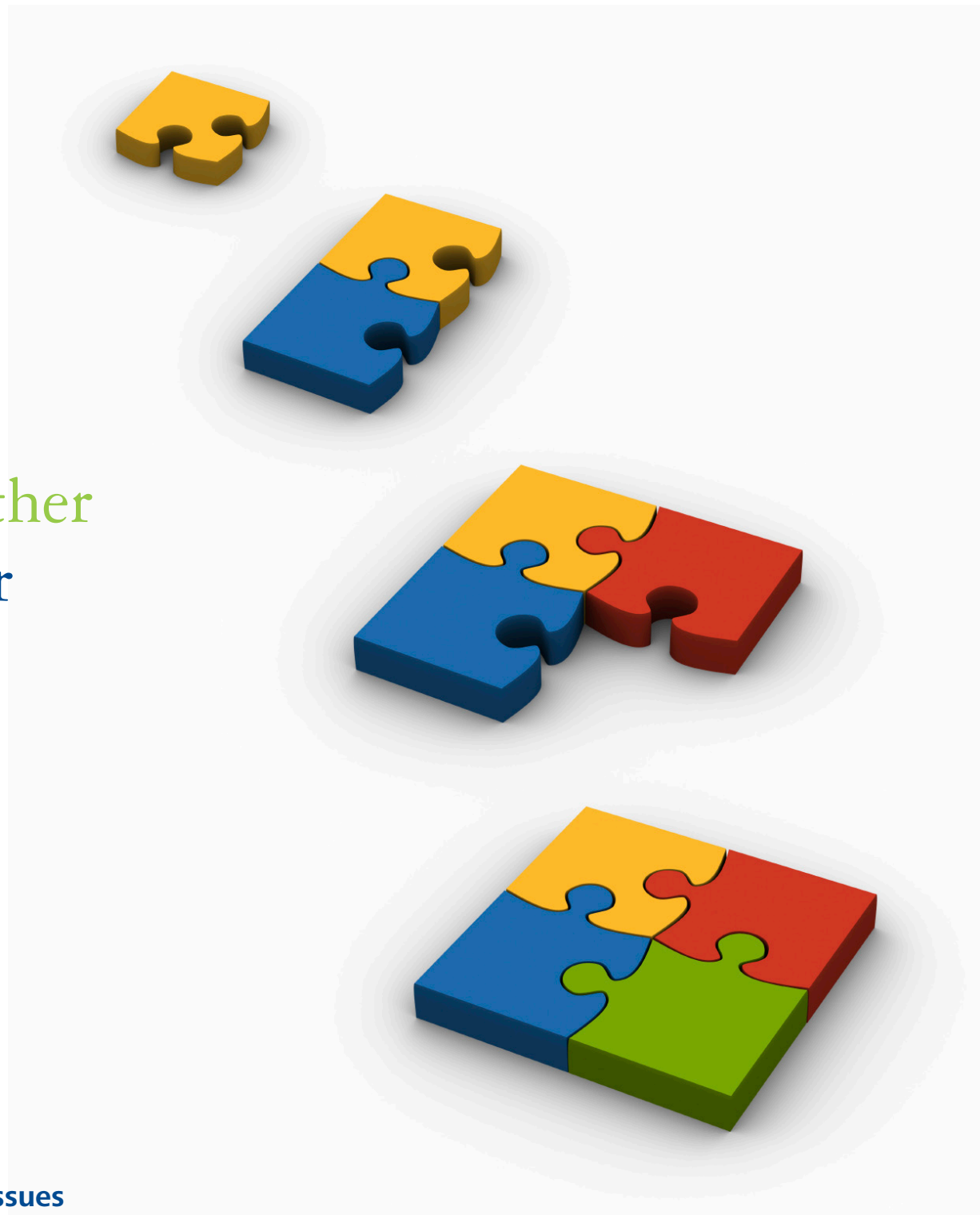


## Putting the Pieces Together 2010 Strategy Matrix for Global Transfer Pricing



This 2010 Strategy Matrix for Global Transfer Pricing has been prepared by professionals in some of the member firms of Deloitte Touche Tohmatsu. It is intended as a general guide only, and its application to specific situations will depend on the particular circumstances involved. Accordingly, it is recommended that readers seek appropriate professional advice regarding any particular problems they encounter. This information should not be relied upon as a substitute for such advice. While all reasonable attempts have been made to ensure that the information contained herein is accurate, neither Deloitte Touche Tohmatsu nor any of its member firms accepts any responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies upon it.

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# 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 51 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](mailto:betfernandez@deloitte.com), or visit <http://www.deloitte.com/tax>

## Deloitte global profile

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

# Tax authority and law

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|---|---|
| <b>Argentina</b><br><br>Argentine Tax Office (Administración Federal de Ingresos Públicos): Law 20.628 and amendments (Article 8, Article 15, and new article added after Article 15).   | <b>France</b><br><br>French Tax Administration; General Tax Code Article 57 (profit transfer), Articles 238 A and 209 B (CFC rules), Tax Procedure Book Article L.13AA for general TP documentation requirements and Article L.13AB for additional requirements for transactions with “uncooperative havens” as defined in Article 238-0-A of the French Tax Code, 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).  |
| <b>Australia</b><br><br>Australian Taxation Office (ATO); Division 13 of Part III, Income Tax Assessment Act 1936 (Effective 1982).  | <b>Germany</b><br><br>Federal Ministry of Finance; Section 8 para. 3 Corporate Income Tax Act (KStG); Section 4 para. 1 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 (GAufzV), decree-law on relocation of business functions (FVerlV).   |
| <b>Austria</b><br><br>Federal Ministry of Finance; Section 6 para. 6 Income Tax Act, Section 8 para 1 and 2 Corporate Income Tax Act.  | <b>Hong Kong</b><br><br>Inland Revenue Department; Inland Revenue Ordinance.   |
| <b>Belgium</b><br><br>Administration of Direct Taxes. Since 2006, Special Transfer Pricing Audit Cell. General tax law on avoidance of profit shifting applies (articles 26, 49, 54, 55, 56, 79, 207 and 344 of Income Tax Code). For APAs, mutual agreement or arbitration procedure, OECD’s arm’s length standard, as introduced by article 185 §2 ITC, applies. | <b>Hungary</b><br><br>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, Article 132/B-C on APA, Article 176/A on the application of the Arbitration Convention; Hungarian Ministry of Finance issued Decree no. 22/2009 on transfer pricing documentation requirements; Hungarian Ministry of Finance issued Decree no. 38/2006 on APAs; VAT Act Article 67 (determination of tax base if consideration is not arm’s length). |
| <b>Brazil</b><br><br>Brazilian Revenue Service (Secretaria da Receita Federal – SRF); Ordinary Federal Law 9.430/96. Provisional Measures - 472/09 (published on 12/15/2009) - 476/09 (published on 12/23/2009) - 478/09 (published on 12/29/2009)   | <b>India</b><br><br>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.  |
| <b>Canada</b><br><br>Canada Revenue Agency (CRA); Income Tax Act Section 247 (Effective for tax years beginning after 1997).   | <b>Indonesia</b><br><br>Directorate General of Taxation. Article 18 (3) of Income Tax Law No. 36 of 2008 stipulates that the tax office is authorized to redetermine non-arm’s length related-party transactions using acceptable transfer pricing methodologies. Article 2 of Value Added Tax Law No. 18 of 2000 stipulates that market price applies to related-party transactions.  |
| <b>Chile</b><br><br>Internal Revenue Service (Servicio de Impuestos Internos – SII); Articles 36 and 38 of Income Tax Law (D.L. No. 824 of 1974).  | <b>Ireland</b><br><br>The Revenue Commissioners. Taxes Consolidation Act 1997 Section 835A -835H. Transfer pricing rules included in Finance Bill 2010, published 4 February 2010. Effective for chargeable periods beginning on or after 1 January 2011.  |
| <b>China</b><br><br>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. *CHI   | <b>Israel</b><br><br>Income Tax Ordinance. Article 85a, which deals with transfer pricing in international transactions, was enacted as part of the 2003 Israeli tax reform.  |
| <b>Colombia</b><br><br>Colombia Tax Office (Dirección de Impuestos y Aduanas Nacionales-DIAN); Book 1, Title I, Chapter XI, Articles 260-1 to 260-10 of the Tax Code.  | <b>Italy</b><br><br>Ministry of Finance; article 110 (7) of Presidential Decree n. 917/1986 (for corporate tax purpose – IRES); Legislative Decree n. 446/1997 (for regional tax purpose – IRAP).  |
| <b>Czech Republic</b><br><br>Ministry of Finance; Section 23 para. 7 of the Act on Income Taxes (Effective January 1, 1993).   | <b>Japan</b><br><br>National Tax Agency (NTA); Special Taxation Measures Law (STML), Article 66-4 and Article 68-88 for companies filing consolidated tax returns.   |
| <b>Denmark</b><br><br>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).  | <b>Kazakhstan</b><br><br>The Tax Committee and the Customs Committee of the Ministry of Finance; Law “On transfer pricing” dated 5 July 2008.  |
| <b>Ecuador</b><br><br>Internal Revenue Service (SRI). Unnumbered articles 1 to 4 following article 15 of the Tax Law.  | <b>Kenya</b><br><br>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, and grants the tax authorities power to restate those transactions.  |
| <b>Finland</b><br><br>Finnish Tax Administration (Verohallinto). Tax Procedure Act.  | <b>Korea</b><br><br>National Tax Service (NTS); Law for the Coordination of International Tax Affairs (LCITA) (effective January 1, 1996).   |

