

Strategy Matrix for Global Transfer Pricing

Planning for Methods, Documentation,
Penalties and Other Issues

2008



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Table of Contents

Foreword	iii
Tax Authority & Law	1
Regulations, Rules and Guidelines	3
Acceptable Methods	5
Priority of Methods	7
Penalty on Transfer Pricing Assessment	9
Reduction in Transfer Pricing Penalties	11
Tax Return Disclosures	13
Documentation Requirements	15
Deadline to Prepare Documentation	17
Deadline to Submit Documentation	19
Acceptable Languages for Documentation	21
Advance Pricing Agreement (APA) Available?	23
Advance Pricing Agreement Filing Fee	25
Advance Pricing Agreement Term of Agreement	27
Self-Initiated Adjustments	29
Taxpayer Set-Offs for Other Related-Party Transactions	31
When May Taxpayer Submit Tax Adjustment to Competent Authority (CA)?	33
May Competent Authority Develop New Settlement Positions?	35
May Taxpayer Go to Competent Authority Before Paying Tax?	37
Additional Assessment Payment Deadline	39
Cost Contribution or Cost Sharing Arrangements Accepted?	41
Cost Contribution or Cost Sharing Payments Deductible?	43
Cost Contribution or Cost Sharing Payments Subject to Withholding Tax?	45
Payer's Tax Treatment of Payments to a Contributor of Preexisting Intangibles to Cost Contribution or Cost Sharing Agreement	47
Statute of Limitations on Assessment for Transfer Pricing Adjustments	49
Commissionaire Arrangements Allowed?	51
Availability of Benchmarking/Comparative Data	53
Are Foreign Comparables Acceptable to Local Tax Authority?	55
Are Management Fees Deductible?	57
Are Management Fees Subject to Withholding?	59
Nature/Extent of Relationship Between Parties to a Transaction Required for Transfer Pricing Rules to Apply	61
Answers Continued	63
Endnotes	65
Deloitte Member Firm Contacts	68

Foreword

This *Strategy Matrix for Global Transfer Pricing* is one of the most comprehensive and authoritative guides of its kind, compiling essential information regarding the transfer pricing regimes in 46 jurisdictions around the world and the OECD. This edition of the *Strategy Matrix* includes information that has been extensively reviewed and updated.

Given the complexity of transfer pricing issues, the *Strategy Matrix* should be the starting point rather than the finish line for all your transfer pricing inquiries. You will not find more knowledgeable and experienced guides for that journey than the transfer pricing specialists based in Deloitte member firms around the world.

With more than 20,000 professionals in every major trading nation, Deloitte member firms' tax practices serve companies in every business sector and industry through their international network of firms.

For more information regarding transfer pricing issues in specific countries, and about Deloitte member firms' tax practices in those jurisdictions, please turn to the list of Deloitte member firm contacts at the end of the *Strategy Matrix*.

For further information about the *Strategy Matrix* and the tax practices of Deloitte member firms in general, please contact Betty Fernández (Deloitte United States) at betfernandez@deloitte.com, or visit <http://www.deloitte.com/tax>

Deloitte Global Profile









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Deloitte's professionals are unified by a collaborative culture that fosters integrity, outstanding value to markets and clients, commitment to each other, and strength from cultural diversity. They enjoy an environment of continuous learning, challenging experiences, and enriching career opportunities. Deloitte's professionals are dedicated to strengthening corporate responsibility, building public trust, and making a positive impact in their communities.

Tax Authority & Law

ARGENTINA 	Argentine Tax Office (Administración Federal de Ingresos Públicos); Law 20.628 and amendments (Article 8, Article 15, and new article added after Article 15).	FINLAND 	Finnish Tax Administration (Verohallinto). Tax Procedure Act.
AUSTRALIA 	Australian Taxation Office (ATO); Division 13 of Part III, Income Tax Assessment Act 1936 (Effective 1982).	FRANCE 	French Tax Administration; General Tax Code Article 57 (profit transfer), Articles 238 A and 209 B (CFC rules), Tax Procedure Book Article L. 13B and L 80 B 7 (APAs) and Supreme Tax Court case law on Abnormal Act of Management, L. 188A (extension of statute of limitations when FTA makes request from foreign tax authorities).
AUSTRIA 	Federal Ministry of Finance; Section 6 para. 6 Income Tax Act, Section 8 para 1 and 2 Corporate Income Tax Act.	GERMANY 	Federal Ministry of Finance; Section 8 para. 3 Corporate Income Tax Act (KStG); Section 4 Income Tax Act (EStG); Section 1 Foreign Tax Code (AStG); Section 90 para. 3 and section 162 para. 3 and 4 General Tax Code (AO). Decree-law on the manner, content and extent of documentation in the sense of section 90 para. 3 of the General Tax Code of Oct. 28, 2003. In 2008 a decree-law on the relocation of business functions will be issued to supplement the revised version of section 1 Foreign Tax Code.
BELGIUM 	Administration of Direct Taxes. Since 2006, Special Transfer Pricing Audit Cell. No specific transfer pricing legislation, but general tax law on avoidance of profit shifting (articles 26, 54, 79, 207 and 344 of Income Tax Code). For APAs, mutual agreement or arbitration procedure, OECD's arm's length standard will apply (article 185 §2 ITC).	HUNGARY 	Hungarian Tax Authority (HTA); Corporate Income Tax Act Article 18 (transfer pricing rules), Article 4/23 (definition of related parties) and Article 31/2 (reference to OECD Guidelines); Tax Procedures Act Article 1 (8) on arm's length principle and Article 132/A-B on APA; Hungarian Ministry of Finance issued Decree no. 18/2003 on transfer pricing documentation requirements; Hungarian Ministry of Finance issued Decree no. 36/2006 on APA.
BRAZIL 	Brazilian Revenue Service (Secretaria da Receita Federal – SRF); Ordinary Federal Law 9.430/96, complemented by Law 9.959/00.	INDIA 	Ministry of Finance-Central Board of Direct Taxes (CBDT); Income Tax Act 1961, Sections 92 to 92F of Income Tax Act. The CBDT has set up separate Transfer Pricing Cell for conducting Transfer Pricing audits.
CANADA 	Canada Revenue Agency (CRA); Income Tax Act Section 247 (Effective for tax years beginning after 1997).	IRELAND 	The Revenue Commissioners. No comprehensive transfer pricing legislation. Specific provisions include S453 and S1034 TCA 1997. Legislation has been expected for some time, and Revenue Commissioners have indicated willingness to commit to consultation before legislation is enacted.
CHILE 	Internal Revenue Service (Servicio de Impuestos Internos – SII); Articles 36 and 38 of Income Tax Law (D.L. No. 824 of 1974).	ISRAEL 	Income Tax Ordinance. As part of Israel's new tax reform, article 85a, which deals with transfer pricing in international transactions, was enacted.
CHINA 	State Administration of Taxation (SAT); Article 36 of the Tax Collection and Administration Law (Tax Collection Law); Article 41 to 48 of the PRC new Enterprise Income Tax (EIT) Law (i.e. Chapter 6, Special Tax Adjustments) that entered into effect on January 1, 2008.	ITALY 	Ministry of Finance; article 110 (7) of Presidential Decree n. 917/1986 (for corporate tax purpose – IRES); article 11-bis (2) of Legislative Decree n. 466/1997 (for regional tax purpose – IRAP)
COLOMBIA 	Colombia Tax Office (Dirección de Impuestos y Aduanas Nacionales-DIAN); Book 1, Title I, Chapter XI, Articles 260-1 to 260-11 of the Tax Code.	JAPAN 	National Tax Agency (NTA); Special Taxation Measures Law (STML), Article 66-4 and Article 68-88 for companies filing consolidated tax returns.
CZECH REPUBLIC 	Ministry of Finance; Section 23 para. 7 of the Act on Income Taxes (Effective January 1, 1993).	KAZAKHSTAN 	Ministry of Finance; Article 4 Law #136-II On State Control of the Application of Transfer Prices, dated January 5, 2001.
DENMARK 	Ministry of Taxation (Skatteministeriet); Tax Assessment Act Section 2; Tax Control Act Section 3B (Effective for tax years beginning on or after January 1, 1998).	KENYA 	Kenya Revenue Authority; Section 18(3) of the Income Tax Act deals with transfer pricing legislation. This anti-avoidance section deals with transactions that are not at arm's length grants the tax authorities power to restate these transactions.
ECUADOR 	Internal Revenue Service (IRS) Art. 91, Tax Code and Regulations for the Application of the Tax Law.	KOREA 	National Tax Service (NTS); Law for the Coordination of International Tax Affairs (LCITA) (Effective January 1, 1996).






















Tax Authority & Law

MALAYSIA 	Inland Revenue Board. Section 140 (general antiavoidance provision) of Malaysian Income Tax Act.	SOUTH AFRICA 	South African Revenue Service (SARS); section 31 of the Income Tax Act No 58 of 1962 (effective July 19, 1995). Section 9D also requires the consideration of transactions between a CFE and a connected person to reflect an arm's length price consistent with the provisions of Section 31.
MEXICO 	Servicio de Administración Tributaria (SAT); Income Tax Law Articles 2 (Sec VI and last two paragraphs), 31(Sec XIV, XIX), 32(Secs XVII, XVIII, XIX, XXII, XXIII, XXVI), 86(Secs XII, XIII, XV), 92, 106, 133 (Secs X,XI), 172(Sec XI), 173(Sec XI, XIV), 190, 215, 216, 216-Bis and 217. *MEX.	SPAIN 	Tax Administration; Corporate Income Tax Act (Royal Legislative Decree 4/2004) and Nonresidents Tax Act (Royal Legislative Decree 5/2004). Article 16 of CITA governing TP rules has been changed significantly by the Tax Fraud Prevention Act published on Nov. 30, 2006 (Law 36/2006).
NETHERLANDS 	Netherlands Revenue. Corporate Income Tax Act Article 8b and 8c.	SWEDEN 	Swedish Tax Administration (Skatteverket); Chapter 14 §§ 19-20 of the Swedish Income Tax Act.
NEW ZEALAND 	Inland Revenue Department (IRD); Sections FB 2, GC 1 and GD 13 of Income Tax Act of 2004 (Effective 2005/2006).	SWITZERLAND 	Swiss Federal Tax Administration (SFTA) and the Cantonal Tax Administrations. No specific transfer pricing legislation, although authority to adjust net profits of a taxpayer on an arm's length basis for all noncommercially justified expenses found in Art. 58 of Federal Taxes Act and Art. 24 of Harmonization of the Cantonal Tax Laws Act.
NORWAY 	Tax Directorate (Skattedirektoratet). The General Tax Act section 13-1.	TAIWAN 	Ministry of Finance; Article 43-1 of Taiwan Income Tax Law.
OECD 	Council of Organization for Economic Cooperation and Development (OECD) (this body makes recommendations to the member states that have no binding legal effect on individual countries); Articles 9 and 25 of OECD Model Tax Convention.	THAILAND 	Revenue Department; Section 65 bis(4), Section 70 ter, Section 65 bis (7), Section 65 (13), (14) and (15) of the Thai Revenue Code.
PERU 	National Superintendence of Tax Administration (SUNAT); Articles 32 and 32-A of the Income Tax Law (text approved by Legislative Decree 945). (Effective for transactions from January 1, 2001).	TURKEY 	Ministry of Finance – Revenue Administration; New Turkish Corporate Tax Code (Law No. 5520) Article 13 - Disguised Profit Distribution through Transfer Pricing (effective 1 January 2007), Article 41/5 of Income Tax Law, Transfer Pricing Decree (Decree No. 2007/12888 – promulgated on 6 December 2007), Transfer Pricing General Communiqué No. 1 promulgated on 18 November 2007).
PHILIPPINES 	Bureau of Internal Revenue. No specific transfer pricing laws; follows the arm's length principle.	UK 	Inland Revenue; main legislation in Section 770 & Schedule 28AA Income & Corporation Taxes Act 1988. Mutual agreement procedure covered in Section 815AA ICTA and EU Arbitration Convention in Section 815B. APAs covered in Sections 85-87 Finance Act 1999.
POLAND 	Inland Revenue; articles 9a, 11, and 19 of Corporate Income Tax Law; section II a of Tax Ordinance of 29 August 1997 (APA).	USA 	Internal Revenue Service (IRS); Internal Revenue Code §482 (latest amendment effective for tax years beginning after December 31, 1986).
PORTUGAL 	General Tax Directorate (Direcção-Geral dos Impostos) (DGCI); Article 58 of the Corporate Income Tax Code, applicable for tax years beginning after December 31, 2001.	VENEZUELA 	National Integrated Tax and Customs Service Administration (SENIAT); Income Tax Law (ITL) Nr. 38.628 Chapter III Title VII (Latest amendment effective from February 16, 2007).
RUSSIA 	Russian Tax Office (Federal Tax Service); Tax Code of the Russian Federation Part 1: articles 20, 40; Part 2: articles 154, 161, 187, 211, 250, 269, 280, 301-305, 340.	VIETNAM 	General Department of Taxation; Circular 117/2005/TT-BTC, dated 19 December 2005, and issued by Ministry of Finance provides guidelines on calculation of arm's length prices in business transaction between affiliated parties. The circular entered into effect on 26 January 2006.
SINGAPORE 	Inland Revenue Authority of Singapore (IRAS); General and specific anti-tax avoidance provisions: Sections 33 and 53(2A) of the Singapore Income Tax Act Cap 134, 2004 Ed.		

Regulations, Rulings & Guidelines

ARGENTINA 	Decree 1344/98. General Resolution No. 1122/01.	FINLAND 	The National Board of Taxes issued a guidance letter on documentation on 19 October 2007.
AUSTRALIA 	Taxation Rulings: TR92/11, TR94/14, TR95/23, TR97/20, TR98/11, TR98/16, TR1999/1, TR1999/8, TR2000/16, TR2001/11, TR2004/1, TR2007/1	FRANCE 	Administrative Doctrine on Article 57, Administrative Instruction on L. 13B (July 23 1998), Administrative Instruction on the MAP (February 2006), Administrative Instructions on APA (September 1999 and June 2005), OECD Guidelines (generally accepted in practice).
AUSTRIA 	German translation of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, published as a decree of the Federal Ministry of Finance, which is binding on the Austrian tax authorities but non-binding on taxpayers.	GERMANY 	Principles for the Examination of Income Allocation in the Case of Internationally Related Enterprises of Feb. 23, 1983; Principles for the Examination of Income Allocation by Cost Sharing Arrangements between Internationally Related Enterprises of Dec. 30, 1999; Principles for the Audit of Income Allocation between Internationally Affiliated Enterprises in Cases of Employee Secondments of Nov. 9, 2001; Decree-law on the Manner, Content, and Extent of Documentation in the Sense of Section 90 para. 3 of the General Tax Code of Oct. 28, 2003;...cont' on pg 63
BELGIUM 	Administrative TP Circular Letter of 28.06.1999; Administrative Arbitration Convention Circular Letter of 07.07.2000, and Administrative Circular Letter of 25.05.2003 (addendum to Circular Letter of 07.07.2000); Administrative Circular Letter of 04.07.2006 regarding article 185 §2 ITC; Administrative Circular Letter of 14.11.2006 on TP documentation and TP audits.	HUNGARY 	No provision
BRAZIL 	Regulatory Instructions Nos. 243/02, 321/03, 382/03, 602/05, 703/06, and 801/07	INDIA 	Rules 10A to 10E of the Income Tax Rules 1962; Circular No.12 of August 23, 2001; Circular No. 14 of December 24, 2001; Administrative Guidelines of May 20, 2003.
CANADA 	CRA Information Circular 87-2R. Transfer Pricing Memoranda published by the CRA.	IRELAND 	Consequent to the removal of the 10% tax rate for financial services companies effective 31/12/05, regulations for Financial Service Centre Companies no longer apply. Therefore, currently no specific TP regulations.
CHILE 	Ruling No. 3/98 of the Chilean IRS.	ISRAEL 	Transfer pricing regulations under article 85a, approved 29 November 2006, and effective immediately.
CHINA 	Articles 109 to 115 and articles 121 to 123 of the implementation rules for the new EIT Law govern the transfer pricing regime. With the new law in place, current circulars are expected to be extended or replaced by circulars with similar rules. Prior to the promulgation or extension of current detailed provisions on transfer pricing, the following circulars may be used as underlying guidelines:...cont'd pg 63	ITALY 	Circular Letter nos. 32/9/2267 (September 22, 1980), 42/12/1587 (December 12, 1981) and 271/E/1059 (October 21, 1997). Circular Letter nos. 141/E/86270 (June 4, 1998), 98/E/107570 (May 17, 2000) and 148/E/139500 (July 26, 2000) for IRAP purposes only.
COLOMBIA 	Decree 4349 of 2004	JAPAN 	Enforcement Order 39-12 and 39-112 (for companies filing consolidated tax returns). Enforcement Ordinance 22-10, and 22-10(2), 22-74, and 22-75. TP commissioner's directive (guideline) issued on June 1, 2001, partially adjusted several times. Reference Case Studies on Application of Transfer Pricing Taxation issued on June 25, 2007.
CZECH REPUBLIC 	Decree D-258 on the application of international standards on the taxation of transactions between related persons; Decree D-292 on binding ruling over the transfer pricing policy used in related party transactions (APA); Decree D-293 on the recommended scope of TP documentation (in accordance with EU TPD).	KAZAKHSTAN 	Law #136-II On State Control of the Application of Transfer Prices, January 5, 2001. Joint Order of the Tax Committee of the Ministry of Finance and the Customs Agency, August 13, 2003, "Instructions on Application of the Law on State Control of the Use of Transfer Prices."
DENMARK 	Danish Tax Assessment Guide for Companies and Shareholders 2007-4, section S.I.1.3; Guidelines on Tax Return Information Requirements (Dec. 2000); Guidelines on Documentation Requirements (Feb. 2006); Regulation no. 42 of January 24, 2006, on Transfer Pricing Documentation.	KENYA 	The Income Tax (Transfer Pricing) Rules, 2006, issued by the Minister for Finance on 15 June 2006
ECUADOR 	Reform to the Regulation for Application of the Tax Law (RALRTI) of Dec. 31. 2004, introduced standards to govern transfer pricing effective for fiscal year 2005. The IRS published on 16 January 2006, through Official Gazette No. 188, Resolutions Nos. NAC-DGER2005-0640 and NAC-DGER2005-0641, determining the scope of the regulation and the content of both the transfer pricing report and the appendix.	KOREA 	Presidential Enforcement Decree, Ministerial Enforcement Ordinance, Basic rulings for LCITA. Basic rulings were released in June 2004 to provide more clear-cut guidelines.

Regulations, Rulings & Guidelines

 MALAYSIA	Transfer Pricing Guidelines were officially issued on July 2, 2003. Basically follow OECD Guidelines. There are no other transfer pricing rules or regulations.	 SOUTH AFRICA	Practice Note 7, issued August 6, 1999; Practice Note 2 (thin capitalization), issued May 14, 1996 and amended May 17, 2002, as well as the OECD Guidelines.
 MEXICO	Annual Miscellaneous Tax Provisions for Maquiladora companies, APA filing, Informative Transfer Pricing Return and Temporary Regulations for 2003-2007, numbers XVII through XX. Article 276 and 260 of the Income Tax Law Regulations	 SPAIN	Royal Decree 1.777/2004 and Royal Decree 1776/2004. Draft regulations governing documentation obligations, and covering extensively mutual procedure and APAS are expected to be approved during 2008.
 NETHERLANDS	Transfer Pricing Decree, March 30, 2001, IFZ 2001/295. Decree on intercompany services and CCAs, August 21, 2004, IFZ 2004/680 (adjustment of Transfer Pricing Decree of March 30, 2001). Decree on TP Coordination Group, August 11, 2004, DGB 2004/1339. APA Decree, August 11, 2004, IFZ 2004/124. ATR Decree, August 11, 2004, IFZ 2004/125. Decree on Financial service companies, August 11, 2004, IFZ 2004/126. Q&A Decree re financial service companies, August 11, 2004, IFZ 2004/127.	 SWEDEN	General arm's length approach in the Income Tax Act. No authority guidelines on the application of the arm's length principle. RÅ 1991 ref. 107 (AB Svenska Shell).
 NEW ZEALAND	Transfer Pricing Guidelines. *NEZ	 SWITZERLAND	No specific guidelines; however, Swiss tax authorities generally follow the OECD Guidelines. Specific regulations on services (SFTA Circular 2004), debt/equity ratio (STFA Circular 1997), and interest on intercompany loans (yearly STFA circulars).
 NORWAY	Arm's length principle in the General Tax Act section 13-1. Generally, the OECD Guidelines apply.	 TAIWAN	The Rules Governing the Assessment of Income Tax for Profit-Seeking Enterprises on Non-Arm's Length Transfer Pricing Issues (the "Transfer Pricing Guidelines").
 OECD	Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (as amended). OECD Guidelines have no binding legal effect, but are the basis for local transfer pricing rules in many countries.	 THAILAND	Departmental Instruction No. Paw. 113/2545 (issued May 16, 2002 – "Calculation of corporate income tax in the case of establishing transfer pricing").
 PERU	Articles 24 and 108-118 of the Income Tax Regulations (Supreme Decree 122-94-EF, modified by Supreme Decree 190-2005-EF) and Resolution 167-2006.	 TURKEY	Article 13 of the Turkish Corporate Tax Code provides the general rules. Transfer pricing applications are explained through Transfer Pricing General Communiqué No. 1, promulgated in the Official Gazette on 18 November 2007, as well as the Transfer Pricing Decree promulgated on 6 December 2007.
 PHILIPPINES	No regulations issued to date. Follows arm's length standard and OECD Guidelines. A proposed revenue regulation prescribing more specific guidelines on transfer pricing is pending with the Bureau of Internal Revenue, but had not been approved at press time	 UK	HMRC Tax Bulletin Issues 31 (European Arbitration Convention), 37 (record keeping and transfer pricing for financial transactions), 38 (penalties), 43 (APAs), 46 (nonresident landlords), 60 (conduct of transfer pricing inquiries), Special Edition April 2000 on 2003 UK/US treaty (Mutual Agreement Procedure), and HMRC Statement of Practice 02/07 (Advance Thin Capitalization Agreements under APA legislation).
 POLAND	Executive Ordinance of 10 October 1997, Ordinance on Tax Havens of 16 May 2005, Ordinance on APA Realization of 31 May 2006.	 USA	Reg. §1.482, Reg. §1.6662-6.
 PORTUGAL	Ministerial Order (Portaria) #1446-C/2001.	 VENEZUELA	SENIAT Providence NR sNAT-2003-2424, dated February 13, 2004 (effective from date of issuance).
 RUSSIA	No regulations	 VIETNAM	No provision.
 SINGAPORE	IRAS Transfer Pricing Guidelines were officially issued on 23 February 2006. Endorse the arm's length principle, as defined by the OECD.		

