreements (APAs):

The APAs between Bulgaria and other countries that have entered into force are applied in accordance with the regulations of the Bulgarian Tax and Social Security Procedure Code. The foreign person/company deposits to the tax authorities an application form along with all the necessary proofs. Within 60 days of receipt the tax authorities conduct a verification of the facts described in the form and, if all the requirements of the respective APAs are met, they issue a statement enabling enforcement of the APAs.

Burden of proof:

The taxpayer.

Principal differences with OECD Guidelines:

The tax authorities will accept the pricing policies OECD recommends, however, only the methods written above are applicable.

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Canada

<p>Tax law: Income Tax Act (Canada) Section 247.</p>	<p>Types of documentation required: Complete and accurate description of: property or services transferred; terms and conditions; identity of participants and relationships; functions performed, property used, risks assumed; analysis to determine the transfer pricing method used; factors that influenced the determination of transfer prices; and overview of business.</p>
<p>Regulations & rulings: Information Circular IC 87-2R – International Transfer Pricing.</p>	<p>Deadline to prepare and submit documentation: The documentation must be prepared, by the filing due date of the taxpayer’s tax return. Taxpayer must submit the documentation within 3 months of a request by the Canada Revenue Agency.</p>
<p>Interpretation of arm’s length principle (ALP): Section 251 of the Act – definition of arm’s length principle (ALP).</p>	<p>Return disclosure related party disclosure: Form T106 is required in most cases.</p>
<p>Pricing methods priorities: No statutory requirement, however comparable uncontrolled price (CUP) is preferred. Others in priority are: resale price (RPM); cost plus (CP); profit split (PSM); and transactional net margin (TNMM).</p>	<p>Statute of limitations: Generally 4 years from the date of notice of assessment for a particular year, unless there is fraud or misrepresentation, in which case there is no time limit.</p>
<p>Transfer pricing penalties: Penalty is 10% of the amount by which the transfer pricing adjustments exceed the lesser of (i) 10% of gross revenue and (ii) \$5 million.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Canada Revenue Agency.</p>
<p>Reduction in penalties: Penalty may be reduced where reasonable efforts were made to determine and use arm’s length principle (ALP) transfer prices.</p>	<p>Burden of proof: The taxpayer has the burden of proof.</p>
<p>Documentation requirements: Taxpayers are required to contemporaneously document their methodology of determining their transfer pricing method, as well as transfer pricing transaction details.</p>	<p>Principal differences with OECD Guidelines: Almost all OECD Guidelines are followed.</p>

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Chile

<p>Tax law: Internal Taxes Service and Customs Service.</p>	<p>Types of documentation required: Countable books, documents of sales and buys, contracts.</p>
<p>Regulations & rulings: Revenue Tax Law D.L. N° 824.- Tax Law to Sales and Services D.L. N°825.- Tributary Code D.L. N°830 and Customs Duty</p>	<p>Deadline to prepare and submit documentation: The fiscal authority grants the term according to the case magnitude.</p>
<p>Interpretation of arm's length principle (ALP): The indicated legislation and regulation dictated by the fiscal authority (circular letters, resolutions).</p>	<p>Return disclosure related party disclosure: No obligation exists to reveal information.</p>
<p>Pricing methods priorities: Sales values are used to appraise market value or the global presumed profit (utility) of the business.</p>	<p>Statute of limitations: Six years.</p>
<p>Transfer pricing penalties: Decided by a fiscal inspection and through computational means. Fines and interests and/or corporate sanctions are applied if there is a crime.</p>	<p>Advance pricing agreements (APAs): No legal regulation exists but the fiscal authority can carry out an appraisal if it discovers that values are lower than those of market values.</p>
<p>Reduction in penalties: Subject to the conduct and gravity of the committed act.</p>	<p>Burden of proof: The fiscal authority contests the market values and requires the company to justify values through documentation and any legal proof.</p>
<p>Documentation requirements: There is a legal obligation to preserve countable records and all the support documentation for 6 years to demonstrate the truth about operations when the fiscal authority needs it.</p>	<p>Principal differences with OECD Guidelines: These procedures are not legally required. The government might base a voluntary arrangement on the guidelines, if suitable.</p>

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China

<p>Tax law: The State Council: Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises 1991 Article 13 and the Law Concerning the Administration of Tax Collection Article 24.</p>	<p>Types of documentation required: Annual Report of Business Transactions with Related Parties by Foreign-invested Enterprises and Foreign Enterprises. Special rules apply to adjustments and notifications made by Chinese tax authorities. Annual tax returns in written form.</p>
<p>Regulations & rulings: Detailed Rules for Implementation of the Income Tax Law for FIEs and FEs 1991 Article 52-58. Guoshuifa [1998] No. 59, Guoshuifa [2004] No. 143 Amendment.</p>	<p>Deadline to prepare and submit documentation: Generally within a taxable year. Under local tax authorities' inspection, enterprises should provide relevant information within 60 days.</p>
<p>Interpretation of arm's length principle (ALP): Associated enterprises legislation (see Tax Law above).</p>	<p>Return disclosure related party disclosure: Only for companies quoted in Chinese exchanges.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP) are the first three methods applicable. If they are inappropriate, other reasonable methods, such as comparable profits; profit split (PSM); and transactional net margin (TNMM) may be used.</p>	<p>Statute of limitations: Generally within 3 years beginning from the following tax year, no more than 10 years.</p>
<p>Transfer pricing penalties: The Chinese tax authority can make adjustments as a result of the provision of false information, or when companies are unwilling to provide required information on related-party transactions.</p>	<p>Advance pricing agreements (APAs): APAs are regulated by the Chinese tax authorities for related-party transactions. For detailed procedure see Guoshuifa [2004] No. 118 (Trial).</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Taxpayers must provide proper documentation and support for their transfer pricing policies.</p>
<p>Documentation requirements: No mandatory requirements.</p>	<p>Principal differences with OECD Guidelines: Revised OECD Transfer Pricing Guidelines are followed, but they only enumerate pricing methods and lack regulations to apply practically the methods and to deal with the most important international comparative problems.</p>

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Croatia

<p>Tax law: Croatian Corporatian Tax Law (Official Gazettes: "Narodne novine", No. 177/04, 90/05, 57/06), Articles 13, 14, 15.</p>	<p>Types of documentation required: Any kind of written proof that the services were performed.</p>
<p>Regulations & rulings: Croatian Corporate Tax Law (Ar. 13, 14, 15) and Croatian Corporate Tax Law Rulebook (Ar.40).</p>	<p>Deadline to prepare and submit documentation: The deadline is not set. Permanent documentation is necessary.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: No provisions prescribed.</p>
<p>Pricing methods priorities: -Comparable uncontrolled price (CUP) -Resale price (RPM) -Adding gross profit to the costs -Profit split (PSM) -Net profit.</p>	<p>Statute of limitations: No provisions.</p>
<p>Transfer pricing penalties: Up to 200 THRK (approximately 27,000 Euros as at January 2009).</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: No provisions.</p>	<p>Burden of proof: On the taxpayer.</p>
<p>Documentation requirements: There must be written proof.</p>	<p>Principal differences with OECD Guidelines: It's not proscribed yet but it's recommended that all OECD Guidelines must be followed.</p>

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Cyprus

<p>Tax law: The Income Tax Law of 2002, No. 118 (I) of 2002 and subsequent amendments.</p>	<p>Types of documentation required: No specific provisions.</p>
<p>Regulations & rulings: Section 33: Arms' Length Principles.</p>	<p>Deadline to prepare and submit documentation: No specific provisions.</p>
<p>Interpretation of arm's length principle (ALP): Generally, OECD Guidelines.</p>	<p>Return disclosure related party disclosure: No specific provisions for transfer pricing. The annual income tax return requires specific disclosure of balances and transactions with group companies and with other related parties.</p>
<p>Pricing methods priorities: No specific provisions.</p>	<p>Statute of limitations: Six years from year of assessment; 12 years in fraud cases. No time limit in open cases under investigations or in appeals.</p>
<p>Transfer pricing penalties: No specific provisions. The general provisions relating to penalties apply.</p>	<p>Advance pricing agreements (APAs): No specific provisions. Advance rulings are given by the Cyprus Income Tax Office, but these are only on matters of law, not on facts.</p>
<p>Reduction in penalties: No specific provisions.</p>	<p>Burden of proof: Generally the taxpayer.</p>
<p>Documentation requirements: No specific provisions.</p>	<p>Principal differences with OECD Guidelines: OECD principles followed.</p>

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Czech Republic

<p>Tax law: Income Tax Act No. 586/1992 Coll. Articles 23/7, 22/1/g/3, 23/11, 37 and 38nc. Administration of Taxes Act No. 337/1992 Coll. Article 34b.</p>	<p>Types of documentation required: Although no written contracts are obligatory, finance authority usually asks for written contracts on management, marketing and other services.</p>
<p>Regulations & rulings: Directions of Finance Ministry No. D-258, D-292, D-293 based on Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the EU. Transfer pricing principles by OECD.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law and regulations & rulings above).</p>	<p>Return disclosure related party disclosure: Financial authority has right to ask all subjects under Czech law to provide all facts important for tax duty (for example, facts about related parties).</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method applicable. However, all other OECD methods - resale price (RPM); comparable profits (CPM); profit split (PSM); and transactional net margin (TNMN) - can be used if it is relevant to the business activity.</p>	<p>Statute of limitations: For all tax periods of taxation open for tax audit. Usually 4 years but in case of tax losses it can be up to 10 years.</p>
<p>Transfer pricing penalties: Where prices agreed between related parties differ from prices agreed between independent parties, without such difference being properly documented, the finance authority shall adjust the taxpayer's tax base by the ascertained difference. Finance authority will assess 20% penalty of additionally calculated corporate income tax and interest for late payment (about 17% pa).</p>	<p>Advance pricing agreements (APAs): Advanced Pricing Agreements (APA) can be arranged with the Czech tax authorities and bilaterally between countries. Validity of 3 years. APA are not made retrospectively. For detailed procedure see tax law above.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Primary company must prove that there is no difference between transfer prices and market value.</p>

Czech Republic

Documentation requirements:

No statutory requirement, although documentation will be needed for negotiation in case of a tax inspection. For Advanced Pricing Agreements documents written in D-293 (see above) are required.

Principal differences with OECD Guidelines:

All OECD Guidelines are followed.

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Denmark

<p>Tax law: Tax law regarding assessments §2, law 2006-10-24 nr. 1061. Tax law regarding control by the authorities §3B, lov 2005-11-24 nr. 1126.</p>	<p>Types of documentation required: Regulation 2006-01-24 nr. 42. Documentation must be prepared according to specific rules.</p>
<p>Regulations & rulings: See tax law above and Regulation 2006-01-24 nr. 42.</p>	<p>Deadline to prepare and submit documentation: Regulation 2006-01-24 nr. 42. Documentation must be prepared according to specific rules.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Part of tax return.</p>
<p>Pricing methods priorities: OECD Guidelines.</p>	<p>Statute of limitations: At least 5 years from last filing deadline.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Danish tax authorities.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: Regulation 2006-01-24 nr. 42. Documentation must be prepared according to specific rules.</p>	<p>Principal differences with OECD Guidelines: Almost OECD Guidelines.</p>

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Ecuador

<p>Tax law: Internal Tax Regime Law: Art. unnumbered (1), (2), (3) y (4) post - 15.</p>	<p>Types of documentation required: The taxpayers of income tax, conducting transactions with related parties, in addition to their annual income tax return, will present to the tax administration the transfer pricing report and annexes of these transactions with related parties, no later than two months from the deadline of the income tax return.</p>
<p>Regulations & rulings: Application Ruling to the Internal Tax Regime Law: Art. 42, 43, 80, 85.</p>	<p>Deadline to prepare and submit documentation: The taxpayers must present the transfer pricing report and the respective annex during the two months from the deadline of presentation of the income tax returns (April of each year).</p>
<p>Interpretation of arm's length principle (ALP): Generally follows OECD Guidelines.</p>	<p>Return disclosure related party disclosure: The amount of transactions must be disclosed in the income tax return, in addition to the transfer pricing report and annex.</p>
<p>Pricing methods priorities: Any of the following methods may be used to reflect the arm's length principle (ALP), in accordance with the Internal Tax Regime Law: comparable uncontrolled price (CUP); resale price (RPM); added cost; profit split (PSM); residual profit sharing; revenue profit transactions limit. The taxpayer establishes the most appropriate method of valuation (considering the best method compatible with the business activity, trade or business structure of the company or entity) and will initially use comparable uncontrolled price (CUP); and continue with resale price (RPM) and added cost. If, because of complexities, or because information concerning the operations cannot be applied properly using one of the methods in order as above, one of the following methods may be used: profit split (PSM) followed by residual profit sharing and ultimately the use of revenue profit transactions limit. The tax administration would assess whether the method used by the taxpayer is the most appropriate according to the type of transaction; the business activity; availability and quality of information; comparability between parties; transactions and functions; and the level of adjustments made for the purpose of bridging differences between facts and comparable situations.</p>	<p>Statute of limitations: Three years from the income tax return for taxpayers who have complied with the presentation of the income tax return on time; and 6 years if taxpayers have not provided, or only partially provided, an income tax return. Transfer pricing documentation must be kept for 6 years from the income tax return.</p>

Ecuador

Transfer pricing penalties:

If the taxpayers pay values owed without a determination act, the lowest of the penalties applies. If taxpayers have not supplied the transfer pricing report and annexes of transactions with related parties on time, a fine of up to USD 15,000 applies.

Reduction in penalties:

If the taxpayers pay values owed without a determination act, the lowest of the penalties applies.

Documentation requirements:

Taxpayers are required to comply with certain documentation and information requirements to prove that prices, considerations and profit margins meet the arm's length principle (ALP).

Advance pricing agreements (APAs):

APAs are not specifically addressed but binding rulings are available in non-double tax treaty contexts. Mutual Agreement Procedures are available in double tax treaty contexts.

Burden of proof:

The taxpayer.

Principal differences with OECD Guidelines:

The methodology recommended by the Ecuadorian Tax Authority is that established by the OECD. There are no differences.

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Egypt

Tax law:

Income Tax Law no. 91 of 2005 (Article 30).

Types of documentation required:

Any corporate entity subject to Egyptian income tax on its profit is required to prepare and maintain documentation which outlines its transfer pricing policy. It must retain documentation and supporting benchmarking materials used to establish pricing. Documentation should include written agreements and board minutes which approve the conclusions of the transfer pricing study. All the above information should be agreed with the Egyptian tax code no. 91 of 2005 Article 30.

Regulations & rulings:

If related persons have set conditions for their commercial or financial transactions other than those operative among non-related persons, either to reduce the tax base or to shift the tax burden from a taxable person to an exempt or non-taxable one, the authority is entitled to determine the taxable profit on the basis of the neutral price. The Commissioner may conclude agreements with such related persons to follow one or more ways in determining the neutral price in their transactions. The Executive Regulations of this law determines methods of calculating the neutral price.

Deadline to prepare and submit documentation:

All these documents related to the company's activities and should be presented at the time of filing with the tax authority.

Interpretation of arm's length principle (ALP):

The principle is defined in line with general international consensus. An arm's length provision will have been made between two independent enterprises. In comparing actual and arm's length price, the terms and conditions of the transaction are assessed and adjusted to arm's length terms.

Return disclosure related party disclosure:

The taxpayer is required to confirm that it is carrying out transactions on an arm's length basis. The taxpayer may be required to disclose transfer pricing adjustments that are not in its accounts.

Egypt

Pricing methods priorities:

Minister of Finance Decree No. (991) of 2005 Promulgating the Executive Regulation of the Income Tax law no. 91 of 2005 Article (39): The neutral price is specified, as stipulated in article (30) of this law, according to one of the following methods:

-Comparative free price: the price of goods or services between related parties is determined on the basis of the price of the same goods or services as if it is carried out between the company and unrelated persons. The comparison depends on other similar goods or services, taking into account the following factors: (a) the legal conditions to which every party to the contract is committed; (b) the market circumstances; and (c) special circumstances of the process.