# Tax authority and law


















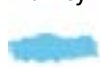








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| <p><b>Luxembourg</b></p>  <p>Luxembourg Tax Administration. Article 56 of the Income Tax Law and Art. 164 para. 3 ITL.</p>   | <p><b>Singapore</b></p>  <p>Inland Revenue Authority of Singapore (IRAS); general and specific anti-tax avoidance provisions: Sections 33 and 53(2A) of the Singapore Income Tax Act Cap 134, 2004 Ed. In addition, the Income Tax (Amendment) Act 2009 (gazetted on 31 December 2009) has introduced a new Section 34D. The new Section 34D establishes the legal requirement for related-party transactions to be carried out at arm's length. Section 34D provides IRAS with the legal authority to enforce the arm's length principle and make adjustments if related-party transactions are not carried out on an arm's length basis.</p> |
| <p><b>Malaysia</b></p>  <p>Inland Revenue Board. Specific provisions relating to transfer pricing and thin capitalization have been enacted under section 140A of the Income Tax Act. These provisions are effective from 1 January 2009.</p>  | <p><b>Slovak Republic</b></p>  <p>Slovak tax authorities; Section 18 of Income Tax Act No 595/2003 Coll as further amended (ITA).</p>  |
| <p><b>Mexico</b></p>  <p>Servicio de Administración Tributaria (SAT); Income Tax Law Articles 2 (Sec VI and last two paragraphs), 31 (Sec V, 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; Flat Tax Law Articles 3 (Sec VI) and 18 (Sec III). *MEX.</p> | <p><b>South Africa</b></p>  <p>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.</p>  |
| <p><b>Netherlands</b></p>  <p>Netherlands Revenue. Corporate Income Tax Act Article 8b and 8c.</p>   | <p><b>Spain</b></p>  <p>Tax Administration; Corporate Income Tax Act (Royal Legislative Decree 4/2004) and Nonresidents Tax Act (Royal Legislative Decree 5/2004). Article 16 of CITA (Royal Legislative Decree 4/2004) governing TP rules has been changed significantly by the Tax Fraud Prevention Act published on Nov. 30, 2006 (Law 36/2006). Royal Decree 1793/2008 develops the Corporate Income Tax Regulation.</p>   |
| <p><b>New Zealand</b></p>  <p>Inland Revenue Department (IRD); Sections YD 5, GB 2 and GC 6 – 14 of Income Tax Act of 2007 (effective 2008/2009).</p>  | <p><b>Sweden</b></p>  <p>Swedish Tax Administration (Skatteverket); Chapter 14 §§ 19-20 of the Swedish Income Tax Act.</p>   |
| <p><b>Norway</b></p>  <p>Tax Directorate (Skattedirektoratet). The General Tax Act section 13-1.</p>   | <p><b>Switzerland</b></p>  <p>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 non-commercially justified expenses found in Art. 58 of Federal Taxes Act and Art. 24 of Harmonization of the Cantonal Tax Laws Act.</p>   |
| <p><b>OECD</b></p>  <p>Council of Organization for Economic Cooperation and Development (OECD); Articles 9 and 25 of OECD Model Tax Convention.</p>  | <p><b>Taiwan</b></p>  <p>Ministry of Finance; Article 43-1 of Taiwan Income Tax Law.</p>   |
| <p><b>Peru</b></p>  <p>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).</p>   | <p><b>Thailand</b></p>  <p>Revenue Department; Section 65 bis(4), Section 70 ter, Section 65 bis (7), Section 65 (13), (14) and (15) of the Thai Revenue Code.</p>  |
| <p><b>Philippines</b></p>  <p>Bureau of Internal Revenue. No specific transfer pricing laws, but the Bureau of Internal Revenue, as a matter of policy, subscribes to the OECD transfer pricing guidelines, until the final draft of the Revenue Regulations on Transfer Pricing are formally issued.</p>  | <p><b>Turkey</b></p>  <p>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 No. 2007/12888 (announced on 6 December 2007), Transfer Pricing General Communiqué No. 1 and 2 (announced on 18 November 2007 and 22 April 2008, respectively), Transfer Pricing Decree No. 2008/13490 (announced on 13 April 2008).</p>  |
| <p><b>Poland</b></p>  <p>Inland Revenue; articles 9a, 11, 19 and 27 of Corporate Income Tax Law; section 11a of Tax Ordinance of 29 August 1997 (APA), Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (23 August 2007).</p>   | <p><b>UK</b></p>  <p>Inland Revenue; main legislation in Section 770 &amp; Schedule 28AA Income &amp; 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. Permanent establishment covered in Section 148 onwards, FA 2003. Rules about attribution of profit to branches covered in Section 20, CTA 2009.</p>   |
| <p><b>Portugal</b></p>  <p>General Tax Directorate (Direcção-Geral dos Impostos) (DGCI); Article 63 of the Corporate Income Tax Code, applicable for tax years beginning after December 31, 2001 (*POR)</p>  | <p><b>USA</b></p>  <p>Internal Revenue Service (IRS); Internal Revenue Code §482 (latest amendment effective for tax years beginning after December 31, 1986).</p>   |
| <p><b>Romania</b></p>  <p>National Agency for Fiscal Administration; Romanian Fiscal Code.</p>   | <p><b>Venezuela</b></p>  <p>National Integrated Tax and Customs Service Administration (SENIAT); Income Tax Law (ITL) Nr. 38.628 Chapter III Title VII (Latest amendment effective February 16, 2007).</p>   |
| <p><b>Russia</b></p>  <p>Russian Tax Office (Federal Tax Service); Tax Code of the Russian Federation Part 1: articles 20, 40; Part 2: articles 154, 161, 187, 211, 237, 250, 269, 280, 301-305, 340.</p>  | <p><b>Vietnam</b></p>  <p>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.</p>   |