Acceptable Methods

ARGENTINA 	CUP, Resale Price, Cost Plus, Profit Split, TNMM, and the quotation value of the asset on a transparent market on the day the goods have been shipped (when “commodities” are exported through an international intermediary agent who is not the ultimate recipient of the goods).
AUSTRALIA 	CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.
AUSTRIA 	CUP, Resale Price, Cost Plus, Profit Split, TNMM.
BELGIUM 	CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.
BRAZIL 	Transactional methods, most using statutory gross margins. Imports: PIC (compared uncontrolled price); PRL (Resale Price minus Profit) prescribes statutory margin on imports of 60% for raw materials and 20% for other imports; CPL (production cost abroad plus 20% profit margin). Exports: CAP (production cost plus 15% profit margin), PVEX (sales price on exports) and PVA and PVV, respectively 15% for wholesale, 30% for retail.
CANADA 	CUP, Resale Price, Cost Plus, Profit Split, TNMM.
CHILE 	CUP, Resale Price, Cost Plus.
CHINA 	CUP, Resale Price, Cost Plus, Transactional Net Margin, Profit Split and other methods in compliance with the arm’s length principle according to article 111 of the implementation rules to the new EIT Law.
COLOMBIA 	CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, TNMM.
CZECH REPUBLIC 	CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM.
DENMARK 	CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.
ECUADOR 	CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, Transactional Operating Profit Margins Method.
FINLAND 	CUP, Resale Price, Cost Plus, Profit Split, TNMM
FRANCE 	CUP, Resale Price, Cost Plus, Profit Split, TNMM.
GERMANY 	CUP, Resale Price, Cost Plus. The tax authorities accept TNMM and Profit Split methods under certain conditions. Hypothetical arm’s length test (prudent business manager) in case the other methods do not apply.
HUNGARY 	CUP, Resale Price, Cost Plus. Any other methods may be applied if an arm’s length price cannot be supported by the methods listed.
INDIA 	CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM or such other method as may be prescribed.
IRELAND 	None specified. Any future legislation is likely to comply with OECD Guidelines.
ISRAEL 	CUP, Cost Plus, Resale Price, TNMM, Profit Split, Residual Profit Split and other unspecified methods.
ITALY 	CUP, Resale Price, Cost Plus, Profit Comparison, Profit Split, Invested Capital Profitability, Economic Sector Gross Margin.
JAPAN 	CUP, Resale Price, Cost Plus, Profit Split, TNMM (TNMM is applicable for tax years beginning on or after April 1, 2004) and similar methods.
KAZAKHSTAN 	CUP, Cost Plus, Resale Price.
KENYA 	CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM. The KRA commissioner may approve another method when in his opinion the other methods do not result in a proper price.
KOREA 	CUP, Resale Price, Cost Plus, TNMM, Profit Split.

Acceptable Methods

MALAYSIA 	CUP, Resale Price, Cost Plus, TNMM, Profit Split.
MEXICO 	CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, Transactional Operating Profit Margin Method (TOPMM).
NETHERLANDS 	CUP, Resale Price, Cost Plus, Profit Split, TNMM
NEW ZEALAND 	CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), CPM.
NORWAY 	Follows the OECD Guidelines.
OECD 	Traditional transaction methods (CUP, Resale Price, Cost Plus) and transactional profit methods (Profit Split -- Contribution Analysis or Residual Analysis,, TNMM).
PERU 	CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, TNMM.
PHILIPPINES 	Under the draft rules, CUP, Resale Price, Cost Plus, and Profit Split.
POLAND 	CUP, Resale Price, Cost Plus, Profit Split (Contribution Analysis or Residual Analysis), TNMM.
PORTUGAL 	CUP, Resale Price, Cost Plus, Profit Split (Contribution Analysis or Residual Analysis), TNMM.
RUSSIA 	CUP, Resale Price, Cost Plus.
SINGAPORE 	CUP, Resale Price, Cost Plus, TNMM and Profit Split.
SOUTH AFRICA 	CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM.
SPAIN 	CUP, Resale Price, Cost Plus, Profit Split, and TNMM.
SWEDEN 	Follows OECD Guidelines.
SWITZERLAND 	All OECD methods are accepted.
TAIWAN 	CUP, Resale Price, Cost Plus, Comparable Profit, Profit Split, other arm's length methods approved by the MOF.
THAILAND 	CUP, Resale Price, Cost Plus, other methods that are acceptable by international standards and that appropriately apply to the actual transactions.
TURKEY 	CUP, Resale Price, Cost Plus. When these are not appropriate, taxpayers may use other methods as necessary. Other acceptable methods include profit-based methods in the OECD TP Guidelines (the profit split method and TNMM) as well as unspecified methods.
UK 	CUP, Resale Price, Cost Plus, Profit Split (e.g. Residual Analysis), TNMM.
USA 	CUP, Resale Price, Cost Plus, Comparable Profit Split, Residual Profit Split, Comparable Profits.
VENEZUELA 	CUP, Resale Price, Cost Plus, Profit Split, TNMM.
VIETNAM 	CUP, Resale Price, Cost Plus, CPM, and Profit Split.

Priority of Methods

<p>ARGENTINA</p>  <p>Best method, except in the case of commodities exports destined to related parties when made through an international intermediary agent who is not the ultimate recipient of the goods, in which case the quotation value of the asset on a transparent market on the day the goods are shipped is mandatory.</p>	<p>FINLAND</p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM</p>
<p>AUSTRALIA</p>  <p>Most appropriate method. Transaction-based preferred over profit-based.</p>	<p>FRANCE</p>  <p>Transaction-based preferred over profit-based.</p>
<p>AUSTRIA</p>  <p>CUP preferred; Resale Price and Cost Plus preferred over Profit Split and TNMM.</p>	<p>GERMANY</p>  <p>CUP, Resale Price, Cost Plus method are the preferred methods if fully comparable arm's length prices can be determined. If fully comparable arm's length data cannot be determined, limited comparable data shall be used after making appropriate adjustments under the application of an appropriate transfer price method (Profit Split, TNMM). If even limited comparable arm's length data cannot be determined, the taxpayer must perform a hypothetical arm's length test (prudent business manager).</p>
<p>BELGIUM</p>  <p>Reasonable method. Transaction-based preferred over profit-based.</p>	<p>HUNGARY</p>  <p>No priority. Other methods may be used after the listed ones have been eliminated.</p>
<p>BRAZIL</p>  <p>Method that yields lowest taxable income.</p>	<p>INDIA</p>  <p>Most appropriate method.</p>
<p>CANADA</p>  <p>Most Appropriate method. Transaction-based preferred over profit-based. Profit Split preferred over TNMM. Residual Profit Split preferred over other Profit Splits.</p>	<p>IRELAND</p>  <p>No priority.</p>
<p>CHILE</p>  <p>CUP preferred over other methods.</p>	<p>ISRAEL</p>  <p>Transaction-based methods preferred over profit-based methods.</p>
<p>CHINA</p>  <p>The implementation rules for the new EIT Law do not specify a priority of transfer pricing methods. However, it is expected that the detailed contemporaneous documentation rules will formally adopt the best method rule.</p>	<p>ITALY</p>  <p>Transaction-based preferred over profit-based. CUP preferred over Resale Price and Cost Plus.</p>
<p>COLOMBIA</p>  <p>Most appropriate method, according to transaction characteristics.</p>	<p>JAPAN</p>  <p>Transaction-based preferred over profit-based</p>
<p>CZECH REPUBLIC</p>  <p>Reasonable method. Transaction-based preferred over profit-based.</p>	<p>KAZAKHSTAN</p>  <p>CUP has first priority; Cost Plus and Resale Price apply if it is impossible to apply CUP.</p>
<p>DENMARK</p>  <p>Transaction-based preferred over profit-based</p>	<p>KENYA</p>  <p>The rules give an equal rating to all methods. However, transaction-based methods are listed above the profit-based ones.</p>
<p>ECUADOR</p>  <p>No priority stated, but the methods must be applied individually or combined to reflect the arm's length principle.</p>	<p>KOREA</p>  <p>No priority among traditional transactional methods such as CUP, Cost Plus, and Resale Price. However, profit-based methods (TNMM or profit split) will be applied if it is impossible to apply traditional transactional methods.</p>


















Priority of Methods

MALAYSIA 	Traditional transactional methods – CUP, Resale Price and Cost Plus – to be considered before the transactional profits methods – Profit Split and TNMM. Global formulary method clearly rejected.	SOUTH AFRICA 	No priority; however, the most reliable method is preferred.
MEXICO 	CUP to be considered preferred method, followed by Cost Plus and Resale Price. Profit-based methods to be applied if CUP, Cost Plus and Resale Price are not applicable. Resale Price, Cost Plus, and TOPMM are not applicable in specific circumstances.	SPAIN 	CUP, Cost Plus, and Resale have priority. When due to complexity or information available it proves difficult to apply those methods, Profit Split and TNMM are also allowed
NETHERLANDS 	Taxpayers are free to choose a method; however, the method chosen should lead to an arm's length result.	SWEDEN 	Transaction-based methods generally preferred over profit-based.
NEW ZEALAND 	Most reliable method. Transaction-based preferred over profit-based.	SWITZERLAND 	Transactional methods such as comparable uncontrolled price (CUP), Cost Plus, and Resale Price are preferred. In general, the profit split method is accepted only in an Advance Pricing Agreement context.
NORWAY 	Transaction-based preferred over profit-based.	TAIWAN 	The best method rule applies.
OECD 	Reasonable method. Transaction-based preferred over profit-based.	THAILAND 	Transaction-based preferred over profit-based.
PERU 	Best method.	TURKEY 	No priority. Best method. Taxpayers have the option to select and use the most appropriate TP method that provides them with the arm's length price based on the facts and particular circumstances of their transactions.
PHILIPPINES 	None specified.	UK 	Most reasonable method or methods. Transaction-based preferred over profit-based.
POLAND 	CUP, then transaction-based preferred over profit-based.	USA 	Best method.
PORTUGAL 	Most appropriate method. Transaction-based preferred over profit-based	VENEZUELA 	Best method, with priority for CUP.
RUSSIA 	In order of preference: CUP, Resale Price, and Cost Plus.	VIETNAM 	No priority.
SINGAPORE 	Method that produces the most reliable results.		

Penalty on Transfer Pricing Assessment

ARGENTINA 	Specific transfer pricing penalties apply for failure to file TP returns (USD 7,000); for refusal to file, when requested, TP returns (up to USD 15,000); for failure to comply with formal procedures (up to USD 15,000); for underpayment of tax (1 to 4 times the underpaid tax).	FINLAND 	Maximum EUR 25,000 penalty for noncompliance with documentation requirements per request. Ordinary discretionary penalties of 5% to 30% on the reassessed amount of income, and penalty interest of 10% per annum may be imposed.
AUSTRALIA 	Penalty of 50 percent of additional tax payable (when there was a dominant tax avoidance purpose) or from 10 to 25 percent (in all other cases, reducible when the taxpayer has a reasonably arguable position). Interest penalties are imposed at gazetted interest rates.	FRANCE 	As of 1 January 2006, EUR 10,000 fine per fiscal year if unsatisfactory (or default) response to L. 13B procedure (CGI art. 1735 II). Bad-faith penalties (40 percent of tax assessment) may apply (may be 80 percent in case of fraud or 150 percent in specific cases).
AUSTRIA 	No specific transfer pricing penalties. Interest on late payment of any additional corporate income tax liabilities caused by a transfer pricing assessment.	GERMANY 	If documentation is not submitted, or if the documentation does not comply with requirements, a penalty of 5 to 10 percent of the income adjustment will be assessed, with a minimum surcharge of EUR 5,000. In case of delayed submission, the surcharge may amount up to EUR 1 million, at least EUR 100 per day. Penalty payments are not deductible (sec. 162 para. 4 General Tax Code). The German tax authorities adjust to the most unfavorable point of the arm's length range if documentation from foreign related parties cannot be provided.
BELGIUM 	Ordinary penalties apply – 10 to 200 percent of additional tax (10 percent penalty even in the absence of bad faith).	HUNGARY 	If tax base adjustments result in a tax default, the standard assessments - tax penalty and late payment interest - will be due in accordance with the general rules. Furthermore, if taxpayer fails to present transfer pricing documentation at the request of the tax authority, it may be fined up to HUF 2 million (approx. USD 11,450) per related-party contract.
BRAZIL 	Ordinary penalties apply based on additional tax: 75% to 150%, would increase up to 112.5% to 225%. In the case of incorrect or omitted information on Audin, 5% of the transaction price, limited to 1 of annual gross revenue. Failure to submit electronic files by the deadline would result in 0.02% of net revenue per day, up to 1% of net	INDIA 	100 to 300 percent of additional tax. Penalty for failure to maintain or furnish prescribed information and documentation – 2 percent of the value of international transaction. Penalty for failure to furnish with the return a report from an accountant – INR 0.1 million.
CANADA 	Transfer pricing penalty of 10 percent of the total transfer pricing adjustment if adjustment exceeds threshold. (Effective for tax years beginning after 1998).	IRELAND 	Not applicable
CHILE 	IRS may redetermine taxpayer's transfer prices and impose penalties for underpayment of taxes.	ISRAEL 	Ordinary penalties apply – 4 percent + CPI + 15 percent penalties under certain conditions.
CHINA 	An initial fine of up to RMB 2,000 for failure to timely submit the informational returns using Form A-13 or Form B-13. Serious noncompliance may result in a fine between RMB 2,000 and RMB 10,000. A fine of up to RMB 10,000 for refusing to provide requested information or providing false information. Serious offense may result in a fine between RMB 10,000 and RMB 50,000.	ITALY 	Ordinary penalties apply – 100 to 200 percent of additional tax (increased by one third if taxable income is derived from foreign sources); 30 percent of the unpaid tax and applicable interest. Beginning on April 15, 2000, criminal penalties (1-3 years imprisonment) may apply in certain circumstances (tax fraud, significant tax evaded, or significant income not disclosed).
COLOMBIA 	Ordinary penalties of up to 160 percent of unpaid tax may apply.	JAPAN 	No specific transfer pricing penalties for TP. Ordinary penalty is 10 to 15 percent of additional tax (35 percent for concealment of facts). Delinquency tax rate is the lower of 7.3 percent and the special discount rate for commercial bills at the central bank.
CZECH REPUBLIC 	Ordinary penalties apply. The interest rate is applied for each day of the tax arrear: Repo rate of CNB p.a. + 14% (for maximum 5 years of the tax arrear). If the discrepancy was discovered by the tax authority, the taxpayer must pay penalty of 20% on additional tax assessed (5% if decreasing a tax loss).	KAZAKHSTAN 	Ordinary penalties apply – 50 percent of underpaid taxes
DENMARK 	Penalty for noncompliance with documentation requirements, and for filing incorrect information regarding qualification for SMV exemption from documentation requirements. Penalty for noncompliance equal to 200 percent of the cost saved by not preparing the documentation. A penalty of 10 percent of any adjustment increasing taxable income may be triggered.	KENYA 	Penalties will apply for transfer pricing purposes under ordinary penalty sections of the Kenyan Income Tax Act.
ECUADOR 	No specific transfer pricing penalties.	KOREA 	Up to 30 million won penalty for failure to provide documents in 60 days (one 60-day extension allowed) upon request from NTS. NTS may disregard the documents presented as supporting documents for tax appeal or CA if the documents were not submitted within 60 days (or 120 days) upon request from NTS without justifiable reason. Penalty for understatement is 10 percent.

Penalty on Transfer Pricing Assessment

 MALAYSIA	No specific transfer pricing penalties. Existing penalty provisions may apply to understatement of income.	 SOUTH AFRICA	Ordinary penalties apply, up to 200 percent of unpaid tax for material nondisclosure and tax evasion; interest charged at 11 percent per annum on underpaid tax.
 MEXICO	Ordinary penalties apply – 40 percent of tax deficiency if paid before notice of deficiency is issued, 55 to 75 percent in other cases, adjusted for inflation and interest.	 SPAIN	If a transfer pricing adjustment is required, 15% of the adjustment. €1,500 per omitted data, or €15,000 for an omitted set of data. Additionally, penalties of up to 3% of the turnover of the entity may be applied, up to a maximum of €600,000.
 NETHERLANDS	No transfer-pricing-specific penalty charges. General penalties apply – maximum of 100 percent in case of malicious intent.	 SWEDEN	No specific transfer pricing penalties. Ordinary penalty of 20-40 percent of the additional tax on the income adjustment.
 NEW ZEALAND	Ordinary penalties apply – up to 187.5 percent for evasion and obstruction (Section 141E and 141K). Interest charged on any outstanding tax at prevailing interest rate (as established by the IRD). *NEZ	 SWITZERLAND	No specific transfer pricing penalties. General penalty rules apply, but are usually applied only in case of fraud and negligence. Penalties are nondeductible and between 100% and 300% of tax revenue lost. Non-arm's-length transfer pricing could be deemed a "hidden profit distribution" subject to federal withholding tax (35%).
 NORWAY	Penalty is levied if the taxpayer has provided incorrect or insufficient information for the tax authorities to determine whether the pricing is arm's length. Penalty rate up to 60 percent (normally 30 percent) of additional tax.	 TAIWAN	Substantial adjustments made by tax authorities based on the Transfer Pricing Guidelines will trigger penalty of up to 200 percent of underpaid taxes under Article 110 of Taiwan Income Tax Law.
 OECD	Depends on local law. However, Guidelines recognize that promoting compliance should be the primary objective of civil tax penalties.	 THAILAND	No specific transfer pricing penalties; the general corporate tax penalty regime applies. Penalty of up to 100 percent of the additional corporate tax and interest surcharges of 1.5 percent per month on outstanding tax.
 PERU	Specific infractions (and the corresponding penalty) are established for transfer pricing.	 TURKEY	No specific transfer pricing penalty. General penalty provisions in the Turkish Tax Procedures Code apply. The general tax loss penalty is 100% of unpaid tax. There is a delay interest applied on a monthly basis (2.5% - valid effective 1 April 2006) for the period between the normal due date of the additional tax assessed and the date of assessment.
 PHILIPPINES	Ordinary surcharge of 25 percent and Interest of 20 percent annually. If the transaction is deemed fraudulent, the surcharge is 50 percent.	 UK	Ordinary provisions for self-assessment apply – up to 100 percent of tax unpaid through fraud or negligent conduct (absence of documentation likely to constitute negligence); no penalty if taxpayer has made "honest and reasonable" attempt to comply and has evidence to show what it has done.
 POLAND	For transactions below the threshold for mandatory documentation, or above the threshold when documentation is presented and accepted, penalty is 19 percent. For transactions above the threshold when documentation is not presented or accepted, penalty is 50 percent.	 USA	Transfer pricing penalty of 20 or 40 percent of additional tax resulting from adjustments exceeding objective thresholds.
 PORTUGAL	No transfer-pricing-specific penalties apply. General tax penalties of up to €100,000 apply for refusal to provide information, incorrect or incomplete information, etc.	 VENEZUELA	Ordinary penalties apply, at 25 to 200 percent of additional tax. Failure to have documentation and to comply with the arm's length principle penalty: 300-500 Tax Units. Failure to file TP return penalty: 10-50 Tax Units. Tax Code art. 66, 103, 104, 111 effective 10/2001.
 RUSSIA	No specific transfer pricing penalties, but additional assessment of the tax due and assessment of interest on the tax payment, calculated as 1/300 of the Central Bank of Russia interest rate for each day of delay, apply. In case of tax evasion, penalties equal to 20 percent of tax due may be assessed.	 VIETNAM	Penalties will be levied in addition to transfer pricing adjustments. Circular 117 does not provide any clear guidelines on administrative fines or specific transfer pricing penalties. Under the Law on Tax Management, there will be administrative penalty for failure to comply with tax regulations. When an enterprise makes voluntary adjustments, the underdeclared amount will be treated as late payment and is subject to late payment interest of 0.05% per day... Cont'd on pg 63
 SINGAPORE	No specific transfer pricing penalties. Existing penalty provisions under the Singapore Income Tax Act are applicable, ranging from 100 to 400 percent of underpaid tax, and may include fines and imprisonment.		












Reduction in Transfer Pricing Penalties

ARGENTINA 	No provision.	FINLAND 	Discretionary reduction.
AUSTRALIA 	Discretionary reduction if taxpayer makes reasonable attempt to comply with the arm's length principle and has contemporaneous documentation. Penalty may be reduced to zero when specified conditions apply (see TR98/16, para. 36).	FRANCE 	No provision.
AUSTRIA 	No provision.	GERMANY 	If failure to fulfill documentation requirements is excusable, tax authorities may refrain from imposing penalty.
BELGIUM 	No penalty if taxpayer proves incorrect reporting was due to circumstances beyond its control and action was taken in good faith (implying that documentation is present at the start of tax audit). Penalties increase in case of bad faith and/or repeated infringement.	HUNGARY 	No provision
BRAZIL 	Upon examination and assessment, the taxpayer may be granted a 50% reduction in penalties for uncontested payment.	INDIA 	Penalty not leviable if transfer prices computed by using the most appropriate method, in good faith and with due diligence. For other penalties, reasonable cause must be proven. Penalties may be contested on appeal.
CANADA 	No penalty if reasonable effort to determine arm's length price, including contemporaneous documentation. Transfer pricing memorandum (TPM-09)	IRELAND 	Not applicable.
CHILE 	No provision.	ISRAEL 	No provision.
CHINA 	According to the implementation rules of the new EIT Law, if an enterprise provides relevant documents in accordance with the provisions of Article 43 of the new EIT Law (Contemporaneous Documentation), the interest charges may be computed at the RMB benchmark lending rate without the additional 5%.	ITALY 	Information not available.
COLOMBIA 	Ordinary penalties may be reduced to 10 percent.	JAPAN 	No provision.
CZECH REPUBLIC 	No provision. Penalties may be reduced or waived through negotiation on a case-by-case basis.	KAZAKHSTAN 	No provision.
DENMARK 	Penalty for noncompliance may be reduced to 100 percent of the cost saved if the documentation is prepared upon request by the tax authorities.	KENYA 	No provision.
ECUADOR 	Not applicable.	KOREA 	The 10 percent penalty for underpayment may be waived if (1) supporting documentation is presented and Competent Authority confirms justifiable position; or (2) the NTS accepts a unilateral APA.























Reduction in Transfer Pricing Penalties

MALAYSIA 	Penalties may be imposed or mitigated at the discretion of the Director-General of Inland Revenue.	SOUTH AFRICA 	No provision; there's usually room for negotiation.
MEXICO 	50 percent reduction if transfer price documented	SPAIN 	As provided in article 188.3 of the General Taxation Law 58/2003.
NETHERLANDS 	May be reduced or forgiven if documentation reflects justifiable position.	SWEDEN 	No provision.
NEW ZEALAND 	Reduced if documentation shows that taxpayer: (1) exercised reasonable care or (2) adopted acceptable interpretation of the law. May also be reduced by up to 75 percent for disclosures made before audit.	SWITZERLAND 	Not applicable.
NORWAY 	No provision.	TAIWAN 	No provision.
OECD 	Depends on local law. Reduction not specified. However, imposition of sizeable penalties deemed unfair if taxpayers make reasonable effort in good faith.	THAILAND 	No provision; however, the taxpayer may apply to the assessment officer or appeal to the Board of Tax Appeal for reduction of penalty.
PERU 	20, 30, or 50 percent discount if taxpayer meets certain conditions. *PER	TURKEY 	No specific reduction provision for transfer-pricing-related penalty assessments; general rules. Taxpayers may appeal to the Ministry of Finance for a reduction in the penalty through settlement procedures before or after imposition of the assessment. Also, 50% of the penalty may be reduced if the taxpayer applies to tax office within 30 days from date of notification so as to pay the additional tax assessed.
PHILIPPINES 	Not applicable.	UK 	HMRC may take mitigating factors into account in assessing penalties: disclosure of irregularities, cooperation afforded, and size and gravity of offences committed.
POLAND 	No provision.	USA 	No penalty if best method reasonably selected, applied and documented. Contemporaneous obligation.
PORTUGAL 	Penalties may be reduced depending on circumstances	VENEZUELA 	Reduction applies if transfer prices documented according to Legislation (Tax Code art. 96 num. 5)
RUSSIA 	No specific provision. However, the general rules for reduction of penalties may apply.	VIETNAM 	No provision.
SINGAPORE 	No provision.		