-Total cost added to mark-up: According to this method, the price of the goods or services is determined between relative parties on the basis of the total cost of goods or services and adding a certain percentage as a mark-up in favour of the selling company or the service provider, when the mark-up is determined on the basis of the mark-up received by the taxpayer in his transactions carried out with independent parties, or the mark-up received by another independent party in a similar transaction.

-Resale price (RPM): according to this method, the price of the goods or services, among relative parties, is determined on the basis of the resale price of the goods or services to an unrelated third party after deducting a percentage representing a reasonable mark-up to the mediator party. The mark-up is determined on the basis of the mark-up received by the same seller through transactions with independent parties. Furthermore, the mark-up may be determined on the basis of the mark-up received by an independent person in a similar transaction. Article (40): in determining which approach to use, comparative price must be used first and if data is unavailable to support this determination, either of the other methods may be used. In the case of an inability to apply any of the methods mentioned the market price may be determined by any other method proscribed by the OECD, or any other method suitable for the taxpayer.

Statute of limitations:

Egyptian Tax Authorities confine their enquiries to the period covered by the tax return. However, where transfer pricing compliance requirements have not been met, or in the case of fraud or negligence, the authorities can reassess any number of previous years, randomly or sequentially.

Egypt

Transfer pricing penalties:

Where the taxpayer has been negligent in filing a transfer pricing position as part of a tax return, the tax authorities could impose tax geared penalties where further tax becomes due as a result of adjustments. Penalties may amount up to 80% of the additional tax which falls due, and/or imprisonment for a period from 6 months to 5 years. Penalties could also be imposed for failing to document and retain evidence justifying the transfer pricing adopted.

Reduction in penalties:

The Minister or delegate has the right to reconcile crimes provided for in this article, whatever the status of the action may be, before a conclusive ruling is issued in consideration for the payment of: (a) amounts due by the taxpayer in addition to a compensation of 2,000 pounds; (b) amounts due by the taxpayer in addition to a compensation of half the amount of the fine provided; (c) amounts due by the taxpayer in addition to a compensation equivalent to such amounts; and (d) a compensation equivalent to half the upper limit of the fine provided. Reconciliation shall result in the lapse of criminal litigation and subsequent effects arising therefrom. The state prosecution shall order a stay of execution of the penalty if reconciliation is reached while execution is in progress.

Documentation requirements:

A transfer study including: a review of the group activities; analysis of risks and assets; and transactions with connected parties. It should discuss the basis for the pricing method adopted and an analysis of the data reviewed for benchmarking purposes.

Advance pricing agreements (APAs):

In all cases, there may be a prior agreement between the tax authority and the taxpayer with respect to the method to be followed by the taxpayer to determine the neutral price when undertaking a transaction between related parties.

Burden of proof:

The taxpayer.

Principal differences with OECD Guidelines:

In the case of an inability to apply any of the methods mentioned, the market price may be determined by any other method described by the OECD, or any other method suitable for the taxpayer. The Egyptian Income Tax Law generally conforms with OECD Guidelines.

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Estonia

<p>Tax law: Income Tax Act §50(4)-(8) /resident legal person/, §53 (46) /permanent establishment/, §14(7)-(8) /sole proprietor/.</p>	<p>Types of documentation required:</p> <ul style="list-style-type: none"> -An overview of the group’s business and strategies -A description of a group structure and restructurings during last year -A description of intergroup controlled transactions including amounts involved, functions and risks undertaken by each person -Comparability analysis per transaction including information about the transfer pricing method applied, explanations why this particular method is applied, and how the principles are implemented in practice -A list of any binding advance rulings in place with tax authorities regarding transfer pricing.
<p>Regulations & rulings: Regulation No 53 of the Ministry of Finance, 10 November 2006.</p>	<p>Deadline to prepare and submit documentation: The tax authority shall grant the company a term of at least 60 days for submitting the information.</p>
<p>Interpretation of arm’s length principle (ALP): Equivalent to OECD model treaty. If the value of the transaction conducted between a resident legal person/permanent establishment/sole proprietor and a person associated with it differs from the value of similar transactions conducted between non-associated persons, the tax administrator may, upon determining the income tax, use the values of transactions applied by non-associated independent persons under similar conditions.</p>	<p>Return disclosure related party disclosure: An income tax return (form TSD) includes three questions regarding transfer pricing:</p> <ul style="list-style-type: none"> -Is there committed any transaction with an associated person during the period of taxation? -Does a taxable person participate in a cost-allocation agreement of associated persons? -Does a taxable person have an obligation to follow complementary documentation requirements regarding transfer pricing? <p>Legal persons file form TSD by the 10th day of every calendar month following the period of taxation.</p>
<p>Pricing methods priorities: Taxpayers are free to choose any OECD transfer pricing methods to achieve the most trustworthy result: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); and transactional net margin (TNMM). If they are inappropriate, other reasonable methods can be used.</p>	<p>Statute of limitations: Generally 3 years. In the event of intentional failure to pay or withhold a tax, the limitation period is 6 years. A limitation period begins to run on the due date for the submission of the tax return which was not submitted or which contained incorrectly calculated tax amount.</p>

Estonia

Transfer pricing penalties:

There are no specific transfer pricing penalties applicable; general penalties would be applied. Failure to submit information or a tax return or documents to a tax authority or submission of (knowingly) false information, or failure to comply with the requirements for keeping records etc., is punishable by a fine of up to 500,000 EEK. If a taxable person fails to pay tax by the due date proscribed by law, the person is obliged to calculate and pay interest on the amount of tax outstanding. The rate of interest is 0.06% per day.

Reduction in penalties:

A person shall be released from punishment in part or in full if, before the commencement of a tax audit, the person submitted information to a tax authority in writing concerning the amount of tax unpaid. On the reasoned request of a taxable person, a tax authority shall not calculate interest if the miscalculation of taxes was the result of misleading or false information provided in writing by the tax authority.

Documentation requirements:

Complementary transfer pricing documentation requirements are applied:

-To credit institutions, insurance companies, listed companies

-If associated person is a legal person located in a low tax territory and

-If a legal person together with its associated person exceeds one limit of the three following criteria: sales revenue (net turnover) of previous financial year 50 mil Euro, consolidated balance sheet total 43 mil Euro, number of employees 250. Irrespective of the criteria given above, a person has to follow the documentation requirements if it participates in a cost-allocation agreement with associated persons.

Advance pricing agreements (APAs):

APAs are currently unavailable. From 1 January 2008, Estonian tax authorities began issuing binding advance rulings. Advance rulings are binding only to the Estonian Tax and Customs Board (ETCB), but not to taxpayers. Advance rulings are not made retrospectively.

Burden of proof:

If the company has fulfilled its documentation requirements and has submitted information and explanations on the transactions with associated persons, then ETCB has to prove that the values of these transactions differ from the values of non-associated persons, that is, it shifts the burden of proof more to tax authorities. Strict duties of co-operation are applicable.

Principal differences with OECD Guidelines:

Transfer pricing regulation is based on OECD Guidelines.

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France

<p>Tax law:</p> <p>Article 57 of the French code général des impôts for international transfers of profits (tax audit procedure: Article L13B of the French Livre des procédures fiscales); Abnormal act of management theory also applicable.</p>	<p>Types of documentation required:</p> <p>Pursuant to Article L13B, the tax authorities may request to be provided with all documents and information regarding (i) the nature of the relations between the taxpayer and another related company, (ii) the pricing method(s) used, (iii) the activities carried out by related parties and (iv) the tax treatment applied by the taxpayer's foreign subsidiaries or branches.</p>
<p>Regulations & rulings:</p> <p>Administrative statements 4 A-1213 & 1214 dated 9 March 2001; 13-0-2-05.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Two months from the date or receipt of the above-referred request from the tax authorities; one-month extension may (or may not) be granted upon the taxpayer's request.</p>
<p>Interpretation of arm's length principle (ALP):</p> <p>International group companies must fix the price of their internal transactions as unrelated parties would do for identical transactions; this principle also applies to domestic group companies.</p>	<p>Return disclosure related party disclosure:</p> <p>Total figure on related party disclosure is required.</p>
<p>Pricing methods priorities:</p> <p>Article 57 provides that, in the absence of specific elements to assess tax, the tax basis may be determined by comparison with the one of similar businesses 'operating normally'. In practice, traditional OECD methods are applied, such as: comparable uncontrolled price (CUP); resale minus and cost plus (CP) / profit split (PSM). Transactional net margin (TNMM) or other fixed or global methods are rarely used.</p>	<p>Statute of limitations:</p> <p>Generally 31 December of the 3rd year following the current financial year.</p>
<p>Transfer pricing penalties:</p> <p>No specific penalty, except if the company's reply to formal request of information by the tax authorities is either nil or insufficient, in which case a 10,000 € penalty per year is applicable. Ordinary penalties include: in all cases, late-payment interest of 0.4% per month and 40% penalties in case of bad or 80% penalties in case of fraudulent operation.</p>	<p>Advance pricing agreements (APAs):</p> <p>Regulations 4 A-8-99 dated 17 September 1999 and 4-A-13-06 provide for possible bilateral APAs involving tax authorities of two countries, not retroactive, but renewable; duration between 3 and 5 years. Article 20 of the law of 30 December 2004 and Regulations 4 A-11-05 dated 24 June 2005 provide for possible unilateral APAs involving only the French tax authorities; procedure, duration, renewal same as under Regulations 4 A-8-99.</p>

France

Reduction in penalties:

Late-payment interest is generally not negotiable. Companies may ask for a total or partial waiver of other penalties; the tax authorities' decision is discretionary.

Documentation requirements:

No statutory requirement, although all transactions should be documented (including legal, accounting and business papers) for justification purposes in case of a tax audit.

Burden of proof:

French tax authorities must prove that the parties are related (except if the foreign party is located in a tax haven or if the abnormal act of management theory is applied), and the transactions between the parties provide for an "advantage" to the foreign/other party; the party subject to tax audit may oppose the tax reassessment in evidencing that such an "advantage" provided to the foreign/other party is justified by operating needs.

Principal differences with OECD Guidelines:

French practice follows OECD Guidelines, except for certain methods rarely used in practice (see above).

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Germany

<p>Tax law: Art. 1 International Relation Tax Act of 09-08-1972 with latest amendments of 08-14-2007.</p>	<p>Types of documentation required: All price- or cost-sharing arrangements and related back-up documentation.</p>
<p>Regulations & rulings: TZ 1 AEASTG and Regulations from German Federal Ministry of Finance (BMF): of 02-23-1983, 12-24-1999, 12-30-1999, 11-09-2001, 10-28-2003, 02-26-2004, 04-12-2005, 08-12-2008.</p>	<p>Deadline to prepare and submit documentation: 60 days after request; in extraordinary cases only 30 days.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above) and High Court decisions.</p>	<p>Return disclosure related party disclosure: Associated companies or persons must be disclosed.</p>
<p>Pricing methods priorities: In principle no priorities, but the following order is practice: resale price (RPM); comparable uncontrolled price (CUP); cost plus (CP). Profit split (PSM) is not yet applicable.</p>	<p>Statute of limitations: 4 years deadline from last filing; 10 years in case of fraudulent intent.</p>
<p>Transfer pricing penalties: Only in case of successful remedy.</p>	<p>Advance pricing agreements (APAs): APAs can be concluded with the BMF and the consent of the tax authority of the affected Bundesland.</p>
<p>Reduction in penalties: Only in case of successful remedy.</p>	<p>Burden of proof: German tax authorities have to prove the wrongness of price-agreements, however, strict duties of cooperation apply.</p>
<p>Documentation requirements: Art. 90 Abs. 2 + 3, Art. 162 Abs. 3 + 4 AO (fiscal code): strict duties of documentation, BMF-Regulations of 10-28-2003, 02-26-2004, 04-12-2005.</p>	<p>Principal differences with OECD Guidelines: OECD Guidelines are followed, except the profit split (PSM) and transactional net margin (TNMM) methods.</p>

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Greece

<p>Tax law: 3728/ 18 Dec 2008, 2238/1994, 186/1992.</p>	<p>Types of documentation required: Contracts; invoices; detailed transaction list.</p>
<p>Regulations & rulings: A2-8092/ 31 Dec 2008. Arm's length principle (ALP) – OECD transfer pricing principles.</p>	<p>Deadline to prepare and submit documentation: Contracts (before the transaction). Invoices (every transaction must be invoiced within a month). Detailed transaction list: -Annually, within four months and 15 days from company's fiscal year-end. -Transfer Pricing Documentation Study: one month after request.</p>
<p>Interpretation of arm's length principle (ALP): Related parties (Law 2190 artcl.42e) intergroup transactions, permanent establishments.</p>	<p>Return disclosure related party disclosure: Full disclosure of the above through the Transfer Pricing Documentation Study.</p>
<p>Pricing methods priorities: Arm's length principle (ALP); OECD methods.</p>	<p>Statute of limitations: Six years.</p>
<p>Transfer pricing penalties: Administrative fine of 10% of the value of transactions; for non-compliance with the arm's length principle (ALP), €5,000 plus tax differences after tax inspection.</p>	<p>Advance pricing agreements (APAs): Not applicable at this time.</p>
<p>Reduction in penalties: Generally none.</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: Transfer Pricing Documentation Study, containing financials, group transfer pricing policy according to OECD methods and arm's length principle (ALP), comparables, company and group data, transaction data and other similar data (existence of statutory guidelines for a folder of documentation).</p>	<p>Principal differences with OECD Guidelines: No principal differences.</p>

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Guatemala

Tax law: Guatemala currently has no transfer pricing laws.	Types of documentation required: Not applicable.
Regulations & rulings: Not applicable.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle (ALP): Not applicable.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: Not applicable.	Statute of limitations: Not applicable.
Transfer pricing penalties: Not applicable.	Advance pricing agreements (APAs): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Not applicable.
Documentation requirements: Not applicable.	Principal differences with OECD Guidelines: Not applicable.