# Regulations, rulings and guidelines



















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| <p><b>Argentina</b></p>  <p>Decree 1344/98. General Resolution No. 1122/01.</p>  | <p><b>France</b></p>  <p>Administrative Doctrine on Article 57, Adopted Procedures L.13AA and L.13AB (22 December 2009), Administrative Instruction on the MAP (February 2006), Administrative Instructions on APA (September 1999 and June 2005), OECD Guidelines (generally accepted in practice).</p>  |
| <p><b>Australia</b></p>  <p>Taxation Rulings: TR92/11, TR94/14, TR95/23, TR97/20, TR98/11, TR98/16, TR1999/1, TR1999/8, TR2000/16, TR2001/11, TR2003/1, TR2004/1, TR2007/1 *AUS. In December 2009, the ATO released a draft Taxation Ruling (TR 2009/D6) on the interaction of Australia's thin capitalization rules and the transfer pricing provisions in relation to intragroup interest and guarantee fees. The ATO also released a draft practice statement (PS LA 3187) that provides guidance (a practical rule of thumb) for taxpayers to determine interest rates on cross-border related-party loans.</p>  | <p><b>Germany</b></p>  <p>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; Principles for the Audit of the Income Allocation Between Related Parties with Cross-Border Business Relations in Respect of the Duty of Determination...<b>cont'd on page 65</b></p>  |
| <p><b>Austria</b></p>  <p>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 nonbinding on taxpayers. Draft version of Austrian Transfer Pricing Guidelines released for comments.</p>   | <p><b>Hong Kong</b></p>  <p>Departmental Interpretation and Practice Notes No. 46.</p>  |
| <p><b>Belgium</b></p>  <p>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. Rulings are published (in French or Dutch) on <a href="http://ccff02.minfin.fgov.be/KMWeb/browseCategory.do?method=browse&amp;params.selectedCategoryId=840">http://ccff02.minfin.fgov.be/KMWeb/browseCategory.do?method=browse&amp;params.selectedCategoryId=840</a>.</p> | <p><b>Hungary</b></p>  <p>Ruling 1999/103 on the possibility of unilateral adjustments performed by the tax authorities; rulings on several transfer pricing documentation-related issues: 2004/37, 2005/55, 2007/49, 2007/77, 2007/97, 2007/133, 2007/139, and 2008/13.</p>  |
| <p><b>Brazil</b></p>  <p>Regulatory Instructions Nos. 243/02, 321/03, 382/03. Minister of Finance Regulation No 222/08.</p>  | <p><b>India</b></p>  <p>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.</p>  |
| <p><b>Canada</b></p>  <p>CRA Information Circular 87-2R. Transfer Pricing Memoranda published by the CRA. *CAN</p>   | <p><b>Indonesia</b></p>  <p>Article 16 (2) and (3) of Government Decree (GR) No. 80/2008 stipulates that supporting documents for related-party transactions are required in the event of tax audit. Directorate General of Taxation (DGT) Decree No. KEP-01/PJ.7/1993 and DGT circular letter No. SE-04/PJ.7/1993 regarding guidelines for tax authority to perform tax audit on taxpayer with related-party transaction. DGT Circular Letter No. SE-96/PJ/2009 regarding benchmarking ratio for 20 industries, and DGT Regulation Letter No. Per-39/PJ/2009 introduced new Annual Tax Return forms with additional forms for related party transactions disclosure. OECD Guidelines (generally accepted in practice).</p> |
| <p><b>Chile</b></p>  <p>Ruling No. 3/98 of the Chilean IRS.</p>  | <p><b>Ireland</b></p>  <p>No guidelines have been published. The law is to be interpreted in accordance with the OECD transfer pricing guidelines.</p>  |
| <p><b>China</b></p>  <ul style="list-style-type: none"> <li>Articles 109 to 115 and articles 121 to 123 of the implementation rules for the new EIT Law govern the transfer pricing regime;</li> <li>Circular of the State Administration of Taxation on the Issuance of the Implementation Measures for Special Tax Adjustments (Trial Implementation) (Guo Shui Fa [2009] No. 2);</li> <li>Circular of the State Administration of Taxation on Printing and Issuing the Annual Report on the Affiliated Transactions of Enterprises of the People's Republic of China (Guo Shui Fa [2008] No. 114);...<b>cont'd on page 65</b></li> </ul>  | <p><b>Israel</b></p>  <p>Transfer pricing regulations under article 85a, approved 29 November 2006, and effective immediately.</p>  |
| <p><b>Colombia</b></p>  <p>Decree 4349 of 2004.</p>  | <p><b>Italy</b></p>  <p>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.</p>   |
| <p><b>Czech Republic</b></p>  <p>Decree D-258 on the application of international standards to 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).</p>  | <p><b>Japan</b></p>  <p>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 June 1, 2001, partially amended several times. Reference Case Studies on Application of Transfer Pricing Taxation issued on June 25, 2007.</p>  |
| <p><b>Denmark</b></p>  <p>Danish Tax Assessment Guide for Companies and Shareholders 2009-2, section S.I.2; 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.</p>   | <p><b>Kazakhstan</b></p>  <p>Law "On Transfer Pricing" dated 5 July 2008; The Code of the Republic of Kazakhstan "On Taxes and other obligatory payments to the budget" (the Tax Code); Resolution of the Government dated 12 March 2009 "On approval of the list of officially recognized sources of information on market prices"; Resolution of the Government dated 12 March 2009 "On approval of the list of goods (works, services) international transactions are that are subject to monitoring";...<b>cont'd on page 65</b></p>  |
| <p><b>Ecuador</b></p>  <p>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. On December 29, 2007, the Tax Law was modified to introduce a transfer pricing system as part of the Law. The SRI published Resolution No. NAC-DGER 2008-0464, stipulating minimum amounts above which taxpayers must file a transfer pricing report and a transfer pricing appendix with the SRI, as well as the scope and content thereof. The SRI also published...<b>cont'd on page 65</b></p>  | <p><b>Kenya</b></p>  <p>The Income Tax (Transfer Pricing) Rules, 2006, issued by the Minister for Finance on 15 June 2006.</p>  |
| <p><b>Finland</b></p>  <p>The National Board of Taxes issued a guidance letter on documentation on 19 October 2007.</p>  | <p><b>Korea</b></p>  <p>Presidential Enforcement Decree, Ministerial Enforcement Ordinance, Basic rulings for LCITA. Basic rulings were released in June 2004 to provide more clear-cut guidelines.</p>   |











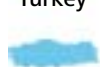


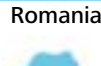

# Regulations, rulings and guidelines

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|---|---|
| <p><b>Luxembourg</b></p>  <p>Circular ITL NS No.164/1 dated 9 June 1993; Circular ITL No.164/1 dated 23 March 1998.</p>  | <p><b>Singapore</b></p>  <p>IRAS Transfer Pricing Guidelines were officially issued on 23 February 2006. They endorse the arm's length principle, as defined by the OECD. Additional guidelines on related-party loans and services were issued on 23 February 2009.</p>   |
| <p><b>Malaysia</b></p>  <p>Transfer Pricing Guidelines were issued on 2 July 2003, basically following OECD Guidelines. New regulations and revised Transfer Pricing Guidelines under the new provision 140A are currently being drafted, but it is not known when they will be issued.</p>  | <p><b>Slovak Republic</b></p>  <p>ITA, MF/8288/2009-72, OECD Guidelines.</p>   |
| <p><b>Mexico</b></p>  <p>Annual Miscellaneous Tax Provisions for Maquiladora companies, APA filing, Informative Return for Export-Oriented Manufacturing Companies (IMMEX), Informative Transfer Pricing Return, and Statutory Tax Report Filing System (SIPRED). Articles 276 and 260 of the Income Tax Law Regulations.</p>  | <p><b>South Africa</b></p>  <p>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.</p>   |
| <p><b>Netherlands</b></p>  <p>• 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 APAs, ATRs, Financial Service Entities, August 11, 2004, DGB 2004/1338; • 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&amp;A Decree re financial service companies, August 11, 2004, IFZ 2004/127.</p> | <p><b>Spain</b></p>  <p>Effective February 19, 2009, Royal Decree 1793/2008 provides detailed documentation rules, penalty procedures, tax audit TP process, secondary adjustments, and APA-specific procedure. Rulings: formal consultations to Tax Authorities. Royal Decree 1794/2008, governing the Mutual Agreement Procedure and EU Arbitration Convention (EU/90/436) from Spanish domestic perspective.</p>                                      |
| <p><b>New Zealand</b></p>  <p>Transfer Pricing Guidelines. *NEZ</p>  | <p><b>Sweden</b></p>  <p>Arm's length principle (SFS 1999:1229; 14:19-20); documentation requirements (SFS 2001:1227; 19:2a-2b); APAs (SFS 2009:1289); case law (RÅ 1991 ref. 107).</p>  |
| <p><b>Norway</b></p>  <p>Arm's length principle in the General Tax Act section 13-1. Generally, the OECD Guidelines apply.</p>   | <p><b>Switzerland</b></p>  <p>No specific guidelines; however, Swiss tax authorities generally follow the OECD Guidelines. Specific regulations on services (SFTA Circular 2004), debt/equity ratio (SFTA Circular 1997), and interest on intercompany loans (yearly SFTA circulars).</p>  |
| <p><b>OECD</b></p>  <p>Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (as amended). OECD guidelines do not always have a legally binding effect in domestic law, but carry considerable weight and govern the application of Article 9 of the OECD Model Tax Convention in international law.</p>   | <p><b>Taiwan</b></p>  <p>The Rules Governing the Assessment of Income Tax for Profit-Seeking Enterprises on Non-Arm's Length Transfer Pricing Issues (the Transfer Pricing Guidelines).</p>  |
| <p><b>Peru</b></p>  <p>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. *PER</p>   | <p><b>Thailand</b></p>  <p>Departmental Instruction No. Paw. 113/2545 (issued May 16, 2002 – "Calculation of corporate income tax in the case of establishing transfer pricing").</p>   |
| <p><b>Philippines</b></p>  <p>No formal regulations issued to date. 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. The Bureau of Internal Revenue, as a matter of policy, subscribes to the OECD transfer pricing guidelines, until the final draft of the Revenue Regulations on Transfer Pricing are formally issued.</p>   | <p><b>Turkey</b></p>  <p>Article 13 of the Turkish Corporate Tax Code provides the general principles. Transfer pricing applications are explained via examples stipulated in Communiqués No. 1 and 2, as well as Transfer Pricing Decree No. 2007/12888 and Decree No. 2008/13490.</p>  |
| <p><b>Poland</b></p>  <p>Executive Ordinances of 10 September 2009, Ordinance on Tax Havens of 16 May 2005, Ordinance on APA Realization of 31 May 2006. Also, amendment to the Accounting Act of 18 March 2008, which requires entities to disclose in their financial statements information on significant transactions with related entities that are not at arm's length.</p>   | <p><b>UK</b></p>  <p>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 enquiries), 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). *UK</p> |
| <p><b>Portugal</b></p>  <p>Ministerial Order (Portaria) #1446-C/2001.<br/>Ministerial Order (Portaria) #620-A/2008.</p>  | <p><b>USA</b></p>  <p>Reg. §1.482, Reg. §1.6662-6.</p>   |
| <p><b>Romania</b></p>  <p>OECD Transfer Pricing Guidelines, Methodological Norms of the Romanian Fiscal Code, Order 222 / 2008 regarding the content of the transfer pricing file issued by the National Agency for Fiscal Administration, Government Decision no. 529 / 2007 regarding the approval of APA and advanced fiscal solutions.</p>   | <p><b>Venezuela</b></p>  <p>SENIAT Providence NR sNAT-2003-2424, dated February 13, 2004 (effective from date of issuance).</p>  |
| <p><b>Russia</b></p>  <p>No regulations have been issued.</p>  | <p><b>Vietnam</b></p>  <p>No official guidelines other than Circular 117, but a revision of the circular has been expected for several months. It cannot be predicted when a revised circular will be issued. Some Official Letters relating to TP audits have been issued in the last 18 months, but these are legally applicable only to the taxpayers involved.</p>   |



