Tax Return Disclosures

ARGENTINA 	Forms F742 and F743 require disclosure of related-party transactions with foreign entities for the first 6-month period of each fiscal year and for the entire fiscal year, respectively. Form F741 (semiannual) requires disclosure of imports or exports of assets with an international well-known price, performed with independent third parties. Form 867 requires disclosure of import and export transactions on noncommodities with unrelated parties in excess of ARS 1 million (USD 330.000).	FINLAND 	No specific disclosure, but taxpayer must state in its tax return whether it engaged in related- party transactions, and whether it was required to prepare transfer pricing documentation.
AUSTRALIA 	Schedule 25A requires disclosure of types of transactions, dollar amounts, countries involved, number of related parties involved, documentation maintained and methodologies used.	FRANCE 	No provision.
AUSTRIA 	No specific disclosure required.	GERMANY 	No specific disclosure required.
BELGIUM 	No specific disclosure required	HUNGARY 	No specific disclosure required.
BRAZIL 	Identify parties, methods, prices of operations relating to purchase and sale of rights, services or interest on loan agreements not registered with the central bank within transfer pricing regime.	INDIA 	Report giving particulars of associated enterprises, international transactions, arm's length price, method used for determining arm's length price must be submitted to the Tax Office. The report is to be signed by an independent practicing chartered accountant.
CANADA 	Form T106 requires disclosure of types of transactions, dollar amounts, related companies and countries involved, methodologies used and whether documentation requirements have been met.	IRELAND 	No specific disclosure required.
CHILE 	No specific disclosure required	ISRAEL 	An annual declaration form of all controlled transactions, prices, terms, including an officer's declaration of what constitutes arm's length prices and terms of reported controlled transactions.
CHINA 	Transactions with associated enterprises must be disclosed on supplementary Form A-13 (for single type of transactions) or Form B-13 (for multi-type transactions) of the annual income tax return. For related-party loans a statement with information attesting to the arm's length nature of the related-party interest rate must be filed with the annual income tax return... cont'd on pg 63.	ITALY 	Tax return (form "UNICO" – RF section) requires disclosure of direct/indirect control by/of nonresident entities and relationships with nonresident entities under common control.
COLOMBIA 	Article 260-8 of the Tax Code requires taxpayers to file an annual informative transfer pricing return. Return must be filed between July 1 and July 11	JAPAN 	Schedule 17(3): Detailed statement concerning foreign affiliated persons and applied transfer pricing methods.
CZECH REPUBLIC 	No specific disclosure required.	KAZAKHSTAN 	No specific disclosure required.
DENMARK 	Disclose information on all controlled transactions. Form 05.021 must be completed with tax return (English version, form 05.022).	KENYA 	No specific disclosure required
ECUADOR 	The income tax return must include the amount of the adjustment determined on the transfer pricing study to state the taxable profit and corresponding income tax.	KOREA 	Report identifying transfer pricing method and reason for selecting it; schedule of taxpayer's international transactions with related parties; and summary income statement for foreign related parties












Tax Return Disclosures

 MALAYSIA	All related-party transactions must be disclosed in annual tax return. Specific information requested.	 SOUTH AFRICA	With effect from the 2004 tax year, a copy of the transfer pricing documentation must be submitted with the tax return
 MEXICO	<ol style="list-style-type: none"> 1. Annual Tax Return. 2. Informative Transfer Pricing Return. 3. CPA notes in the Tax Certificate. 4. Exhibit 22 of the Tax Certificate. MEX* 	 SPAIN	Requirements relating to tax return disclosures should be published in a Ministerial Order following the approval of the transfer pricing regulations in 2008
 NETHERLANDS	Obligation to identify intragroup transactions.	 SWEDEN	No specific disclosure required.
 NEW ZEALAND	No specific disclosure required.	 SWITZERLAND	No specific disclosure required.
 NORWAY	A specific form must be filed specifying the nature and extent of transactions with related parties if such transactions exceed NOK 10 million or the gross intercompany balance pertaining to the taxpayer exceeds NOK 25 million at year end. Corporations and other nontransparent entities with a direct or indirect ownership of at least 50% - including non-Norwegian entities taxable in Norway - are deemed related parties.	 TAIWAN	For taxable year 2005, only eligible taxpayers, including public companies, branches, and subsidiaries of foreign companies that conducted reportable transactions are required to disclose related-party information on their income tax returns.
 OECD	Depends on local law. Generally, should be limited to information sufficient to allow tax administration to determine which taxpayers need further examination.	 THAILAND	A "Declaration Form" attached to the annual corporate tax return requires answers to questions regarding whether revenues and expense transactions are based on market prices.
 PERU	Taxpayers must file a special tax return containing information regarding the transactions subject to the transfer pricing regime.	 TURKEY	All corporate taxpayers are required to complete a "Form Relating to Transfer Pricing, Controlled Foreign Companies and Thin Capitalization" as stipulated in Appendix 2 of Transfer Pricing Communiqué No. 1 and submit it to their tax office with their corporate tax returns (starting with corporate tax returns for 2007, which are due to be submitted in April 2008). The form is intended to collect summarized information on the identity of related parties, include an enumeration of related-party transactions and identify transfer pricing methods utilized to...cont'd on pg 63.
 PHILIPPINES	No provision.	 UK	No separate disclosure required (on signing tax return, taxpayer will be implicitly confirming compliance with arm's length standard).
 POLAND	Taxpayers must disclose in their annual CIT return whether they prepared transfer pricing documentation. In addition, transactions with foreign related entities exceeding EUR 300,000 during tax year must be disclosed on the appropriate form. Other transactions upon tax authorities' request.	 USA	CForms 5471 and 5472 require disclosure of detailed information on controlled transactions with foreign entities. Section 482-7(i)(3) requires a controlled participant to qualified cost sharing agreement to make a disclosure on its U.S. income tax return. contemporaneous documentation required for penalty protection. (Effective for tax years beginning after December 31, 1993).
 PORTUGAL	In the Annual Declaration, the taxpayer must (i) identify related parties with which it entered into transactions; (ii) specify the amount of each transaction; (iii) list the methodologies used; and (iv) declare if contemporaneous documentation is available.	 VENEZUELA	Article 168 of the ITL provides the Informative Return must be filed in June of each year. However, SENIAT Providence NR SNAT-2003-2424 of February 13, 2004, establishes that a return must be filed within the six-month period following year-end for fiscal years ending in a month other than December.
 RUSSIA	No specific disclosure required.	 VIETNAM	Taxpayers must prepare a declaration of related transactions -- Form GCN-01/TNDN -- set out in Appendix 1-GCN/HTQT issued with Circular 117. The deadline for submitting this form is the same as the deadline for filing the declaration for corporate income tax finalization, 90 days after the end of the fiscal year.
 SINGAPORE	No disclosure requirements for year of assessment 2004 and subsequent periods (financial years ending after 31 December 2002). For earlier years, taxpayers are required to disclose value and counterparty of some related-party transactions, and whether arm's length prices were charged		

Documentation Requirements

ARGENTINA 	In addition to Forms F742 and F743, taxpayers must file financial statements for the current and two preceding years (only for the first filing), and an annual transfer pricing report certified by a CPA.	FINLAND 	For tax years starting on or after January 1, 2007, companies must prepare documentation in line with the OECD Guidelines. Principles of the EU Joint Transfer Pricing Forum's documentation Code of Conduct adopted.
AUSTRALIA 	Document pricing decisions in accordance with prudent business practices. ATO ruling TR 98/11 recommends contemporaneous documentation to reduce risk of audit.	FRANCE 	No official requirement, but de facto documentation requirement imposed through tax audits.
AUSTRIA 	No statutory requirements. Recommended documentation should follow OECD Guidelines.	GERMANY 	The economic and legal basis for arm's length prices and conditions in cross-border transactions with related parties must be documented. Details are determined in the Decree Law on the manner, content and extent of documentation in the sense of section 90 para. 3 of the General Tax Code of October 28, 2003. Further details on documentation requirements are outlined in the ordinance of April 12, 2005 issued by the Federal Ministry of Finance.
BELGIUM 	No statutory documentation requirements. Recommended documentation should follow OECD Guidelines. Administrative Circular of 14.11.2006 on TP documentation refers explicitly to EU Documentation Code of Conduct. No contemporaneous obligation, but lack of documentation creates substantial risk of a thorough transfer pricing audit and imposition of penalties.	HUNGARY 	Transfer pricing documentation must be prepared for all related-party transactions; however, in some cases simplified documentation is appropriate
BRAZIL 	Detailed information is required to fill out the income tax return, to be provided by specific Transfer Pricing Study at the end of calendar year. Additional data may be requested by tax authorities during tax due diligence. Use of electronic documentation system called Audin is required.	INDIA 	Prepared by due date for filing annual income tax return.
CANADA 	Document pricing decisions in accordance with prudent business practices. Documentation contemporaneous with transactions required to avoid potential transfer pricing penalty. (Effective for tax years beginning after December 31, 1997.)	IRELAND 	None.
CHILE 	Not applicable.	ISRAEL 	Documentation should include: 1) description of all entities involved in cross-border transactions; 2) industry description and market trends; 3) functional and risk analysis; 4) holding and ownership structures; 5) IP ownership; 6) primary contracts; 7) selection of method; 8) selection of profit level indicator; 9) description of comparable transactions/companies; 10) economic results; 11) adjustments performed; and 12) opinions provided.
CHINA 	Contemporaneous documentation requirements have been included in the new EIT Law and implementation rules; however, detailed regulations are pending. It is expected that 2008 will be the first tax year with such requirements.	ITALY 	Penalty may be reduced to one-fourth if paid, without appealing to Tax Court, within 60 days of notification from tax authorities.
COLOMBIA 	Documentation to support transfer price is required, and must be kept for a 5-year period.	JAPAN 	No statutory requirements, but strongly recommended for audit defense. No contemporaneous documentation obligation.
CZECH REPUBLIC 	No legally binding provision on obligatory scope of transfer pricing documentation. However, the Ministry of Finance issued Decree No. D-293, effective 1 January 2006, on the recommended scope of TP documentation, which complies with the OECD Guidelines and the EU TPD. Not legally binding but generally accepted	KAZAKHSTAN 	No statutory requirements, no contemporaneous documentation obligation, but recommended
DENMARK 	Statute requires contemporaneous transfer pricing documentation. An exemption from documentation requirements exists for small and medium-sized enterprises. *DEN	KENYA 	Documentation pertaining to transfer pricing must be made available to the Kenyan Tax Authorities upon request
ECUADOR 	Taxpayers must file an appendix of all transactions entered into with foreign related parties, and a complete transfer pricing report.	KOREA 	Advance documentation effectively required: documents requested on audit must be provided within 60 days of a request.

Documentation Requirements

 MALAYSIA	The TP Guidelines clearly set out the documentation that multinational entities must prepare.	 SOUTH AFRICA	Generic statutory requirements followed. Practice Note 7 broadly follows OECD Guidelines Para. 5.4. Contemporaneous documentation required with respect to transactions entered into after July 19, 1995.
 MEXICO	Contemporaneous documentation must show that prices with each nonresident related party set on a transaction-by-transaction basis are at arm's length. (Documentation effective 1997, transactional analysis effective 2000.) *MEX	 SPAIN	Companies must prepare documentation in accordance with OECD rules and EU Transfer Pricing Forum's Code of Conduct. Specific requirements relating to documentation in Spain are included in draft transfer pricing regulations that are due to be approved in 2008.
 NETHERLANDS	Statutory requirements for entities subject to the Corporate Income Tax Act. Documentation should be part of the taxpayer's general books and records.	 SWEDEN	Statutory documentation requirements effective 1 January 2007. OECD documentation or EU documentation will be accepted.
 NEW ZEALAND	IRD Guideline suggests specific documentation required to demonstrate compliance. Contemporaneous documentation encouraged. (Effective 1996).	 SWITZERLAND	No specific documentation required.
 NORWAY	Documentation rules will enter into effect for fiscal year 2008 for enterprises that have, on a consolidated basis, more than 250 employees or sales revenues in excess of NOK 400 million, and a balance sheet total of more than NOK 350 million. The documentation should contain, as a minimum, a description of the taxpayer, its related parties, the business, and the group the taxpayer is a part of; a description of the intercompany transactions (type and extent); a functional analysis; a description of the transfer pricing method applied; ...cont'd on pg 63	 TAIWAN	Contemporaneous documentation is required starting from 2005 tax year.
 OECD	Depends on local law. Guidelines do not provide relief from documentation requirements imposed under local laws. Reasonable for tax authorities to expect taxpayers to prepare and maintain such material.	 THAILAND	No statutory requirements, but Instruction 113/2545 indicates that Revenue officers should evaluate certain documents. There is, therefore, an implicit assumption that these TP documents should be maintained.
 PERU	Taxpayers must have a Technical Study supporting TP calculations, also indicating the transfer pricing method applied. Detailed documentation and information for each transaction and the Technical Study must be kept available for SUNAT during the established period.	 TURKEY	Any work papers, documents, and records that constitute the basis or proof regarding determination of the arm's length price must be maintained. Detailed annual documentation requirements have been introduced through Transfer Pricing General Communiqué No. 1 announced 18 November 2007. Turkish corporate tax payers registered with the Large Taxpayers' Tax Office (LTTO) are required to prepare annual transfer pricing documentation report regarding both cross-border and domestic transactions with related parties. ...cont'd on pg 63.
 PHILIPPINES	Transactions must be documented by an agreement.	 UK	Taxpayers should keep records to support details in the tax return. Records should be retained for 6 years from end of accounting period for which relevant or from date on which an enquiry for that period is completed.
 POLAND	Documentation must be prepared for domestic and cross-border transactions exceeding annual value thresholds (generally EUR 100,000 for tangibles, EUR 30,000 for services and intangible transactions, EUR 20,000 for transactions with entities in tax havens). Documentation requirements apply to foreign entrepreneurs operating through a permanent establishment in Poland.	 USA	Contemporaneous documentation required for penalty protection. (Effective for tax years beginning after December 31, 1993).
 PORTUGAL	Taxpayers with net sales and other operating income exceeding EUR 3 million in the previous year must maintain a wide range of contemporaneous documentation.	 VENEZUELA	Contemporaneous documentation required (ITL art. 169 effective for tax years beginning after February 16, 2007).
 RUSSIA	No specific documentation requirement. However, under the general rules, the tax authorities are empowered to request any documentation supporting tax calculation.	 VIETNAM	Taxpayers must maintain "contemporaneous" documentation, including transactional description including related party, product specifications, contractual term, and pricing method adopted. The documents must be available in Vietnamese and submitted to tax authority within 30 days upon request. If taxpayer does not maintain contemporaneous documentation, it would be impossible to provide the documents as requested.
 SINGAPORE	No statutory requirements or penalty specifically for insufficiency of documentation. However, lack of documentation for complex and significant related-party transactions may pose the risk of review and challenge by the IRAS on compliance with the arm's length principle. The IRAS stresses importance of adequate documentation should taxpayer be involved in a mutual agreement procedure.		

Deadline to Prepare Documentation

ARGENTINA 	No statutory deadline for preparation.	FINLAND 	Documentation must be prepared annually, and the request to provide documentation for a specific tax year may be made 6 months after the end of that financial year.
AUSTRALIA 	Prepared by due date for filing annual income tax return	FRANCE 	No statutory deadline for preparation.
AUSTRIA 	Not applicable.	GERMANY 	Documentation must be prepared contemporaneously for extraordinary transactions.
BELGIUM 	No statutory deadline for preparation.	HUNGARY 	Prepared by filing date for annual income tax return.
BRAZIL 	Prepare by due date for paying income tax, Jan. 31 or Mar. 31, depending on the company, and June 30 to fill out the annual income tax return. Under the Audin system, 20 days after request	INDIA 	Information not available.
CANADA 	Prepared by due date for filing annual income tax return.	IRELAND 	Not applicable.
CHILE 	Not applicable.	ISRAEL 	No statutory deadline for preparation.
CHINA 	Under the draft contemporaneous documentation regulations, documentation should be prepared by the time the EIT annual return is prepared and filed (that is, within 5 months following the end of the tax year).	ITALY 	No statutory deadline for preparation.
COLOMBIA 	Documentation must be available to tax authorities on July 1.	JAPAN 	Not applicable.
CZECH REPUBLIC 	No statutory deadline for preparation.	KAZAKHSTAN 	Not applicable.
DENMARK 	Transfer pricing documentation should be prepared by income tax return filing date.	KENYA 	No statutory deadline for preparation.-
ECUADOR 	Not applicable.	KOREA 	No statutory deadline for preparation. However, the NTS may ask a taxpayer not meeting the reporting requirement to submit documentation if the required information is not reported on the tax returns.

Deadline to Prepare Documentation

MALAYSIA 	No statutory deadline for preparation. Documentation should be contemporaneous.	SOUTH AFRICA 	Practice Note 7 requires documentation to be prepared no later than the filing date of a tax return affected by these transactions.
MEXICO 	Documentation must be prepared by due date for filing income tax return (March 31).	SPAIN 	In principle, by the due date for presenting tax return, although a specific date may be included in the Ministerial Order due to be published in 2008.
NETHERLANDS 	For entities subject to the Corporate Income Tax Act, documentation should be in place at the time the intercompany transaction takes place.	SWEDEN 	No statutory deadline to prepare documentation, but documentation is expected to exist on a current basis. Documentation may be requested as of the date for submission of the tax return.
NEW ZEALAND 	No statutory deadline for preparation	SWITZERLAND 	Not applicable.
NORWAY 	Within 45 days upon request, and at least 45 days after the tax return filing due date. Because the rules are effective from FY 2008, documentation will generally be requested for the first time after the end of May 2009 (the due date for filing tax returns is 31 May for most corporations).	TAIWAN 	Contemporaneous documentation must be prepared when taxpayer files its corporate income tax return. For calendar year taxpayer, the period to file its tax return is May 1 to May 31 of the year following the closing of its accounting year.
OECD 	Depends on local law. No specific deadline recommended, but taxpayer should make reasonable efforts when transfer prices are established and maintain documentation prepared in this process.	THAILAND 	No statutory deadline for preparation. However, because taxpayers are required to respond to questions in the "Declaration Form" regarding pricing of transactions, TP documentation should be prepared by the return filing date.
PERU 	Tax authorities require that the technical study be ready at the end of the fiscal year.	TURKEY 	The deadline for preparation of the annual TP documentation report and supporting documents is the last date of submission of the annual corporation tax declaration (preparation of annual TP documentation reports for 2007 is due by 25 April 2008, the corporate tax return submission deadline for 2007).
PHILIPPINES 	Agreement must be prepared prior to the transaction.	UK 	Records of transactions with associated businesses and of any tax adjustments – by filing date of annual income tax or corporation tax return. Evidence to demonstrate compliance with arm's length principle – at any time requested by the tax authorities.
POLAND 	No statutory deadline for preparation.	USA 	Prepared by filing date of annual income tax return.
PORTUGAL 	Documentation must be prepared by the last working day of the six-month period following the tax year-end.	VENEZUELA 	Must be contemporaneously prepared each tax year.
RUSSIA 	Not applicable.	VIETNAM 	Taxpayers must maintain "contemporaneous" documentation. The documents must be available and submitted to the tax authority within 30 days upon request. If the taxpayer does not maintain contemporaneous documentation, it would be impossible to provide the documents as requested.
SINGAPORE 	No statutory deadline for preparation.		

Deadline to Submit Documentation

 ARGENTINA	Form F742 must be filed within 5 months from the end of the first six-month period of the fiscal year. Form F743, the financial statements and the transfer pricing study must be filed within 8 months from the year-end. F 741 must be filed within 5 months of the end of each semester of the fiscal year. Form F 867 must be filed within 7 months from the year-end.	 FINLAND	Documentation must be provided within 60 days from request. If additional requests are made, 90 days response time is allowed. Discretionary extension possible.
AUSTRALIA	Upon request.	 FRANCE	Specified deadline in case of oral request during audit (in practice a few weeks). If L13 B procedure implemented, within 2 months of request (one-time extension of 30 days available for justifiable reason)
 AUSTRIA	Not applicable.	 GERMANY	Within 60 days of auditor's request for ordinary business transactions, and within 30 days for extraordinary business transactions.
 BELGIUM	Within 30 days of request. Administrative Circular of 14.11.2006 on TP documentation encourages tax inspectors to grant extension if 'materially' impossible to provide TP documentation within 30-day period.	 HUNGARY	Tax authority may request that documentation be submitted immediately.
 BRAZIL	Within 20 days of request.	 INDIA	Within 30 days of request (one-time extension of 30 days available on application).
 CANADA	Within 3 months of request.	 IRELAND	Not applicable.
 CHILE	Not applicable.	 ISRAEL	Not applicable.
 CHINA	Under the draft contemporaneous documentation regulations, it is expected that, upon the request from the tax authority, taxpayers will need to fulfill the submission requirement within 30 days, with a potential additional 45 days' extension if approved by the tax authorities.	 ITALY	Normally within 15 days of request. (The deadline may be extended, but only at tax authorities' discretion).
 COLOMBIA	Within 15 days from the date of the request from the tax authorities.	 JAPAN	Not applicable.
 CZECH REPUBLIC	No statutory deadline. Could be requested by the tax authorities during a tax audit.	 KAZAKHSTAN	Upon request.
 DENMARK	60 days upon request from tax authorities.	 KENYA	Upon request
 ECUADOR	The appendix must be filed in April of the following fiscal year and the complete report in October of the following fiscal year.	 KOREA	Within 60 days of request (one-time extension of 60 days available for justifiable reason).
































Deadline to Submit Documentation

MALAYSIA 	Multinationals with related-party transactions are expected to have TP documentation ready and to submit during IRB transfer pricing audit.	SOUTH AFRICA 	Documentation must be submitted annually together with the tax return
MEXICO 	Upon request.	SPAIN 	In principle, documentation must be prepared and ready to answer a Tax Administration request by the due date for presenting tax return; a specific filing date may be included in a Ministerial Order following approval of transfer pricing regulations in 2008.
NETHERLANDS 	Upon request. If the documentation cannot be presented upon request, a reasonable time (1 -3 months) will be granted to prepare the documentation	SWEDEN 	Upon request. Thirty days generally provided for submission.
NEW ZEALAND 	Upon request	SWITZERLAND 	Upon request. In general, a taxpayer has 30 days, although time extensions may be granted if necessary.
NORWAY 	Within 45 days upon request, and at least 45 days after the tax return filing due date. Because the rules are effective from FY 2008, documentation will generally be requested for the first time after the end of May 2009 (the due date for filing tax returns is 31 May for most corporations).	TAIWAN 	Taxpayers must furnish documentation within one month after receiving a written request from the tax authorities.
OECD 	Depends on local law. In a timely manner when requested.	THAILAND 	In a timely manner when requested.
PERU 	The deadline for filing the transfer pricing tax return is published annually. Usually, it is due during June-July.	TURKEY 	No specific deadline indicated in TP General Communiqué No. 1 for submission of the annual TP documentation report. However, taxpayers are required to present these reports upon any request from the tax inspectors after the submission deadline of the corporate tax return of the year.
PHILIPPINES 	Must be available at any time during an investigation.	UK 	Under general information powers for self-assessment, within 30 days of request.
POLAND 	7 days from the authorities' request	USA 	Within 30 days of request.
PORTUGAL 	Upon request.	VENEZUELA 	Upon request.
RUSSIA 	Not applicable. However, if the tax authorities request documentation in accordance with the general rules, documentation would have to be submitted within 10 days after the request.	VIETNAM 	When the tax office so requests, a taxpayer must provide information, documents, and source documents within 30 working days from the date of receipt of the request in writing from the tax office. This period may be extended once for a maximum of 30 days from the expiration of the original 30-day period for legitimate reasons.
SINGAPORE 	Timely manner when requested.		