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Guernsey

<p>Tax law: Income Tax (Guernsey) Law, 1975.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: (67) General Provision Against Legal Avoidance - Where the Administrator is of the opinion that the main purpose, or one of the main purposes, of a transaction is the avoidance or reduction of the liability of any person to tax under this Law, he may, at his discretion, direct that such adjustments be made in respect of the liability of that person to tax as may in his opinion be appropriate to counteract the avoidance or reduction of liability which would otherwise be effected by such transaction.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Not applicable.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Not applicable.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: Not applicable.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Hong Kong

<p>Tax law: The Hong Kong Inland Revenue Ordinance (HKIRO) is the major tax law which governs direct taxation of income in Hong Kong.</p>	<p>Types of documentation required: Not applicable. No specific transfer pricing documentation requirement under the HKIRO.</p>
<p>Regulations & rulings: There are two general anti-avoidance provisions under the HKIRO which deal with tax avoidance issues. The HKIRO does not contain any specific transfer pricing provisions. The Hong Kong Inland Revenue Department (HKIRD) may also address transfer pricing issues when HKIRD officers examine the taxpayer's books and records during their field audits and investigation, when references are made to OECD and other guidelines.</p>	<p>Deadline to prepare and submit documentation: Not applicable</p>
<p>Interpretation of arm's length principle (ALP): Section 20(2) of the HKIRO addresses the situation when a business is conducted between a taxpayer and a closely connected non-resident person, and the business is arranged such that it produces to the taxpayer either no profits which arise in Hong Kong, or less than the ordinary profits which might be expected to arise in or derive from Hong Kong. In the above situation, the non-resident person business shall be deemed to be carried on in Hong Kong, and the profits of the non-resident person shall be assessed in the name of the HK taxpayer as if the HK taxpayer were the agent of the non-resident person.</p>	<p>Return disclosure related party disclosure: Not applicable. No specific return of related party disclosure for transfer pricing. However, all persons should report the transaction with non-resident or closely connected non-resident in Profits Tax Return (B.I.R. 51/52) under Section 51 and 52 of the HKIRO.</p>
<p>Pricing methods priorities: Not applicable. No specific transfer pricing methods. In general, the HKIRD will review the pricing policy case by case, eg: the contractual terms, the characteristics of the goods and services, the economic situations, the business functions carried out, risks borne and the business strategy.</p>	<p>Statute of limitations: Six years, or 10 years in case of criminality.</p>

Hong Kong

<p>Transfer pricing penalties:</p> <p>Not applicable. No specific penalties for transfer pricing. Generally, penalties may be imposed on a taxpayer who participates in a blatant or over-aggressive tax avoidance scheme, in breach of section 80 or 82A or providing incorrect or misleading information.</p>	<p>Advance pricing agreements (APAs):</p> <p>Not applicable. No specific APAs for transfer pricing. Advance rulings can be obtained from the HKIRD for the seriously contemplated transaction. Generally, the advance ruling is valid for the period to which the particular arrangement relates; usually it is not valid for more than two years of assessment from the year of issue of the ruling. Hong Kong does not have double taxation agreements or tax treaties with other countries except: Mainland China; Czech Republic; Italy; Macao SAR; Netherlands; and Vietnam. This restricts the application of bilateral APAs.</p>
<p>Reduction in penalties:</p> <p>Not applicable.</p>	<p>Burden of proof:</p> <p>Onus of proof is with taxpayer in case of suspected tax avoidance (including transfer pricing).</p>
<p>Documentation requirements:</p> <p>Not applicable. No specific documentation required for transfer pricing. In general, taxpayers must keep business records as required by the HKIRO.</p>	<p>Principal differences with OECD Guidelines:</p> <p>No official transfer pricing guidelines. OECD Guidelines are used for reference only.</p>

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Hungary

<p>Tax law: Hungarian Corporate Income Tax law: 1996. LXXXI. Article 18.</p>	<p>Types of documentation required: Transfer Price Study or Simplified Transfer Price Study for business transactions under HUF 50 million.</p>
<p>Regulations & rulings: Finance Ministry Decree 18/2003.</p>	<p>Deadline to prepare and submit documentation: 31 May following current year (or 150th day following end of fiscal year).</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Only in case of request by tax office.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP); with tax law stating no priorities. Other methods may be used if above are not applicable.</p>	<p>Statute of limitations: Five years following last day of year corporate income tax return was filed.</p>
<p>Transfer pricing penalties: Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may carry a penalty of up to 50% of tax deficit plus late payment charges.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: A reduction may be requested at the tax office with considerations of fairness.</p>	<p>Burden of proof: If study was prepared, tax office must prove that any modifications are justified.</p>
<p>Documentation requirements: Transfer Price Study must be prepared (not necessary for small-medium size enterprises) detailing all factors considered in transfer price calculations.</p>	<p>Principal differences with OECD Guidelines: Hungarian regulations were prepared based on OECD Guidelines. All noted methods are applicable.</p>

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India

<p>Tax law: Income Tax Act, 1961, Sections 92 to 92 F.</p>	<p>Types of documentation required: The information and documentation can be classified as: general information; transaction specific; and supporting documentation.</p>
<p>Regulations & rulings: Rules 10A to 10E of the Income Tax Rules and clarificatory circulars thereunder.</p>	<p>Deadline to prepare and submit documentation: The report of the chartered accountant in a specified form certifies the arm's length price. The report is required to be filed with the return of income at specified due dates applicable to the assessee.</p>
<p>Interpretation of arm's length principle (ALP): Applies to all international transactions between associated enterprises.</p>	<p>Return disclosure related party disclosure: All tax assesses.</p>
<p>Pricing methods priorities: Arm's length principle (ALP) price may be determined by any of the methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM), or any other proscribed method. Though no priorities are laid down, the factors to be taken into account are indicated.</p>	<p>Statute of limitations: Where, during the assessment proceedings, the computation of the arm's length price is referred to a Transfer Pricing Officer: 39 months from the filing deadline. In all other cases: 27 months from the filing deadline. However, returns of the past six years can be reopened under certain circumstances.</p>
<p>Transfer pricing penalties: Penalties are laid down for: penalty consequent to re-determination of arm's length principle (ALP) price; failure to keep and maintain information and documents; failure to furnish report from an accountant; failure to furnish information or documents to the tax authorities.</p>	<p>Advance pricing agreements (APAs): The law does not recognise the concept of APAs. However, issues can be decided under the provisions of advance rulings if necessary conditions are satisfied. In treaty cases, the issues can be taken under mutual agreement procedure.</p>
<p>Reduction in penalties: No penalty may be imposed if the assessee proves that there was reasonable cause for the failure. However, in the case of penalty consequent to re-determination by the tax authorities of arm's length principle (ALP) price, the assessee has to prove to the satisfaction of the tax authorities that the transaction value was computed in accordance with the provisions of the law and in the manner provided thereunder in 'good faith' and with 'due diligence'.</p>	<p>Burden of proof: In case of penalty proceedings the burden of proof is on the assessee.</p>

India

Documentation requirements:

Documentation is proscribed by law. Extensive documentation is required where the aggregate of international transactions with associated enterprises exceeds 10 million Indian rupees.

Principal differences with OECD Guidelines:

The transfer pricing regulations are largely based on OECD Guidelines.

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Indonesia

<p>Tax law:</p> <p>Income Tax Law No.10/1994 Article 18 paragraph (2) & (3) and VAT Law No.11/1994 Article 2 paragraph (1) & (2) (both Tax Laws are the amendment of the 1984 Tax Laws). The Income Tax Law has been amended by No.17/2000 and the latest by No.36/2008. The VAT Law has been amended by No.18/2000 and the latest amendment is still in the process.</p>	<p>Types of documentation required:</p> <p>Application on reduction of penalties on Tax Underpayment Assessment Letter or on the Tax Collection Notice attached with its assessment letter.</p>
<p>Regulations & rulings:</p> <p>DGT Circular Letter No. SE-04/PJ.7/1993 dated 9 March 1993. A new Income Tax Law implemented on January 2001 contains transfer pricing provisions in Article 18. Directorate of Tax Circular letter related to transfer pricing are: SE-01/PJ.7/2003 of April 1, 2003 (revised); SE-02/PJ.7/2005 of March 31, 2005; SE-10/PJ.04/2008 of December 31, 2008.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Three (3) months after the relevant tax assessment letter or its tax collection notice.</p>
<p>Interpretation of arm's length principle (ALP):</p> <p>Related Party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure:</p> <p>Applied for the companies quoted in Indonesia Domestic Rupiah (IDR) and US Dollar as required in the related Corporate Income Tax Return.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP, cost plus (CP) and sale minus, or resale price methods (RPM). If the above cannot be determined, comparable profits method (CPM) or ROI on similar business method must be applied.</p>	<p>Statute of limitations:</p> <p>Five (5) years as stipulated and according to the regulation on the carried forward losses.</p>
<p>Transfer pricing penalties:</p> <p>Penalty on tax underpayment as the product of tax audit, could apply for reduction as per Article 36 paragraph (1) of General Provision of Tax Law 1994.</p>	<p>Advance pricing agreements (APAs):</p> <p>Advanced Pricing Agreements (APA) can be made with the Indonesia tax authorities with a validity of 2 years. APAs are not made retrospectively.</p>
<p>Reduction in penalties:</p> <p>Penalty on tax underpayment as the product of tax audit, could apply for reduction as per Article 36 paragraph (1) of General Provision of Tax Law 1994.</p>	<p>Burden of proof:</p> <p>Indonesian tax authorities must prove the use of non-market values.</p>

Indonesia

Documentation requirements:

Taxpayer has to submit the penalty reduction application on its tax underpayment to the relevant tax office.

Principal differences with OECD Guidelines:

Indonesian tax authorities must prove the use of non-market values.

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Ireland

<p>Tax law: The Tax Consolidation Act of 1997 is the major tax law which governs direct taxation of income in Ireland.</p>	<p>Types of documentation required: There are no specific requirements but a legal agreement between parties is considered good practice.</p>
<p>Regulations & rulings: Ireland has not enacted comprehensive transfer pricing rules. There are some specific areas that have special rules concerning transactions between related parties such as artificial reductions in the profits of Irish branches or agencies of non-resident persons (Section 1036 of the Taxes Consolidation Act, 1997). There are also general features of Irish tax law, such as the criteria for the deductibility of trading expenses, that may apply to disallow payments that do not meet the arm's length principle (ALP).</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Interpreted in accordance with OECD Guidelines. The transaction would have the same effect as if it was undertaken between two unconnected people.</p>	<p>Return disclosure related party disclosure: There are no specific requirements.</p>
<p>Pricing methods priorities: There are no specific pricing methods, but application of the arm's length principle (ALP) and open market values are considered appropriate when dealing with related party transactions and are based on the OECD Transfer Pricing guidelines.</p>	<p>Statute of limitations: Four years, or in the case of fraud or neglect an assessment may be made any time.</p>
<p>Transfer pricing penalties: No specific provisions.</p>	<p>Advance pricing agreements (APAs): The competent authority for transfer pricing Mutual Agreement Procedures (MAPs) and Advance Pricing Agreements (APA) is: Director, Corporate Business and International Division, Office of the Revenue Commissioners, Stamping Building, Dublin Castle, Dublin 2, Ireland.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>

Ireland

Documentation requirements:

Ireland has no special requirements. However, it is expected that taxpayers keep adequate documentation to be able to justify their pricing arrangements as meeting the arm's length principle (ALP) in response to any transfer pricing audits.

Principal differences with OECD Guidelines:

There are no principal differences with OECD Guidelines.

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Isle of Man

<p>Tax law: Isle of Man has no specific transfer pricing guidelines, but instead has entered into Tax Information Exchange Agreements (TIEAs), bilateral agreements that have been signed to establish exchange of information for tax purposes, with a number of jurisdictions.</p> <p>The enactment of a TIEA is usually accompanied by an agreement for affording relief from double taxation with respect to individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises where conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: Not applicable.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Not applicable.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Not applicable.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: Not applicable.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Israel

<p>Tax law: Income Tax law, artical 85a.</p>	<p>Types of documentation required: Transfer price study, detailed agreement (not yet approved).</p>
<p>Regulations & rulings: None at this time, though regulations have been proposed (not yet approved).</p>	<p>Deadline to prepare and submit documentation: Within 60 days after requested by the tax authorities.</p>
<p>Interpretation of arm's length principle (ALP): The principle of market value.</p>	<p>Return disclosure related party disclosure: Related party disclosure is required.</p>
<p>Pricing methods priorities: Market price between non-related parties.</p>	<p>Statute of limitations: No specific provision.</p>
<p>Transfer pricing penalties: No specific provision. Tax audit adjustments may be carried out during a tax assessment.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Israeli Tax Authorities (ITA).</p>
<p>Reduction in penalties: No specific provision.</p>	<p>Burden of proof: After delivering the documentation, the burden of proof passes to the ITA.</p>
<p>Documentation requirements: All documentation related to the transaction and the pricing methodology.</p>	<p>Principal differences with OECD Guidelines: No differences.</p>

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Italy

<p>Tax law: Presidential Decree no. 917/1986 – Art. 109 and art. 110.</p>	<p>Types of documentation required: Written contract; cost at arm’s length; evidence that the service or the supply has been actually rendered; benefit to the subsidiary.</p>
<p>Regulations & rulings: Ministerial Circular no. 32/9/2267/1980; Ministerial Circular no. 42/12/1587/1981; Art. 8 Legislative Decree no. 269/2003; Provision 23 July 2004.</p>	<p>Deadline to prepare and submit documentation: Documentation should be available for any tax inspection.</p>
<p>Interpretation of arm’s length principle (ALP): Art. 9 Presidential Decree no. 917/1986.</p>	<p>Return disclosure related party disclosure: Transactions with blacklist countries to be disclosed in the income tax return.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method applicable. Subsidiary to CUP, resale price (RPM) and cost plus (CP). If the above cannot be determined, profit split (PSM); or comparable profits (CPM); or invested capital profit; or gross profit margin can be applied.</p>	<p>Statute of limitations: 31 December of the 4th year after the date when the return is filed.</p>
<p>Transfer pricing penalties: Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. In general, penalties from 100% to 200% of non-paid taxes are applicable.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Italian Tax Authorities only by the companies carrying out an international activity on specific matter (normal value, royalties, dividends, interests, other income components, inter-company charges, etc.). Validity for 3 financial years.</p>
<p>Reduction in penalties: If the assessment is totally or partially (within certain limits) accepted.</p>	<p>Burden of proof: Italian Tax Authorities must prove the use of non-market values.</p>
<p>Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection.</p>	<p>Principal differences with OECD Guidelines: Almost all OECD Guidelines are followed.</p>

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Jordan

<p>Tax law: Income Tax law No.57 of 1985 and related amendments. Article No.15, Paragraph E.</p>	<p>Types of documentation required: Statutory requirements are not established.</p>
<p>Regulations & rulings: Royal Decree, published in the official gazette, page 2751 of volume 4496 on 16 July 2001, effective 1 January 2002.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): If a person or persons who have common interests in a project or more carry out business or financial transactions between them and those projects or among those projects and such transactions are different from those conducted in the market and they result in reduction in taxable profits for any of them or any of those projects, such transactions shall be ignored and the real profits will be assessed according to the practices normally followed in the market.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Market value.</p>	<p>Statute of limitations: Four years following the year the transactions were recorded.</p>
<p>Transfer pricing penalties: No specific provision. Penalties will be reflected in the adjustments that may be carried out during income tax inspection.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: No statutory requirements, but original invoice and certificate of origin are required in income tax inspection.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Kazakhstan

<p>Tax law: Code of the Republic of Kazakhstan, law No. 209-II 'About Taxes and Other Obligatory Payments in the Budget', 12 June 2001; law No. 67-IV, 'On Transfer Pricing', dated 5 July 2008 (which came into effect on 1 January 2009).</p>	<p>Types of documentation required: Contracts describing the pricing and conditions of the agreement, together with a description of the pricing method used.</p>
<p>Regulations & rulings: As above.</p>	<p>Deadline to prepare and submit documentation: From the moment of the conclusion of the first contract with other companies.</p>
<p>Interpretation of arm's length principle (ALP): While the law introduces a new definition of the arm's length principle (ALP), it is generally not reflective of the spirit of OECD's original principle, focusing mainly on the transaction price rather than financial results of the transaction in general. This has the effect of restricting the application of this principle with respect to profit-based transactions methods (which were included in the new law). Furthermore, at present the new definition of 'market price' is unclear and further clarification is expected soon.</p>	<p>Return disclosure related party disclosure: Return disclosure related party disclosure should be carried out under arm's length principles (ALP).</p>
<p>Pricing methods priorities: Five pricing methods are permitted: comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); profit split (PSM); and net profit. Comparable uncontrolled price (CUP) is considered the foremost of these.</p>	<p>Statute of limitations: Three years from the time of a debt's incurrence.</p>
<p>Transfer pricing penalties: KZT 2,000 monthly, index linked. One month's counting index equals KZT 1,273.</p>	<p>Advance pricing agreements (APAs): There is no mechanism for establishing binding APAs.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The burden of proof is on the taxpayer to establish and document that dealings with related parties are on an arm's length principle (ALP) basis and penalties are levied for failure to do so.</p>

Kazakhstan

Documentation requirements:

Transaction participants are obliged to prepare documentation justifying transaction price. Reports on the monitoring of transactions are expected to be submitted to the tax authorities annually in accordance with established procedures for transactions concluded during the reporting period. For transactions and goods which are not subject to monitoring, taxpayers are expected to keep documentation justifying transaction prices and submit it to the respective tax authorities if requested.

Principal differences with OECD Guidelines:

While the main principles are similar to OECD, there are differences which are still being refined. Bylaws furthering articulating the new law (such as, 'On the Approval of Instructions for Conducting Control over Transfer Pricing in International Transactions' among others) are expected shortly.