# Acceptable methods

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| <p><b>Argentina</b></p>  <p>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).</p>  | <p><b>France</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM.</p>  |
| <p><b>Australia</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.</p>  | <p><b>Germany</b></p>  <p>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.</p>  |
| <p><b>Austria</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM.</p>  | <p><b>Hong Kong</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM; other methods if sufficiently supported.</p>  |
| <p><b>Belgium</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.</p>  | <p><b>Hungary</b></p>  <p>CUP, Resale Price, Cost Plus. Any other methods may be applied if an arm’s length price cannot be supported by the methods listed.</p>  |
| <p><b>Brazil</b></p>  <p>Transactional methods, most using statutory gross margins. Imports: PIC (comparable uncontrolled price); PVL (Sale Price minus Profit) prescribes statutory margin on imports of 35 percent; CPL (production cost abroad plus 20 percent profit margin). Exports: CAP (production cost plus 15 percent profit margin); PVEX (sales price on exports) and PVA and PVV, respectively 15 percent for wholesale, 30 percent for retail. *BRZ</p> <p>Materiality for samples used as PIC or PVL of 10 percent for goods, services, and rights.</p> | <p><b>India</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM, or such other method as may be prescribed. The Federal Budget 2009 empowered the CBDT to determine the arm’s length price subject to safe harbor rules. Provisions relating to safe harbor rules are included in the Income Tax Act, 1961, as amended by Finance (No. 2) Act 2009. The safe harbor rules are expected to be notified in the near future.</p> |
| <p><b>Canada</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM.</p>   | <p><b>Indonesia</b></p>  <p>CUP, Resale Price Minus, Cost Plus, Profit Split, and TNMM.</p>   |
| <p><b>Chile</b></p>  <p>CUP, Resale Price, Cost Plus.</p>  | <p><b>Ireland</b></p>  <p>Follows OECD guidelines.</p>  |
| <p><b>China</b></p>  <p>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, and to article 23-27 of Circular of the State Administration of Taxation on the Issuance of the Implementation Measures for Special Tax Adjustments (Trial Implementation) (Guo Shui Fa [2009] No. 2).</p>  | <p><b>Israel</b></p>  <p>CUP, Cost Plus, Resale Price, TNMM, Profit Split, Residual Profit Split, and other unspecified methods.</p>   |
| <p><b>Colombia</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, TNMM.</p>  | <p><b>Italy</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Comparison, Profit Split, Invested Capital Profitability, Economic Sector Gross Margin.</p>  |
| <p><b>Czech Republic</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM.</p>  | <p><b>Japan</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM (TNMM is applicable for tax years beginning on or after April 1, 2004) and similar methods.</p>  |
| <p><b>Denmark</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), TNMM.</p>  | <p><b>Kazakhstan</b></p>  <p>CUP, Cost Plus, Resale Price, Profit Split, Net Profit.</p>  |
| <p><b>Ecuador</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, Transactional Operating Profit Margins Method.</p>  | <p><b>Kenya</b></p>  <p>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 arm’s length price cannot be determined using any of the methods contained in the guidelines.</p>  |
| <p><b>Finland</b></p>  <p>CUP, Resale Price, Cost Plus, Profit Split, TNMM.</p>  | <p><b>Korea</b></p>  <p>CUP, Resale Price, Cost Plus, TNMM, Profit Split.</p>   |















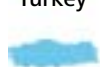






# Acceptable methods

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| <b>Luxembourg</b><br><br>Follows OECD Guidelines.   | <b>Singapore</b><br><br>CUP, Resale Price, Cost Plus, TNMM, and Profit Split.   |
| <b>Malaysia</b><br><br>CUP, Resale Price, Cost Plus, TNMM, Profit Split are expected to be acceptable under new regulations.  | <b>Slovak Republic</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, TNMM.   |
| <b>Mexico</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, Transactional Operating Profit Margin Method (TOPMM).   | <b>South Africa</b><br><br>CUP, Resale Price, Cost Plus, Profit Split (e.g., Contribution Analysis or Residual Analysis), TNMM.   |
| <b>Netherlands</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, TNMM.   | <b>Spain</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, and TNMM.   |
| <b>New Zealand</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, (e.g., Contribution Analysis or Residual Analysis), CPM.  | <b>Sweden</b><br><br>Follows OECD Guidelines.   |
| <b>Norway</b><br><br>Follows the OECD Guidelines.   | <b>Switzerland</b><br><br>All OECD methods are accepted.  |
| <b>OECD</b><br><br>Traditional transaction methods (CUP, Resale Price, Cost Plus) and transactional profit methods (Profit Split – Contribution Analysis or Residual Analysis, TNMM). | <b>Taiwan</b><br><br>CUP, Resale Price, Cost Plus, Comparable Profit, Profit Split, other arm's length methods approved by the MOF.   |
| <b>Peru</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, Residual Profit Split, TNMM.  | <b>Thailand</b><br><br>CUP, Resale Price, Cost Plus, other methods that are acceptable by international standards and that appropriately apply to the actual transactions. |
| <b>Philippines</b><br><br>The draft rules adhere to the methods provided under the OECD guidelines, such as CUP, Resale Price, Cost Plus, and Profit Split.                         | <b>Turkey</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, and TNMM as well as unspecified methods.   |
| <b>Poland</b><br><br>CUP, Resale Price, Cost Plus, Profit Split (Contribution Analysis or Residual Analysis), TNMM.   | <b>UK</b><br><br>CUP, Resale Price, Cost Plus, Profit Split (e.g. Residual Analysis), TNMM.   |
| <b>Portugal</b><br><br>CUP, Resale Price, Cost Plus, Profit Split (Contribution Analysis or Residual Analysis), TNMM.   | <b>USA</b><br><br>CUP, Resale Price, Cost Plus, Comparable Profit Split, Residual Profit Split, Comparable Profits.   |
| <b>Romania</b><br><br>CUP, Cost Plus, Resale Price Minus, Profit Split, TNMM (all other methods that can yield reliable results).   | <b>Venezuela</b><br><br>CUP, Resale Price, Cost Plus, Profit Split, TNMM.   |
| <b>Russia</b><br><br>CUP, Resale Price, Cost Plus.  | <b>Vietnam</b><br><br>CUP, Resale Price, Cost Plus, CPM, and Profit Split.  |

# Priority of methods

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| <b>Argentina</b><br> <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> | <b>France</b><br> <p>Transaction-based preferred over profit-based.</p>   |
| <b>Australia</b><br> <p>Most appropriate method. Transaction-based preferred over profit-based.</p>  | <b>Germany</b><br> <p>According to Sec. 1 para. 3 sentence 1 Foreign Tax Code, CUP, Resale Price, and Cost Plus methods 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> |
| <b>Austria</b><br> <p>CUP preferred; Resale Price and Cost Plus preferred over Profit Split and TNMM.</p>  | <b>Hong Kong</b><br> <p>Most appropriate method. Transaction-based preferred over profit-based.</p>   |
| <b>Belgium</b><br> <p>Reasonable method. Transaction-based preferred over profit-based.</p>  | <b>Hungary</b><br> <p>No priority. Other methods may be used after the listed ones have been eliminated.</p>  |
| <b>Brazil</b><br> <p>Method that yields lowest taxable income.</p>   | <b>India</b><br> <p>Most appropriate method.</p>  |
| <b>Canada</b><br> <p>Hierarchy of methods: transaction-based preferred over profit-based; profit split preferred over TNMM; residual profit split preferred over other profit splits.</p>  | <b>Indonesia</b><br> <p>No specific rule. General OECD principles apply (transaction-based methods preferred over profit-based).</p>  |
| <b>Chile</b><br> <p>CUP preferred over other methods.</p>  | <b>Ireland</b><br> <p>Follows OECD guidelines.</p>  |
| <b>China</b><br> <p>Reasonable method following the arm's length principle.</p>  | <b>Israel</b><br> <p>Transaction-based preferred over profit-based.</p>   |
| <b>Colombia</b><br> <p>Most appropriate method, according to transaction characteristics.</p>  | <b>Italy</b><br> <p>Transaction-based preferred over profit-based. CUP preferred over Resale Price and Cost Plus.</p>   |
| <b>Czech Republic</b><br> <p>Reasonable method. Transaction-based preferred over profit-based.</p>   | <b>Japan</b><br> <p>Transaction-based preferred over profit-based.</p>  |
| <b>Denmark</b><br> <p>Transaction-based preferred over profit-based.</p>   | <b>Kazakhstan</b><br> <p>CUP has first priority. If it is impossible to apply CUP, other methods may be used under the following hierarchy: (1) Cost Plus, (2) Resale Price, (3) Profit Split, (4) Net Profit.</p>  |
| <b>Ecuador</b><br> <p>Art. 82 of the Tax Law establishes the obligation to apply a priority or hierarchy with respect to selecting the most applicable method, as follows: 1) CUP; 2) Resale Price; 3) Cost Plus; 4) Profit Split; 5) Residual Profit Split; and 6) Transactional Operating Profit Margins Method.</p>                   | <b>Kenya</b><br> <p>The rules give an equal rating to all methods. However, transaction-based methods are listed above the profit-based ones.</p>   |
| <b>Finland</b><br> <p>None under domestic law.</p>   | <b>Korea</b><br> <p>No priority among traditional transactional methods such as CUP, Cost Plus, and Resale Price. However, profit-based methods (TNNM or profit split) will be applied if it is impossible to apply traditional transactional methods.</p>  |



