Acceptable Languages for Documentation

ARGENTINA 	Documentation must be in Spanish	FINLAND 	Documentation may be in Finnish or Swedish, the local languages, or in English. Any other languages will pose a major challenge for the tax administration and therefore are not recommended.
AUSTRALIA 	Documentation must be in English.	FRANCE 	Documentation must be in French.
AUSTRIA 	Generally, documentation should be prepared in German. However, a tax auditor, depending on his language ability, may accept documentation in English.	GERMANY 	Documentation must be in German; however, taxpayers may ask for approval to prepare English documentation, which is often granted.
BELGIUM 	Documentation may be in Dutch, French, or English.	HUNGARY 	Although the rules do not require it, preparation of documentation in Hungarian is recommended, because in a tax audit, the Hungarian tax authority is entitled to ask for the Hungarian version.
BRAZIL 	Documentation must be in Portuguese.	INDIA 	Prepared by due date for filing annual income tax return.
CANADA 	Documentation is accepted in both English and French, the official languages of Canada.	IRELAND 	No documentation requirements.
CHILE 	There is no documentation obligation.	ISRAEL 	Documentation may be in English and in Hebrew.
CHINA 	Documentation must be in Chinese.	ITALY 	The Italian tax authorities have the right to require that all documentation submitted be in Italian, or translated into Italian before submission. They may accept documentation in other languages (a frequent occurrence) but there is no guarantee that they will. The tax authorities are not obligated to accept documentation in foreign languages.
COLOMBIA 	Documentation must be in Spanish; however, some annexes have been submitted in English and the tax authorities have accepted them.	JAPAN 	Documentation must be in Japanese.
CZECH REPUBLIC 	The tax administration officially accepts documentation in the Czech or Slovak languages; however, a particular tax office might accept documentation prepared in other commonly spoken languages the tax officials are familiar with, such as English.	KAZAKHSTAN 	Information not available.
DENMARK 	Documentation may be in Danish, English, Swedish, or Norwegian.	KENYA 	Documentation must be in English.
ECUADOR 	Documentation must be in Spanish.	KOREA 	Information not available.














Acceptable Languages for Documentation

MALAYSIA 	Documentation must be in Malay or English.	SOUTH AFRICA 	SPAIN 	No specific rule (pending upcoming regulations). Documentation prepared in English should be acceptable in line with the recommendations of the EU Joint Transfer Pricing Forum. Other languages would be examined on a case-by-case basis, depending on the tax inspector's preference. From a strategic perspective, it is preferable to prepare documentation in Spanish, which can be easily examined in case of a tax audit.
MEXICO 	Documentation must be in Spanish.	SWEDEN 	SWITZERLAND 	No specific rule (pending upcoming regulations). Documentation prepared in English should be acceptable in line with the recommendations of the EU Joint Transfer Pricing Forum. Other languages would be examined on a case-by-case basis, depending on the tax inspector's preference. From a strategic perspective, it is preferable to prepare documentation in Spanish, which can be easily examined in case of a tax audit.
NETHERLANDS 	Dutch law does not require a specific language, but requires that the information included in documentation be accessible to the tax authorities. It is possible to have documentation in various languages, in addition to Dutch and English. If not in Dutch, the tax inspector can require translation.	TAIWAN 	THAILAND 	English is the default for most clients, and is widely accepted; however, German, French, and Italian documentation may be submitted, depending on the region in which the taxpayer is based.
NEW ZEALAND 	Business records must be maintained in English, although approval can be obtained to maintain these records in another language. To the extent transfer pricing documentation does not fall within the definition of business records (economic analysis is unlikely to be business records) this section does not apply. Accordingly, documentation can be maintained in a language other than English. However, if the documentation is to be provided to the IRD to support a taxpayer's position, the IRD would expect taxpayers to translate it into English.	TURKEY 	UK 	There are no documentation requirements. Based on the discussion paper issued on the introduction of Norwegian documentation rules, documentation in Norwegian, Swedish, Danish, and English would be acceptable.
NORWAY 	There are no documentation requirements. Based on the discussion paper issued on the introduction of Norwegian documentation rules, documentation in Norwegian, Swedish, Danish, and English would be acceptable.	USA 	VENEZUELA 	Information not available.
OECD 	Information not available.	VIETNAM 		According to TP General Communiqué No. 1, the acceptable language is Turkish. However, if the original documents are available in other foreign languages, their notarized Turkish translations must be acceptable and made available and presented to the tax authorities upon request.
PERU 	Documentation must be in Spanish.	PHILIPPINES 	POLAND 	Documentation should be in Chinese, except as otherwise approved by the tax authorities.
PHILIPPINES 	Section 234 states that books and records must be kept in Pilipino, English, or Spanish; documents kept in other languages must be translated.	RUSSIA 	SINGAPORE 	The Thai Revenue Department will accept English documentation in the first instance, but may request that some or all documentation be translated into Thai. Documentation for APAs must be in Thai.
POLAND 	Documentation must be in Polish.	RUSSIA 		The legislation requires documentation to be submitted in Portuguese. However, there is provision for submission of documentation in other languages, provided the taxpayer seeks approval.
PORTUGAL 	The legislation requires documentation to be submitted in Portuguese. However, there is provision for submission of documentation in other languages, provided the taxpayer seeks approval.	RUSSIA 		Documentation must be in Russian.
RUSSIA 	Documentation must be in Russian.	RUSSIA 		Documentation must be in Vietnamese. Documents in other languages must be translated.
SINGAPORE 	Documentation must be in English.	RUSSIA 		Documentation must be in English.
























Advance Pricing Agreement (APA) Available?

ARGENTINA 	Not available.	FINLAND 	Not available except (possibly) under treaty's mutual agreement procedure. Taxpayers may also apply for a general advance ruling on transfer pricing issues.
AUSTRALIA 	Taxation Ruling TR 95/23 (unilateral, bilateral, and multilateral).	FRANCE 	Bilateral and unilateral agreements available (in specific cases). Multilateral agreements may be possible.
AUSTRIA 	No formal APA procedure, but a ruling request, binding on the basis of good faith, is possible.	GERMANY 	Available; details on implementation of APAs are outlined in the Federal Ministry of Finance's ordinance of October 5, 2006.
BELGIUM 	APAs available under Law of 21.06.2004 introducing new ruling regime and under mutual agreement procedure.	HUNGARY 	APAs have been available as of 1 January 2007.
BRAZIL 	No. Brazilian rules do not contemplate APAs. However, taxpayer is allowed to request, based on proper studies and analysis, modifications of the statutory margins stated.	INDIA 	Not available.
CANADA 	Information Circular 94-4R (International Transfer Pricing: Advance Pricing Arrangements (APAs)/Unilateral, Bilateral, and Multilateral. Information Circular 94-4R (Special Release) issued March 18, 2005, entitled Advance Pricing Arrangements for Small Businesses (Unilateral only).	IRELAND 	Yes.
CHILE 	Not available.	ISRAEL 	According to Article 85a, APA procedure is available.
CHINA 	APAs are allowed under article 42 of the new EIT Law and article 113 of the implementation rules. The Implementation Rules on Advance Pricing Agreements for Related-Party Transactions (Guo Shui Fa [2004] No. 118) provide detailed regulations. Notice on issues related to Advance Pricing Agreements by the State Administration of Taxation (Guo Shui Han [2005] No. 1172) sets out some requirements for tax authorities on APA procedures. The contents of both Circulars 118 and 1172 are expected to be reissued under the provisions governing the new EIT Law.	ITALY 	According to Article 8 of Law Decree n. 269/2003, effective January 1, 2004, taxpayers with international business activities may apply for an "International Tax Ruling," with contents and effects similar to a unilateral APA, regarding transfer prices, interest, dividends, and royalties. The Revenue Agency released instructions for the application of the ruling procedure in July 2004.
COLOMBIA 	APAs are available only for fiscal year 2006 and forward.	JAPAN 	Both unilateral and bilateral APAs are available. The NTA prefers bilateral. TP commissioner's directive (guideline) issued June 1, 2001.
CZECH REPUBLIC 	Available since 1 January 2006.	KAZAKHSTAN 	The law includes only general provisions regarding APAs. No specific guidelines are available.
DENMARK 	Yes.	KENYA 	Not available
ECUADOR 	Not applicable.	KOREA 	Both unilateral and bilateral APAs are available.
























Advance Pricing Agreement (APA) Available?

MALAYSIA 	Although no rules, guidelines, or regulations have been issued, MIRB is prepared to receive proposals for APAs.	SOUTH AFRICA 	Not available.
MEXICO 	Federal Fiscal Code Article 34-A (unilateral and bilateral APAs).	SPAIN 	Yes. Corporate Income Tax Act (Royal Legislative Decree 4/2004) and Royal Decree 1.777/2004 (unilateral and bilateral). Modified by Law 36/2006.
NETHERLANDS 	Yes. APA Decree, August 11, 2004, nr. IFZ2004/124. Prefiling meeting available upon request. Small business taxpayer APA available; in such cases tax authorities assist taxpayer to find comparables. A case management plan is established for every APA request, including time schedule for processing and finalizing APA request.	SWEDEN 	No specific rules, but available under mutual agreement procedure. Formal rules are expected to be issued during 2008.
NEW ZEALAND 	Section 91E of the Tax Administration Act of 1994 or under mutual agreement procedure (unilateral and bilateral).	SWITZERLAND 	Yes. Contents of application follow the guidance provided in OECD Transfer Pricing Guidelines.
NORWAY 	Not available.	TAIWAN 	APAs are allowed for taxpayers who meet criteria defined in the Transfer Pricing Guidelines. Eligible taxpayers must file application to tax authorities by the end of the first year in which the transactions covered in the APA were conducted.
OECD 	Chapter IV.F (multilateral, bilateral, and unilateral); Annex "Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure."	THAILAND 	According to Departmental Instruction No. Paw. 113/2545 (Clause 5) APAs are available. Bilateral agreements may be applied for under mutual agreement procedure of treaties.
PERU 	Although the Income Tax Law establishes the possibility for taxpayers and the CA to determine valuation methods by means of advance agreements, this possibility is now limited to taxpayers with international operations.	TURKEY 	Yes. Organization of an APA unit within the Turkish Revenue Administration is in progress. According to the TP Decree officially announced on 6 December 2007, the scope of APAs is limited to cross-border related-party transactions of corporate taxpayers. Corporate taxpayers registered with the LTTO are eligible to apply for an APA beginning 1 January 2008. All corporate taxpayers will be eligible to do so from 1 January 2009. Applications for unilateral, bilateral and multilateral APAs are allowed
PHILIPPINES 	Available under draft rules.	UK 	Yes. HMRC Statement of practice 3/99 on Advance Pricing Agreements and Tax Bulletin Issue 43.
POLAND 	Available, including for foreign entrepreneurs operating through a permanent establishment in Poland	USA 	Yes. Rev. Proc. 2006-9 (multilateral, bilateral, and unilateral).
PORTUGAL 	Currently not available. However, the government has announced that provisions for APAs will be introduced in 2008	VENEZUELA 	Yes (unilateral and bilateral). Title VII, Chapter III, Fifth Section of ITL (Latest amendment effective February 16, 2007).
RUSSIA 	Not available	VIETNAM 	Not available.
SINGAPORE 	Yes (unilateral and bilateral). The TP Guidelines provide guidance on making an APA request.		

APA Filing Fee

ARGENTINA 	Not applicable.	FINLAND 	Not applicable.
AUSTRALIA 	No fee.	FRANCE 	No fee.
AUSTRIA 	Not applicable.	GERMANY 	No fee.
BELGIUM 	No fee.	HUNGARY 	The maximum fees are HUF 12 million (USD 68,600) for unilateral, HUF 17 million (USD 97,150) for bilateral, and HUF 20 million (USD 114,300) for multilateral APAs, while the minimum fees are HUF 5 million (USD 28,550), HUF 10 million (USD 57,150) and HUF 15 million (USD 85,700) respectively.
BRAZIL 	Not applicable.	INDIA 	Not applicable.
CANADA 	Nonrefundable user charge for each accepted APA request or renewal to cover estimated "out-of-pocket" costs, such as travel and accommodation expenses. Any amount paid in excess of actual costs will be refunded to the taxpayer. For Small Business APAs, a flat fee of \$5,000 will be charged.	IRELAND 	No fee.
CHILE 	Not applicable.	ISRAEL 	Not specified.
CHINA 	No fee.	ITALY 	Not specified.
COLOMBIA 	No regulations to date.	JAPAN 	No fee.
CZECH REPUBLIC 	CZK 50,000 (approx. USD 2,745, EUR 1885).	KAZAKHSTAN 	No fee.
DENMARK 	DKK 300	KENYA 	Not applicable
ECUADOR 	Not applicable.	KOREA 	No fee.

APA Filing Fee

MALAYSIA 	Not fixed at the moment.	SOUTH AFRICA 	Not applicable.
MEXICO 	Approximately US \$360 for filing the request, US \$72 for submission of annual report during APA term. The amount is periodically updated for inflation.	SPAIN 	No fee.
NETHERLANDS 	No fee.	SWEDEN 	Not applicable.
NEW ZEALAND 	No fee for bilateral APA. Minimal application fee for unilateral APA. IRD seeks to recover "out of pocket" expenses	SWITZERLAND 	No fee.
NORWAY 	Not applicable.	TAIWAN 	No fee.
OECD 	Guidelines do not require taxpayers to maintain documentation in a specific language. Taxpayers may maintain documentation in whichever language they prefer. However, taxpayers should comply with reasonable requests from the tax authorities for translation of documents.	THAILAND 	No fee.
PERU 	Not specified.	TURKEY 	Based on the current rules for the APA process available as of 14 December 2007, there is no APA filing fee required by the Turkish Revenue Authority. However, an APA filing fee might be introduced when the detailed APA application procedures are announced.
PHILIPPINES 	Not applicable.	UK 	No fee.
POLAND 	In general, 1% of transaction value, with the following thresholds: <ul style="list-style-type: none"> • domestic unilateral agreement: PLN 5,000 – 50,000, • foreign unilateral agreement: PLN 20,000 – 100,000, • bilateral/multilateral foreign agreements: PLN 50,000 – 200,000. 	USA 	\$22,500 to \$50,000 for original request. \$50,000 for nonroutine renewal; \$35,000 for routine renewal. \$22,500 for small business APA request (same for renewal). \$10,000 for amending APA request or a completed APA.
PORTUGAL 	Not applicable.	VENEZUELA 	Not specified. Taxpayer must bear cost.
RUSSIA 	Not applicable.	VIETNAM 	Not applicable.
SINGAPORE 	No fee.		

APA Term of Agreement

ARGENTINA 	Not applicable.	FINLAND 	Not applicable.
AUSTRALIA 	Generally 3-5 years forward	FRANCE 	3-5 years going forward.
AUSTRIA 	Not applicable.	GERMANY 	The Federal Ministry of Finance ordinance states that the APA term should be no less than 3 years, but should not exceed 5 years.
BELGIUM 	Maximum term of 5 years.	HUNGARY 	3-5 years. It could be extended by an additional 3 years.
BRAZIL 	Not applicable.	INDIA 	Not applicable.
CANADA 	Depending on proposal, industry, and transactions involved, term is usually 3 to 5 years, but may vary depending on facts, circumstances, and resolution of the particular case. Can roll back if all parties agree. Roll backs are not permitted under the Small Business APA.	IRELAND 	Subject to negotiation.
CHILE 	Not applicable.	ISRAEL 	Not specified.
CHINA 	Based on article 113 of the implementation rules to the new EIT Law and Guo Shui Fa [2004] No. 118, there is no formal provision on the term. In practice, a 3-year term may be expected, and the year in which the application is formally accepted by the authorities may also be covered.	ITALY 	Once signed, the agreement would remain in force for three years (including the year in which it is signed), unless new facts emerge that would change the conditions regarding the transactions covered by the agreement.
COLOMBIA 	Up to 3 years forward and year of request.	JAPAN 	Generally, 3 -5 years forward; rollback available (TP commissioner's directive). In practice, APA terms vary.
CZECH REPUBLIC 	Maximum 3 years.	KAZAKHSTAN 	Not specified.
DENMARK 	No stated term.	KENYA 	Not applicable
ECUADOR 	Not applicable.	KOREA 	No limitation on APA period. The taxpayer shall specify the fiscal years for which the APA would apply.






APA Term of Agreement

MALAYSIA 	No specific rules or regulations.	SOUTH AFRICA 	Not applicable.
MEXICO 	Up to 3 years forward, 1 year back, and issuing year. Term can be longer if negotiated under the mutual agreement procedure in accordance with a tax treaty.	SPAIN 	Up to 4 fiscal years following the year of approval, the negotiation year itself and one year rollback in some cases. Maximum term: 6 years.
NETHERLANDS 	4-5 years. Longer term possible in case of long-term contracts. Rollback possible, if relevant facts and circumstances have not changed, or if accurate adjustments can be made.	SWEDEN 	Not applicable.
NEW ZEALAND 	No stated term.	SWITZERLAND 	Subject to negotiation, generally 3-5 years forward.
NORWAY 	Not applicable.	TAIWAN 	An APA will be effective for a period of 3 to 5 years, or the duration of the covered transactions, whichever is shorter. An extension of up to 5 years may be allowed.
OECD 	Depends on local law.	THAILAND 	No stated term.
PERU 	Fiscal year of approval and three years thereafter.	TURKEY 	Maximum period of three years.
PHILIPPINES 	Not applicable.	UK 	Generally 3-5 years forward; either taxpayer or HMRC may seek rollback.
POLAND 	5 years, may be extended for further unlimited five-year periods.	USA 	Generally 5 years forward; either taxpayer or IRS may seek rollback for longer period as appropriate.
PORTUGAL 	Not applicable	VENEZUELA 	ITL specifies only that APAs may be longer due to consequences of a friendly procedure under the terms of a tax treaty.
RUSSIA 	Not applicable	VIETNAM 	Not applicable.
SINGAPORE 	Generally 3-5 years forward. Rollback may be allowed on a case-by-case basis.		

Self-Initiated Adjustments

ARGENTINA 	No formal procedures.	FINLAND 	No formal procedures.
AUSTRALIA 	Adjustments permitted after year-end if net effect is to increase taxable income. If net effect is to decrease taxable income, taxpayer must demonstrate there was a binding agreement with its foreign supplier acknowledging an adjustment would be made to ensure profit complies with arm's length principle.	FRANCE 	Permitted if substantially justified.
AUSTRIA 	Intercompany agreement required in advance. If transfer prices are recognized as not being at arm's length, an adjusted tax return must be filed.	GERMANY 	Adjustments are expected to be based on agreements concluded in advance. Upward adjustments may be required by law if German income is too low.
BELGIUM 	Not permitted in principle, but possibly allowed under APA.	HUNGARY 	Taxpayers may initiate adjustments. Reduction of the tax base is possible (except if the related party is a CFC) if parties sign a document declaring the difference between the arm's length price and the price used, and the other party must be subject to Hungarian corporate tax or similar tax abroad.
BRAZIL 	Adjustments of taxable income based on transfer pricing study.	INDIA 	No formal procedures.
CANADA 	Adjustments should be made if taxpayer recognizes that transfer prices are not arm's length. Adjustments should accrue in year in which transaction occurs and be fully documented. Adjustments favorable to the taxpayer are subject to the discretion of the Minister of National Revenue.	IRELAND 	Dealt with on a case-by-case basis.
CHILE 	No information available.	ISRAEL 	No formal procedures.
CHINA 	There are no specific rules governing self-initiated adjustments. Although some local tax authorities may accept the concept, the practice is difficult in principle.	ITALY 	Permits adjustments in filing both original and amended return after close of book year-end, as long as adjustment does not provide for a decrease in income.
COLOMBIA 	No formal procedures.	JAPAN 	Tax return for Japanese corporations must generally be consistent with statutory financial statements. The NTA has expressed negative views on self-initiated adjustments.
CZECH REPUBLIC 	Upward adjustments permitted; unclear whether a decreasing adjustment is available.	KAZAKHSTAN 	No formal procedures.
DENMARK 	No specific legislation, practice or case law. Adjustments are likely acceptable if made pursuant to prior agreement and result in arm's length pricing.	KENYA 	No formal procedures
ECUADOR 	Not applicable.	KOREA 	Adjustment is permitted in filing original return and amended tax return. In case of decreasing taxable income, amended tax return must be filed within 3 years of filing the original return.

Self-Initiated Adjustments

MALAYSIA 	Adjustment is permitted in filing original return and amended tax return. In case of decreasing taxable income, amended tax return must be filed within 3 years of filing the original return.	SOUTH AFRICA 	No formal procedures. However, SARS requires taxpayers to make adjustments; income tax return for companies specifically provides a line for transfer pricing adjustments.
MEXICO 	May be made only if it does not derive from a primary adjustment proposed by the competent authority of a treaty partner.	SPAIN 	Permitted.
NETHERLANDS 	Adjustment permitted in filing of original return after close of book year-end, as long as adjustment relates to a fact that existed at book year-end and the assessment has not become final.	SWEDEN 	No formal procedures.
NEW ZEALAND 	An adjustment may be made by filing a notice of proposed adjustment within 4 months of the self-assessment date or the issue of an assessment by the IRD (section 89D and 89DA). This may not be necessary if the IRD agrees that an adjustment should be made (section 113).	SWITZERLAND 	No formal procedures.
NORWAY 	No formal procedures.	TAIWAN 	Based on an MOF ruling, self-initiated adjustments to the median of the interquartile range are allowed under the comparable profits method.
OECD 	Depends on local law. Self-initiated adjustments are not recognized by most OECD member countries on grounds that the tax return should reflect actual transactions.	THAILAND 	Adjustments permitted whether increasing or decreasing profit. In case of profit increase, taxpayer will only be subject to surcharge of 1.5 percent per month. In either case, there must be adequate documentation to substantiate the adjustment in current period.
PERU 	Permitted.	TURKEY 	Based on the general provisions, self-initiated adjustments can be made through “regret filing” procedures as long as the adjustment does not cause a decrease in income.
PHILIPPINES 	Not applicable.	UK 	Requirement to adjust to arm’s length prices only when this increases UK taxable profit or reduces UK losses; no provision for downward profit or upward loss adjustments. For intra-UK transactions, an upward profit adjustment in the return of one party to a transaction can be compensated by a downward adjustment in the other party’s tax return.
POLAND 	No formal procedures. Taxpayer-initiated adjustments may be made on an amended return within 5 years from the date of filing tax return.	USA 	Permits adjustment in timely filed original return after close of book year-end. Permits adjustment on amended return as long as adjustment does not decrease income.
PORTUGAL 	Adjustments in both original and amended returns after year-end permitted as long as income not decreased. Adjustment to decrease income allowed only after administrative appeal.	VENEZUELA 	Yes. The ITL states that if the conditions in a transaction between related parties are not at arm’s length, the benefit not accounted for must be included in the company’s income, subject to taxation and be reflected on the tax return, allocating the proper adjustment to the fiscal year in which the transaction took place.
RUSSIA 	No formal procedures.	VIETNAM 	No formal procedures.
SINGAPORE 	Not permitted.		