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Kenya

<p>Tax law: Kenyan Laws CAP 470.</p>	<p>Types of documentation required: The transactions, subject to adjustment of prices under rules, shall include:</p> <ul style="list-style-type: none"> -The sale or purchase of goods -The sale, purchase or lease of tangible assets -The transfer, purchase or use of intangible assets -The provision of services -The lending or borrowing of money -Any other transactions which may effect the profit or loss of the enterprise involved.
<p>Regulations & rulings: None.</p>	<p>Deadline to prepare and submit documentation: None.</p>
<p>Interpretation of arm's length principle (ALP): Introduced 1 July 2006.</p>	<p>Return disclosure related party disclosure: Only required in the financial statements.</p>
<p>Pricing methods priorities:</p> <ul style="list-style-type: none"> -Comparable uncontrolled price (CUP): the transfer price in a controlled transaction is compared with prices in an uncontrolled transaction -Resale price (RPM): the transfer price is compared with the resale price at which the product is sold to an independent enterprise -Cost plus (CP): costs are assessed using the costs incurred by the supplier of a product and a mark-up added to make an appropriate profit -Transactional net margin (TNMM): net profit margin attained by a multinational enterprise is compared to the net profit that would have been earned in a comparable transaction by an independent enterprise. 	<p>Statute of limitations: None.</p>
<p>Transfer pricing penalties: The current provisions of the Income Tax Act relating to fraud, failure to furnish returns and underpayment of tax are applicable with respect to transfer pricing.</p>	<p>Advance pricing agreements (APAs): None.</p>
<p>Reduction in penalties: None.</p>	<p>Burden of proof: Kenya Revenue Authority.</p>

Kenya

Documentation requirements:

None. Documents are required to be available for inspection for at least a period of 8 years.

Principal differences with OECD Guidelines:

None.

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Korea, Republic of

<p>Tax law: Law for Coordination of International Tax Affairs.</p>	<p>Types of documentation required: The following are required annually as part of the tax return: -Transfer pricing method selected and the reason for the selection -Schedule of related party transactions by related party, type of transaction, and amount of transaction -Condensed P&L of overseas parties.</p>
<p>Regulations & rulings: Presidential Enforcement Decree, Ministerial Enforcement Ordinance, Notice of NTS.</p>	<p>Deadline to prepare and submit documentation: Within 3 months of the end of each fiscal year as part of the annual tax return.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: No specific requirements.</p>
<p>Pricing methods priorities: Comparable profits (CUP); resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM); and other reasonable methods are accepted by the National Tax Service.</p>	<p>Statute of limitations: Five years.</p>
<p>Transfer pricing penalties: 10% - 30% penalty for under-reported taxable income.</p>	<p>Advance pricing agreements (APAs): Unilateral and bilateral are available under the LCITA and Presidential Enforcement Decree.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof:</p>
<p>Documentation requirements: No specific requirements.</p>	<p>Principal differences with OECD Guidelines: Almost all OECD Guidelines are followed but according to the LCITA, comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP) have priority over profit split (PSM); transactional net margin (TNMM), and other reasonable methods.</p>

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Kuwait

<p>Tax law: Kuwaiti income tax decree #3 of 1955 (14 articles).</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: Kuwaiti income tax decree #3 of 1955, its amendments, and interpretations issued till 2002.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Decree 108 (1976) concerns exempting Arab and foreign airlines of income tax if Kuwaiti airlines receive likewise treatment by countries of those companies. Interpretations are: -Completely foreign contracting company, located and working in Kuwait, is allowed to deduct 3.5% from its direct revenue, net of subcontractors' work, and add this percent to its other expenses -Joined entities, Kuwaiti and foreign, work in Kuwait. Having a share in a Kuwaiti company, they are allowed to deduct 2% from direct revenue, net of subcontractors' work, and add this percent to other expenses. -Insurance company, working in Kuwait, is allowed to deduct 3.5% from its net premium revenues (that's direct premiums minus its re-insurance-type policy share plus collected insurance commissions) to add this percent to its other expenses.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Cost + mark-up method (widely used); mark-up in some cases represents an OH. Comparable profit method (of situated unrelated party).</p>	<p>Statute of limitations: -For a tax return submission, the deadline is 15th of the 4th month of the year following taxable year -For the taxpayer protesting the tax-return amount defined, 60 days period from the date the taxpayer is acquainted with tax amount due, otherwise the tax balance would be payable immediately within the subsequent next 30 days -Tax authority has 90 days to arbitrate a taxpayers protest from the date of tax submitting; if the authority does not answer within this 90-day period, the protest is rejected.</p>

Kuwait

Transfer pricing penalties: Not defined across the Kuwaiti income tax decree, its amendments, and interpretations till 2002.	Advance pricing agreements (APAs):
Reduction in penalties: Not applicable.	Burden of proof: The taxpayer.
Documentation requirements: Not applicable, but if any, examples may include: -F/Ss and YE trial balance -YE inventory lists -Fixed assets schedule having date of purchase, asset cost, depreciation expense and rates, additions, disposals -Shipping documents -Price lists.	Principal differences with OECD Guidelines: Not applicable.

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Latvia

<p>Tax law: Corporate Income Tax law 09.02.1995, article 12.</p>	<p>Types of documentation required: Contracts, custom declarations, waybills, bill of lading and others.</p>
<p>Regulations & rulings: Tax law 02.02.1995, article 23; Regulations of the Cabinet of Ministers of the Republic of Latvia #556, article 83-94; Regulations of the Cabinet of Ministers of the Republic of Latvia #927.</p>	<p>Deadline to prepare and submit documentation: Documentation must be prepared by the end of April of the year following the fiscal year. Deadline to prepare is four months after the fiscal year is over.</p>
<p>Interpretation of arm's length principle (ALP): Tax law 02.02.1995, article 1.</p>	<p>Return disclosure related party disclosure: The taxpayer has to provide relevant information in financial reports of company and in corporate income tax declaration appendix #2.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); reasonable margin method; cost plus (CP).</p>	<p>Statute of limitations: According to corporate tax legislation, 3 years.</p>
<p>Transfer pricing penalties: No specific penalties for transfer pricing. Fines for taxpayers who avoid paying taxes or for providing incorrect information.</p>	<p>Advance pricing agreements (APAs): APAs can be made with Latvian State Revenue Service and between countries.</p>
<p>Reduction in penalties: Tax law 02.02.1995, article 33.</p>	<p>Burden of proof: Latvian State Revenue Service must prove the use of non-market prices.</p>
<p>Documentation requirements: Full transfer pricing documentation includes: industry analysis; enterprise (group) analysis; function and risk analysis; economical analysis (transfer pricing method choice and bench marketing); financial analysis.</p>	<p>Principal differences with OECD Guidelines: All OECD Guidelines are followed.</p>

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Lebanon

<p>Tax law: Lebanese Department of Income Tax (DIT). Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments, Article 15).</p>	<p>Types of documentation required: The deduction of management support provided by a non-Lebanese related party (non-resident related party) to a Lebanese entity would require certain written documentation. These documents should be made available by the taxpayer at any time to the inspectors of the Department of Income Tax (DIT). Laws set maximum limits for support expenses provided by the non-resident related party to be allowed as a tax-deductible expenses.</p>
<p>Regulations & rulings: Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments, Article 15).</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (Article 15 of Law #144).</p>	<p>Return disclosure related party disclosure: According to the Lebanese Code of Commerce (Article 158), the statutory auditors (in conjunction with their audit) are required to prepare an annual special report on related party transactions. These transactions should be approved by the general assembly.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary applicable method. Alternatives are resale price (RPM) and cost plus (CP).</p>	<p>Statute of limitations: Four years from last filing deadline.</p>
<p>Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments (in case of understatement of taxable profits) will carry a penalty of 12% per month applied on the adjustment, starting the month of June following the year filed.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The Lebanese Tax Authorities (DIT) must prove the use of non-market values.</p>

Lebanon

Documentation requirements:

No statutory requirements. However, documentation will be needed for defence in case of tax inspection. Special rules apply to management support expenses.

Principal differences with OECD Guidelines:

Almost all OECD Guidelines are followed, despite the fact that Lebanese tax laws do not cover in detail the transfer pricing transactions.

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Lithuania

<p>Tax law: Lithuanian law on corporation income tax 2001-12-20, No. IX-675.</p>	<p>Types of documentation required: Controlled transfer pricing documentation provided in the form in which they were concluded, if this form allows, without additional evidence, the reliability of the information to be established.</p>
<p>Regulations & rulings: Government Act 2003-12-09 No. 1575.</p>	<p>Deadline to prepare and submit documentation: Controlled transfer pricing documentation must be submitted to the tax authorities within 30 days after the call.</p>
<p>Interpretation of arm's length principle (ALP): Government Order 2004 04 09, No. 1K-123. The principle that controls the transaction price does not differ from the actual market price, and profits earned or revenues resulting from the control transaction, do not differ from the profit (income), that would be earned after the transaction at fair market price.</p>	<p>Return disclosure related party disclosure: Information about related party transactions should be stated in notes to financial statement.</p>
<p>Pricing methods priorities: Taxpayers are required to use at least one of five methods proscribed in the legislation. These include: independent comparative price; resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM).</p>	<p>Statute of limitations: As for all taxes, 3 years after the year-end in which the obligation arose.</p>
<p>Transfer pricing penalties: Lithuanian Tax Administration Law 2004 04 13 No. IX-2122, Article 139. The penalty for a reduction in tax payable: if the tax administrator determines that the taxpayer has not calculated undeclared, or has not declared the declared tax illegal, or has applied a lower tax rate, and for these reasons illegally reduced the tax payable, the taxpayer is chargeable for the missing amount. Between 10% and 50% from the missing amount is the amount of the fine, if the tax law does not stipulate otherwise. The specific amount of the fine depends on the nature of the infringement; whether the taxpayer has collaborated with the tax administrator and recognised the violations of tax laws and other circumstances.</p>	<p>Advance pricing agreements (APAs): Lithuanian Tax Administration Law 2004-04-13 No. IX-2112, Article 68. The taxpayer and tax administrator can calculate or recalculate tax for not more than the current calendar year plus the past five calendar years, calculated from 1 January back from the year when the tax starts to calculate or recalculate.</p>

Lithuania

Reduction in penalties:

Lithuanian Tax Administration law 2004 04 13 No.IX-2122. Article 141. Immunity: 1. If the taxpayer demonstrates that he is not guilty of the infringement; if the breach of circumstances is beyond what the taxpayer did and could foresee; where the taxpayer owns activities, although in breach of tax law, where the national budget is not damaged; when the taxpayer violates the law on the erroneous explanation of a general tax law, or a tax administrator wrote incorrect advice on tax issues.

Article 142. Mitigating penalties legislation:

Legislation allows for the penalty to be reduced or abolished, subject to tax laws and the violations made. The taxpayer can appeal against the tax administrator's decision.

Documentation requirements:

Controlled transfer pricing documentation must include significant transaction for pricing information available to the taxpayer at the time of the transaction. However, the documents may be submitted, with subsequent information, provided they disclose controlled significant transfer pricing considerations.

The parties must fully disclose the transaction between the parties legal and/or economic ties; the transaction price at the time; information on the controlled transaction; information about the use of transfer pricing methods; and other information which, in the taxpayer's view, shows significant transfer pricing considerations.

Burden of proof:

Tax authorities must prove the use of non-market values.

Principal differences with OECD Guidelines:

Regulations are based on OECD Guidelines.

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Luxembourg

<p>Tax law: Luxembourg Tax Administration Law 04.12.1967 amended EU Directive 69/335.</p>	<p>Types of documentation required: No specific types of documentation required. It is recommended to have a written transfer pricing contract, including a comprehensive reference to current market conditions.</p>
<p>Regulations & rulings: Income Tax Law articles 56, 97 (1) and 164 (3). The arm's length principle (ALP) is generally applicable; the law does not contain any specific guidelines nor regulations. Tax Administration has not issued any specific guidelines or regulations.</p>	<p>Deadline to prepare and submit documentation: Preparation deadline should be in line with tax return. Within 6 months of fiscal year, and submission deadline is within 30 days of request.</p>
<p>Interpretation of arm's length principle (ALP): OECD Guidelines.</p>	<p>Return disclosure related party disclosure: Detailed information on related parties involved in related party transactions should be attached to the tax return.</p>
<p>Pricing methods priorities: Preference is cost plus (CP), but acceptable are: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM).</p>	<p>Statute of limitations: No specific limitation. In case of new elements, 5 years from initial assessment.</p>
<p>Transfer pricing penalties: Only general tax penalties. Withholding tax may apply to transactions that are determined to be hidden profit distribution (penalty up to 10% of tax due). Additionally, interest for late payments of 0.6% per month may be charged on tax due and penalties.</p>	<p>Advance pricing agreements (APAs): No specific rules. Tax authorities may express an opinion on transfer prices used. Advanced ruling is recommended.</p>
<p>Reduction in penalties: No specific provisions.</p>	<p>Burden of proof: Luxembourg tax authorities must prove the use on non-market values.</p>
<p>Documentation requirements: No specific documentation required, but it is recommended to retain justification for each transaction.</p>	<p>Principal differences with OECD Guidelines: Generally, tax authorities follow OECD Guidelines.</p>

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Malaysia

<p>Tax law: Section 140 and Section 140A of Income Tax Act, 1967.</p>	<p>Types of documentation required: Global group structure, nature of business, controlled transactions with specific information on Malaysian party, assumptions, strategies, policies comparability, functional & risk analysis, selection and application of transfer pricing method, background documents and any other information relevant to determination of arm's length principle (ALP) price.</p>
<p>Regulations & rulings: Transfer Pricing Guidelines issued by IRB on July 2003.</p>	<p>Deadline to prepare and submit documentation: No statutory requirement for annual filing of documentation.</p>
<p>Interpretation of arm's length principle (ALP): OECD Model.</p>	<p>Return disclosure related party disclosure: Related companies transaction must be disclosed in the audited accounts.</p>
<p>Pricing methods priorities: To be released soon.</p>	<p>Statute of limitations: Six years if there is no fraudulent intent otherwise no limitation.</p>
<p>Transfer pricing penalties: If companies make no attempt to comply with arm's length principle (ALP).</p>	<p>Advance pricing agreements (APAs): To be released soon.</p>
<p>Reduction in penalties: As provided in the Transfer Pricing Guidelines</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: No specific provisions. However, documentation will be in your favour.</p>	<p>Principal differences with OECD Guidelines: Adopted all OECD Guidelines.</p>

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Malta

<p>Tax law: No specific reference to transfer pricing in Maltese Companies Act. Tax legislation exists.</p>	<p>Types of documentation required: Hard copies of fiscal documents are required to support all transactions eg: invoices, credit notes, etc.</p>
<p>Regulations & rulings: No specific reference to transfer pricing in Maltese Companies Act. Tax legislation exists.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): No specific reference to Transfer Pricing in Maltese Companies Act. Tax legislation exists.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: All methods are allowed as no specific reference to transfer pricing in Maltese legislation exists.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: Hard copies of fiscal documents are required to support all transactions eg: invoices, credit notes, etc.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Mauritius

<p>Tax law: Mauritius Income Tax Act 1995.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: There is no transfer pricing legislation.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): In the case of a business controlled by a non-resident, or carried on by a non-resident company, Section 75 of the Income Tax Act contains a general provision whereby the Commissioner of Income Tax may determine the net income of the business, if he is not satisfied that transactions were carried out on an arm's length principle (ALP) basis.</p>	<p>Return disclosure related party disclosure: Disclosures required in financial statements in accordance with International Accounting Standards.</p>
<p>Pricing methods priorities: Not applicable.</p>	<p>Statute of limitations: Four years from last filing deadline.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): There is no transfer pricing legislation.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: See below.</p>
<p>Documentation requirements: Documentation will be needed to support arm's length principle (ALP) arrangements in the case of a tax investigation.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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Mexico