# Priority of methods

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| <p><b>Luxembourg</b></p>  <p>No priority.</p>   | <p><b>Singapore</b></p>  <p>Method that produces the most reliable results.</p>  |
| <p><b>Malaysia</b></p>  <p>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.</p>   | <p><b>Slovak Republic</b></p>  <p>Most reliable method. Transaction-based preferred over profit-based.</p>   |
| <p><b>Mexico</b></p>  <p>CUP 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.</p>   | <p><b>South Africa</b></p>  <p>No priority; however, the most reliable method is preferred.</p>  |
| <p><b>Netherlands</b></p>  <p>Taxpayers are free to choose a method; however, the method chosen should lead to an arm's length result.</p>  | <p><b>Spain</b></p>  <p>CUP, Cost Plus, and Resale Price have priority. When it proves difficult to apply those methods due to complexity or lack of available information, Profit Split and TNMM are also allowed.</p>                              |
| <p><b>New Zealand</b></p>  <p>Most reliable method. Transaction-based preferred over profit-based.</p>  | <p><b>Sweden</b></p>  <p>Follows OECD Guidelines.</p>  |
| <p><b>Norway</b></p>  <p>Follows the OECD Guidelines. Transaction-based preferred over profit-based.</p>  | <p><b>Switzerland</b></p>  <p>Preference is given to the transactional methods such as CUP, Cost Plus, and Resale Price. While the profit split method is also acceptable, in general it is used in the context of an advance pricing agreement.</p> |
| <p><b>OECD</b></p>  <p>There is no general view on whether there is a hierarchy of methods, but a CUP is generally seen as preferable if available. Transaction-based methods are generally preferred; profits-based methods are now more widely acceptable and are increasingly seen as on a par with traditional methods.</p> | <p><b>Taiwan</b></p>  <p>The best method rule applies.</p>   |
| <p><b>Peru</b></p>  <p>Best method.</p>  | <p><b>Thailand</b></p>  <p>Transaction-based preferred over profit-based.</p>   |
| <p><b>Philippines</b></p>  <p>Similar to the OECD guidelines, the draft rules give priority to the traditional transaction methods over the transactional profit methods.</p>   | <p><b>Turkey</b></p>  <p>Although no definite hierarchy, transactional methods are explicitly preferred.</p>   |
| <p><b>Poland</b></p>  <p>CUP, then transaction-based preferred over profit-based.</p>   | <p><b>UK</b></p>  <p>Most reasonable method or methods. Transaction-based preferred over profit-based.</p>   |
| <p><b>Portugal</b></p>  <p>Most appropriate method. Transaction-based preferred over profit-based.</p>  | <p><b>USA</b></p>  <p>Best method.</p>   |
| <p><b>Romania</b></p>  <p>The method that yields the most accurate results has priority. However, transaction-based methods are preferred over profit-based methods.</p>  | <p><b>Venezuela</b></p>  <p>Best method, with priority for CUP.</p>  |
| <p><b>Russia</b></p>  <p>In strict order: CUP, Resale Price, and Cost Plus. Only upon failure of application of first method may other methods be applied.</p>  | <p><b>Vietnam</b></p>  <p>No priority of methods. The taxpayer must establish it is using the “best” method appropriate under the circumstances, including the reliability of supporting documentation.</p>  |



























# Penalty on transfer pricing assessment

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| <p><b>Argentina</b></p>  <p>Specific transfer pricing penalties apply for failure to file TP returns (US \$5,300); for refusal to file, when requested, TP returns (up to US \$12,000); for failure to comply with formal procedures (up to US \$12,000); for underpayment of tax (one to four times the underpaid tax).</p>  | <p><b>France</b></p>  <p>As of 1 January 2010, companies subject to the new TP requirements will be subject to a penalty, per audited year, amounting to 5 percent of the TP reassessment basis, with a minimum of €10,000 in case of failure to provide information on time or partial information. Bad-faith penalties (40 percent of tax assessment) may apply (may be 80 percent in case of fraud or 150 percent in specific cases).</p>  |
| <p><b>Australia</b></p>  <p>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.</p>   | <p><b>Germany</b></p>  <p>If documentation is not submitted, or if the documentation does not comply with requirements, a penalty of 5 percent to 10 percent of the income adjustment will be assessed, with a minimum surcharge of €5,000. In case of delayed submission, the surcharge may be up to €1 million, at least €100 per day. Penalty payments are not deductible (sec. 162 para. 4 General Tax Code). The German tax authorities are entitled to adjust to the most unfavorable point of the arm's length range if documentation from foreign related parties is not provided, or if documentation is materially useless.</p> |
| <p><b>Austria</b></p>  <p>No specific transfer pricing penalties. Interest on late payment of any additional corporate income tax liabilities caused by a transfer pricing assessment. If a hidden dividend distribution is assumed, withholding taxes might be imposed.</p>  | <p><b>Hong Kong</b></p>  <p>No specific penalty applicable. However, if there are tax evasion or tax avoidance motives, a maximum penalty of 300 percent of the tax underpaid due to the non-arm's-length transfer pricing arrangement may be imposed.</p>  |
| <p><b>Belgium</b></p>  <p>Ordinary penalties apply – 10 to 200 percent of additional tax (10 percent penalty even in the absence of bad faith).</p>   | <p><b>Hungary</b></p>  <p>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 authorities, it may be fined up to HUF 2 million (app. USD 10,500) per related-party contract.</p>   |
| <p><b>Brazil</b></p>  <p>Ordinary penalties apply based on additional tax: 75 percent to 150 percent would increase to 112.5 percent to 225 percent. In the case of incorrect or omitted information on Audin, 5 percent of the transaction price, limited to 1 percent of annual gross revenue. Failure to submit electronic files by the deadline would result in penalty of 0.02 percent of net revenue, up to 1 percent of net revenue.</p>   | <p><b>India</b></p>  <p>100 percent 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.</p>  |
| <p><b>Canada</b></p>  <p>Transfer pricing penalty of 10 percent of the total transfer pricing adjustment if adjustment exceeds threshold. (Effective for tax years beginning after 1998).</p>   | <p><b>Indonesia</b></p>  <p>Ordinary penalties apply - interest of 2 percent per month for maximum 24 months for tax audit assessments. For criminal act: three months to six years imprisonment and/ or tax penalties of maximum of 400 percent.</p>   |
| <p><b>Chile</b></p>  <p>SII may redetermine taxpayer's transfer prices and impose penalties for underpayment of taxes.</p>  | <p><b>Ireland</b></p>  <p>No specific transfer pricing penalty.</p>   |
| <p><b>China</b></p>  <p>Penalties apply for failure to file the related-party transaction disclosure forms (RMB2,000 – 10,000); for refusing to provide contemporaneous documentation and other information on related-party transactions, or providing false or incomplete information (RMB10,000 – RMB50,000). Transfer pricing adjustments are subject to interest (based on the RMB benchmark lending rate published by the People's Bank of China) plus penalty interest of 5 percent if the taxpayer has not complied with the contemporaneous documentation requirements.</p> | <p><b>Israel</b></p>  <p>In accordance with the Israeli Tax Ordinance, ordinary penalties apply – 4 percent + CPI + 15 percent penalties, under certain conditions.</p>  |
| <p><b>Colombia</b></p>  <p>Ordinary penalties of up to 160 percent of unpaid tax may apply.</p>   | <p><b>Italy</b></p>  <p>Ordinary penalties apply – 100 percent to 200 percent of additional tax, increased by one-third of the unpaid tax and applicable interest if taxable income is derived from foreign sources. Beginning April 15, 2000, criminal penalties (one to six years' imprisonment) may apply in some circumstances (tax fraud, significant tax evasion, or failure to disclose significant income).</p>   |
| <p><b>Czech Republic</b></p>  <p>Ordinary penalties apply. The interest rate is applied for each day of the tax arrears: Repo rate of CNB p.a. + 14 percent (for maximum five years of tax arrears). If the discrepancy was discovered by the tax authorities, the taxpayer must pay penalty of 20 percent on additional tax assessed (5 percent if decreasing a tax loss).</p>   | <p><b>Japan</b></p>  <p>No specific transfer pricing penalties. Ordinary penalty is 10 percent to 15 percent of additional tax (35 percent for concealment of facts). Delinquency tax rate is the lower of 7.3 percent and 4 percent plus the special discount rate for commercial bills at the central bank.</p>   |
| <p><b>Denmark</b></p>  <p>Penalty for noncompliance with documentation requirements, and for filing incorrect information regarding qualification for small and medium-sized enterprises (SME) 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.</p>  | <p><b>Kazakhstan</b></p>  <p>Penalty of 50 percent of additionally accrued tax and interest on underpaid tax of 2.5 times the refinancing rate established by the National Bank for each day the tax obligation remains overdue.</p>  |
| <p><b>Ecuador</b></p>  <p>Unnumbered article following Art. 22of the Tax Law states that the failure to file a transfer pricing appendix or a transfer pricing report, or filing with errors or with differences with respect to the income tax return is subject to fine of up to US\$15,000.</p>  | <p><b>Kenya</b></p>  <p>Penalties will apply for transfer pricing purposes under ordinary penalty sections of the Kenyan Income Tax Act.</p>  |
| <p><b>Finland</b></p>  <p>Maximum €25,000 penalty for noncompliance with documentation requirements per request. Ordinary discretionary penalties of 5 percent to 30 percent on the reassessed amount of income and penalty interest may be imposed. Penalty interest is the reference rate based on the Interest Act (633/1982) plus 7 percent. For example, the penalty interest for 1 January – 30 June 2009 is 9.5 percent.</p>   | <p><b>Korea</b></p>  <p>Up to KRW 30 million 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. Underreported tax penalty is 10 percent.</p>   |