Taxpayer Set-offs for Other Related-Party Transactions

ARGENTINA 	No formal provision.	FINLAND 	No formal provision.
AUSTRALIA 	Intentional set-offs allowed if on arm's length terms and conditions. Unintentional set-offs considered only in context of mutual agreement procedures.	FRANCE 	No formal provision; follows OECD Guidelines.
AUSTRIA 	Follows OECD Guidelines with regard to international transactions.	GERMANY 	Set-offs permissible only if: (a) unrelated parties also agree to such balancing; (b) benefits provided/received may be quantified regarding each transaction; and (c) set-off arrangement was made in advance or was conducted at arm's length.
BELGIUM 	Tax authorities traditionally reluctant to accept set-offs. Intentional set-offs (direct or indirect) have been accepted by tax courts.	HUNGARY 	No formal provision.
BRAZIL 	Not applicable.	INDIA 	No formal provision.
CANADA 	CRA reluctant to accept set-offs, prefers that transactions be "unbundled" and priced separately; set-off may be allowed for purposes of calculating penalty, subject to documentation requirements. Transfer pricing memorandum (TPM-06) provides information on CRA's administrative positions regarding bundled transactions.	IRELAND 	In practice, the Irish Revenue will consider amending an assessment for an adjustment in another jurisdiction. This is dealt with on a case-by-case basis. Time limits apply
CHILE 	No information available.	ISRAEL 	No formal provision.
CHINA 	No formal provision.	ITALY 	No formal provision. In general, set-offs must be separately booked, both for civil and tax regulation purposes.
COLOMBIA 	No formal provision.	JAPAN 	Set-off permitted if: (1) an adjustment has been made with same related party during same tax year; and (2) after set-off, these two transactions are considered conducted at arm's length.
CZECH REPUBLIC 	Generally not permitted	KAZAKHSTAN 	No formal provision.
DENMARK 	Follows OECD Guidelines.	KENYA 	No formal procedures
ECUADOR 	No formal provision.	KOREA 	Offsetting permitted with proof that such differences are effectively offset against the price applied to another transaction between the same related parties during the same taxable year.

Taxpayer Set-offs for Other Related-Party Transactions

MALAYSIA 	Generally not permitted.	SOUTH AFRICA 	No formal provision.
MEXICO 	Only intentional set-offs are permitted under OECD guidelines.	SPAIN 	Not permitted.
NETHERLANDS 	Generally not permitted, set-offs may be considered if the benefits of the transactions are balanced to some extent. Taxpayer must prove that set-off leads to an arm's length result.	SWEDEN 	No formal provision, but generally follows the OECD Guidelines.
NEW ZEALAND 	Set-offs allowed in relation to amounts arising in the same income year, or the immediately preceding or succeeding income year, and the set-off relates to same class of transaction, or if the two transactions are linked.	SWITZERLAND 	No formal provision.
NORWAY 	No formal provisions.	TAIWAN 	No formal provision.
OECD 	Depends on local law. Intentional set-offs should be assessed in accordance with the arm's length principle to quantify the values claimed as set-offs. Tax administrators have discretion to grant or deny taxpayer's request for reduction in an adjustment based on unintentional overreporting of taxable income.	THAILAND 	No formal provision.
PERU 	Permitted if the related parties are local companies, or if the transactions are with companies domiciled in countries with which Peru has signed treaties to avoid double taxation.	TURKEY 	No formal provision.
PHILIPPINES 	Not applicable.	UK 	Follows OECD Guidelines. In practice an overall set-off made in respect of transactions or series of transaction with the same related party will be considered.
POLAND 	In the case of services and intangibles, set-offs are permitted for transactions with the same party. It is not clearly specified for transactions concerning tangible goods.	USA 	Transactions with same taxpayer in same year taken into account if taxpayer: (1) determines appropriate arm's length charge; (2) documents all correlative adjustments; and (3) notifies district director within 30 days of notice of proposed adjustment or deficiency.
PORTUGAL 	No formal provision.	VENEZUELA 	No formal provision.
RUSSIA 	No formal provision.	VIETNAM 	No formal provision.
SINGAPORE 	Generally not permitted.		








When May Taxpayer Submit Tax Adjustment to Competent Authority (CA)?

ARGENTINA 	Tax adjustment must be included in the income tax return which deadline is within the fifth month after the year-end.	FINLAND 	No formal procedure.
AUSTRALIA 	Request may be submitted after proposed adjustment is communicated to taxpayer in writing – this may be before the issue of formal notices of assessment/amended assessment.	FRANCE 	In most cases, within 3 years following receipt of a notice of tax assessment (depending on the relevant tax treaty).
AUSTRIA 	Taxpayer may submit application for mutual agreement procedure during tax audit after notification of proposed adjustment and within the deadline according to the applicable income tax treaty.	GERMANY 	In principle, taxpayer may submit application during tax audit if proposed adjustment is communicated to taxpayer. Specific timelines may vary according to the pertinent tax treaty
BELGIUM 	Application for mutual agreement procedure should be filed within two years (extended to three years in select countries) of first notification of proposed adjustment communicated to taxpayer in writing.	HUNGARY 	No formal procedure. Taxpayer could submit tax adjustments in its annual tax return.
BRAZIL 	Upon filing income tax return (DIPJ).	INDIA 	Application for mutual agreement procedure may be filed after notification of the tax assessment, and must be filed normally within 3 years of notification, unless modified by a treaty.
CANADA 	Request may be submitted after proposed adjustment is communicated to taxpayer in writing.	IRELAND 	No formal procedure.
CHILE 	Not applicable.	ISRAEL 	No formal procedure.
CHINA 	After getting approval from the tax authorities of the treaty partner, the affected enterprise will report the adjustment, including the basis for the adjustment, contents, covered time period, and detailed calculation, in writing to its governing tax bureau. After review, the governing tax bureau will report the case to the State Administration of Taxation, which will deal with it accordingly.	ITALY 	No formal procedure. Follows mutual agreement procedure for pertinent treaty provisions.
COLOMBIA 	No formal procedure.	JAPAN 	In practice, following receipt of formal deficiency notice; however, no specific requirement with regard to point at which taxpayer may submit request. Some treaties impose limitations, but most have no particular limitations as to deadline for filing application.
CZECH REPUBLIC 	No formal procedure. Follows mutual agreement procedures for pertinent treaty provisions.	KAZAKHSTAN 	No formal procedure.
DENMARK 	Request may be submitted after proposed adjustment is communicated to taxpayer.	KENYA 	No formal procedures
ECUADOR 	Taxpayers may submit the information on the date they must file the income tax return for the corresponding fiscal year (April of next fiscal year) as well as the annex and the pricing transfer study.	KOREA 	Application for CA must be filed within 3 years after notification of the tax assessment when tax assessment may result in taxation not in accordance with the provisions of tax treaties.

When May Taxpayer Submit Tax Adjustment to Competent Authority (CA)?

MALAYSIA 	Formal MAP procedures have not been issued, but the first MAP case was initiated in May 2004. Two other cases are also being negotiated.	SOUTH AFRICA 	No formal procedure.
MEXICO 	Follows mutual agreement procedures for pertinent treaty provisions.	SPAIN 	Request may be submitted after proposed adjustment is communicated to taxpayer in writing.
NETHERLANDS 	Application for mutual agreement procedure may be filed after notification of the tax assessment, and must be filed within 3 years of notification unless modified by a treaty.	SWEDEN 	No formal procedure, but generally within three years from the notification of the actions that will result in taxation not in accordance with a tax treaty.
NEW ZEALAND 	Follows mutual agreement procedure for pertinent treaty provisions.	SWITZERLAND 	No formal procedure.
NORWAY 	No formal procedure.	TAIWAN 	No formal procedure.
OECD 	Depends on applicable double tax treaty between countries involved. Notification requirement and/or the time limit for notification or filing of a competent authority request may apply.	THAILAND 	No formal procedure. Follows mutual agreement procedure under relevant treaty (usually 3 years).
PERU 	At any time after filing the original annual income tax return, but before the beginning of the fiscal review.	TURKEY 	No formal provision.
PHILIPPINES 	Any time before issuance of Letter of Authority (LOA), and within 3 years from filing of tax return.	UK 	When action giving rise to, or likely to give rise to, double taxation not in accordance with a double tax treaty has occurred, or when equivalent provisions in the European Union Arbitration Convention are satisfied.
POLAND 	Application for mutual agreement procedure may be filed after notification of the tax assessment, and must be filed within 3 years of notification (Arbitration Convention).	USA 	Request may be submitted after amount of proposed adjustment is communicated to taxpayer in writing.
PORTUGAL 	After notification of the tax assessment, or when any action that gives rise to, or is likely to give rise to, double taxation not in accordance with a double tax treaty has occurred.	VENEZUELA 	No formal procedure.
RUSSIA 	After notification of the tax assessment, or when any action that gives rise to, or is likely to give rise to, double taxation not in accordance with a double tax treaty has occurred.	VIETNAM 	No formal procedure.
SINGAPORE 	Follows mutual agreement procedure for pertinent treaty provisions as well as that stated in the TP Guidelines.		

May CA Develop New Settlement Positions?

ARGENTINA 	No formal procedure.	FINLAND 	Yes.
AUSTRALIA 	CA may negotiate agreement based on different position from ATO-initiated adjustment (unless adjustment decided by appellate body, e.g. AAT or court).	FRANCE 	Yes, unless taxpayer has entered into a closing agreement or received a court decision.
AUSTRIA 	Yes.	GERMANY 	Yes, but taxpayer is asked for approval before settlement.
BELGIUM 	Tax authorities may unilaterally withdraw or reduce tax adjustment (Article 376, Sec. 1 of ITC). In practice, however, withdrawal is unlikely.	HUNGARY 	No practice relating to CA settlements.
BRAZIL 	Yes.	INDIA 	No formal procedure.
CANADA 	CA may negotiate agreement based on new settlement positions, unless adjustment been determined by Appeals or the courts. CA cannot settle on an amount higher than the amount initially reassessed.	IRELAND 	Yes.
CHILE 	Not applicable.	ISRAEL 	No formal procedure.
CHINA 	No formal procedure. However, CA may develop new position after tax administrative or judicial review.	ITALY 	Yes.
COLOMBIA 	No formal procedure	JAPAN 	Yes. Follows OECD Guidelines.
CZECH REPUBLIC 	Yes.	KAZAKHSTAN 	No formal procedure.
DENMARK 	Yes, unless taxpayer has received a court decision.	KENYA 	No formal procedures
ECUADOR 	Once the return, appendix, and/or transfer pricing study are filed, the competent authority may perform inspections and determine other adjustments.	KOREA 	Yes.
























May CA Develop New Settlement Positions?

MALAYSIA 	No formal procedure.	SOUTH AFRICA 	No formal procedure.
MEXICO 	Yes.	SPAIN 	Yes.
NETHERLANDS 	Yes, unless taxpayer has entered into a closing agreement or received a court decision.	SWEDEN 	Yes.
NEW ZEALAND 	Yes.	SWITZERLAND 	No formal procedure.
NORWAY 	No formal procedure.	TAIWAN 	Yes.
OECD 	CAs should endeavor to reach agreement acceptable to taxpayer. CAs' power to compromise an adjustment depends on provisions of domestic law.	THAILAND 	No formal procedure.
PERU 	CA may modify or supplement an assessment already notified to the taxpayer only in some cases, such as when irregularities are detected in the taxpayer's documentation or accounting records that could have led to errors on the part of the authorities.	TURKEY 	No formal procedure and no practice relating to CA settlements.
PHILIPPINES 	Yes, if it determines that the correct amount of tax was not paid.	UK 	Yes.
POLAND 	Yes, unless taxpayer has received a court decision (Arbitration Convention).	USA 	CA may negotiate agreement based on different position from US-initiated adjustment, unless taxpayer has entered into a closing agreement or has litigated the adjustment.
PORTUGAL 	CA may issue a new position after administrative and/or judicial review	VENEZUELA 	Yes.
RUSSIA 	No formal procedure.	VIETNAM 	No experience or precedent.
SINGAPORE 	Yes.		

May Taxpayer go to CA Before Paying Tax?

ARGENTINA 	Yes, it is not necessary to pay tax due before going to CA.	FINLAND 	Generally tax must be paid. Tax authorities' authority to postpone collection of unpaid taxes does not cover mutual agreement procedures
AUSTRALIA 	Yes. Taxpayer may go to CA after amount of proposed adjustment is communicated in writing to taxpayer – this may be before paying tax.	FRANCE 	Yes. CA procedure automatically defers payment.
AUSTRIA 	Yes.	GERMANY 	Yes. Taxpayer may go to CA after amount of proposed adjustment is communicated to the taxpayer, before paying tax. After the tax assessment the payment could be suspended.
BELGIUM 	Yes. Tax protest can be filed before tax is paid.	HUNGARY 	Penalties determined in the resolution issued by the second instance tax authority must be paid. However, a request could be filed with the court for suspension of the execution, or suspension is automatic as of 2008 in case Arbitration Convention is applied.
BRAZIL 	Yes. The taxpayer may go to CA for a formal consultation to verify the correct application of transfer pricing legislation.	INDIA 	Yes, payment may be suspended by tax authority at taxpayer's request.
CANADA 	Yes. Taxpayer may go to CA after proposed adjustment is communicated in writing to the taxpayer	IRELAND 	No formal procedure. This would not have the effect of deferring the due date for payment of tax and hence the exposure to interest charges for the late payment of tax.
CHILE 	No formal procedure.	ISRAEL 	No formal procedure.
CHINA 	Difficult in practice because taxpayers must settle tax liabilities with the governing tax bureau within the prescribed time period. If payment is delayed for valid reasons, an application must be filed within the prescribed time period. Upon approval, tax payment may be postponed for no more than three months.	ITALY 	Yes. Tax Court may temporarily suspend recovery of tax and interest assessed if payment would imply severe and irreparable damage to taxpayer.
COLOMBIA 	No formal procedure.	JAPAN 	Yes. Under the 2007 tax reform, applicable from April 1, 2007, payment of tax and penalties may be postponed, and delinquent tax may be exempt during CA procedure if taxpayer applies for this.
CZECH REPUBLIC 	Yes, but liability to pay tax will not be avoided.	KAZAKHSTAN 	Yes, tax protest may be filed before tax is paid.
DENMARK 	Yes. Extension to pay tax may be obtained upon application. If extension is granted, taxpayer incurs variable non-deductible interest on the amount from Nov. 1 of the year following the tax year until payment. Interest is currently 0.6 percent per month.	KENYA 	No guidelines provided.
ECUADOR 	May Taxpayer Go to CA Before Paying Tax?	KOREA 	Yes, by submitting application before receiving tax assessment bill. Payment will be deferred only if the other contracting state allows it reciprocally.

May Taxpayer go to CA Before Paying Tax?

MALAYSIA 	No. Tax assessed must be paid notwithstanding any appeal. Penalties for late payment apply.	SOUTH AFRICA 	No.
MEXICO 	Generally, tax must be paid.	SPAIN 	No. The tax due must be paid or otherwise guaranteed but then payment suspended.
NETHERLANDS 	Yes. Taxpayer may go to CA after receiving final tax assessment; accelerated CA is available upon request.	SWEDEN 	Yes.
NEW ZEALAND 	Yes, but liability to pay tax will not be avoided.	SWITZERLAND 	No formal procedure.
NORWAY 	No.	TAIWAN 	The taxpayer is required to pay taxes before an agreement is reached with the tax authorities.
OECD 	Countries are encouraged to suspend collection of tax and interest until mutual agreement procedures are completed.	THAILAND 	No. The tax due must be paid or otherwise guaranteed.
PERU 	Yes, the taxpayer may file a sustained claim with the CA within 20 working days after notification of a tax assessment.	TURKEY 	Yes, taxpayer may, in principle, go to competent authority after amount of proposed adjustment is communicated in writing to the taxpayer, before paying the tax. However, there are no official guidelines yet in Turkish legislation as to how to go to CA to process a tax adjustment.
PHILIPPINES 	Yes.	UK 	Not normally, unless relevant transaction is under transfer pricing audit simultaneously in two countries (one major exception is when it relates to US/UK transactions; in that case payment of tax can be suspended under UK/US treaty provisions). Generally HMRC will negotiate under CA proceedings only in respect of final assessments.
POLAND 	Yes, but liability to pay tax will not be avoided.	USA 	Yes. Taxpayer may go to CA after amount of proposed adjustment is communicated in writing to taxpayer, before paying tax.
PORTUGAL 	Yes. Taxpayer may appeal the assessment or file for judicial review. Deferral of payment is subject to further conditions.	VENEZUELA 	Yes.
RUSSIA 	No formal provision.	VIETNAM 	No experience or precedent
SINGAPORE 	No. Tax must be settled in accordance with the Singapore Income Tax Act first, unless the Singapore Tax Authority agrees to “stand over” such tax liability, on the condition that late payment penalties would be imposed.		

Additional Assessment Payment Deadline

ARGENTINA 	Additional payment due when assessment issued; interest assessed from original income tax return filing due date (5 months after year-end).	FINLAND 	General rules apply. Penalties and interest may also be applicable.
AUSTRALIA 	Generally 30 days from date of assessment. Further extension of time for payment may be negotiated with the ATO.	FRANCE 	General rules apply.
AUSTRIA 	Payment is due one month after assessment, if no suspension is granted.	GERMANY 	Payment is due one month after assessment, if no suspension is granted
BELGIUM 	Must be paid within two months after notification sent. Interest for late payment due as well. In case of filing a tax protest, special rules are applicable for payment of tax and interest.	HUNGARY 	Generally, 15 days from the date of enforcement of the document establishing additional payment.
BRAZIL 	Generally 30 days from date of assessment. Deadline may vary if assessment is administratively and/or judicially contested.	INDIA 	Generally 30 days from date of service of notice of demand. Extension of time may be requested but interest must be paid.
CANADA 	Additional payment due when assessment issued; interest begins to accrue from due date or original tax return. However, provisions exist to allow deferral of payment of additional taxes owed.	IRELAND 	General rules of assessment apply; the tax paid on account must be at least 90 percent of the final liability to avoid interest charges.
CHILE 	Not applicable	ISRAEL 	General rules apply.
CHINA 	Due within timeline set by governing tax bureaus, normally 15 days to 1 month. Extension (maximum 3 months) for payment will be subject to approval by the governing tax bureau at the provincial level.	ITALY 	General assessment rules applicable. Deadline is 60 days after notification of payment request. In case of appeal, tax authorities are entitled to claim payment of one-half of tax and interest, even if the court decision is pending.
COLOMBIA 	Additional payment due when assessment issued; interest assessed from due date of original filing.	JAPAN 	Generally within 30 days from notice of deficiency. Interest on deficiency imposed from date of statutory notice in addition to interest for the shorter period of: (1) the number of days between the date original return filed and notice of deficiency or (2) 12 months.
CZECH REPUBLIC 	Additional tax is payable within 30 days of receipt of assessment.	KAZAKHSTAN 	General rules apply. Penalties and interest may be applicable.
DENMARK 	Payable the first day of the month following the additional assessment (Corporate Tax Act, Section 30).	KENYA 	No guidelines provided
ECUADOR 	Not applicable.	KOREA 	Normally 30 days from the date of issuance of the tax assessment bill by the tax authorities.














Additional Assessment Payment Deadline

MALAYSIA 	Usually within 30 days from the date of Notice of Additional Assessment.	SOUTH AFRICA 	Outstanding tax must be paid by the second date reflected on the assessments; this is 30 days after the date of assessment.
MEXICO 	45 days from notification in writing.	SPAIN 	General rules for administrative assessments apply. Interest applicable from date tax would have been payable.
NETHERLANDS 	General rules apply. Interest accrues from the middle of the tax year in which the assessment is made to the assessment date.	SWEDEN 	General rules apply. Penalties and interest may also be applicable.
NEW ZEALAND 	General rules apply. Half the tax payable a month after the new assessment date, remainder on settlement. Interest applicable from date tax would have been payable.	SWITZERLAND 	Not specified.
NORWAY 	General rule for assessments apply (normally some weeks after reassessment is made).	TAIWAN 	General rules apply. Penalties and interest may also be applicable.
OECD 	Depends on local law	THAILAND 	Generally 30 days from the date of receipt of the assessment notice. Extension may be requested.
PERU 	Not specified.	TURKEY 	Additional tax assessments must be paid within 30 days from the date of notification of the additional assessment. Taxpayers may file lawsuit against the Tax Administration within this 30-day period. However, the right to request a reduction of penalties is lost if legal action is taken.
PHILIPPINES 	Normally, 30 days from receipt of assessment.	UK 	Generally 30 days from the date of receipt of the assessment notice. Extension may be requested.
POLAND 	In general, additional Corporate Income Tax assessments relate to tax liabilities that arose in the past; therefore the additional tax assessed, together with penalty interest, is payable on the day of receipt of the assessment decision.	USA 	Interest assessed from due date of original filing. Additional extensions for payment of tax available when filing protests.
PORTUGAL 	Taxes are payable within 30 days from date of assessment, on the combined amount of the defaulted tax and the appropriate compensatory interest.	VENEZUELA 	Additional payment due when assessment issued.
RUSSIA 	No specific regulations applicable to transfer pricing. General settlement procedure is applicable.	VIETNAM 	No specific statutory authority.
SINGAPORE 	Additional tax is payable within 1 month from the date of the Notice of Additional Assessment, unless the "stand over" of tax applies.		

Cost Contribution Arrangements or Cost Sharing Agreements Accepted?

ARGENTINA 	No specific provision. However, it usually depends on the documentation and how taxpayers prove the rationale for the charges.	FINLAND 	Depends on the nature of the arrangement.
AUSTRALIA 	Yes - Taxation Ruling TR 2004/1.	FRANCE 	Yes. Follows OECD Guidelines Chapter VIII.
AUSTRIA 	Yes. Follows OECD Guidelines Chapter VIII.	GERMANY 	Yes. Cost Sharing Regulations of December 30, 1999. German Ministry of Finance Letter IV B4-S1341-14/99.
BELGIUM 	Yes. Articles 26, 49, and 185 §2 of ITC.	HUNGARY 	No specific statutory authority. HTA is likely to follow OECD Guidelines.
BRAZIL 	No specific statutory authority, but limited cost sharing may be possible.	INDIA 	Yes.
CANADA 	Yes. Follows OECD Guidelines Chapter VIII.	IRELAND 	Yes.
CHILE 	No specific statutory authority.	ISRAEL 	No specific statutory authority; however, accepted by the tax authorities.
CHINA 	Deductible if the arrangement is in compliance with the arm's length principle and relevant supporting documents are filed with the tax authorities upon their request in accordance with article 112 of implementation rules to the new EIT law.	ITALY 	Yes. Circular letter no. 32/9/2267, September 22, 1980, chapter VI, par. 6.
COLOMBIA 	Yes	JAPAN 	Yes. Follows the TP commissioner's directive (guideline) issued March 20, 2006.
CZECH REPUBLIC 	Generally, yes; however, tax deductibility is determined on a case-by-case basis.	KAZAKHSTAN 	No specific statutory authority.
DENMARK 	Yes	KENYA 	No guidelines provided.
ECUADOR 	Yes. Follows OECD Guidelines Chapter VIII.	KOREA 	Yes.























Cost Contribution Arrangements or Cost Sharing Agreements Accepted?