<p>Tax law: General Law for Income Tax (Ley General del Impuesto sobre la Renta) Article: 215, 216.</p>	<p>Types of documentation required: All related parties' transactions revenues and deductions, and informative declaration with related parties.</p>
<p>Regulations & rulings: Income Tax law Article 215 and 216, former 64-A.</p>	<p>Deadline to prepare and submit documentation: Must be disclosed by the auditors in the annual tax report (dictamen fiscal).</p>
<p>Interpretation of arm's length principle (ALP): The principle of full competence is mentioned in the Article 215 of the above law.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); added cost; profit sharing; residual profit sharing; revenue profit transactions limits.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: If the fiscal authorities determine the omission of tax after the transfer pricing study, then the penalties are: the omitted tax and its actualisation; surcharges; a fine between 70% and 100% of the omitted tax.</p>	<p>Advance pricing agreements (APAs): APAs are used to obtain from the tax authorities a favourable resolution for the used methodology. APAs could derive from an agreement with another country to avoid double tax payment.</p>
<p>Reduction in penalties: If the taxpayer has proof that transfer pricing study will be granted, then they get a reduction of 35% to 50% of the omitted tax.</p>	<p>Burden of proof: The fiscal authorities must prove the use of non-market values that are against the principle of full competence.</p>
<p>Documentation requirements: Transactions declaration with related parties, supported by any fiscal authority revision.</p>	<p>Principal differences with OECD Guidelines: All OECD Guidelines are followed.</p>

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Morocco

<p>Tax law: Article 213-II of the Moroccan "Code General des Impôts" (C.G.I) - Livre II " Fiscal Procedures" relating to the discretion of the administration (arm's length); Article 214-III of the Moroccan C.G.I – livre II "Fiscal Procedures" on the right of communication and information exchange.</p>	<p>Types of documentation required: The Tax Administration may ask the taxable company in Morocco to communicate and provide information and documents concerning:</p> <ul style="list-style-type: none"> -The nature of relations between the taxable company in Morocco and the one outside of Morocco -The nature of services rendered or products marketed -The method of determination of price transactions between the said companies and the factors justifying them -The tax regime and rate for companies located outside of Morocco.
<p>Regulations & rulings: As above.</p>	<p>Deadline to prepare and submit documentation: The company has 30 days to release information to the tax administration, if requested. If no answer is received or the response does not satisfy the required elements demanded, the dependency factor between these companies will be assumed by default.</p>
<p>Interpretation of arm's length principle (ALP): International group companies must fix the price of their internal transactions as intra parties would do for identical transactions; this principle also applies to domestic group companies.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Article 213-II provides for a correction in profits indirectly transferred; determined by comparing profits of similar companies or through direct assessment on the basis of information available to the administration.</p>	<p>Statute of limitations: Generally 31 December of the 4th year following the current financial year.</p>
<p>Transfer pricing penalties: No specific penalty. Standard penalties are:</p> <ul style="list-style-type: none"> -Punitive rate: 15%, or 100% in case of fraudulent operations with a 10% surcharge -Late payment: 5% on the first month; 0.5% on each additional month. 	<p>Advance pricing agreements (APAs): Not applicable.</p>

Morocco

Reduction in penalties:

Late payment penalties and interest is generally not negotiable. Companies may ask for a total or partial waiver of penalties; the tax authorities decision is discretionary.

Documentation requirements:

No statutory requirement, however, all transactions should be documented for justification purposes in case of a tax inspection.

Burden of proof:

Moroccan tax authorities must prove that the parties are related; the transfer of earnings and the dependence law or facts are motivated by the tax administration in case of recovery.

Principal differences with OECD Guidelines:

Practice generally follows OECD recommendations except in the method of price determination; Morocco retains only the method by comparison of similar companies.

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Netherlands

<p>Tax law: Dutch Corporation Tax law 1969, Article 8b.</p>	<p>Types of documentation required: Not specified. An appropriate support can be based on: functional analysis/fact finding; contracts; market policy/strategy.</p>
<p>Regulations & rulings: Decree 2001/295M; Decree 2004/680M.</p>	<p>Deadline to prepare and submit documentation: Sufficient documentation must be available, preferably before transactions start (see 'burden of proof').</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Every person liable for corporation income tax.</p>
<p>Pricing methods priorities: Traditional transaction methods: comparable uncontrolled price (CUP); resale price (RPM) (distributors); cost plus (CP) (manufacturers). Other (transactional profit) methods: profit split (PSM); transactional net margin (TNMM), or comparable profits (CPM) in US.</p>	<p>Statute of limitations: Five years after the filing deadline.</p>
<p>Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection for the use of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Dutch tax authorities. APAs can be made for the future and retrospectively. Also possible: an Advanced Tax Ruling (ATR) ie: an agreement on the characterisation of international corporate structures. Standard rulings have been developed for: -Holding-activities -Finance-activities -License-activities -Financing permanent establishments.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: If there is no documentation the tax authorities can reject the transfer prices (reversed onus of proof).</p>
<p>Documentation requirements: The documentation requirement is part of the administration. An appropriate support is required.</p>	<p>Principal differences with OECD Guidelines: None.</p>

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New Zealand

<p>Tax law:</p> <p>Income Tax Act 2007. Sections GC6 to GC14, GB2 and YD5. Tax Administration Act 1994. Sections 22, 91A to 91G, 141A to 141EB, 141FB and 141G to 141K.</p>	<p>Types of documentation required:</p> <p>In a tax audit the Inland Revenue expects to see: detailed discussion of facts, analysis of functions, risks and assets especially intangibles; industry analysis; consideration of associated party transactions; efforts made to find internal comparables; description of process of selecting best transfer pricing method; details of comparables search undertaken; why companies selected are comparables; unadjusted income statement for each comparable with adjustments explained; cross-check using at least a second profit level indicator; conclusions and copies of all inter-company agreements; as well as local and global corporate structures. Details of any special circumstances. Working papers including calculations using the selected method. Supporting data and information.</p>
<p>Regulations & rulings:</p> <p>Inland Revenue has issued guidelines to be read in conjunction with the legislation. The Inland Revenue Department considers that the guidelines supplement rather than replace the OECD Guidelines. Refer also to the Australian transfer pricing rulings and the United States s 482 transfer pricing regulations. See Tax Information Bulletin Vol 12, No 10, October 2000, Appendix. The Inland Revenue can make APAs under its power to make binding rulings.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Document when the transaction occurs or at least by the time the relevant tax return is filed. No documentation needs to be filed with the tax return but must be at hand in case of a tax audit.</p>
<p>Interpretation of arm's length principle (ALP):</p> <p>Standard adopted by OECD and New Zealand legislation for regulating cross-border associated party transactions by members of Multinational Enterprises (MNEs).</p>	<p>Return disclosure related party disclosure:</p> <p>Disclosure 33: Payments to non-resident, and Disclosure 37: Is the company controlled or owned by non-residents? Note: Related party transactions need to be disclosed in the financial statements.</p>
<p>Pricing methods priorities:</p> <p>Taxpayers are required to use at least one of five methods proscribed in legislation. These include transactional-based methods: comparable uncontrolled price (CUP), resale price (RPM), and cost plus (CP); and profit-based methods: profit split (PSM) and comparable profits (CPM).</p>	<p>Statute of limitations:</p> <p>Records must be retained for 7 years, extended to 10 years if Inland Revenue advises of an audit. Inland Revenue may not amend an assessment 4 years after the end of a year in which the return was filed. No limitation if the Commissioner considers the tax return to be fraudulent or wilfully misleading.</p>

New Zealand

Transfer pricing penalties:

Penalties can be imposed under the general penalties provisions:

- Lack of reasonable care 20%
- Unacceptable tax position 20%
- Gross carelessness 40%
- Abusive tax position 100%
- Evasion 150%.

These penalties can be increased by 25% for obstruction.

Reduction in penalties:

Unacceptable tax position or unacceptable interpretation penalties can be reduced by 100% and other penalties reduced by 75%, if disclosure is made before notification of an audit is received from the Commissioner. Each penalty may be reduced by 40% if disclosure is made after notification of an audit.

Documentation requirements:

Every person that carries on a business in New Zealand is required to keep full financial and tax records for 7 years. Transfer pricing documentation is not specifically described, however, the documents listed under 'Types of documentation required' should be retained for 7 years.

Advance pricing agreements (APAs):

The Inland Revenue has not established a formal process for obtaining an APA. This is because each application is unique. Legislation allows for unilateral APAs to be issued in the form of a binding ruling and bilateral and multilateral APAs may be entered into pursuant to New Zealand's double tax treaties. To 31 December 2008 Inland Revenue completed 40 APAs and 5 were in progress. Most of New Zealand's bilateral work is with Australia but APAs have also been completed with Japan, Switzerland and the United States.

Burden of proof:

The regime is moderate in placing the burden of proof on the Commissioner to demonstrate a more reliable arm's length principle (ALP) amount, provided there has been co-operation in the provision of requested relevant information.

Principal differences with OECD Guidelines:

No principle differences, though Inland Revenue guidelines have been issued to supplement the OECD Guidelines. Refer to Tax Information Bulletin Vol 12, No 10, October 2000, Appendix.

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Nigeria

<p>Tax law: Companies Income Tax Act (CITA) Cap C21 Laws of the Federation of Nigeria 2004.</p>	<p>Types of documentation required: Audited financial statements; tax return of global income of permanent establishment in Nigeria.</p>
<p>Regulations & rulings: The profits of a company other than a Nigerian company from any business are deemed to be derived from Nigeria where the business is between the company and another person controlled by it or which has a controlling interest in it, and conditions are made or imposed between the company and such person in their commercial or financial relations which in the opinion of the Federal Inland Revenue Service (FIRS) is deemed to be artificial or fictitious. So much of the profit adjusted by the FIRS is to reflect arm's length principle (ALP) transaction.</p>	<p>Deadline to prepare and submit documentation: Six months after financial year-end.</p>
<p>Interpretation of arm's length principle (ALP): Any transaction which, in the opinion of the FIRS, reduces or would reduce the amount of any tax payable is artificial or fictitious – and therefore not done at arm's length.</p>	<p>Return disclosure related party disclosure: Global income – earned in Nigeria plus earned elsewhere – of permanent establishment in Nigeria.</p>
<p>Pricing methods priorities: Comparable uncontrolled (CUP); resale price (RPM); cost plus (CP); safe harbour.</p>	<p>Statute of limitations: Six years.</p>
<p>Transfer pricing penalties: Tax due if transactions were not treated as at arm's length - at company income, personal income, education, value added or withholding tax rates, whichever is applicable.</p>	<p>Advance pricing agreements (APAs): Subject to approval by the Federal Inland Revenue Service.</p>
<p>Reduction in penalties: Subject to appeal process for other tax assessments.</p>	<p>Burden of proof: Taxpayer – permanent establishment in Nigeria.</p>
<p>Documentation requirements: Annual filing of audited financial statements and tax returns of permanent establishment in Nigeria</p>	<p>Principal differences with OECD Guidelines: No formal guidelines adopted for general application. Each double taxation agreement is a blend of 4 models – OECD, UN, Nigeria, and the other contracting party. The Nigerian model is closest to the UN model.</p>

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Norway

Tax law:

The arm's length principle (ALP) is stated in § 13-1 of the General Taxation Act, and the transfer pricing filing and documentation requirements are stated in the Tax Administration Act § 4-12.

Regulations & rulings:

In June 2007, the Norwegian Parliament adopted new transfer pricing regulations, which came into effect in January 2008. The new requirements require all companies subject to the requirements to submit an additional form with tax returns related to fiscal year 2007 and after.

Interpretation of arm's length principle (ALP):

The Norwegian tax authority has a long history of following the OECD Transfer Pricing Guidelines and Norwegian regulations follow OECD principles. Documentation prepared in line with the OECD Guidelines will generally meet Norwegian requirements.

The Norwegian General Tax Act § 13-1 gives the OECD guidelines a strong and formal status under Norwegian Tax Law. However, OECD chap. IV (Administrative Approaches to Avoiding and Resolving Transfer Pricing Disputes) and chap. V (Documentation) are not included. The status of the OECD Guidelines is limited to that of guidance and do not constitute binding rules.

Types of documentation required:

The filing requirement is an attachment to the annual tax return (Form RF-1123), which includes a statement of all intercompany transactions. The form will serve as a basis for the tax authorities when targeting transfer pricing tax audits.

Deadline to prepare and submit documentation:

Transfer pricing documentation must be submitted within 45 days after a request by the tax authorities. All documentation must be retained for 10 years.

Return disclosure related party disclosure:

The filing requirement is an attachment to the annual tax return (Form RF-1123) which includes a statement of all intercompany transactions. The form will serve as a basis for the tax authorities when targeting transfer pricing tax audits.

Norway

Pricing methods priorities:

The OECD pricing methods are accepted by the Norwegian tax authority. The traditional transaction methods (CUP, RPM and Cost Plus) are generally preferred to the transactional profit methods (TNMM and Profit Split) There seems to be increasing support for the applicability of the profit methods under certain circumstances.

There is no specified priority under Norwegian tax law, but reference is often made to the OECD hierarchy. As stated by the Norwegian Supreme Court, the Norwegian General Tax Act § 13-1 allows for the use of several transfer pricing methods, including methods not described by the OECD Guidelines, provided those methods will provide arm's length principle (ALP) results.

Transfer pricing penalties:

Transfer pricing penalties (surtax) range from 15% to 45% based on tax adjustments. In case of gross negligence, a surtax of up to 60% may be levied. However, the normal surtax rate is 30%. Additionally, a non-deductible interest charge will apply per year.

Failure to comply with the filing requirement (described below) will carry the same penalties and risk as failure to complete the annual tax return. The same is applicable if the documentation is not submitted within the deadline.

Reduction in penalties:

A 30% penalty is normal: however, the penalty may be reduced or even eliminated if proper documentation has been prepared. Disclosure in the tax return will, in principle, relieve penalties, as the tax authorities will then have been informed and may further investigate the transfer pricing case.

Statute of limitations:

The general statute of limitations for tax assessments in Norway states that issues regarding the tax return cannot be raised more than 10 years after the end of the income year. Transfer pricing documentation must therefor be retained and stored for at least 10 years. The deadline is three years for changes of the tax return based on the tax authority's discretionary assessments, of the interpretation of the tax legislation, if the tax return filed is correct and complete. The statute of limitations is two years if any adjustment(s) is against the taxpayer, provided the taxpayer has not given incorrect or incomplete information to the tax authority.

Advance pricing agreements (APAs):

APAs on transfer pricing assessments are currently unavailable. There is one exemption for transfer pricing on the sale of gas under the Norwegian Petroleum Tax Act.

Burden of proof:

The taxpayer.

Norway

Documentation requirements:

Taxpayers are obliged to prepare transfer documentation that describes how the transfer prices have been established between associated enterprises. The documentation needs to include sufficient information that would enable the Norwegian tax authority to evaluate the arm's length nature of the transfer prices applied between associated enterprises. Both cross-border and domestic transactions are covered.

Principal differences with OECD Guidelines:

See previous.

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Pakistan

<p>Tax law: Income Tax Ordinance 2001, Section 108.</p>	<p>Types of documentation required: No specific requirement.</p>
<p>Regulations & rulings: Rules 20 to 27 of Income Tax Rules 2002.</p>	<p>Deadline to prepare and submit documentation: Normally, one month is allowed for submission of information.</p>
<p>Interpretation of arm's length principle (ALP): A controlled transaction shall meet the arm's length principle (ALP) standard if the result of the transaction is consistent with the result (referred to as the arm's length result) that would have been realised if an uncontrolled person had engaged in the same transaction under the same conditions.</p>	<p>Return disclosure related party disclosure: No specific requirement.</p>
<p>Pricing methods priorities: Arm's length principle (ALP) price may be determined using the following: (a) Comparable uncontrolled price (CUP) (b) Resale price (RPM) (c) Cost plus (CP) (d) Profit split (PSM). The tax authorities are empowered to choose between (a), (b) & (c) having regard to facts and circumstances of the case; (d) is applied only when arm's length principle (ALP) results cannot be reliably determined under (a), (b) and (c).</p>	<p>Statute of limitations: Six years from the date of the filing the return.</p>
<p>Transfer pricing penalties: No specific penalty, except if the taxpayer's reply to a formal request for information by the tax authorities is either nil or insufficient, a Rs. 10,000 penalty per failure is applicable.</p>	<p>Advance pricing agreements (APAs): No formal APAs programme.</p>
<p>Reduction in penalties: There is no specific provision.</p>	<p>Burden of proof: Pakistan Tax Authorities.</p>

Pakistan

Documentation requirements:

No statutory requirement, although all transactions should be documented (including legal, accounting and business papers) for justification purposes for a tax audit.