# Penalty on transfer pricing assessment



























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| <p><b>Luxembourg</b></p>  <p>Ordinary penalties apply, up to four times the amount of tax evaded in case of tax evasion and 10 times in case of tax fraud.</p>  | <p><b>Singapore</b></p>  <p>No specific transfer pricing penalties. Existing penalty provisions under the Singapore Income Tax Act are applicable, ranging from 100 percent to 400 percent of underpaid tax, and may include fines and imprisonment.</p>   |
| <p><b>Malaysia</b></p>  <p>No specific transfer pricing penalties. Existing penalty provisions apply to transfer pricing adjustments. Current penalty imposed is 45 percent on corporate tax adjustments and 35 percent on transfer pricing adjustments.</p>  | <p><b>Slovak Republic</b></p>  <p>Ordinary penalties apply. If discrepancy was assessed, the taxpayer must pay a penalty of 3 times the European Central Bank (ECB) basic rate, but at least 10 percent on additional tax assessed, and the late payment interest of four times ECB basic rate per annum, but at least 15 percent p.a. of outstanding tax liability.</p>   |
| <p><b>Mexico</b></p>  <p>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. *MEX</p>  | <p><b>South Africa</b></p>  <p>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.</p>  |
| <p><b>Netherlands</b></p>  <p>No transfer-pricing-specific penalty charges. General penalties apply – maximum of 100 percent in case of malicious intent.</p>   | <p><b>Spain</b></p>  <p><b>For fiscal years 2007 and 2008:</b></p> <ul style="list-style-type: none"> <li>• Tax penalty of 50 percent to 150 percent (aprox.) of the tax not paid would be required if TP documentation is lacking and TP adjustment is made;</li> <li>• 15 percent of losses to carry forward; and</li> <li>• 50 percent of tax credit inappropriately taken...<b>Cont.'d on Page 65</b></li> </ul>   |
| <p><b>New Zealand</b></p>  <p>Ordinary penalties apply – 20 percent for not taking reasonable care, or for taking an unacceptable tax position (Section 141A and 141B). A 40 percent penalty is charged for gross carelessness (Section 141C). Interest is charged on any outstanding tax at prevailing interest rate (as established by the IRD). *NEZ</p>   | <p><b>Sweden</b></p>  <p>No specific transfer pricing penalties. Ordinary penalty of 20 percent to 40 percent of the additional tax on the income adjustment.</p>  |
| <p><b>Norway</b></p>  <p>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.</p>  | <p><b>Switzerland</b></p>  <p>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 percent and 300 percent of tax revenue lost. Non-arm's-length transfer pricing could be deemed a "hidden profit distribution" subject to federal withholding tax (35 percent).</p>  |
| <p><b>OECD</b></p>  <p>Depends on local law. However, Guidelines recognize that promoting compliance should be the primary objective of civil tax penalties.</p>  | <p><b>Taiwan</b></p>  <p>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.</p>   |
| <p><b>Peru</b></p>  <p>Specific infractions (and the corresponding penalty) are established for transfer pricing.</p>  | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>Ordinary surcharge of 25 percent and interest of 20 percent annually. If the transaction is deemed fraudulent, the surcharge is 50 percent.</p>   | <p><b>Turkey</b></p>  <p>No specific transfer pricing penalty. General penalty provisions in the Turkish Tax Procedures Code apply: 1) general tax loss penalty is 100 percent of unpaid tax; 2) interest applied on additional assessment on a monthly basis (1.95 percent effective from 19 November 2009 and 2.5 percent between 21 April 2006 and 18 November 2009) for the period between the normal due date of the additional tax assessed and the date of assessment.</p>  |
| <p><b>Poland</b></p>  <p>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. Potentially, personal sanctions based on Penal Fiscal Code – criminal sanction, including imprisonment.</p> | <p><b>UK</b></p>  <p>Ordinary provisions for self-assessment apply – tax geared up to 100 percent of tax unpaid. For returns due after 1 April 2009, penalties are linked to the behavior that gives rise to the error: reasonable care taken (no penalty); careless behavior (minimum 0 percent and maximum 30 percent); deliberate careless behavior (minimum 20 percent and maximum 70 percent); and deliberate and concealed error (minimum 30 percent and maximum 100 percent). If no additional tax liability due to losses or availability of UK group relief, a penalty charged at a discounted rate of the gross adjustment may still apply.</p>  |
| <p><b>Portugal</b></p>  <p>No transfer-pricing-specific penalties apply. General tax penalties of up to €100,000 apply for refusal to provide information or incorrect or incomplete information.</p>   | <p><b>USA</b></p>  <p>Transfer pricing penalty of 20 percent or 40 percent of additional tax resulting from adjustments exceeding objective thresholds.</p>  |
| <p><b>Romania</b></p>  <p>Adjustments performed on the profit level of the company subject to the transfer pricing analysis. If the transfer pricing documentation is incomplete or nonexistent, a fine of €3000 may be imposed.</p>  | <p><b>Venezuela</b></p>  <p>Ordinary penalties apply, at 25 percent 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.</p>   |
| <p><b>Russia</b></p>  <p>No specific transfer pricing penalties, but additional assessment of the tax due and assessment of interest on the tax payment apply, calculated as 1/300 of the Central Bank of Russia interest rate for each day of delay. In case of tax evasion, penalties equal to 20 percent of tax due may be assessed.</p>   | <p><b>Vietnam</b></p>  <p>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 percent per day. When an enterprise makes an incorrect declaration, a fine will be imposed on the underdeclared tax, if any, in addition to the late payment interest...<b>cont'd on page 65</b></p> |

# Reduction in transfer pricing penalties





















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| <b>Argentina</b><br> No provision.  | <b>France</b><br> No provision.   |
| <b>Australia</b><br> 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).                                    | <b>Germany</b><br> If failure to fulfill documentation requirements is excusable, tax authorities may refrain from imposing penalty.  |
| <b>Austria</b><br> No provision.  | <b>Hong Kong</b><br> Taxpayer can make representations that there were no tax evasion or avoidance motives, or that a reasonable attempt was made to comply with the arm's length principle, for the tax authorities' consideration.  |
| <b>Belgium</b><br> No penalty if taxpayer proves incorrect reporting was due to circumstances beyond its control and action was taken in good faith (assuming that documentation is present at the start of tax audit). Penalties increase in case of bad faith and/or repeated infringement. | <b>Hungary</b><br> No provision.  |
| <b>Brazil</b><br> Upon examination and assessment, the taxpayer may be granted a 50 percent reduction in penalties for uncontested payment.   | <b>India</b><br> 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. The Federal Budget 2009 introduced a Dispute Resolution Panel to expedite resolution of disputes on a fast-track basis. This dispute resolution mechanism is applicable for taxpayers subject to transfer pricing adjustment and to foreign companies. Provisions relating to ADRP are included in the Income Tax Act, 1961 as amended by Finance (No. 2) Act 2009. Formal rules in respect of ADRP are also notified. |
| <b>Canada</b><br> No penalty if reasonable effort to determine arm's length price, including contemporaneous documentation. Transfer pricing memorandum (TPM-09) provides information on CRA's administrative positions on the meaning of reasonable effort.                                  | <b>Indonesia</b><br> No specific provision. Ordinary rules apply, i.e., application to the Indonesian tax authorities.  |
| <b>Chile</b><br> No provision.  | <b>Ireland</b><br> Not applicable.  |
| <b>China</b><br> The 5 percent interest penalty may be waived if contemporaneous documentation is prepared.  | <b>Israel</b><br> No provision.  |
| <b>Colombia</b><br> Ordinary penalties may be reduced to 10 percent of the additional tax.  | <b>Italy</b><br> Penalty may be reduced to one-fourth if paid, without appealing to Tax Court, within 60 days from the notification of the tax assessment notice by the tax office. New rules, recently introduced, provide for further reductions (to one-eighth) of the original penalty if certain conditions are met (acceptance by taxpayer of the tax adjustment claimed in the tax auditors' report; waiver of right to appeal).   |
| <b>Czech Republic</b><br> No provision. Penalties may be reduced or waived through negotiation on a case-by-case basis.   | <b>Japan</b><br> No provision.  |
| <b>Denmark</b><br> Penalty for noncompliance may be reduced to 100 percent of the cost saved if the documentation is prepared upon request by the tax authorities.  | <b>Kazakhstan</b><br> Penalty may be avoided in case of self-initiated adjustments as stipulated by general tax legislation (the Tax Code).   |
| <b>Ecuador</b><br> No provision.  | <b>Kenya</b><br> No provision.  |
| <b>Finland</b><br> Discretionary reduction possible.  | <b>Korea</b><br> The 10 percent underreported tax penalty may be waived if (1) supporting documentation is presented and Competent Authority confirms justifiable position; (2) the NTS accepts a unilateral APA; or (3) contemporaneous documentation is prepared and maintained when the tax return is filed, and submitted within 30 days of request.  |





