MALAYSIA 	No specific mention of CCAs or CSAs in TP Guidelines. Most likely will follow OECD Guidelines and review on a case-by-case basis. Benefits analysis will be requested.	SOUTH AFRICA 	Yes. Follows OECD Guidelines Chapter VIII.
MEXICO 	Likely, for treaty countries only, provided that every case must be presented to the competent authorities under the mutual agreement procedure.	SPAIN 	Yes. CTA 4/2004 article 16 (modified by Law 36/2006) and follows OECD Guidelines Chapter VIII.
NETHERLANDS 	Yes. Follows OECD Guidelines Chapter VIII. Specific guidance on CCAs is included in the Decree of August 21, 2004, nr IFZ 2004/680 (Decree on intercompany services and CCAs).	SWEDEN 	Yes.
NEW ZEALAND 	No specific statutory authority. The IRD Guidelines endorse OECD Guidelines Chapter VIII.	SWITZERLAND 	Yes.
NORWAY 	Yes. No specific statutory requirements. Norwegian tax authorities likely to follow OECD Guidelines	TAIWAN 	No specific statutory authority. In practice, CCAs and CSAs have been accepted. However, other tax exposures such as withholding tax and VAT should be taken into consideration.
OECD 	Yes. OECD Guidelines Chapter VIII.	THAILAND 	No specific statutory authority. Thailand's tax authority is likely to follow OECD Guidelines.
PERU 	Yes.	TURKEY 	CCAs and CSAs are generally acceptable within the framework of intragroup services shared by and between the group companies. Detailed explanations and guidelines are available in Section 11 of TP General Communiqué No. 1 with regard to the treatment of intragroup services.
PHILIPPINES 	Yes.	UK 	Yes. Follows OECD Guidelines Chapter VIII.
POLAND 	No specific provisions.	USA 	Yes. Reg. §1.482-7 (intangible property); Temp. Reg. §1.482-9T (services). IRS and Treasury issued proposed cost sharing regulations in August 2005.
PORTUGAL 	Yes. Specific documentation requirements are also set out for CCAs.	VENEZUELA 	Yes, CCAs and CSAs are accepted for permanent establishments only.
RUSSIA 	No specific provision.	VIETNAM 	No specific statutory authority.
SINGAPORE 	No specific statutory authority. Singapore Tax Authority likely to follow OECD Guidelines.		

Cost Contribution or Cost Sharing Payments Deductible?

ARGENTINA 	Yes, but payments must satisfy the arm's length standard and have a direct relation with the income generated, and documentation must be kept.	FINLAND 	Yes
AUSTRALIA 	Yes - Taxation Ruling TR 2004/1.	FRANCE 	Yes. CGI, art. 39-1-1.
AUSTRIA 	Yes, provided the arm's length payments to the CCA or CSA are deductible according to general Austrian tax rules.	GERMANY 	Yes. Chapter 2 of Cost Sharing Regulations.
BELGIUM 	Yes. Articles 26, 49, and 185 §2 of ITC.	HUNGARY 	No formal guidelines or rulings exist, but these costs should be deductible in accordance with standard deductibility rules.
BRAZIL 	Yes, provided the conditions for deductibility are met – the payments must have a direct relation with the income generated and documentation must be kept.	INDIA 	No formal guidelines, but payments for shared research and development costs may be deductible.
CANADA 	Yes.	IRELAND 	Yes.
CHILE 	No information available.	ISRAEL 	Generally, yes, as long as the payments satisfy the arm's length standard and are not capital in nature.
CHINA 	Deductible if the arrangement is in compliance with the arm's length principle and relevant supporting documents are filed with the tax authorities upon their request in accordance with article 112 of implementation rules to the new EIT law.	ITALY 	Yes, but payments must satisfy the arm's length standard and have sufficient nexus with taxpayer's income production.
COLOMBIA 	Yes, only if the payments have a direct relation with income generated in Colombia.	JAPAN 	Yes, as long as the payments satisfy the arm's length standard.
CZECH REPUBLIC 	Generally, yes; however, tax deductibility is determined on a case-by-case basis.	KAZAKHSTAN 	No formal guidelines.
DENMARK 	Yes	KENYA 	No guidelines provided.
ECUADOR 	Yes, if performed at cost and certified by external auditors' report.	KOREA 	Yes.

Cost Contribution or Cost Sharing Payments Deductible?

MALAYSIA 	Yes, to the extent that they are arm's length, of a revenue nature and incurred wholly and exclusively in the production of assessable income. Benefits must be commensurate with payments.	SOUTH AFRICA 	Yes. Income Tax Act Section 11(a) – General deductions formula.
MEXICO 	No.	SPAIN 	Yes. CTA 4/2004 article 16. Modified by Law 36/2006.
NETHERLANDS 	Yes, unless an asset is capitalized. The company may choose to deduct or to capitalize the development costs of an intangible asset that is expected to generate benefits in other years.	SWEDEN 	Yes.
NEW ZEALAND 	No specific statutory authority. To the extent payments are arm's length, amounts are deductible if related to revenue items and not capital.	SWITZERLAND 	Yes, as long as the payment satisfies the arm's length standard.
NORWAY 	Yes. However, in some cases payments must be capitalized and amortized according to the rules that apply for the asset to be developed.	TAIWAN 	Yes.
OECD 	Deductibility determined under laws of applicable country, based on nature of the activity undertaken in the arrangement. Chapter VIII, s.23.	THAILAND 	Yes, provided the taxpayer can substantiate that the cost relates specifically to the taxpayer's business.
PERU 	Yes, if the cost portion corresponding to the Peruvian taxpayer relates to actual services rendered in connection with the generation of taxable income in Peru and the amount is reasonable in relation to such income.	TURKEY 	According to TP General Communiqué No. 1, to ensure tax deductibility, the following conditions must be satisfied: (a) Benefit Test: The services underlying CCA or CSA must be performed in reality. The payments must be related to services that contribute to the generation and securing of revenues in Turkey; (b) the group company in Turkey receiving the service must need the pertinent service; (c) the portion of the costs to be allocated with respect to the services provided for the benefit of the Turkish recipient must meet the arm's length principle;...cont'd on pag 63
PHILIPPINES 	Yes.	UK 	Yes, though may be required to recognize the underlying character of the costs shared and treat accordingly.
POLAND 	Yes, provided that benefit test is met. Detailed cost breakdown and transfer pricing documentation are usually required.	USA 	Yes. Reg. §1.482-7(h).
PORTUGAL 	No formal guidelines. Payments will be deemed deductible provided they comply with the domestic general deduction provision.	VENEZUELA 	Yes. If a place of business qualifies as a permanent establishment, it can deduct cost contribution or cost sharing payments, with the exception of cost/expenses for royalties, technical assistance, technological services and professional services fees.
RUSSIA 	May be challenged by the tax authorities, because there is no specific legislation, and it may be difficult to establish a direct link between the shared expenses and related profits of a Russian company.	VIETNAM 	Not applicable.
SINGAPORE 	Yes, provided they are incurred wholly and exclusively in the production of assessable income of the payer and do not include capital expenditure (e.g., depreciation).		

Cost Contribution or Cost Sharing Payments Subject to Withholding Tax?

ARGENTINA 	It depends on the nature of the charges (e.g., does the CCP or the CSP include services?).	FINLAND 	Depends on the nature of the arrangement.
AUSTRALIA 	No	FRANCE 	No.
AUSTRIA 	Generally no. However, royalties and payments for the provision of technical or commercial consulting services carried out in Austria are subject to withholding tax.	GERMANY 	No.
BELGIUM 	No	HUNGARY 	No.
BRAZIL 	Yes. Ordinary Federal Law 9.779/99.	INDIA 	Arguably No.
CANADA 	No. Income Tax Act 212(1)(d)(viii).	IRELAND 	No.
CHILE 	No information available.	ISRAEL 	No formal guidelines.
CHINA 	Currently no specific provisions; however, it is expected that the detailed regulations will contemplate that payments will not be subject to withholding tax	ITALY 	No.
COLOMBIA 	Yes, under ordinary rules.	JAPAN 	No specific statutory authorization.
CZECH REPUBLIC 	No.	KAZAKHSTAN 	Yes, depending on the nature of the agreements.
DENMARK 	No.	KENYA 	No official guidelines provided. The principle will have to be tested with the KRA.
ECUADOR 	No.	KOREA 	No, subject to certain exceptions.




















Cost Contribution or Cost Sharing Payments Subject to Withholding Tax?

MALAYSIA 	May be subject to withholding tax, depending on context.	SOUTH AFRICA 	No.
MEXICO 	Decided on a case-by-case basis.	SPAIN 	Yes, unless treaty in force.
NETHERLANDS 	No. Generally, capitalization of payments and amortizable over the economic life of the Intangible. The maximum amortization for goodwill is 10% of the value per year.	SWEDEN 	No.
NEW ZEALAND 	No.	SWITZERLAND 	No, as long as the price is at arm's length. If not it is considered a "deemed dividend" and therefore subject to withholding tax.
NORWAY 	No.	TAIWAN 	Yes.
OECD 	Generally no. However, tax treatment should be determined under laws of applicable country. Chapter VIII s.23.	THAILAND 	Yes, depending on the nature of the payment. For example, if payment is considered a royalty, withholding tax would apply.
PERU 	Yes, depending on the nature of the payment.	TURKEY 	Yes, depending on the nature of the payment and type of underlying service. Income tax treaties may eliminate the withholding tax or reduce the rate, depending on the type of service and where the service has been performed, and the period of physical presence in Turkey to provide the services.
PHILIPPINES 	Depending on the nature of the cost.	UK 	No.
POLAND 	No in the case of most countries, provided the Polish entity presents a tax residency certificate of payment prior to the payment.	USA 	No. Reg. §1.482-7(h) and IRC §1441.
PORTUGAL 	Yes. However, if payments are structured as services there is no withholding tax under double tax treaties, if certain procedures are followed.	VENEZUELA 	No. However, certain treaties may impose withholding tax.
RUSSIA 	May be applicable, depending on the nature of the payment. However, treaty relief is usually available.	VIETNAM 	General rules apply: 5 years from tax year-end.
SINGAPORE 	No, subject to certain exceptions.		

Payer's Tax Treatment of Payments to a Contributor of Preexisting Intangibles to CCA or CSA

ARGENTINA 	Deductible if they satisfy the arm's length standard, have a direct relation with the income generated, and documentation is kept.	FINLAND 	Deductible directly or amortizable over useful life, maximum of 10 years.
AUSTRALIA 	Generally follows OECD Guidelines – Taxation Ruling TR 2004/1.	FRANCE 	If deemed acquisition, no current-year deduction but amortizable over useful life (CGI, art. 39, 1-2). If deemed royalty payment, current deduction permitted
AUSTRIA 	Follows OECD Guidelines Chapter VIII.	GERMANY 	Buy-in payments are deductible or amortizable over useful life. Buy-in payments may result in taxable gains for recipient.
BELGIUM 	Follows OECD Guidelines.	HUNGARY 	Deductible or amortizable.
BRAZIL 	Yes, provided the conditions for deductibility are met – the payments must have a direct relation with the income generated and documentation must be kept.	INDIA 	No formal guidelines. Payer can consider such payment as one for acquisition of intangible depreciable assets, i.e., a capital expenditure.
CANADA 	Follows OECD Guidelines. Deductible or amortizable over useful life.	IRELAND 	Deduction not permitted if buy-in payments are capital. Buy-ins may be treated as a license fee, in which case royalties may be deductible.
CHILE 	No information available.	ISRAEL 	No formal guidelines.
CHINA 	Currently no specific provisions.	ITALY 	Payments for patents, processes, and formulas can be depreciated over 2 years; trademarks over 18 years. Other rights deductible or amortizable over useful life or agreed period (Presidential Decree no. 917/86, article 103).
COLOMBIA 	Deductible or amortizable if tax has been withheld.	JAPAN 	Deductible or amortizable over useful life.
CZECH REPUBLIC 	Deductible or amortizable.	KAZAKHSTAN 	Amortized at 15 percent under the reducing balance method.
DENMARK 	Deductible or amortizable.	KENYA 	No guidelines provided.
ECUADOR 	Deductible if they relate to the Ecuadorian taxpayer's activity and the withholding tax is 25 percent.	KOREA 	Deductible or amortizable over useful life.

Payer's Tax Treatment of Payments to a Contributor of Preexisting Intangibles to CCA or CSA

MALAYSIA 	Deductibility will depend on the nature of intangibles and on the existing provisions for deductibility of payments.	SOUTH AFRICA 	Deductible or amortizable over useful life.
MEXICO 	Decided on a case-by-case basis.	SPAIN 	Deductible or amortizable over useful life
NETHERLANDS 	Generally, capitalization of payments and amortizable over the economic life of the intangible. The maximum amortization for goodwill is 10% of the value per year.	SWEDEN 	Deductible or amortizable.
NEW ZEALAND 	Amortizable over useful life, provided asset satisfies the definition of depreciable intangible property.	SWITZERLAND 	Buy-in payments are deductible or amortizable over useful life (decided on a case-by-case basis depending on facts and accounting treatment).
NORWAY 	Normally capitalized and amortized to the extent that the decline in value is obvious.	TAIWAN 	Deductible or amortizable over useful life.
OECD 	Balancing payments (including payments for preexisting intangibles) should be treated as an addition to the payer's costs, or if appropriate, as a royalty for the right to use intangible.	THAILAND 	Deductible or amortizable over useful life.
PERU 	Any payment abroad for the use or the right to use intangibles is subject to income tax withholding, but is deductible as an expense if relates to the generation of taxable income in Peru, and the amount is reasonable.	TURKEY 	Payments for the right to use an intangible based on CSA or CCA can be deductible provided that a) benefit test is passed, b) allocation keys determined based on arm's length principle, and c) supporting documentation is available. Payments for the right to use an intangible are regarded as royalty and therefore subject to withholding tax.
PHILIPPINES 	Not applicable.	UK 	Tax depreciation may be available on a buy-in payment for qualifying intangibles. A buy-in may also be structured as a license, in which case royalties may be deducted.
POLAND 	No specific provision.	USA 	Reg. §1.482-7(g)(2). Buy-in deductible or amortizable over the appropriate useful life (see e.g., IRC §167, §197).
PORTUGAL 	Buy-ins may be treated as a licence and depreciated over the period of use of the intangible, if applicable.	VENEZUELA 	Not applicable.
RUSSIA 	Not applicable.	VIETNAM 	Not applicable.
SINGAPORE 	Deductibility will depend on the nature of the intangibles. If payment is for goodwill, it is not deductible. If it is a license fee for the right to use the intangible, it would generally be tax deductible.		

Statute of Limitations on Assessment for Transfer Pricing Adjustments

ARGENTINA 	Generally 6 years from tax year-end.	FINLAND 	General rules apply; 5 years from the finalization of the actual assessment of the filed tax return (in practice 6 years from tax year end).
AUSTRALIA 	Currently no time limit on ATO's authority to make transfer pricing adjustments, however it has been proposed to limit this to 8 years.	FRANCE 	3 years plus current year, but can be extended if tax losses are imputed or carried forward. Possible extension in case of foreign tax authorities' assistance (L. 188A).
AUSTRIA 	Up to 10 years from tax year-end.	GERMANY 	4 years from end of year within which the return is filed; 10 years in case of evasion or fraud.
BELGIUM 	Generally 3 years from tax year-end (5 years in case of fraud).	HUNGARY 	5 years from date of filing return.
BRAZIL 	5 years from date of filing return.	INDIA 	Forty-five months from tax year-end
CANADA 	For Canadian private corporations, 6 years from date of initial assessment after return filing; for foreign controlled corporations and public corporations, 7 years from that date.	IRELAND 	General rules of assessment apply. Effective January 1, 2005, time limit is 4 years from the end of the accounting period in which the return is filed but the Irish Revenue have in the past agreed to a more generous time limit on a case-by-case basis. Prior time limit (until 31 December 2004): 6 years. Time limits are subject to the terms of any applicable double tax treaty and the EU Arbitration Convention.
CHILE 	The general statute of limitations is three years from the date of the infraction or breach.	ISRAEL 	3 years from the end of the tax year for which a return is filed.
CHINA 	The new EIT law confirms that the statute of limitations on assessment of transfer pricing adjustments is 10 years.	ITALY 	Within 4 years from the end of the year in which the tax return was filed. The term is extended to 8 years in case of assessment of criminal infringements. Tax returns for years 1997-2002 remain open to assessment for 6 years (instead of the ordinary 4) if the company did not avail itself of any of the tax amnesties available for those years.
COLOMBIA 	2 years from date of filing return.	JAPAN 	6 years from due date for filing return.
CZECH REPUBLIC 	General provisions apply; term of limitation at least 3 years from the end of taxable period in which tax return was submitted; period can be extended up to 17 years.	KAZAKHSTAN 	5 years from tax year-end.
DENMARK 	5 years and 4 months from tax year-end.	KENYA 	No information available.
ECUADOR 	Tax liability prescribes in three years if the income tax return was filed accurately and on time, and in six years if it was incomplete or filed late.	KOREA 	5 years from the day after the due date of filing tax return; 7 years for nonfilers; 10 years in case of fraud.

Statute of Limitations on Assessment for Transfer Pricing Adjustments

MALAYSIA 	6 years from the end of the year of assessment to which the income or expenditure relates. Period is unlimited in cases of negligence, willful default or tax evasion.	SOUTH AFRICA 	3 years from date of original assessment when full disclosure has been made. No limitation for inaccurate or incomplete disclosure.
MEXICO 	Generally 5 years from date of filing return.	SPAIN 	Normally four years from the due date for filing the corporate income tax return.
NETHERLANDS 	Generally 5 years from tax year-end; 12 years if adjustment relates to income from foreign country.	SWEDEN 	6 years from tax year-end.
NEW ZEALAND 	4 years from end of year in which return is filed.	SWITZERLAND 	Generally, 5 years after the taxable year in question, but in case of the appeals procedure up to 15 years.
NORWAY 	Generally 10 years from tax year-end. Limited to 2 years if taxpayer has provided all relevant information at the time of filing.	TAIWAN 	Generally, 5 years from date of filing return.
OECD 	Determined under local law.	THAILAND 	Summons for tax examination must be issued within 2 years of the filing date or 5 years when tax evasion is suspected. Tax assessment must be issued within 10 years.
PERU 	4 years, extended to 6 years if a return was not filed.	TURKEY 	5 years from tax year-end.
PHILIPPINES 	3 years from the filing of the income tax return.	UK 	6 years from accounting year-end. May be extended up to 21 years in case of negligence or fraud.
POLAND 	5 years from the end of the year in which tax return is filed.	USA 	3 years from original due date or filing date of return, whichever is later. For substantial omissions of income, period is extended to 6 years. In cases of nonfiling or fraud, period is unlimited.
PORTUGAL 	General provisions apply. Tax assessments may be issued only within a 4-year period following December 31 of the tax year concerned.	VENEZUELA 	4 years from date of filing return. 6 years if overall tax compliance was not accomplished.
RUSSIA 	3 years from tax year-end.	VIETNAM 	General rules apply: 5 years from tax year-end.
SINGAPORE 	6 years from the year of assessment to which the income/expense is related. In cases of tax evasion, period is unlimited.		

Commissionaire Arrangements Allowed?

ARGENTINA 	Yes.	FINLAND 	Yes.
AUSTRALIA 	Yes.	FRANCE 	Yes, but such arrangements targeted for tax audits.
AUSTRIA 	Yes.	GERMANY 	Yes.
BELGIUM 	Yes.	HUNGARY 	Yes.
BRAZIL 	Yes.	INDIA 	No specific statutory authorization.
CANADA 	No.	IRELAND 	Yes.
CHILE 	No specific statutory authorization.	ISRAEL 	Yes.
CHINA 	There is no specific provision. In practice, accepted by some tax authorities.	ITALY 	Yes.
COLOMBIA 	Yes.	JAPAN 	No specific statutory authorization.
CZECH REPUBLIC 	Yes.	KAZAKHSTAN 	No specific statutory authorization.
DENMARK 	Yes.	KENYA 	No guidelines provided. The principle will have to be tested with the KRA.
ECUADOR 	Not applicable.	KOREA 	Yes.


Commissionaire Arrangements Allowed?

MALAYSIA 	No specific statutory authorization or prohibition. Allowed at IRB's discretion, depending on the facts in each case.	SOUTH AFRICA 	Yes.
MEXICO 	Yes, although subject to increased scrutiny from tax authorities.	SPAIN 	Yes.
NETHERLANDS 	Information not available.	SWEDEN 	Yes.
NEW ZEALAND 	Undisclosed principal arrangement may be achieved. Care must be taken when drafting the legal agreements to achieve the desired result.	SWITZERLAND 	Yes.
NORWAY 	Yes.	TAIWAN 	Yes.
OECD 	Determined under local law.	THAILAND 	Yes, but arrangements give rise to significant risk of creating a permanent establishment.
PERU 	Yes.	TURKEY 	There is no specific authorization for commissionaire arrangements. Such arrangements may give rise to permanent establishment risk.
PHILIPPINES 	Yes.	UK 	Yes, but should be expected to be subject to HMRC challenge. In the UK the equivalent of a "commissionaire" is an "undisclosed agent."
POLAND 	Yes.	USA 	No.
PORTUGAL 	Yes.	VENEZUELA 	No.
RUSSIA 	Yes.	VIETNAM 	Not applicable.
SINGAPORE 	Yes, but arrangements give rise to significant risk of creating a permanent establishment.		

Availability of Benchmarking/Comparative Data

ARGENTINA 	International databases are used. Availability of local information must be analyzed on a case-by-case basis. Some information is available, but it is not organized in a database.	FINLAND 	Available; Finnish companies must file their financial statements with the public trade register each year.
AUSTRALIA 	Financial data from published accounts is available via numerous databases.	FRANCE 	Yes, benchmark and economic analysis are highly recommended to support the audited company's results.
AUSTRIA 	Pan-European data is used.	GERMANY 	Pan-European data is used.
BELGIUM 	Financial data from published accounts is available via numerous databases, mainly Amadeus and Belfirst.	HUNGARY 	Limited local data available; however, pan-European data may be used for transfer pricing purposes.
BRAZIL 	Limited local data available. Reliable international information may be used to calculate comparable prices.	INDIA 	The available databases provide financial statements and related profitability of external comparables. However, the databases are not comprehensive.
CANADA 	Numerous databases containing detailed information on Canadian public companies are available.	IRELAND 	Not generally available.
CHILE 	Limited local data available	ISRAEL 	Limited local data available.
CHINA 	The tax authorities generally require the use of Chinese comparable companies. Information and financial data regarding Chinese public companies is available from both Shanghai and Shenzhen stock markets. In Circular Guo Shui Han [2005] No. 239, the tax authorities state that they could use as a possible resource the BvD database during a transfer pricing audit. Furthermore, according to Circular Guo Shui Fa [2005] No.745,...cont'd on pg 63	ITALY 	Not generally available.
COLOMBIA 	Not generally available.	JAPAN 	Available using several databases with SIC codes and keywords (many of them in Japanese).
CZECH REPUBLIC 	Pan-European database Amadeus is available to the Czech tax authorities. Companies are entitled to support their transfer pricing arrangements with benchmark analysis.	KAZAKHSTAN 	A list of international bulletins, magazines, and other sources of information, approved by the Kazakh government, should be used to monitor transaction prices.
DENMARK 	Financial data from published accounts is available via Danish databases.	KENYA 	No database of local comparables is available. KRA has not given formal acceptance of foreign comparables, but in the absence of local comparables, they should be acceptable.
ECUADOR 	Yes, but the number of local publicly held companies is limited.	KOREA 	Yes. Several databases are available to the public.






