Principal differences with OECD Guidelines:

Transfer pricing regulations are largely based on OECD Guidelines.

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Peru

<p>Tax law: SUNAT - Supervision of Tributary Administration.</p>	<p>Types of documentation required: Dependent on transaction amount. If conditions demand the preparation of a transfer pricing study, it should be submitted to SUNAT (who reserve the right to review accounting records at any time).</p>
<p>Regulations & rulings: Tax revenue law, article 32.</p>	<p>Deadline to prepare and submit documentation: Published annually by SUNAT.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law cited previously).</p>	<p>Return disclosure related party disclosure: Not applicable, though certain forms may be required.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); residual profit split; transactional net margin (TNMM) methods. The law allows a variety of methods from which to select in accordance with the particulars of the deal.</p>	<p>Statute of limitations: Four years.</p>
<p>Transfer pricing penalties: If SUNAT detect the price is lower than the market, they will recalculate arbitrarily and additional taxes will be levied.</p>	<p>Advance pricing agreements (APAs): Taxpayers may agree APAs with the Peruvian Tributary Administration to establish market value.</p>
<p>Reduction in penalties: Not applicable</p>	<p>Burden of proof: Peruvian tax authorities must prove the use of non-market values.</p>
<p>Documentation requirements: Certain forms are required for transactions between related companies of more than 200,000 soles. Transactions of more than 1 million soles require the preparation of a transfer pricing study.</p>	<p>Principal differences with OECD Guidelines: Transfer Pricing Regulations are based on OECD Guidelines.</p>

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Poland

<p>Tax law: Legal Entities Tax Act as of 15.02.1992, art.9a and 11. Tax Ordinance Act as of 29.08.1997 art.20a-20q.</p>	<p>Types of documentation required:</p> <ul style="list-style-type: none"> -Description of functions of parties of transaction -Description of all expected costs and terms of payments -Methods and way of profit calculation and determination of price -Determination of economic strategy if it influences price -Determination of other possible factors -In case of non-material services - determination of expected profits.
<p>Regulations & rulings: Ministry of Finance Regulation as of 10.10.1997. Ministry of Finance Regulation as of 31.05.2006.</p>	<p>Deadline to prepare and submit documentation: Taxpayers must present such documentation within 7 days of the request of the tax authorities.</p>
<p>Interpretation of arm's length principle (ALP): Legal Entities Tax Act as of 15 February 1992, art. 11. If related parties conclude transactions on terms that differ from market practice and, in consequence, the Polish entity discloses a lower taxable income than it would be otherwise have disclosed, the taxable income of the entity will be adjusted in accordance with the arm's length principle (ALP).</p>	<p>Return disclosure related party disclosure: Information about related party transactions should be stated in notes to financial statements. Together with the annual tax return, taxpayers should prepare special information for tax authorities when:</p> <ul style="list-style-type: none"> -Total amount of transactions with foreign related party exceeds 300,000 Euros -Total amount of transaction exceeds 5,000 Euros if foreign party has also representative office or permanent establishment in Poland.
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); reasonable margin; cost plus (CP). If use of these methods is not possible, transactional net margin (THMM) is used.</p>	<p>Statute of limitations: As for all taxes, 5 years after end of year in which obligation arose.</p>
<p>Transfer pricing penalties: There are no special penalties besides a higher tax rate. The difference between the profit declared by the taxpayer and the profit defined by the authorities may be subject to 50% taxation.</p>	<p>Advance pricing agreements (APAs): Bases on Tax Ordinance regulations it is possible to make agreement with tax authorities. Validity: maximum 3 years. APAs cannot be made retrospectively. Details in above regulations.</p>

Poland

Reduction in penalties:

Not applicable.

Documentation requirements:

When the total amount arising from the contract or the amount due (and actually paid) in the tax year exceeds:

- 100,000 Euros – if the value of the transaction does not exceed 20% of the share capital defined in accordance with the regulations of thin capitalisation, or
- 30,000 Euros – with respect to services, sales or use of intangibles, or
- 5,000 Euros – in all other cases.

Burden of proof:

Tax authorities must prove the use of non-market values.

Principal differences with OECD Guidelines:

Regulations are based on OECD Guidelines.

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Portugal

<p>Tax law: Article 58 of the Portuguese Corporate Income Tax Code.</p>	<p>Types of documentation required: Organisation structure; related parties status; description of the company's activity and of the related companies; description of transactions; amounts and conditions of the transactions; functional and technical analysis; description of the method used and the reason of its use; demonstration of prices' calculation; comparables (using databases, of which the Iberian SABI is the most recognised); intra-group contractual agreements and unrelated parties' agreements.</p>
<p>Regulations & rulings: Administrative Decree 1446-C/2001 of 21 December 2001.</p>	<p>Deadline to prepare and submit documentation: When the fiscal year is equal to the calendar year the documentation must be prepared by the end of June of the following year; the deadline for preparation is the sixth month after the tax year-end. Only the taxpayers subject to tax inspection are obliged to submit the fiscal documentation. Auditors should include a reserve in the Legal Certification of Accounts in case of non-preparation of obligatory documentation.</p>
<p>Interpretation of arm's length principle (ALP): Related parties legislation and regulations (described above).</p>	<p>Return disclosure related party disclosure: The main disclosure requirements are contained in annexes A and H of the Annual Declaration of Accounting and Fiscal Information. The deadline to submit the declaration is the sixth month after the tax year-end.</p>
<p>Pricing methods priorities: The tax authorities prefer the use of traditional transaction-based methods (in order): comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP). Profit-based methods, although recognised, are less used: profit split (PSM); transactional net margin (TNMM); or other methods.</p>	<p>Statute of limitations: Additional assessments are possible within 4 years from the end of the assessment year. As for all relevant accounting documentation, the transfer pricing documents must be kept for 10 years.</p>
<p>Transfer pricing penalties: Transfer pricing adjustments carried out by tax authorities are subject to the general tax penalty regime. Late payment interest penalty is 4% per year.</p>	<p>Advance pricing agreements (APAs): The Portuguese transfer pricing law and regulations do not foresee APAs.</p>

Portugal

Reduction in penalties:

The general tax penalty regime is applicable and the voluntary payment of additional assessment can determine the reduction of fines.

Documentation requirements:

Taxpayers with an annual income that exceeds €3million in the previous year need to prepare a process of fiscal documentation, which must contain the master file and the country-specific documentation. The fiscal documentation must contain: the description of the related parties; the scope of activity; detailed description of goods; rights and services involved; functional analysis; risk analysis; and conclusions.

Burden of proof:

The tax authorities must prove the non-use of the arm's length principle (ALP). Obviously, the task will be more difficult when the transfer pricing documentation exists and it includes a demonstration of how the arm's length principle (ALP) is fulfilled.

Principal differences with OECD Guidelines:

Not significant.

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Romania

Tax law:

Law no. 571/2003 on the Fiscal Code, modified and completed. Government Ordinance no. 92/2003 on the Fiscal Procedural Code. Government Decision no. 529/2007 for approving the procedure for issuing APAs. Order no. 222/2008 of the President of the National Agency for Fiscal Administration (NAFA) regarding the transfer pricing file.

Regulations & rulings:

Art. 11 – Fiscal Code: the most adequate of the following methods are to be used: comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); or any other method approved by the OECD. The Romanian fiscal authorities have the right to adjust the transfer price between affiliated persons. The National Agency for Fiscal Administration has prepared an administrative document for use in resolving issues related to the establishment of conditions and determination of transfer prices for a given time period.

Interpretation of arm's length principle (ALP):

The Romanian fiscal authority can, in order to calculate the fiscal obligations of affiliated persons, reassess the transactions between the affiliated person from Romania, with a view of examining if transactions between the affiliates reflect or not the real taxable profits coming from Romania. The transactions between the affiliated persons are not reassessed when they take place in commercial circumstances and terms of free market, as well as when the transactions are made between affiliated persons who are Romanian legal persons or corporate bodies. Reassessing the records means adjusting the incomes and the expenses in order to calculate the fiscal obligations of the affiliated persons.

Types of documentation required:

Government Ordinance no. 92/2003 on the Fiscal Procedural Code provides constraint in presenting and drawing up the transfer pricing file for companies who run transactions with affiliated parties. The content of the transfer pricing file was approved by order of the president of the National Agency of Fiscal Administration.

Deadline to prepare and submit documentation:

The transfer pricing file must be presented at the request of the authorised fiscal authority within the term established by the authorised fiscal authority (Art. 79, align. 2 / GO 92/2003).

Return disclosure related party disclosure:

Not applicable.

Romania

Pricing methods priorities:

In order to establish the most adequate method, the taxpayer considers:

- The method that is the most appropriate to the circumstances where the prices, subject to free competition on compared markets from a commercial point of view, are established
- The method for which data is available; data resulting from the effective functioning of the affiliated persons involved in transactions subject to free competition
- The degree of precision that can be helpful in making adjustments in order to obtain comparison
- The circumstances of an individual event
- The activities effectively processed by the different affiliated persons
- The employed method must be suitable to the given circumstances on the market and to the activity of the taxpayer
- The documents which can be provided by the taxpayer.

Transfer pricing penalties:

The penalty is between 12,000 RON and 14,000 RON for legal persons and corporate bodies, in cases where they do not draw up and present a transfer pricing file at the request of the authorised fiscal body within the term established by the authorised fiscal body. In cases where the taxpayer refuses to present a transfer pricing file, or the file presented is incomplete, the fiscal authority is entitled to make estimations in order to establish transfer prices.

Reduction in penalties:

The penalties are not negotiable.

Documentation requirements:

The documentation must reveal the economic reality of the company as well as the system of transfer pricing.

Statute of limitations:

The statutory limitation term starts on 1 January of the year following the year when the fiscal debt was created (5 years). In cases of evasion this term is 10 years.

Advance pricing agreements (APAs):

APAs are regulated in Romania by G.D. no. 529/2007. The agreement is to be issued for a period of 5 years. By rules of exception, it is possible for agreements to be issued for a longer period, where long-term contracts are involved. The terms for issuing APAs are:

- 12 months in the case of a unilateral agreement
- 18 months in the case of a bilateral or versatile agreement

The tariffs collected by NAFA for issuing such agreements are the following:

- 10,000 Euros for small and medium enterprises; 6,000 Euros for amendments to the agreement
- 20,000 Euros for large enterprises; 15,000 Euros for amendments to the agreement.

Burden of proof:

The burden of proof is on the tax administration.

Principal differences with OECD Guidelines:

Regulations were prepared on the basis of OECD Guidelines and European Commission documents. All mentioned methods are applicable.

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Russian Federation

<p>Tax law: The tax code of the Russian Federation 1998-2006.</p>	<p>Types of documentation required: The contract, waybills on shipments, estimates of the executed works, services and other documents.</p>
<p>Regulations & rulings: The civil code of the Russian Federation.</p>	<p>Deadline to prepare and submit documentation: It is not certain, though for the certain kinds of documents it should be certain in the contract.</p>
<p>Interpretation of arm's length principle (ALP): The civil code of the Russian Federation.</p>	<p>Return disclosure related party disclosure: In financial reports of joint-stock companies.</p>
<p>Pricing methods priorities: The specified price of the goods, works or services is accepted by the parties of the transaction. Until otherwise is proved, it is supposed that these prices correspond to a level of market prices. Tax authorities have the right to check that the application of prices under transaction is correct only in the following cases: -Between interdependent persons -On goods exchange operations -At fulfilment of the foreign trade transaction -When a deviation of more than 20% in prices, up or down, is applied on the same, or identical, miscellaneous goods, works or services within a short period of time.</p>	<p>Statute of limitations: Three years.</p>
<p>Transfer pricing penalties: Under the transactions specified above, the price for taxation purposes (not the price of the transaction), derived from market prices, can be certain.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: None.</p>	<p>Burden of proof: Russian tax authorities must prove the use of non-market values.</p>
<p>Documentation requirements: The law on bookkeeping 129, clause 9, from 21 November 1966; the tax code of the Russian Federation, clause 252.</p>	<p>Principal differences with OECD Guidelines: Transactional net margin is not addressed in Russian regulations.</p>

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Saudi Arabia

<p>Tax law: Income Tax law issued by Royal, Decree No. (M/1), dated 15/01/1425 H.</p>	<p>Types of documentation required: Not required.</p>
<p>Regulations & rulings: The Department of Zakat and Income Tax (DZIT) was established per Ministerial Resolution no. 394, dated 7/8/1370 H. (14 June 1951). The mission of DZIT is briefly to administer and collect zakat on commercial goods from Saudi individuals and companies and from individuals and companies of GCC states subject to the same treatment like Saudis, and to administer and collect tax from non-Saudi individuals doing business in the Kingdom, resident Saudi companies on shares of non-Saudi partners, and non-resident companies doing business in the Kingdom through a permanent establishment or deriving income from a source in the Kingdom.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Ministry of Finance and any related party legislation.</p>	<p>Return disclosure related party disclosure: Tax law does not require return disclosure on related party.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary applicable method. Alternatives are resale price (RPM) and cost plus (CP).</p>	<p>Statute of limitations: Every taxpayer required to file a declaration shall file it through the proscribed form, including an identification number, and pay the due tax thereon. The tax declaration shall be filed within 120 days following the end of the taxable year for which the declaration was made. However, state legal proceedings should not exceed a period of 5 years.</p>
<p>Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection. These adjustments will carry a penalty of 1% per month applied on the adjustment.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The Department of Zakat and Income Tax must prove the use of non-market value.</p>

Saudi Arabia

Documentation requirements:

No statutory requirements.

Principal differences with OECD Guidelines:

Saudi tax law does not cover transfer pricing in detail.

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Singapore

<p>Tax law: No specific law on transfer pricing.</p>	<p>Types of documentation required: No specific documentation requirement.</p>
<p>Regulations & rulings: Section 33 and 53(2A) of the Singapore Income Tax Act have been used for transfer pricing adjustments. In February 2006, Inland Revenue Authority of Singapore (IRAS) published a circular on transfer pricing guidelines which provides guidance on relevant issues and the application of the arm's length principle (ALP).</p>	<p>Deadline to prepare and submit documentation: No specific deadline.</p>
<p>Interpretation of arm's length principle (ALP): Singapore's tax legislation does not contain a specific provision stipulating the use of the arm's length principle (ALP) for related party transactions. However, new transfer pricing guidelines and various provisions of the Singapore Income Tax Act imply or refer to the concept or use of the arm's length principle (ALP). In addition, this principle is found in all of Singapore's comprehensive tax treaties.</p>	<p>Return disclosure related party disclosure: Yes.</p>
<p>Pricing methods priorities: A taxpayer may select any one of five methods, or a modified version of a method, to comply with arm's length principles (ALPs): comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); or transactional net margin (TNMM).</p>	<p>Statute of limitations: Currently 7 years, to be reduced to 5 years pending amendments to the Singapore Income Tax Act.</p>
<p>Transfer pricing penalties: No specific penalty. General penalty up to 300%.</p>	<p>Advance pricing agreements (APAs): There are no mandatory requirements to seek an APA. However, IRAS would accept an APA request from taxpayers who are engaged in cross-border related transactions subject to the agreement of the relevant foreign authorities involved. An APA may be unilateral, bilateral or multilateral. The transfer pricing guidelines provide guidance on the application of such APA process.</p>

Singapore

Reduction in penalties:

Not applicable.

Documentation requirements:

Adequate documentation necessary to substantiate that transfer prices are in accordance with the arm's length principle (ALP).

Burden of proof:

Taxpayers should keep documents to demonstrate that reasonable efforts have been taken to comply with the arm's length principle (ALP).

Principal differences with OECD Guidelines:

None.