# Reduction in transfer pricing penalties

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| <b>Luxembourg</b><br> <p>No provision.</p>   | <b>Singapore</b><br> <p>No provision.</p>  |
| <b>Malaysia</b><br> <p>Penalties may be imposed or mitigated at the discretion of the Director-General of Inland Revenue. When contemporaneous transfer pricing documentation is available, the penalty may be waived. For prior years, if transfer pricing documentation is prepared, the penalty may be reduced to 25 percent.</p> | <b>Slovak Republic</b><br> <p>No provision. Penalties may be reduced or waived if the taxpayer files a request and consequently negotiates with the tax authorities on a case-by-case basis.</p>   |
| <b>Mexico</b><br> <p>Fifty percent reduction if transfer price documented.</p>   | <b>South Africa</b><br> <p>No provision; there's usually room for negotiation.</p>   |
| <b>Netherlands</b><br> <p>May be reduced or forgiven if documentation reflects justifiable position.</p>   | <b>Spain</b><br> <p>Reductions between 22.5 percent and 50 percent of transfer pricing penalties may be applied (Article 188.3 of General Taxation Law 58/2003).</p>   |
| <b>New Zealand</b><br> <p>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 100 percent for disclosures made before audit.</p>   | <b>Sweden</b><br> <p>No provision.</p>   |
| <b>Norway</b><br> <p>No provision.</p>   | <b>Switzerland</b><br> <p>No provision.</p>  |
| <b>OECD</b><br> <p>Depends on local law. Reduction not specified. However, imposition of sizeable penalties deemed unfair if taxpayers make reasonable effort in good faith.</p>   | <b>Taiwan</b><br> <p>No provision.</p>   |
| <b>Peru</b><br> <p>20 percent, 30 percent, or 50 percent discount if taxpayer meets certain conditions. *PER</p>   | <b>Thailand</b><br> <p>No provision; however, the taxpayer may apply to the assessment officer or appeal to the Board of Tax Appeal for reduction of penalty.</p>  |
| <b>Philippines</b><br> <p>No provision.</p>  | <b>Turkey</b><br> <p>No specific reduction provision for transfer-pricing-related penalty assessments; general rules apply. Taxpayers may appeal to the Ministry of Finance for a reduction in the tax loss penalty through settlement procedures before or after imposition of the assessment. Fifty percent of the tax loss penalty imposed 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 without going to tax court. In the case of imposition of procedural penalties, which are usually fixed amounts, a reduction equal to one-third of the procedural penalty is possible. HMRC will not charge a penalty if taxpayer took 'reasonable care' but still made an error. Penalties may be avoided by taking reasonable care to provide correct returns and documents; keeping adequate records to enable the taxpayer to provide complete and accurate returns and documents; requesting a tax advisor's advice; and raising the problem on submission of the return or document. Penalties may be reduced by disclosing errors; helping to calculate the extra tax due; and providing HMRC with access to check figures.</p> |
| <b>Poland</b><br> <p>No provision.</p>   | <b>UK</b><br> <p>HMRC will not charge a penalty if taxpayer took 'reasonable care' but still made an error. Penalties may be avoided by taking reasonable care to provide correct returns and documents; keeping adequate records to enable the taxpayer to provide complete and accurate returns and documents; requesting a tax advisor's advice; and raising the problem on submission of the return or document. Penalties may be reduced by disclosing errors; helping to calculate the extra tax due; and providing HMRC with access to check figures.</p>   |
| <b>Portugal</b><br> <p>Penalties may be reduced depending on circumstances.</p>  | <b>USA</b><br> <p>No penalty if best method reasonably selected, applied and documented. Contemporaneous obligation.</p>   |
| <b>Romania</b><br> <p>Transfer pricing penalties could be reduced to zero if documentation is complete and the prices of the intercompany transactions are in compliance with the arm's length principle.</p>  | <b>Venezuela</b><br> <p>Reduction applies if transfer prices documented according to Legislation (Tax Code art. 96 num. 5).</p>  |
| <b>Russia</b><br> <p>No specific provision. However, the general rules for reduction of penalties may apply.</p>   | <b>Vietnam</b><br> <p>No provision.</p>  |

# Tax return disclosures

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| <p><b>Argentina</b></p>  <p>Forms F742 and F743 require disclosure of related-party transactions with foreign entities for the first six-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 (US \$260,000).</p> | <p><b>France</b></p>  <p>No specific disclosure required.</p>  |
| <p><b>Australia</b></p>  <p>Schedule 25A requires disclosure of types of transactions, dollar amounts, countries involved, number of related parties involved, documentation maintained and methodologies used. The ATO has developed a new schedule to replace the current Schedule 25A and Thin Capitalization schedule, to be initially used (optionally) by selected financial service taxpayers in FY10 and broader application in FY11. The new form will be referred to as the "International Dealings Schedule."</p>                | <p><b>Germany</b></p>  <p>No specific disclosure required.</p>   |
| <p><b>Austria</b></p>  <p>No specific disclosure required.</p>  | <p><b>Hong Kong</b></p>  <p>Taxpayer is required to disclose the countries of incorporation of related parties that had transactions with the Hong Kong taxpayer.</p>  |
| <p><b>Belgium</b></p>  <p>No specific tax return disclosures required. For accounting periods starting from 1 September 2008, certain corporations are required to report material non-arm's-length transactions with related parties in their annual accounts.*BEL</p>   | <p><b>Hungary</b></p>  <p>As of 1 January, 2010, the taxpayer may choose to prepare documentation based on the existing Hungarian documentation requirements or follow the EU Masterfile concept (centrally prepared Masterfile and country-specific documentation). The taxpayer's choice must be indicated in the CIT return submitted for the respective year. The relevant rules are incorporated in Decree no. 22/2009 on transfer pricing documentation requirements.</p>  |
| <p><b>Brazil</b></p>  <p>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. Taxpayer cannot change its TP method after the start of a tax audit.</p>  | <p><b>India</b></p>  <p>Report giving particulars of associated enterprises, international transactions, arm's length price, and method used for determining arm's length price must be submitted to the Tax Office. The report must be signed by an independent practicing chartered accountant.</p>  |
| <p><b>Canada</b></p>  <p>Form T106 requires disclosure of types of transactions, dollar amounts, related companies and countries involved, methodologies used, and whether documentation requirements have been met.</p>  | <p><b>Indonesia</b></p>  <p>Effective from the 2002 tax year, taxpayers are required to report a summary of related-party transactions with their corporate tax returns. The disclosures are quite detailed (type of transaction, amount involved, and methodology applied). In the new 2009 corporate income tax return forms, taxpayer is required to disclose more detail of related parties transactions (two forms) as follows: (a) Details of related parties and related parties' transactions involved, and (b) notes on transfer pricing study documentation (e.g., overview of group structure, functional analysis, TP methodology, comparables data, etc).</p> |
| <p><b>Chile</b></p>  <p>No specific disclosure required.</p>  | <p><b>Ireland</b></p>  <p>No specific disclosure required.</p>   |
| <p><b>China</b></p>  <p>The annual income tax return package includes a set of nine related-party transaction disclosure forms requiring disclosure of information on associated parties, related-party transactions (including sales &amp; purchases, services, financing, transfers of tangible and intangible assets), CFCs, and outbound payments.</p>   | <p><b>Israel</b></p>  <p>An annual declaration form (Form 1385) of all controlled transactions, prices, terms, including an officer's declaration of what constitutes arm's length prices and terms of reported controlled transactions.</p>  |
| <p><b>Colombia</b></p>  <p>Article 260-8 of the Tax Code requires taxpayers to file an annual informative transfer pricing return. Return must be filed between July 9 and July 23. Additionally, in some cases a consolidated return must be filed between July 29 and July 30.</p>  | <p><b>Italy</b></p>  <p>Tax return (form "UNICO" – RF section) requires disclosure of direct/indirect control by/of nonresident entities and relationships with nonresident entities under common control.</p>   |
| <p><b>Czech Republic</b></p>  <p>No specific disclosure required.</p>   | <p><b>Japan</b></p>  <p>Schedule 17(4): Detailed statement concerning foreign affiliated persons and applied transfer pricing methods.</p>   |
| <p><b>Denmark</b></p>  <p>Taxpayers must disclose information on all controlled transactions. Form 05.021 must be completed with tax return (English version, form 05.022).</p>   | <p><b>Kazakhstan</b></p>  <p>No specific provisions.</p>   |
| <p><b>Ecuador</b></p>  <p>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. The income tax return also must include the total amount of transactions performed with overseas related parties during the tax year, disaggregated as follows: assets; liabilities; income; and expenses.</p>   | <p><b>Kenya</b></p>  <p>The Kenya Revenue Authority has recently proposed additional transfer pricing requirements to the annual tax return. It is highly likely that this proposal will be finalized quickly so as to make December 2009 year-end taxpayers subject to its requirements.</p>  |
| <p><b>Finland</b></p>  <p>Taxpayer must state in its tax return whether it engaged in related-party transactions, and whether it was required to prepare transfer pricing documentation. Information on functions, profitability, and related-party transactions is requested in Form 78, to be appended to the tax return.</p>   | <p><b>Korea</b></p>  <p>Required to submit (1) Disclosure of the Transfer Pricing Method, (2) Intercompany Transaction Summary Report, and (3) Income Statement for Foreign Related Parties.</p>   |