Availability of Benchmarking/Comparative Data

MALAYSIA 	Limited local data available.	SOUTH AFRICA 	Comparable data in respect of South African companies is not publicly available.
MEXICO 	Very limited local comparable transactions and companies information is available; generally taxpayers and the tax administration have used foreign comparable data for benchmarking purposes.	SPAIN 	Iberian database Sabi provides information on more than 1 million Spanish companies.
NETHERLANDS 	Yes.	SWEDEN 	Yes.
NEW ZEALAND 	Limited public New Zealand comparable data is available regarding companies and certain transaction types.	SWITZERLAND 	Limited Swiss comparables data. Pan-European benchmark study usually accepted.
NORWAY 	Yes.	TAIWAN 	Data on public companies may be found through the Securities and Futures Commission website or in newspapers.
OECD 	Not applicable.	THAILAND 	Audited financial statements lodged by all registered (private and public) companies with the Thai Ministry of Commerce are available through an online database.
PERU 	Local data available is very limited.	TURKEY 	Not generally available. There is no local database providing comparative data for Turkish companies. Only public companies' financial statements are available to the public.
PHILIPPINES 	Some data is available.	UK 	Detailed information on UK registered companies is available.
POLAND 	Increased role of benchmarking; the tax authorities use Amadeus database to perform their own analyses during APA negotiation process.	USA 	Multiple local databases containing sufficient qualitative and quantitative information to identify comparables exist and information from these databases is acceptable to local tax authorities.
PORTUGAL 	General lack of comparative data for independent companies because of the relatively small economy; taxpayers use SABI database covering Portuguese and Spanish companies.	VENEZUELA 	Yes, but the number of local publicly held companies is limited.
RUSSIA 	According to the Tax Code, exchange quotations and official sources of information should be used to determine market prices. However, the Tax Code does not explain what is meant by official sources of information. According to the Russian federal and regional arbitrage practice, those may consist of: data received from state statistical committees; information from newspapers; bulletins (from any international organization); and other sources of information.	VIETNAM 	Not readily available.
SINGAPORE 	Yes. Several business databases available to identify comparable companies. Financial data from published accounts is available from the Accounting and Corporate Regulatory Authority.		

Are Foreign Comparables Acceptable to Local Tax Authorities?

ARGENTINA 	Local regulations do not provide a clear answer. Use of foreign comparables has not been questioned up to now, and has been informally accepted when tax authorities review the annual transfer pricing reports.	FINLAND 	Yes. Pan-European comparables accepted, but comparability analyzed on a case-by-case basis.
AUSTRALIA 	The ATO prefers local comparable data; however, it may accept foreign comparables when suitable local comparables are not available.	FRANCE 	No, except pan-European benchmarks, and only if they include a meaningful set of French entities
AUSTRIA 	Yes.	GERMANY 	Pan-European benchmarks are often accepted by German tax authorities.
BELGIUM 	Administrative Circular Letter of 14.11.2006 on TP documentation confirms explicitly the acceptability of pan-European comparables.	HUNGARY 	Yes
BRAZIL 	Foreign comparables are acceptable only for purposes of the PIC or CUP method in relation to import transactions, and PVA and PVV method in relation to exports transaction.	INDIA 	No specific prohibition.
CANADA 	Yes, foreign comparables are often used to supplement a Canadian comparables set, provided the taxpayer conducts additional analysis to account for any differences in geographic markets and the taxpayer ensures the foreign comparables meet the comparability standards required by the transfer pricing methods used in Canada.	IRELAND 	Yes.
CHILE 	Yes.	ISRAEL 	Israeli comparables are preferred, but if not available, relevant foreign comparables may be considered.
CHINA 	If the tax authorities are convinced that no domestic comparables are available, taxpayers may use foreign comparables. However, the degree of acceptance is subject to the local tax authorities' discretion. Under Guo Shui Han [2005] 239 taxpayers searching for comparable companies should use BVD database.	ITALY 	Yes, provided local comparables are not available and foreign markets are deemed similar enough.
COLOMBIA 	Yes.	JAPAN 	No.
CZECH REPUBLIC 	Czech comparables are preferred, but if not available, relevant foreign comparables may be considered.	KAZAKHSTAN 	Yes.
DENMARK 	Yes.	KENYA 	No guidelines provided.
ECUADOR 	Yes.	KOREA 	Yes, but subject to aggressive scrutiny. Local comparables are preferred.
























Are Foreign Comparables Acceptable to Local Tax Authorities?

MALAYSIA 	To a very limited extent, depending on relevance and comparability and when absolutely no Malaysian comparables are available. In those cases, Pan-Asian comparables are preferred.	SOUTH AFRICA 	Yes. Pan-European comparables are preferred, although U.S. and Australian comparables may be acceptable in some circumstances. SARS is looking into implementing a country risk adjustment for some industries.
MEXICO 	Yes.	SPAIN 	New legislation is based on the OECD Guidelines and the work of the European Joint TP Forum. However, although pan-European comparables should be accepted, in practice the Spanish tax authorities have expressed a strong preference for the use of local comparables whenever possible.
NETHERLANDS 	Yes.	SWEDEN 	An assessment on a case-by-case basis will be made. However, Pan-European comparables will normally be accepted if comparability factors according to the OECD guidelines are met.
NEW ZEALAND 	The use of overseas comparables data is not prohibited. However, the IRD has concerns regarding the comparability of overseas data due to geographic market differences.	SWITZERLAND 	No specific prohibition; in practice acceptable.
NORWAY 	No specific regulation; however, Norwegian tax authorities prefer local comparables.	TAIWAN 	Taiwan comparables are preferred. However, the tax authorities will accept foreign comparables if the number of Taiwan comparables is insufficient.
OECD 	Geographic location is one fact or that determines whether markets in which the independent and associated enterprises operate are comparable. Ch. I, 1.30. If these differences have a material effect on price, adjustments must be made. *OECD	THAILAND 	The Thailand Revenue Department has a strong preference for Thai comparables. However, if the taxpayer has attempted to obtain local comparables and they are not available, foreign comparables from similar markets are likely to be accepted by the local tax authorities.
PERU 	Yes, the law expressly states that foreign comparables are acceptable.	TURKEY 	Local rules do not provide a clear answer. Because there is currently no specific prohibition, and considering the absence of domestic comparables, it might be inferred that foreign comparables should be acceptable, provided that any differences in geographic markets (if any) can be eliminated through adjustments and/or analyses. When determining transfer pricing related assessments, Turkish tax inspectors may be highly likely to use "secret comparables" to which only they have the access. Turkish taxpayers are advised to be ready to challenge this approach.
PHILIPPINES 	Yes, if local comparables are not available.	UK 	Sometimes.
POLAND 	Only if taxpayer can prove that local data is unavailable.	USA 	Ordinarily, comparables should be derived from the geographic market in which the tested party operates. Reg. §1.482-1(d)(4)(ii). Geographic market is any geographic area in which economic conditions are substantially the same and may include multiple countries.
PORTUGAL 	Only if taxpayer can prove that local data is unavailable.	VENEZUELA 	Yes, there is no legal limitation on using foreign comparable companies.
RUSSIA 	There are no specific guidelines in the Tax Code regarding acceptable comparables. In practice, foreign comparables may be accepted, if it is reasonably substantiated that they are appropriate to establish a market price level for a particular transaction.	VIETNAM 	No formal provision/guidelines, but in practice foreign comparables would be acceptable as supporting documentation if no or limited domestic comparables are available
SINGAPORE 	No specific guidelines published by the Singapore Tax Authority. Foreign comparables would likely be acceptable if it is not feasible to obtain domestic comparables.		

Are Management Fees Deductible?

ARGENTINA 	Yes, but payments must satisfy the arm's length standard and have a direct relation to the income generated, and documentation must be kept.	FINLAND 	Yes, provided the services benefit the company and the arrangement meets the general documentation and pricing requirements.
AUSTRALIA 	Yes, subject to general rules of deductibility under s. 8-1 Income Tax Assessment Act 1997.	FRANCE 	Yes, provided they meet the arm's length standard.
AUSTRIA 	Yes. Follows OECD Guidelines.	GERMANY 	Generally yes. However, if shareholder costs are included in management fees, German tax authorities tend to refuse tax deductibility. German tax authorities use a very broad definition of the term "shareholder costs" that is not in line with the OECD approach (cf. Sec. 7.9 of the OECD guidelines).
BELGIUM 	Yes. Follows OECD Guidelines.	HUNGARY 	Yes, if the taxpayer can prove that (i) the management services were actually rendered, (ii) they were incurred in the company's business interest, and (iii) the fees applied are at arm's length.
BRAZIL 	Yes, if the services are provided as rendered and are necessary, useful, and common to the kind of business in question.	INDIA 	No formal guidelines, but payments for management fees may be deductible.
CANADA 	Yes, provided the charge is in accordance with the arm's length principle	IRELAND 	No specific legislation. General rules on deductible expenses apply, i.e. deductible provided connected with company's trade and on an arm's length basis.
CHILE 	Yes, as long as there is a direct and verifiable relationship between the need for the service and the income.	ISRAEL 	Yes, provided the fees are at arm's length.
CHINA 	According to article 49 of the implementation rules to the new EIT law, management fees are not deductible. Specific services received may be deductible, but the onus on benefit to the Chinese company is burdensome.	ITALY 	Yes, provided the fees are at arm's length; are adequately supported/documented; and refer to services inherent to the taxpayer's business activity. Stewardship costs are not deductible.
COLOMBIA 	Yes.	JAPAN 	Arm's length charges for intragroup management and similar services are deductible (in accordance with the OECD Guidelines and Japan's TP guidelines).
CZECH REPUBLIC 	Generally, yes; however, tax deductibility is determined on a case-by-case basis.	KAZAKHSTAN 	Yes, if related to generation of taxable income and documented justifiably. Not deductible by nonresident companies not associated with a permanent establishment in Kazakhstan.
DENMARK 	Yes.	KENYA 	Generally yes.
ECUADOR 	Yes, provided the corresponding income tax was withheld.	KOREA 	Management fees paid to overseas related parties, including a parent company, for services can be deductible for Korean tax purposes only if the following conditions are met: i) Actual performance of services verified by relevant documents such as a service performance schedule, progress report, information on the service provider, or expense reports; ii) Service provided by a foreign related company must be related to the domestic company's business or directly related to profitability of the domestic company; ...cont'd on pg 63
























Are Management Fees Deductible?

MALAYSIA 	Yes, to the extent the fees are revenue in nature and directly related to services provided to the Malaysian entity. Benefits analysis may be required.	SOUTH AFRICA 	Generally yes.
MEXICO 	Yes.	SPAIN 	Management fees are deductible if services provided produce or may produce a profit to the company receiving the services. This benefit must be proved and documented.
NETHERLANDS 	Yes.	SWEDEN 	Yes – if the cost equals the benefit received. OECD principles generally apply for the deductibility of mark-ups.
NEW ZEALAND 	Yes, to the extent payments are arm's length.	SWITZERLAND 	Yes, provided the fees are at arm's length.
NORWAY 	Yes.	TAIWAN 	Yes.
OECD 	Determined under local law.	THAILAND 	Yes, provided the services result in a benefit to the Thai company and the fees are determined on an arm's length basis.
PERU 	Yes, they are deductible, except if the fees are paid to a resident in a tax haven.	TURKEY 	Yes, provided the following conditions are satisfied: (a) Benefit Test: the management service concerned must be necessary and useful for the income generating activities of the recipient in Turkey; (b) The management service must actually be performed, and performance must be verified through a service performance schedule, time/expense reports, and progress reports; (c) the amount/level of the management fees must be at arm's length. Stewardship costs are nondeductible (in accordance with the OECD Guidelines).
PHILIPPINES 	Yes.	UK 	Yes.
POLAND 	Yes, provided that benefit test is met. Costs of shareholders' activities are not deductible.	USA 	Yes. IRC §162.
PORTUGAL 	Yes. However, the management fees must reflect the arm's length principle, such as the specific rules of intragroup services, as defined in article 12 of TP Ministerial Order.	VENEZUELA 	Yes.
RUSSIA 	Yes, expenses associated with the management of an organization or individual subdivisions thereof, and expenses for the acquisition of services involving the management of an organization or individual subdivisions thereof could be deducted (if general criteria of tax deductibility are met).	VIETNAM 	Management fees allocated from overseas in excess of the amount calculated in accordance with the following formula is not deductible: $\text{Total revenue of PE in Vietnam in the tax period} \div \text{Total revenue of foreign company (including revenue of PE in other countries, in tax period)} \times \text{total management fee of the parent foreign company in the tax year. Circular 134 dated 23 November 2007 on Corporate Income Tax.}$
SINGAPORE 	Yes, if they are incurred wholly and exclusively in the production of assessable income of the payer, are not referable to stewardship function, and the quantum satisfies arm's length standard. For reimbursement /cost allocation, the expense must not be specifically prohibited under Singapore Income Tax Act.		

Are Management Fees Subject to Withholding?

ARGENTINA 	Yes.	FINLAND 	No.
AUSTRALIA 	No.	FRANCE 	Generally no. Withholding taxes may be triggered if management activities also involve the transfer of intellectual property.
AUSTRIA 	Generally no. However, royalties and payments for the provision of technical or commercial consulting services carried out in Austria are subject to withholding tax.	GERMANY 	Generally no. Withholding taxes may be triggered if management activities also involve the transfer of intellectual property.
BELGIUM 	No.	HUNGARY 	No.
BRAZIL 	Yes, if the services are provided as rendered and are necessary, useful, and common to the kind of business in question.	INDIA 	Yes.
CANADA 	Yes; however, exempted under most income tax treaties.	IRELAND 	No
CHILE 	Yes, payments made to entities or individuals not domiciled in Chile for services rendered abroad are subject, without any deductions, to withholding as the remuneration is paid, credited, or placed at the beneficiary's disposal.	ISRAEL 	Generally no.
CHINA 	If services are provided offshore, there is no tax liability in China.	ITALY 	No, unless paid in the form of a royalty for the use of some intangible assets (e.g., business know-how, global customers lists, etc.).
COLOMBIA 	Yes, if the service has been rendered in Colombia.	JAPAN 	No withholding tax if services are performed outside of Japan. Withholding taxes may be applicable if services are performed in Japan.
CZECH REPUBLIC 	Depends on pertinent tax treaty. In most cases, there is no withholding tax on management fees.	KAZAKHSTAN 	Yes, if received by a nonresident company from Kazakhstan sources and not attributable to that nonresident company's permanent establishment.
DENMARK 	Subject to withholding tax of 30 percent, to the extent the management fees include a royalty component. Withholding tax may be reduced under tax treaties	KENYA 	Yes, subject to withholding tax at a default rate of 20% for a nonresident (subject to income tax treaties).
ECUADOR 	Yes, the withholding tax rate is 25 percent.	KOREA 	No withholding tax applies if the related services are performed outside Korea. However, if the relevant services are performed in Korea, withholding tax can be imposed in accordance with tax treaties or local tax law.

Are Management Fees Subject to Withholding?

MALAYSIA 	Yes, when the services are provided in Malaysia.	SOUTH AFRICA 	No.
MEXICO 	No, if service is provided by a resident in a treaty country. Otherwise, companies are subject to 25 percent withholding tax if the services are provided in Mexico.	SPAIN 	Yes, unless a tax treaty is in place.
NETHERLANDS 	No.	SWEDEN 	No.
NEW ZEALAND 	Withholding tax obligations arise to the extent the fees constitute royalties in accordance with Income Tax Act 2004 and the applicable tax treaty. The fees will also be subject to withholding tax if the services are physically performed in New Zealand. To the extent the charge is not arm's length a deemed dividend will arise that will be subject to withholding tax.	SWITZERLAND 	No.
NORWAY 	No.	TAIWAN 	Yes.
OECD 	Determined under local law.	THAILAND 	Yes, 15 percent withholding tax applies to management fees paid cross-border. This withholding tax will normally be exempted under an applicable income tax treaty, unless the fees are characterized as royalties.
PERU 	Not if the management services are rendered abroad, but if rendered in Peru the fees are subject to 30 percent withholding.	TURKEY 	Management fees may be subject to withholding tax depending on the nature and place of the service being provided. Relevant double tax treaty provisions may eliminate withholding tax under certain conditions
PHILIPPINES 	No in the case of most countries, provided the Polish entity presents a tax residency certificate of payment prior to the payment.	UK 	No.
POLAND 	No in the case of most countries, provided the Polish entity presents a tax residency certificate of payment prior to the payment.	USA 	No.
PORTUGAL 	Yes. However, if there is an income tax treaty the management fees will not be subject to withholding tax, if certain procedures are followed.	VENEZUELA 	Yes. The withholding percentage depends on the type of contract. If it is a professional fees contract, withholding is 34% of 90% of gross income. If it is a technical assistance contract, withholding is 34% on a 30% basis. When there is a Double Taxation Agreement ("DTA") in effect, taxing will occur in the country from which the service provision has originated. The company not domiciled in Venezuela will tax according to the DTA and not by local legislation. This applies to both professional fees and technical assistance contracts.
RUSSIA 	Management fees paid to a foreign legal entity are in principle not subject to Russian withholding tax, but this should be confirmed on a case-by-case basis depending on the exact nature of the services.	VIETNAM 	Foreign contractor withholding tax (FCWT) is applicable for payment of management fee. Under the current interpretation of FCWT, payment for services will not be subject to WHT if the services are rendered and consumed overseas. Management fees can be construed as being consumed in Vietnam, and accordingly would be subject to FCWT.
SINGAPORE 	Yes, subject to exceptions.		

Nature/Extent of Relationship Between Parties to a Transaction Required for Transfer Pricing Rules to Apply

ARGENTINA 	TP rules apply when transactions are made with foreign affiliates, entities in tax havens, and foreign entities with an economic link.	FINLAND 	Control test: direct or indirect holding of more than 50% of capital or voting power; right to appoint more than half the members of the board of directors or other means of control exists. Lighter documentation requirements if transactions between parties do not exceed a threshold of EUR 500,000.
AUSTRALIA 	Transfer pricing rules (Division 13 of Part III, Income Tax Assessment Act 1936) potentially applicable to any dealings under an international agreement. The parties need not be related to one another, and there are no control requirements.	FRANCE 	Direct or indirect dependence link; dependence can be de jure or de facto.
AUSTRIA 	Two enterprises are associated if one participates directly or indirectly in the management, control, or capital of the other, or if both are under common control.	GERMANY 	"Related parties" doctrine under sec. 1 para. 2 of the Foreign Tax Code applies. A person is a person related to the taxpayer: 1. if such person holds directly or indirectly a participation of at least ¼ in the taxpayer's capital or if such person is able to exercise directly or indirectly a controlling influence or vice versa, if the taxpayer holds a substantial participation in such person's capital or is able to exercise directly or indirectly a controlling influence on such person; 2. if a third person holds substantial participation both in such person's and the taxpayer's...cont'd on pg 63
BELGIUM 	Very broad interpretation of interdependence criteria: not only legal but also factual control (e.g., common management).	HUNGARY 	If a company has directly or indirectly more than 50 percent of the voting rights in another company, or holds by way of any agreement with another member of the company more than 50 percent of the voting rights in the company, or is entitled to appoint/dismiss the majority of the executive officers or the supervisory board members of another company, the companies will be deemed related.
BRAZIL 	Article 2 of Regulatory Instruction No. 243/02 provides detailed list. Entities located in low-tax jurisdictions are considered related for transfer pricing purposes.	INDIA 	The regulation requires direct or indirect participation in the management, control, or capital of the other enterprise or participation of other enterprise or by the same person in such enterprise. The regulation gives illustrative list of relationships to which transfer pricing rules apply: equity holding of 26 percent; control of board of directors; loans/guarantees; dependence on the use of specified intangibles of the other enterprise; influence over supply of raw materials/finished products.
CANADA 	Parent companies and subsidiaries are subject to transfer pricing rules, as are companies subject to common control. In addition, certain companies that are considered not dealing at arm's length in fact.	IRELAND 	Generally not applicable.
CHILE 	Transaction between "related parties" (as defined under Chilean law and regulations) in which one of them is a foreign entity.	ISRAEL 	When "special relationship" exists between parties to a transaction, includes the relationship between an individual and its relative, the control of one party to the transaction over the other, or control by one individual over the other parties to the transaction, whether direct or indirect, individually or together with other individuals.
CHINA 	The current implementation rule seems to broaden the definition for related-party transactions to include other organizations and individuals, and be driven by an adoption of an OECD-type definition per article 9 of the Model Tax Convention. Absent detailed guidance in the implementation rules, Circular Guo Shui Fa [2004] No. 143 may serve as doctrine; thus, two enterprises are viewed as associated if there is more than 25 percent direct or indirect ownership involved, or one enterprise is deemed to have effective control over the other.	ITALY 	Besides the control relationships considered in article 2359 of the Civil Code, transfer pricing rules apply to any kind of relationship determining actual or potential economic influence on business decisions, by means of a combination, but not limited to, of exclusive agreements, joint ventures, the presence of common members in the Boards of Directors, family relationships, financial relationships, participation in trusts, etc. (Circular letter no. 32/9/2267, September 22, 1980, chapter I, par. 4.)
COLOMBIA 	Ownership of 50 percent or more, direct or indirect. Administrative and economic control variables applied. Transactions with companies located in tax havens are subject to transfer pricing rules.	JAPAN 	TP rules apply to transactions between a Japanese taxpayer corporation and a foreign related party. "Related parties" are defined as entities with a "special relationship" because of direct or indirect legal control (through shareholding) or control-in-substance (personnel dependence, transactional dependence, financial dependence or similar dependence factors).
CZECH REPUBLIC 	Nature/extent of transaction is decisive, as a substance-over-form rule applies in the Czech Republic.	KAZAKHSTAN 	Transfer pricing rules apply to transactions between parties related through direct or indirect participation in the management, control, or capital constituting no less than 10%; participation in the capital or profit distribution of a partnership constituting not less than 20%; official subordination; other types of association. Transactions between unrelated parties also subject to TP rules in some cases, including transactions involving parties registered with or residing in foreign countries that provide tax concessions or support a financial information...cont'd on pg 63
DENMARK 	Transfer pricing legislation is applicable to transactions between companies that are under common control, that is, the same shareholder or group of shareholders, directly or indirectly, control more than 50 percent of the share capital or more than 50 percent of the voting power. Companies are also deemed to be under common control if they share the same management, even if the shareholders are not the same.	KENYA 	A permanent establishment of a foreign entity is treated as if it were a separate entity and therefore TP rules apply to transaction between such PEs/branches and their head office
ECUADOR 	For pricing transfer rules to apply, transactions must occur between related parties. Resolution No. NAC-DGER2005-0640 establishes the obligation to submit an integral transfer pricing report and an appendix of transactions performed by those taxpayers undertaking transactions with their overseas related parties if the accumulated amounts exceed US\$300,000. ...cont'd on pg 63	KOREA 	Special relationship exists if one party i) own directly or indirectly 50% or more of total shares; ii) has substantial control, or; iii) common interests exist between both parties.