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Slovakia

<p>Tax law: Income Tax Act No. 595/2003 Coll. Articles 2/n-r, 17/ 5, 17/6, 17/7 and 18 and 16/1-4.</p>	<p>Types of documentation required: The basic transfer pricing documents are based on European Union recommendations and should include general transfer pricing documentation (masterfile) and specific transfer pricing documentation (local file). The masterfile outlines information about the pricing policy within the whole group of related entities (Slovak and foreign). The local documentation should contain specific information about the Slovak entity and its transactions with its foreign related parties.</p>
<p>Regulations & rulings: Measure of the Ministry of Finance of SR No. 1/6/-651/1997, Decree Issued by the Ministry of Finance No. 14/1997, No. 83/1999, No. 12/2002. Direction of Finance Ministry No. MF/8288/2009-72 Transfer pricing principles by OECD.</p>	<p>Deadline to prepare and submit documentation: The obligatory documentation should be provided to the Slovak tax authorities in Slovak language (unless the tax authorities approve some other language based on the taxpayer's request) within 60 days of the tax authorities' request during a tax inspection. If the entity asks for APAs, documentation must be submitted to tax authorities.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: In the case of a tax office request, the subject is obligated to supply support from and prove connection with foreign parties.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method applicable. However, other OECD methods - resale price (RPM); comparable profits (CPM); profit split (PSM); and transactional net margin (TNMN) - can be used if relevant to the business activity.</p>	<p>Statute of limitations: For all tax periods of taxation open for tax audit. Usually 6 years, but when international tax agreements apply the period is 11 years.</p>
<p>Transfer pricing penalties: According to Article 17/5 of Income Tax Act, if the transfer price is different from market price, the finance authority can adjust tax base, adjust (ie: increase) income tax, and impose a penalty.</p>	<p>Advance pricing agreements (APAs): Subject has right to request the Slovak Tax Authorities to approve a specific method. The approved method can be for a maximum of 5 years. For detailed procedure see tax law above.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Primary company must provide that there is no difference between transfer prices and market value.</p>

Slovakia

Documentation requirements:

Basic transfer pricing documentation is not obligatory for all Slovak taxpayers. It needs to be prepared only for material transactions undertaken by taxpayers who prepare their financial statements under International Financial Reporting Standards (IFRS). Other Slovak taxpayers should prepare simplified transfer pricing documentation that includes information on transactions with foreign related parties that have to be disclosed in the notes to the financial statements of the Slovak taxpayer. Documentation must be archived a minimum of 10 years.

Principal differences with OECD Guidelines:

All OECD Guidelines are followed.

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Slovenia

<p>Tax law: Slovenian Corporate Income Tax law (Official Gazette 117/2006) Articles 16-19.</p>	<p>Types of documentation required: Complete transfer pricing documentation (from the structure of the group of companies to calculations of the effects under different methods) has to be prepared in the case of a tax audit. Transfer pricing questionnaire has to be submitted together with the yearly income tax form.</p>
<p>Regulations & rulings: Law on Tax Procedures (Official Gazette 116/2006) (Article 382) and Decree on transfer pricing (Official Gazette 141/2006).</p>	<p>Deadline to prepare and submit documentation: During tax audit.</p>
<p>Interpretation of arm's length principle (ALP): See the legislation above.</p>	<p>Return disclosure related party disclosure: Yes, all companies.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is mandatory if applicable, otherwise the other four methods from OECD Guidelines can be used, but resale price (RPM) and cost plus (CP) have priority before profit split (PSM) and margin percentage.</p>	<p>Statute of limitations: Ten years after the fiscal year.</p>
<p>Transfer pricing penalties: None</p>	<p>Advance pricing agreements (APAs): Not possible.</p>
<p>Reduction in penalties: None.</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: The transfer pricing file has to be prepared when tax audit will take place.</p>	<p>Principal differences with OECD Guidelines: None in terms of methodology.</p>

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South Africa

<p>Tax law: The South African Income Tax Act 1962 as amended, Section 31.</p>	<p>Types of documentation required: None legally required, but onus of proof is with the taxpayer.</p>
<p>Regulations & rulings: Practice note 7 issued by SARS (S.A Revenue Services).</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Paragraph 1 of Article 9 of the OECD model.</p>	<p>Return disclosure related party disclosure: Disclosure of international transactions with connected persons in annual income tax returns of entities.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); transactional net margin (TNMM); profit split (PSM).</p>	<p>Statute of limitations: Three years from assessment date if full disclosure made. Otherwise no limitation.</p>
<p>Transfer pricing penalties: The Act does not impose specific penalties in respect of non-arm's length pricing practices, however, sections 75, 76 and 104 of the Act are applicable. Also sections 89bis and 89quat. Any adjustments subject to STC.</p>	<p>Advance pricing agreements (APAs): Neither at present or in the foreseeable future.</p>
<p>Reduction in penalties: At the discretion of SARS. Subject to appeal.</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: No statutory requirement. Onus of proof rests with taxpayer.</p>	<p>Principal differences with OECD Guidelines: OECD Guidelines are followed.</p>

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Spain

<p>Tax law: Corporate Income Tax law 4/2004. Article 16.</p>	<p>Types of documentation required:</p> <ol style="list-style-type: none"> 1. Group documentation: Description of the structure, identification of entities and related party transactions; description of the transfer pricing method policy, distribution agreements, etc. 2. Taxpayer documentation: identification of the taxpayer and the related entities that carry out transactions, comparability analysis, explanation on the selection of the valuation method, distribution criteria, etc.
<p>Regulations & rulings: Royal Decree 1777/2004 articles 16 to 29.</p>	<p>Deadline to prepare and submit documentation: From last filing voluntary deadline of the income tax return or payment of each tax due.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (above mentioned).</p>	<p>Return disclosure related party disclosure: Related party dealings must be disclosed by all taxpayers in the income tax return.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); profit split (PSM); transactional net margin (TNMM).</p>	<p>Statute of limitations: Four years starting from last filing deadline.</p>
<p>Transfer pricing penalties: From 1,500€ to 15,000€ per omitted data, group omitted data, inaccurate or false data; or 15% proportional on the tax underpayment due to the adjustment made by the Administration.</p>	<p>Advance pricing agreements (APAs): The taxpayer can ask the tax authorities to determine the market price. APAs are not made retrospectively. Valid 4 years. There is a possibility to file for an extension.</p>
<p>Reduction in penalties: Article 188.1 and 3 of the General Tax law 58/2003.</p>	<p>Burden of proof: The taxpayer.</p>
<p>Documentation requirements: Documentation about the Group to which the taxpayer belongs; documentation about the taxpayer.</p>	<p>Principal differences with OECD Guidelines: No significant differences.</p>

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Sweden

<p>Tax law: Swedish Income Tax law (1999:1229) and LSK (2001:1227).</p>	<p>Types of documentation required: -A company description. -Documentation of inter-company transactions as well as conditions applied -An analysis of company functions and risks -Documentation of pricing method and an analysis of compatibility with the arm's length principle (ALP).</p>
<p>Regulations & rulings: (1999:1229) ch. 15 Article 19 and 20 and (2001:1227).</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: The result is calculated as if market prices were used.</p>	<p>Statute of limitations: Six years from last filing deadline.</p>
<p>Transfer pricing penalties: 20% extra tax on mispricing. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may carry a penalty even if there is no intention to act fraudulently.</p>	<p>Advance pricing agreements (APAs): No Advanced Pricing Agreements (APA) can be made with the Swedish Tax Authorities.</p>
<p>Reduction in penalties: If mispricing is possible to detect without a tax audit, penalty is reduced from 20% to 5%.</p>	<p>Burden of proof: Swedish tax authorities must prove the use of non-market values if documentation by the company is fulfilled according to above.</p>
<p>Documentation requirements: Documentation is required by law (see below).</p>	<p>Principal differences with OECD Guidelines: Rules are based on European Union principles of conduct.</p>

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Switzerland

<p>Tax law: No special Swiss tax law or statutory transfer pricing rules.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: Art. 58 Federal Direct Tax law and Art. 24 of the Federal Tax Harmonization Law are basis for transfer pricing. Instructions issued by the Federal Tax Authorities in 1959, 1960, 1997 and 2004.</p>	<p>Deadline to prepare and submit documentation: No special deadline for transfer pricing ruling concepts. After an assessment by tax authorities, the taxpayer has 30 days to appeal against decisions.</p>
<p>Interpretation of arm's length principle (ALP): Expenditure must be commercially justifiable.</p>	<p>Return disclosure related party disclosure: The taxpayer has to provide tax authorities with relevant information for properly assessing the taxpayer's profit. If the taxpayer does not comply, fines may be imposed.</p>
<p>Pricing methods priorities: Switzerland accepts OECD Guidelines as closely as possible.</p>	<p>Statute of limitations: Basically 10 years.</p>
<p>Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Swiss tax authorities. A large ruling policy exists in Switzerland. This procedure is informal and no explicit statute or guidelines exist.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The taxpayer has to prove the justification of tax-deductible expenses. The tax authorities must prove adjustments which increase taxable income.</p>
<p>Documentation requirements: No statutory requirement, although documentation will be needed for defence in the case of a tax inspection.</p>	<p>Principal differences with OECD Guidelines: Switzerland follows the OECD Guidelines as closely as possible.</p>

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Taiwan

Tax law:

Income Tax Law, article 43-1, Taiwan, Republic of China.

Types of documentation required:

- Group overview
- Organisation structure/ ownership linkage within the group
- Summary and detail descriptions of controlled transactions
- Transfer pricing report, which should comprise the following:
 - Analysis of economy and industry
 - Analysis of the functions and risks of the associated enterprises of the controlled transactions
 - Status of applying the arm's length principle (ALP)
 - Description of the selected comparable transactions
 - Analysis of the comparability
 - Selection of most appropriate pricing method and the reason for selection
 - Reasons for rejecting other pricing methods
 - Pricing policies and related information of the associated enterprises of controlled transactions
 - Description of the adjustments applied to achieve comparability
 - Description of the evaluation, the arm's length range and conclusion
 - Adjustments (compensating adjustments) made in accordance with the evaluation

Regulations & rulings:

Examining Guidelines Governing Assessment of Profit Seeking Enterprise Income Tax, article 114-1.
Examining Guidelines Governing Profit Seeking Enterprises' Not Conforming Regular Business Practice Transfer Pricing.

Deadline to prepare and submit documentation:

The tax authorities may issue notice to a taxpayer for the submission of a transfer pricing report and related documents for examination. The report and related documents are required to be ready upon return filing and should be submitted within one month of receiving the notice. Application for an extension of submission is allowed for a maximum of one month.

Taiwan

Interpretation of arm's length principle (ALP):

Examining Guidelines Governing Profit Seeking Enterprises' Not Conforming Regular Business Practice Transfer Pricing, Chapter II.

Arm's length principle (ALP):

- Comparability
- Use of most appropriate pricing methods
- Evaluation of separate and combined transactions
- Use of current year or multiple year data
- Use of arm's length principle (ALP) ranges
- Analysis of the cause of loss
- Separate evaluation on transactions being offset.

Pricing methods priorities:

Comparable uncontrolled price (CUP); comparable uncontrolled transaction (CUT); comparable profits (CPM); resale price (RPM); cost plus (CP); profit split (PSM).

Applicable for different types of transaction:

- Tangible Asset Transfer: Comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); comparable profits (CPM); profit split (PSM).
- Intangible Asset Transfer and Utilisation: Comparable uncontrolled transaction (CUT); comparable profits (CPM); profit split (PSM).
- Service provision: Comparable uncontrolled price (CUP); cost plus (CP); comparable profits (CPM); profit split (PSM).
- Financing: Comparable uncontrolled price (CUP); cost plus (CP).

Return disclosure related party disclosure:

Disclosure requirements for related parties' information, controlled transactions and compensating adjustments are applied to all the profit-seeking enterprises in return filings except for those taxpayers who do not reach the requirement thresholds proscribed in 'Safe Harbour Protocols'.

Statute of limitations:

Five years for returns to be filed but when taxpayers have not been accused of tax evasion; 7 years for returns that have not been filed within the proscribed time limit, or where taxpayers have been accused of tax evasion by the tax authorities during examinations.

Taiwan

Transfer pricing penalties:

A taxpayer is subject to a penalty of at most 300% of the assessed income tax payable if the taxpayer did not file the required disclosure.

Under a premise that a taxpayer has fulfilled the filing obligation, the taxpayer is subject to a penalty of at most 200% of the understatement of income tax liability in either of the following:

-Filed prices of the controlled transactions are more than two times or are less than one half of the arm's length transaction prices assessed by the tax authorities.

-The increased taxable income resulting from the tax authority's adjustment is more than 10% of the total assessed taxable income, and is more than 3% of the assessed net operating income.

-A taxpayer fails to submit a transfer pricing report and related documents upon the tax authorities' request during examination.

When an adjustment to a taxpayer's return becomes certain, the tax authorities should make corresponding adjustments to the returns of transaction counterparts (the associated enterprises) within Taiwan. Tax treaties are complied with if the associated enterprises locate in other jurisdictions.

Advance pricing agreements (APAs):

APAs are permitted between taxpayers and the Taiwan Tax Authorities. Taxpayers applying for an APA must meet the following requirements:

-The amount for the transactions applied for APAs should be over NT\$ 1,000 million (approximates USD 30 million) in total, or its yearly transaction amount should be over NT\$ 500 million (approximates USD 15 million)

-The applicant has not committed significant tax avoidance and tax evasion for the past three years

-The applicant has prepared the required documents for applications

-Applications should be submitted before the end of the accounting period in which the applicable transaction commences.

The review of applications must be completed within one year. If it is necessary, under special circumstances, the tax authority can notice the applicants, before the expiry, of an extension for a maximum of six months. The tax authority can make a second extension for another six months.

APAs are effective for the shorter transaction duration or 5 years since the year of application (the year in which the applicable transaction commences).

Taxpayers should keep records and file an annual report with the tax authorities every year within the effective period of APAs, demonstrating compliance with the terms and that critical assumptions remain relevant.

Taxpayers should inform the tax authorities within one month from the occurrence of changes (eg: participants of the controlled transactions become non-related; transaction prices are re-negotiated; significant changes in the facts influence the outcomes of the controlled transactions) during the effective APAs period.

Taxpayers can submit an application, before the expiry of APAs, for an extension of the effective period for no more than 5 years under a situation that critical assumptions and business environment kept unchanged.

An APA can be revoked provided that misrepresentations, mistakes or omissions are attributable to the neglect, carelessness or wilful default of the applicants. The effect of revocation is retroactively traced back to its commencement.

Taiwan

Reduction in penalties:

A general rule stipulated by Section 48-1 of the Tax Assessment and Collection Act is applied to all the tax-related penalties: Where a taxpayer voluntarily files and makes payment covering the tax amount which the taxpayer should but did not file, as long as it is neither a case brought about by an impeachment, nor a case under investigation by authorities, the taxpayer is exempt from the punishment imposed under various tax acts and regulations governing tax evasion, and is exempt from any criminal liability if a criminal act is involved. In addition to the amount of supplementary tax paid, the taxpayer shall pay the interest accrued at the proscribed interest rate for the delay period.

Documentation requirements:

A transfer pricing report and related documents should be ready. They are not filed in the return, but should be submitted upon request from the tax authorities during examination. Those taxpayers who do not reach the requirement thresholds proscribed in 'Safe Harbour Protocols' are exempt from preparing a transfer pricing report.

Disclosure requirements for related parties information, controlled transactions and compensating adjustments are applied to all the profit-seeking enterprises in return filings, except for those taxpayers who do not reach the requirement thresholds proscribed in 'Safe Harbour Protocols'.

Burden of proof:

The transfer pricing report documenting the necessary information supporting the filed amount is in compliance with arm's length principles (ALPs). The tax authorities assess the income tax returns based on the filed and submitted documents. Where taxpayers fail to submit required documents, the tax authorities have the right to assess the returns based on other available information, or based on profit standard of the same trade of business if there is no available taxation data. Taxpayers can go through remedial procedures if they disagree with the results of assessments. Remedial procedure includes a re-examination, an administrative appeal and two administrative litigations. Taxpayers should submit reasonable arguments or evidence supporting their positions during the procedures.

Principal differences with OECD Guidelines:

Taiwan guidelines do not have stipulations in respect of issues involving other jurisdictions, such as:

- Mutual Agreement Procedure with the tax administrations of other jurisdictions
- Bilateral or Multilateral APAs with the competent tax authorities of other jurisdictions
- Simultaneous Tax Examination.