Nature/extent of Relationship between Parties to a Transaction Required for Transfer Pricing Rules to Apply

MALAYSIA 	One party must exercise control, directly or indirectly, over the other. Control means possessing or being entitled to acquire a greater part of the share capital of the company. In other circumstances, a 'close connection' and 'substantial control' exercised by a nonresident over a resident resulting in understatement of income may cause the DGIR to invoke section 141 of the Income Tax Act to make a "fair and reasonable estimate."	SOUTH AFRICA 	"Connected person" relationships are defined in section 1.1.4 of Practice Note 7 of the South African Income Tax Act.
MEXICO 	One party must exercise control, directly or indirectly, over the other. Control means possessing or being entitled to acquire a greater part of the share capital of the company. In other circumstances, a 'close connection' and 'substantial control' exercised by a nonresident over a resident resulting in understatement of income may cause the DGIR to invoke section 141 of the Income Tax Act to make a "fair and reasonable estimate."	SPAIN 	Extensive rules exist governing the nature of related parties. Those rules have been slightly modified by law 36/2006.
NETHERLANDS 	The definition of "associated enterprises" in article 8b Corporate Income Tax Act follows the wording of article 9 of the OECD Model Treaty. Companies are considered to be associated if one company has an equity participation in, or management control over another enterprise, which provides the company sufficient control to influence relationships that may give rise to non-arm's-length arrangements. A ruling from the Dutch tax authorities can provide certainty on this topic.	SWEDEN 	Direct or indirect management, supervision, ownership or control in another company is required.
NEW ZEALAND 	Any two companies are associated persons when there is a group of persons that have a 50 percent or greater voting, market value, or income interest in the two companies, or control of the two companies by any other means (section OD 8(3)). There are also definitions of associated persons for persons, partnerships, and trusts. An anti-avoidance provision (section GC 1) requires compliance with the transfer pricing rules in case of an arrangement that has a purpose or effect of defeating the intent and application of the transfer pricing rules.	SWITZERLAND 	No specific rules. OECD definition or "Associated Enterprises" is generally followed by Swiss Tax Authorities
NORWAY 	No specific regulations. Reporting and documentation rules apply if there is at least 50% direct or indirect joint ownership. The tax authorities will most likely continue to focus on transactions when there is direct or indirect ownership of more than 50%.	TAIWAN 	A party that has equity ownership, common management, effective control over the finance, personnel, or operations of another party, or enters into a joint venture agreement with another party will be treated as related to that party. Detailed definitions of related party are included in the Transfer Pricing Guidelines.
OECD 	Two enterprises are associated if one participates directly or indirectly in the management, control, or capital of the other, or if both are under common control.	THAILAND 	Departmental Instruction Paw 113/2545 applies the definition of "Associated Enterprise" from the OECD Guidelines.
PERU 	1) Partner or common stockholders representing over 30% of the capital, directly or indirectly; 2) Common directors, managers or other executives with power of decision in financial and commercial agreements.; 3) Consolidation of financial statement; 4) Sales of asset and/or services equal to, or higher than, 80% of total annual income in favor of one unrelated company or of companies related between themselves and a 30% of total annual cost for the buying party. The two requirements must be met to be economically related; ...cont'd on pg 63	TURKEY 	Article 13 of The Turkish Corporate Tax Code defines "related parties" as: 1) companies' own shareholders and corporations and individuals related to those shareholders; 2) Corporations and individuals who are directly or indirectly controlling or controlled by a corporation or its shareholders through management, supervision or share capital; 3) Spouses of the shareholders, siblings and parents of the shareholders and up to third degree (inclusive) natural and in-law relatives of the shareholders. Transactions with parties resident in countries deemed to...cont'd on pg 64
PHILIPPINES 	A controlled taxpayer is covered by the transfer pricing rules. It means any one or two or more organizations or trades, or businesses owned or controlled directly or indirectly by the same interests.	UK 	When one party directly or indirectly participates in the management, control, or capital of the other, or when the same person or persons directly or indirectly participate in the management, control, or capital of both parties. Generally, a 51 percent test of control, but can go down as low as 40 percent. Persons "acting together" to exert control in relation to financing arrangements are also caught.
POLAND 	5 percent direct or indirect share in capital. Other types of relationship (e.g., effective control) are also taken into account. The rules apply to both Polish and foreign parties. Transfer pricing restrictions apply also to foreign entrepreneurs operating through a permanent establishment in Poland, and transactions with entities in tax havens (regardless of the relationship).	USA 	The definition of control for transfer pricing purposes includes any kind of control, direct or indirect, whether legally enforceable or not. It is the reality of control that is decisive, not its form or the way it is exercised.
PORTUGAL 	The main conditions of relationship between related parties are: (i) one entity participates directly or indirectly in at least 10% of the share capital or voting rights of another entity; (ii) both entities are at least 10% owned, directly or indirectly, by the same legal entity; (iii) economic, commercial, financial, professional, or legal dependence; (iv) entities in which the majority of the Board of Directors are constituted by the same persons; ...cont'd on page 63	VENEZUELA 	<ul style="list-style-type: none"> • A company's direct or indirect participation in another company's management, control or capital. • Direct or indirect participation of two companies in another company's management, control or capital. • Operations with a party located in a foreign tax haven. • Third party that operates on behalf of a company in Venezuela to perform transactions with a related party of said company in Venezuela...cont'd on pg 64
RUSSIA 	The following transactions are subject to transfer pricing control in Russia: All cross-border transactions (including those between formally independent parties); All barter transactions (including purely domestic transactions and those between formally independent parties); All related-party transactions (including purely domestic transactions); and...cont'd on pg 64	VIETNAM 	Circular 117 includes a very broad definition of related parties. Two parties are considered affiliated if one is involved directly or indirectly in the control, administration, capital contribution or investment of the other party. Two business establishments are deemed related if either business directly or indirectly holds at least 20 percent of the equity or total property of the other business.
SINGAPORE 	Singapore Tax Authority expects related-party transactions to be carried out at arm's length. Persons considered related parties when one person, directly or indirectly, has the ability to control the other, or when both of them, directly or indirectly, are under the control of a common person. Related parties include associated enterprises and separately taxable entities of an enterprise, such as permanent establishments of the enterprise.		

Answers Continued

Page 3	CHINA	...Taxation Administration Rules for Business Transactions Between Associated Enterprises (Guo Shui Fa [1998] No. 59); Amended Taxation Administration Rules for Business Transactions Between Associated Enterprises (Guo Shui Fa [2004] No. 143); Notice of the State Administration of Taxation on Promulgation of the Provisional Measures for Applications by Chinese Residents (Nationals) for Launching Mutual Agreement Procedures (Guo Shui Fa [2005] No.115); Notice of the State Administration of Taxation about the Anti-tax Evasion Work 2005 (Guo Shui Han [2005] No.239); Notice of the State Administration of Taxation on the Validity of Relevant Circulars on Taxation Management of Business Transactions between Associated Enterprises (Guo Shui Han [2006] No. 807); Circular of the State Administration of Taxation on the Relevant Issues Concerning the Tax Administration of Transfer Pricing for Transactions between Related Enterprises (Guo Shui Han [2006] No. 901); Circular of the State Administration of Taxation Concerning Tax Assessment Relevant to Foreign or Foreign-Invested Enterprises with Sole Manufacturing Function (Guo Shui Han [2007] No.236); Circular of the State Administration of Taxation on Intensifying Analytical Investigation on Transfer Pricing (Guo Shui Han [2007] No.363)
Page 3	GERMANY	...Principles for the Audit of the Income Allocation Between Related Parties with Cross-Border Business Relations in Respect of the Duty of Determination, the Duty of Cooperation, Adjustments, Mutual Agreement Procedures, and EU Arbitration Procedures of April 12, 2005. The German tax authorities are currently drafting principles regarding the relocation of business functions. The principles are expected to be issued at the end of 2008.
Page 10	VIETNAM	...When an enterprise makes an incorrect declaration, a 10% fine will be imposed on the underdeclared tax, if any, in addition to the late payment interest. When an enterprise commits acts of tax evasion or tax fraud, the fine is 1 to 3 times the underdeclared tax.
Page 13	CHINA	...The draft contemporaneous documentation detailed regulations will introduce new detailed tax return disclosures, which will likely include: <ul style="list-style-type: none"> - Related parties and their relationships with taxpayers; - Countries or areas where the related parties are located; - Transaction model and terms applied in the related-party transactions; - Types of related-party transactions; - Amount of related-party transactions and percentage as compared to total similar transactions; - P/L statement of the related-party transactions; - Transfer pricing methods applied in the related-party transactions; and - Whether contemporaneous documentation has been prepared.
Page 14	TURKEY	...determine intercompany transfer pricing policies. Income taxpayers are not required to complete and submit this form to their tax office. However, they must prepare the documents listed in Section 7.1. of TP General Communiqué No. 1 with respect to both domestic and foreign transactions and submit those documents to the Tax Administration or tax inspectors upon request.
Page 16	NORWAY	...and a comparability analysis. Tax payers are required to prepare database searches only upon request.
Page 16	TURKEY	...The annual TP documentation report is to be prepared according to the guidelines stipulated in Appendix 3 of TP General Communiqué No. 1. Corporate taxpayers not registered with the LTTO but with other tax offices are required to prepare annual TP documentation report only with respect to their cross-border transactions with related parties.
Page 44	TURKEY	...and (d) relevant supporting documentation must be maintained.
Page 53	CHINA	...“capital adjustments” for Chinese comparables may be made only pursuant to approval from the SAT. The contents of both Circulars 239 and 745 are expected to be reissued under the provisions governing the new EIT Law. ...Under the implementation rules to the new EIT law, companies with similar products or operations to those of a company under audit should provide materials upon the tax authorities’ request, which may lead to the possible use of so-called secret comparables.
Page 57	KOREA	...iii) Payments for the services must be at arm’s length; and iv) Service agreement should be in writing.
Page 61	ECUADOR	...Related parties are individuals or legal entities, whether or not domiciled in Ecuador, of whom one participates directly or indirectly in the management, administration, control, or capital of the other; or a third party, either an individual or legal entity, whether or not domiciled in Ecuador, that participates directly or indirectly in the management, administration, control, or capital of these.
Page 61	GERMANY	...capital or is able to exercise directly or indirectly a controlling influence on both of them; or 3. if such person or the taxpayer is able, in agreeing on the terms and conditions of a business relationship, to exercise influence on the taxpayer or on the person based on facts beyond such business relationship or if one of them is personally interested in the other party’s earning of such income.
Page 61	KAZAKHSTAN	...nondisclosure regime; and transactions involving enterprises that enjoy tax exemption or apply unique tax rates, and transactions involving enterprises with losses in the two latest tax periods preceding the year of the transaction, and any international business transactions if the transaction price deviates from the market price by more than 10%.
Page 62	PERU	...5) Joint venture contracts with independent accounting, in transaction with their contracting parties; 6) Permanent establishments in Peru in respect to the corresponding company abroad; and 7) Natural person are included among subjects under analysis if applicable
Page 62	PORTUGAL	...and (v) transactions between a resident entity and entities resident in clearly more favorable tax regimes (as listed in Ministerial Order 150/2004, in practice, mainly tax havens).

Answers Continued

Page 62	RUSSIA	...Transactions where the price applied by the same taxpayer in analogous transactions deviates by more than 20% within a short period of time.
Page 62	TURKEY	...cause harmful tax competition (to be determined by the Council of Ministers) are also considered related-party transactions. Further detailed explanations of the definition of "related party" are provided in Section 3 of TP General Communiqué No.1.
Page 62	VENEZUELA	...(Art. 116,117, 118 and 119 ITL)
Page 62	VIETNAM	... The TP rules also apply to dealings between a corporate entity and a PE of that entity, and to dealings between PEs.

Endnotes

Tax Authority & Law

- Page 4 -5 *BEL Law of 21 June 2004 introduced TP-specific cross-border rules and correlative under Articles 185 and 235 ITC.
- *CHN The Hong Kong Special Administrative Region has no specific transfer pricing legislation or regulations, although transfer pricing issues are considered under its anti-avoidance provisions and recently entered into tax treaties/arrangements.
- *MEX Federal Fiscal Code Articles 21, 34-A, 37, 46 (Sec. IV), 46-A, 48 (Sec VII), 63, 69, 76, 81 (Sec XVII), 85 (Sec IV), 86 (Sec IV), 209 and 214. [Latest amendment to the Income Tax Law effective January 1, 2003].

Regulations Rulings & Guidelines

- Page 6 - 7 *AUS All Taxation Rulings below have retroactive effect to 1982.
Taxation Rulings: TR 92/11 – loan arrangements and credit balances (10/92)
TR 94/14 – basic concepts underlying the operations of Australia’s transfer pricing rules (5/94)
TR 95/23 – advance pricing arrangements (6/95)
TR 97/20 – pricing methodologies (11/97)
TR 98/11 – documentation (6/98)
TR 98/16 – penalties (11/98)
TR 1999/1 – charging for services (1/99)
TR 1999/8 – consequential adjustments (6/99)
TR 2000/16 – relief from double taxation and the Mutual Agreement Procedure
TR 2001/11 – operation of Australia’s permanent establishment attribution rules (10/2001)
TR 2003/1 – thin capitalization – applying the arm’s length test
TR2004/1 – cost contribution arrangements.
- *BRZ Effective with respect to inbound and outbound transactions with related parties carried out as of January 1, 1997.
- *CAN Generally follows OECD Guidelines. Effective for tax years beginning after 1997.
- *CHN At press time, China was expected to issue contemporaneous documentation requirements.
Additional regulations and rulings include: Articles 52 through 58 of Chapter 4 of the detailed implementing rules of the PRC Income Tax Law for Foreign Invested Enterprises and Foreign Enterprises (FEIT Implementing Rules); Articles 36 through 41 of the Implementing Rules of Tax Collection Law (Tax Collection Law Implementing Rules); Implementation Measures Concerning Taxation Administration on Business Transactions Between Associated Enterprises (Guo Shi Fa [1992] No. 237 (the Implementing Measures)); the State Administration of Taxation Circular on some concrete issues concerning the Implementing Measures (Guo Shi Fa [1992] No. 242).
- *KAZ At press time, Kazakhstan’s Parliament was reviewing a draft transfer pricing law. Parliament has postponed the adoption of new TP regulations until the spring of 2007.
- *NEZ The provisions apply to 1996-97 and future income years.
- *OECD Chapters I-V published July 1995: Chapter I – The Arm’s Length Principle; Chapter II – Traditional Transaction Methods; Chapter III – Other Methods; Chapter IV – Administrative Approaches to Avoiding and Resolving Transfer Pricing Disputes; Chapter V – Documentation. Chapters VI-VII published March 1996: Chapter VI – Special Considerations for Intangible Property; Chapter VII – Special Considerations for Intragroup Services. Chapter VIII published October 1997: Chapter VIII – Cost Sharing Guidelines.
- *PER For transactions with unrelated companies, market value must be determined by means of an appraisal (for all types of transfers of fixed assets not frequently traded in the market); at the equity value determined based on the issuer company’s balance (for shares and participations not quoted in the Stock Exchange); by the Stock Exchange value (for shares quoted in the Stock Exchange); by the CUP method (for the transfer of inventories and the rendering of services). Should the CUP method not be applicable to services, market value will be determined through a technical appraisal conducted by a competent agency.
- *UK Also Inland Revenue Statement of Practice 3/99 (APAs) and Press Release Nov. 13, 2000 (Mutual Agreement Procedure and US/UK treaty). Also HMRC Manuals and HMRC website containing guidance on transfer pricing. <http://www.hmrc.gov.uk/international/transfer-pricing.htm>

Acceptable Methods

- Page 8 - 9 *BRZ Safe-harbor exceptions available for exports only. Refer to Regulatory Instructions Nos. 243/02, 382/03 and 602/05. The latter, however, is valid only for 2005 calendar-year operations.
- *GER TNMM and CPM are commonly used by tax auditors for a plausibility check.

Endnotes

Penalty on Transfer Pricing Assessment

Page 12-13	*MEX	The amount is periodically updated for inflation.
	*NEZ	The interest rate imposed on transfer pricing adjustments has varied since the introduction of the legislation. The various rates and applicable time periods are:
		12 July 96 – 7 February 97 13.8 percent
		8 February 97 – 6 July 98 13.9 percent
		7 July 98 – 7 November 98 14.69 percent
		8 November 98 – 7 March 99 12.48 percent
		8 March 99 – 7 March 00 10.59 percent
		8 March 00 – 7 November 00 10.84 percent
		8 November 00 – 7 November 01 12.62 percent
		8 November 01 – Present 11.93 percent

Reduction in Transfer Pricing Penalties

Page 14-15	*PER	a) 20 percent discount, if taxpayer declares the omitted tax debt after commencement of a fiscal review by SUNAT, but before the assessment of fine resolution becomes effective; applicable when the taxpayer had not filed the TP informative sworn statement, or lacked the detailed documentation and information by transaction supporting TP calculations, and/or lacked the TP Technical Study. b) 30 percent discount when the taxpayer had filed the TP informative sworn statement. c) 50 percent discount, when the taxpayer has the detailed documentation and information by transaction supporting TP calculations, and/or the TP Technical Study.
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Tax Return Disclosures

Page 16-17	*MEX	A transfer-pricing-specific informational return must be filed annually disclosing related parties and their corresponding transactions, including method applied for analysis.
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Documentation Requirements

Page 18-19	*DEN	The SME exemption is applicable to taxpayers, who alone or together with affiliated companies have less than 250 employees, and either have total assets of less than DKK 125 million or net sales of less than DKK 250 million. The SME test should be made on a consolidated basis with all Danish and foreign affiliated companies. Accordingly, when determining the total assets, account should not be taken of debt and claims between the taxpayer and the affiliated legal persons, as well as share capital in affiliated legal persons owned by the taxpayer, and vice versa. When determining the turnover, account should not be taken of turnover between the taxpayer and affiliated legal persons. The SME exemption involves that the taxpayer should only prepare and retain written documentation for: 1) Controlled transactions with natural and legal persons who are tax resident in a foreign state that has not concluded a tax treaty with Denmark and that is not a member of the EEC or EEA; 2) controlled transactions with a permanent establishment situated in a foreign state that has not concluded a tax treaty with Denmark, and that is not a member of the EEC or EEA; and 3) controlled transactions with a permanent establishment situated in Denmark, provided the taxpayer is resident in a foreign state that has not concluded a tax treaty with Denmark, and that is not a member of the EU or EEA.
	*FIN	Documentation must include: <ul style="list-style-type: none">• a description of the taxpayer's business activities;• a description of the connection between the associated companies;• information on transactions undertaken with associated companies;• a functional analysis of the transactions undertaken with associated companies, providing information on functions performed and risks assumed;• a comparability analysis, including information on comparable transactions or companies, validating the arm's length level of the applied transfer pricing; and• a description of the selected pricing method and its application.
	*MEX	Effective January 1, 2002, domestic related-party transactions must observe a transfer pricing method, although detailed documentation rules have not been published.

Cost Contribution or Cost Sharing Payments Deductible?

page 46-47	*CAN	Currently deductible under either subsection 37(1) if qualifying as scientific research and experimental development or paragraph 18 (1)(a) if qualifying as a regular business expense that is income in nature; amortizable if capital in nature.
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Endnotes

Cost Contribution or Cost Sharing Payments Subject to Withholding Tax?

Page 48-49 *PER: For instance, royalties for the use or license to use of trademarks, patents, know-how are subject to income tax withholding.

Statute of Limitations on Assessment for Transfer Pricing Adjustments

Page 52-53 *PER This period is computed from January 1 of the calendar year following the date when the tax return should have been filed (income tax annual returns must be filed during the three calendar months following the end of the corresponding fiscal year).

Are Foreign Comparables Acceptable to Local Tax Authority?

Page 58-59 *AUS Any analysis using foreign comparables should "take into account the differences in geographic, economic and market conditions, etc., operating offshore and other factors which may affect reliability of the data." (TR 98/11, para. 10.11).

*ISR While understanding the fact that finding local comparables is not always possible, we were strictly advised that the local tax authorities will reject any attempt at what they view as "cherry picking" of foreign comparables, where the tested party is an Israeli party. An effort should be made to seek local comparables; if Israeli comparables cannot be found, the ITA would look for a set of comparables that will satisfy the comparison criteria specified in the proposed regulations. In this instance there is no strict rule as to what is better to use, a set of European comparables or a set of U.S. comparables, and it should be determined on a case-by-case basis. Moreover, we were advised that the ITA may allow the use of a combination of comparables from Europe, the United States, and Israel, as long as they meet the comparability standards set by the ITA in the proposed regulations.

*OECD Generally, OECD member countries expect comparables to be selected from the same or the most similar market as the market in which the tested party operates.

*USA If such information is available, comparables from different geographic markets may be used if adjustments are made for differences in markets. If information permitting adjustments is not available, comparables in the most similar market may be used.

Nature/Extent of Relationship between Parties to a Transaction Required for Transfer Pricing Rules to Apply?

Page 64-65 *SWE In determining whether control exists, a shareholder should take into account share capital and voting power of other shareholders, if an agreement regarding the exercise of common control has been made between the shareholders. Accordingly, if three unrelated taxpayers each owns 1/3 of a company and a shareholder agreement regarding the exercise of common control has been concluded, transactions between the company and the shareholders will qualify as controlled transactions. Moreover, companies may be affiliated based on either de jure control or de facto control. The term covers legal persons in which the same group of shareholders may exercise control or that share the same management even if the shareholders are not the same. Accordingly, if three unrelated taxpayers each own 1/3 of two companies, the two companies will be affiliated. Moreover, two companies may also be affiliated even if they are not owned by same group of shareholders if the two companies have the same management.

Deloitte Member Firm Contacts

Argentina:

Horacio Dinice +54 (11) 4321 3002

Denmark:

Jonathan Bernsen +45 36 10 33 32

Japan:

Setsuko Fukushima +81 (3) 6213 3976
Tomohiko Kaneko +81 (3) 6213 3839

Philippines:

Richard Lapres +62 (2) 812-0535 ext 2003

Thailand:

Stuart Simons +66 (2) 676 5700 ext. 5021

Australia:

Paul Riley +61 3 9208 7850

Ecuador:

Martha Cerda 593 2 2251319 ext. 213

Kazakhstan:

Vladimir Kononenko +7 (3272) 58 13 40

Poland

Iwona Georgijew +48 (22) 511 08 24

Turkey:

Güler Hülya Yilmaz +90 212 366 60 72

Austria:

Andrea Lahodny-Karner +43 (0)1-537-00-6200

Finland:

Outi Ukkola +358 (0) 20 755 5314

Kenya:

Billy Joubert +27 (11) 806 5352

Portugal:

Laurie Wiggins +351 21 042 75 97

United Kingdom:

Chris Adams +44 (20) 7007 3763
Mark Atkinson +44 (20) 7007 3797

Belgium:

Patrick Cauwenbergh +32 (2) 600 69 27

France:

Gianmarco Monsellato +33 (0) 1 55 61 63 46

Korea:

Tae-Hyung Kim +82-2-6676-2410

Russia:

Bill Page +7 (495) 787 0600
Danuta Khan +7 (495) 787 0674

United States:

Jeffry Neuenschwander +1 (313) 396 2690

Brazil:

Fernando Matos +55 (11) 5186 1179

Germany:

Heinz-Klaus Kroppen +49 (211) 8772 2241
Axel Eigelshoven +49 211 8772 2474
Achim Roeder +49 211 8772 2832

Malaysia:

Heng How Lim +6 03 7725 1888

Singapore:

Jee Chang See +65 6216 3181

Venezuela:

Alejandro Gomez +58 (212) 206 8732

Canada:

Robert O'Connor (416) 601 6316

Hungary:

Peter Gemesi +36 (1) 428 6904

Mexico:

Ricardo González Orta +52 (55) 5080 7023

South Africa:

Billy Joubert +27 (11) 806 5352

Vietnam:

Kevin Lam K.W. +(84-4) 910 0751

Chile:

Alvaro Mecklenburg (56-2) 729 8314

India:

Samir Gandhi +91 22 6619 8460

Netherlands:

Thijs Heijenrath +31 6558 53691

Spain:

Ignacio Longarte +34 915820900

China:

Ryan Chang 86-21-6141 8888

Ireland:

Joan O'Connor +353 1 417 2476

New Zealand:

Diana Maitland + 64 (4) 470 3630

Sweden:

Tommy Cronholm +46 8 506 712 63

Colombia:

Pedro Enrique Sarmiento +57 1 636 7902

Israel:

Yitzchak Chikorel +972 (3) 608 5511
Jacob Houlie +972 (3) 608 5424

Norway:

Petter Grüner +47 23 27 96 05

Switzerland:

Stephen Alleway +41 (0)44 421 63 61

Czech Republic:

John Ploem +420 224 895 634

Italy:

Michele Crisci +39 02 83324055

Peru:

Tania Quispé +51 (1) 211 8534

Taiwan:

Eunice Kuo +886 (2) 2545 9988 ext. 3289
Lucia Tung +886 (2) 2545 9988 ext. 3017

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