There is a general rule that the above issues are governed by tax treaties agreed with other jurisdictions. Except for the above, Taiwan guidelines in general follow the OECD Guidelines.

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Turkey

<p>Tax law: Turkish Corporation Tax law 5520 Article 13.</p>	<p>Types of documentation required:</p>
<p>Regulations & rulings: None.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm's length principle (ALP):</p>	<p>Return disclosure related party disclosure: All companies.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method applicable. Subsidiary to CUP are resale price (RPM) and cost plus (CP).</p>	<p>Statute of limitations: Five years from last filing deadline.</p>
<p>Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.</p>	<p>Advance pricing agreements (APAs): APAs can be made with the Turkish tax authorities and bilaterally between countries. Validity of 3 years.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Turkish tax authorities must prove the use of non-market values.</p>
<p>Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection.</p>	<p>Principal differences with OECD Guidelines: OECD Guidelines are followed.</p>

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Ukraine

<p>Tax law: Ukraine law: 'On profit tax of enterprises'; 'On profit tax of physical persons'; 'On VAT'; and international agreement, 'On avoidance of double taxation'.</p>	<p>Types of documentation required: Contracts, invoices, delivery certificates, etc.</p>
<p>Regulations & rulings: The Civil Code of Ukraine; the Economic Code of Ukraine.</p>	<p>Deadline to prepare and submit documentation: The deadline is to be identified in the contract.</p>
<p>Interpretation of arm's length principle (ALP): The Civil Code of Ukraine; the Economic Code of Ukraine.</p>	<p>Return disclosure related party disclosure: Financial statements.</p>
<p>Pricing methods priorities: The prices of goods, services, and works are defined by the parties, unless proven not to correspond to the market price.</p>	<p>Statute of limitations: Generally, 3 years (the Ukraine Civil Code).</p>
<p>Transfer pricing penalties: The tax authorities may impose penalties if able to prove prices do not correspond to market prices.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: The tax authorities have to prove that prices do not correspond to market prices.</p>
<p>Documentation requirements: Contracts, invoices, delivery certificates, etc.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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United Arab Emirates

<p>Tax law: UAE does not impose taxation on corporations and individuals except certain categories of activities which are taxed by the respective ministries under which they fall (ie: branches of foreign banks, oil and gas companies, courier companies, hotel services and entertainment). Therefore, there are no transfer pricing guidelines.</p>	<p>Types of documentation required: Not applicable.</p>
<p>Regulations & rulings: Not applicable.</p>	<p>Deadline to prepare and submit documentation: Not applicable.</p>
<p>Interpretation of arm’s length principle (ALP): Not applicable.</p>	<p>Return disclosure related party disclosure: Not applicable.</p>
<p>Pricing methods priorities: Not applicable.</p>	<p>Statute of limitations: Not applicable.</p>
<p>Transfer pricing penalties: Not applicable.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: Not applicable.</p>
<p>Documentation requirements: Not applicable.</p>	<p>Principal differences with OECD Guidelines: Not applicable.</p>

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United Kingdom

Tax law:

Taxes Act 1988, Schedule 28AA.

Types of documentation required:

Any corporate entity subject to UK corporation tax on its profits, including a UK trading presence of a non-UK resident company, may be required to prepare and maintain documentation which outlines its transfer pricing policy and demonstrates its consistency with the arm's length standard. It must retain documentation and supporting benchmarking materials used to establish pricing. Documentation should include written agreements and board minutes which approve the conclusions of the transfer pricing study. Benchmarking materials should consist of UK data and studies of independent operations of a similar size and activity. Certain Small Size Enterprises (as defined by the European Union) are exempt from the legislation. The legislation does not distinguish between UK to UK transactions and UK to non-UK transactions.

Regulations & rulings:

There is a small body of UK case law in respect of transfer pricing matters. The Waterloo case confirmed that transfer pricing rules may apply in certain cases of the provision of share options and the award of shares. The UK Revenue may refer to the laws of other jurisdictions in their approach to transfer pricing. Eg: they may apply Article 9 of the OECD Model Treaty in so far as adjustments are made in the tax return of the affected company where it is resident in one of the countries with which the UK has a full OECD Model Treaty. The taxpayer may also request to enter into the Mutual Agreement Procedures under Article 25 or the EU Arbitration Convention.

Deadline to prepare and submit documentation:

Documentation as described above forms part of company records and should be in place before the filing of a tax return. Without it, the taxpayer is not in a position to make an accurate self-assessment of its chargeable profits. Documentation may be requested by the UK tax authorities during their enquiries into a filed tax return. The deadline for submission will be 30-60 days. The deadline may be extended where a company is classed as a medium sized enterprise.

Interpretation of arm's length principle (ALP):

The principle is defined in line with general international consensus. An arm's length provision will have been made between 2 independent enterprises. In comparing actual and arm's length price, the terms and conditions of the transaction are assessed and adjusted to arm's length terms.

Return disclosure related party disclosure:

The taxpayer is required to confirm that it is carrying out transactions on an arm's length basis. The taxpayer may be required to disclose transfer pricing adjustments that are not in its accounts.

United Kingdom

Pricing methods priorities:

There are no specific rulings. The following is a general guide applicable only where the company does not undertake comparable transactions with third parties and cannot therefore rely on this basis as a reliable method to apply arm's length principle (ALP) pricing.

-Resale price method (RPM): compensates the reseller of goods for costs incurred and provides an appropriate margin for functions performed, assets employed and risks borne. This basis should not be used where the reseller adds substantially to the value of the product or incorporates the product into another.

-Cost plus (CP): An appropriate mark-up is applied to costs incurred. Cost plus is appropriate where there is a provision of services, in particular where the services are of a routine nature and do not contribute significantly to the profits of the recipient. It may also be applicable in circumstances including contract manufacturing and long-term buy and sell arrangements.

-Profit split (PSM) and transactional net margin (TNMM) may be applicable in some circumstances.

Transfer pricing penalties:

Where the taxpayer has been negligent in filing a transfer pricing position as part of a tax return, the UK Revenue may impose tax-geared penalties where further tax becomes due as a result of adjustments. Penalties may amount to up to 100% of the additional tax which falls due (excluding interest for late payment of the additional tax). Penalties may also be imposed for failing to document and retain evidence justifying the transfer pricing adopted.

Reduction in penalties:

The level of penalties may be decreased at the discretion of the UK Revenue, dependent upon the circumstances in which the correction to the tax return arose. Eg: where a genuine effort was made to apply UK transfer pricing principles and the UK Revenue contends that an adjustment should be made, penalties may be reduced considerably. Such penalties may not be reduced below 10%. Where the differences in approach and pricing are minor it can be argued that no penalties should be levied. The level of penalties can depend on the taxpayer's circumstances and co-operation.

Statute of limitations:

UK tax authorities confine their enquiries to the period covered by the tax return. However, where transfer pricing compliance requirements have not been met, they can reassess the previous 6 years. In the case of fraud or negligence the authorities may review the previous 21 years.

Advance pricing agreements (APAs):

APAs may relate to unilateral, bilateral or multi-lateral arrangements. The UK Revenue does not charge a fee for APAs, which are given on a 3-5 year term. It will permit an applicant to enter the APAS programme only where their position is deemed to be sufficiently complex and will set out in detail what they expect to see in an application, including the nature of the underlying documents. They also expect relevant business briefings before deciding whether or not to accept the application.

Burden of proof:

The burden of proof falls on the UK taxpayer.

United Kingdom

Documentation requirements:

-A transfer study including a review of the group, activities, analysis of risks & assets and transactions with connected parties. It should discuss the basis for the pricing method adopted and an analysis of the data reviewed for benchmarking purposes.

-Group agreements which document the various transactions undertaken, services performed, etc. including the terms and conditions.

-Board minutes which evidence the company's agreement to the adoption of the study, its underlying recommendations and the group agreements.

Principal differences with OECD Guidelines:

The tax authorities may accept most of the pricing policies the OECD recommends, however, the pricing policy adopted should be consistent with the circumstance in which the OECD deems these to be acceptable, eg: it may be difficult for the UK tax authorities to agree that the profit split (PSM) or transactional net margin (TNMM) methods are acceptable.

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United States

<p>Tax law: U.S.C. Title 26, Subtitle A, Chapter 1, Subchapter E, Part III, Section 482; U.S.C. Title 26, Subtitle F, Chapter 68, Subchapter A, Part II, Section 6662.</p>	<p>Types of documentation required: Principal documents include:</p> <ul style="list-style-type: none"> -Overview of taxpayer's business -Description of the taxpayer's organisational structure -Explicitly required documentation per section 482 -Description of method selected and explanation of why -Description of alternative methods not used and why -Description of controlled transactions -Description of comparables used and why -Explanation of the economic analysis and projections relied upon -Description of any relevant data the taxpayer obtains after year-end but before the filing of the tax return -General index of the principal and background documents used.
<p>Regulations & rulings: Reg. §§1.482-0 through 1.482-7; Reg. §1.6662-6.</p>	<p>Deadline to prepare and submit documentation: Documentation is to be prepared and maintained contemporaneously during the course of the tax year. If the documentation is requested by the Internal Revenue Service (IRS), it should be provided within 30 days of the request. Pursuant to Reg. §1.6662-6(d)(2)(iii)(A), documentation is generally considered to be contemporaneous if it is in existence as of the last day of the tax year.</p>
<p>Interpretation of arm's length principle (ALP): Related party legislation (see tax law above).</p>	<p>Return disclosure related party disclosure: Forms 5471, 5472, or 8865.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) is the primary method applicable. Others available include: resale price (RPM); cost plus (CP); comparable profits (CPM); profit split (PSM); and other unspecified methods, as appropriate.</p>	<p>Statute of limitations: Generally 3 years from the later of: the due date of the tax return, or the date the tax return is actually filed.</p>

United States

Transfer pricing penalties:

A penalty is imposed on any underpayment attributable to a substantial valuation misstatement in the form of either a transactional penalty or a net adjustment penalty. The penalty is equal to: 20% of the underpayment of tax attributable to that substantial undervaluation; or the 20% penalty is increased to 40% of the underpayment in the case of a gross valuation misstatement with respect to either penalty. Reg. §1.6662-6(a).

Reduction in penalties:

Generally not applicable.

Documentation requirements:

Contemporaneous documentation is required and should be maintained in anticipation of the event of an examination by the IRS, as discussed above.

Advance pricing agreements (APAs):

APAs can be made with the IRS. A unilateral, bilateral, multilateral request may be made. APAs are generally prospective in nature, although a rollback request may be made when applying for the APA.

Burden of proof:

The burden of proof generally resides with the taxpayer.

Principal differences with OECD Guidelines:

The US model treaty generally conforms with OECD Guidelines.

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Uruguay

<p>Tax law: Tax law 18.083, Title 4, Chapter VII, articles from 39 to 46. Enacted December 2006, validity July 2007. Decree 150/07, article 21 and Decree 56/009.</p>	<p>Types of documentation required: Decree 56/009 articles 14 and 15.</p>
<p>Regulations & rulings: Unregulated. See tax law.</p>	<p>Deadline to prepare and submit documentation: Decree 56/009 article 15.</p>
<p>Interpretation of arm's length principle (ALP): Law 18.083, article 38, Decree 56/009 article 2.</p>	<p>Return disclosure related party disclosure: There are no specific instructions.</p>
<p>Pricing methods priorities: Law 18.083, article 41 and Decree 56/009 article 4. Comparable prices between independent parties; resale prices set between independent parties; cost of additional benefits; division of profits and net margin of the transaction.</p>	<p>Statute of limitations: There are no specific instructions.</p>
<p>Transfer pricing penalties: There are no specific instructions. Tax code, fifth chapter, infringements and sanctions.</p>	<p>Advance pricing agreements (APAs): Not applicable.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: There are no specific instructions.</p>
<p>Documentation requirements: Special declarations in control of operations, Law 18.083, article 46.</p>	<p>Principal differences with OECD Guidelines: Uruguay is not a member of the OECD, but has been aligned with some principles since July 2007.</p>

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Venezuela

<p>Tax law: 1999 Venezuelan Income Tax law for fiscal year 2000 and 2001. 2001 Venezuelan Income Tax law for fiscal year 2002. 2001 Master Tax Code: chapter III, articles 220 to 229, articles 109, 110 and 111. For everything else not considered in these regulations OECD rules are applicable.</p>	<p>Types of documentation required: Documentation should reflect the organisational structure, the functions, assets, risk, assets, business description, information about all operations with related and non-related parties, audited financial statements, agreements and contracts, reasoned method selection, inventory valuation method, analysis results and other relevant information.</p>
<p>Regulations & rulings: There are no transfer pricing rules in the Venezuelan Income Tax rulings. There are only Administrative Rulings for year 2001.</p>	<p>Deadline to prepare and submit documentation: By the end of every fiscal year and by the filing date of annual income tax return. The deadline to submit is upon request by the tax administration.</p>
<p>Interpretation of arm's length principle (ALP):</p>	<p>Return disclosure related party disclosure: No specific disclosure requirements exist for filing the tax return.</p>
<p>Pricing methods priorities: Internationally accepted methods: comparable uncontrolled price (CUP); resale price (RSM); cost plus (CP); profit split (PSM); and transactional net margin (TNMM). Priority is given to CUP but any of the other methods can be applied.</p>	<p>Statute of limitations: Four years from the date of annual income tax return and the end of every fiscal year.</p>
<p>Transfer pricing penalties: Fines from 300 to 500 tax units can be established for not applying income tax law. The 2005 tax unit is BS 29.400/unit. In addition, a fine of up from 25% to 200% of the omitted tax amount and interest may also be added to these amounts.</p>	<p>Advance pricing agreements (APAs): There are unilateral and bilateral APAs with nations that have double taxation treaties.</p>
<p>Reduction in penalties: If the taxpayer complies with the transfer pricing methods, it will be taken into account in the determination of the adjustment.</p>	<p>Burden of proof:</p>
<p>Documentation requirements: Taxpayers have to prepare and maintain supporting contemporaneous documentation.</p>	<p>Principal differences with OECD Guidelines:</p>

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Vietnam

<p>Tax law: National Assembly's corporate income tax law 14/2008/QH12 dated 3 June 2008, article 9; National Assembly's Pricing Ordinance 40/2002/UBTVQH10 dated 26 April 2002, articles 21, 28.</p>	<p>Types of documentation required: No separate transfer pricing documentation is required of business enterprises under the tax law. However, taxpayers are required to incorporate transactions and balances with related parties in their annual financial statements to submit to the relevant authorities.</p>
<p>Regulations & rulings: MoF Circular 130 on Corporate Income Tax and Minister of Finance Decision 06-BTC on pricing assets, commodities and services.</p>	<p>Deadline to prepare and submit documentation: Such submission is due for each taxable year, no later than 90 days after the year-end.</p>
<p>Interpretation of arm's length principle (ALP): Not clearly stated in the above law and regulations.</p>	<p>Return disclosure related party disclosure: No specific return of related party disclosure is required for transfer pricing.</p>
<p>Pricing methods priorities: Comparable uncontrolled price (CUP) and cost plus (CP) are in use, depending on the features of the assets, commodities and services in question and current market conditions.</p>	<p>Statute of limitations: No specific charges are identified for transfer pricing but serious violations are subject to prosecution under criminal law.</p>
<p>Transfer pricing penalties: Violations are treated under the corporate income tax laws.</p>	<p>Advance pricing agreements (APAs): No specific APAs for transfer pricing. It is generally dealt with in double taxation treaties with some countries, including China, Hong Kong, Thailand, the UK, etc.</p>
<p>Reduction in penalties: Not applicable.</p>	<p>Burden of proof: In cases of suspected tax evasion, the taxpayer is required to provide proof upon demand by the tax authorities.</p>
<p>Documentation requirements: No such documents are specified for filing. The taxpayer is required to maintain business records as established under accounting law.</p>	<p>Principal differences with OECD Guidelines: Transfer pricing guidance is given on a case-by-case basis and at tax authority level, not as official guidelines for long-term use.</p>

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