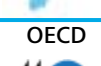

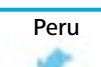


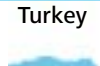










# Tax return disclosures

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| <p><b>Luxembourg</b></p>  <p>No specific disclosure required.</p>  | <p><b>Singapore</b></p>  <p>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.</p>   |
| <p><b>Malaysia</b></p>  <p>All related-party transactions, including gross margin and profit before tax, must be disclosed in annual tax return. Specific information requested.</p>   | <p><b>Slovak Republic</b></p>  <p>No specific disclosure required.</p>  |
| <p><b>Mexico</b></p>  <p>1. Annual Tax Return.<br/>2. Informative Transfer Pricing Return.<br/>4. Informative Return for Export-Oriented Manufacturing Companies (IMMEX)<br/>5. Tax Certificate or Statutory Filing System (SIPRED). MEX*</p>  | <p><b>South Africa</b></p>  <p>With effect from the 2004 tax year, a copy of the transfer pricing documentation must be submitted with the tax return. In the case of returns filed electronically, the supporting documents (including the transfer pricing policy) should be kept on file in case they are requested by SARS.</p>   |
| <p><b>Netherlands</b></p>  <p>Obligation to identify intragroup transactions.</p>  | <p><b>Spain</b></p>  <p>The model contains information requirements oriented to report intragroup relationship, as established to identify the taxpayer management team, the taxpayer's ownership in other entities, and other entities' participation in the taxpayer.</p> <p>The Model 200 (Corporate Tax Return) also incorporates information to be included in a defined section with reference to the taxpayer's intercompany transactions. The specific information required is: <a href="#">cont'd on Page 65</a></p> |
| <p><b>New Zealand</b></p>  <p>No specific disclosure required.</p>   | <p><b>Sweden</b></p>  <p>No specific disclosure required for intragroup transactions.</p>   |
| <p><b>Norway</b></p>  <p>A specific form must be filed detailing the nature and extent of transactions with related parties. This applies only if the total amount of such transactions exceeds NOK 10 million, or the gross intercompany debt exceeds NOK 25 million at year end. *NOR</p>  | <p><b>Switzerland</b></p>  <p>No specific disclosure required.</p>  |
| <p><b>OECD</b></p>  <p>Depends on local law. Generally, should be limited to information sufficient to allow tax administration to determine which taxpayers need further examination.</p>   | <p><b>Taiwan</b></p>  <p>Taxpayers who conduct reportable transactions are required to disclose related-party information on their income tax returns.</p>  |
| <p><b>Peru</b></p>  <p>Taxpayers must file a special tax return containing information regarding the transactions subject to the transfer pricing regime.</p>   | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>No provision.</p>  | <p><b>Turkey</b></p>  <p>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 together with their corporate tax returns.</p>  |
| <p><b>Poland</b></p>  <p>Taxpayers must disclose in their annual CIT return whether they are obliged to prepare transfer pricing documentation. In addition, transactions with foreign related entities exceeding €300,000 during tax year must be disclosed on the appropriate form. Other transactions upon tax authorities' request.</p>  | <p><b>UK</b></p>  <p>No separate disclosure required (by signing tax return, taxpayer will be implicitly confirming compliance with arm's length standard).</p>   |
| <p><b>Portugal</b></p>  <p>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.</p>  | <p><b>USA</b></p>  <p>Forms 5471 and 5472 require disclosure of detailed information on controlled transactions with foreign entities. Reg. §1.482-7T(k)(4) requires a controlled participant to file a Cost Sharing Statement with the IRS within 90 days after the first occurrence of intangible development costs, and to make specified disclosures on its annual tax return.</p>  |
| <p><b>Romania</b></p>  <p>The tax return does not include any information related to transfer pricing transactions. However, according to Order 222/2008 regarding transfer prices, transfer pricing documentation should disclose information regarding the industry, group, economic environment, type of transactions, amounts relevant for those transactions, countries involved, number of related parties involved, functions performed, assets employed, risks undertaken, documentation maintained, and methods used.</p> | <p><b>Venezuela</b></p>  <p>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.</p>  |
| <p><b>Russia</b></p>  <p>No specific disclosure required.</p>  | <p><b>Vietnam</b></p>  <p>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.</p>  |












# Documentation requirements

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| <p><b>Argentina</b></p>  <p>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.</p>   | <p><b>France</b></p>  <p>Yes, dynamic and contemporaneous documentation requirements are in place as of January 2010 following the adoption of procedures L13AA and L13AB.</p>   |
| <p><b>Australia</b></p>  <p>ATO ruling TR 98/11 recommends contemporaneous documentation to reduce risk of audit, and it may also provide some level of penalty protection in the event of an audit adjustment.</p>   | <p><b>Germany</b></p>  <p>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 (GAufzV). Further details on documentation requirements are outlined in the administrative principles as of April 12, 2005, issued by the Federal Ministry of Finance.</p>  |
| <p><b>Austria</b></p>  <p>No specific statutory requirements. Recommended documentation should follow OECD Guidelines.</p>  | <p><b>Hong Kong</b></p>  <p>No contemporaneous documentation requirement, but tax authorities may ask a taxpayer to submit documentation to justify its transfer pricing.</p>  |
| <p><b>Belgium</b></p>  <p>No statutory documentation requirements. Recommended documentation should follow OECD Guidelines. Administrative Circular of 14.11.2006 on TP documentation refers explicitly to EU-TPD (Code of Conduct of JTPF). No contemporaneous obligation, but lack of documentation creates substantial risk of a thorough transfer pricing audit and imposition of penalties.</p>  | <p><b>Hungary</b></p>  <p>Transfer pricing documentation must be prepared for all related-party transactions (including minor transactions, such as cost recharges); however, in some cases simplified documentation is appropriate.</p>   |
| <p><b>Brazil</b></p>  <p>Detailed information is required to fill out the income tax return, to be provided by specific Transfer Pricing Study at the end of the calendar year. Additional data may be requested by the tax authorities during tax due diligence. Electronic documentation system called Audin would be required.</p>   | <p><b>India</b></p>  <p>Detailed requirements on maintenance of prescribed information and documentation.</p>  |
| <p><b>Canada</b></p>  <p>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.)</p>   | <p><b>Indonesia</b></p>  <p>No statutory documentation requirements. Recommended documentation should follow OECD Guidelines. No contemporaneous obligation, but lack of documentation creates substantial risk of a thorough transfer pricing audit and imposition of penalties.</p>  |
| <p><b>Chile</b></p>  <p>No statutory requirements.</p>  | <p><b>Ireland</b></p>  <p>A company should have available records that would reasonably be required for the purpose of determining whether the trading income of the company is computed in accordance with the arm's length principle. Should follow OECD/EU documentation guidelines.</p>  |
| <p><b>China</b></p>  <p>Taxpayers with related-party transactions are required to prepare contemporaneous documentation, subject to the following exemption criteria: (1) Foreign direct or indirect ownership is less than 50 percent and all related-party transactions are with Chinese resident companies; (2) related-party purchase/sale of goods transactions are less than RMB 200 million (where toll manufacturing transactions are determined based on customs declared import/export prices of consigned materials and finished goods) and all other related-party transactions are less than RMB 40 million (including services, interest, and royalties)...cont'd on page 65</p> | <p><b>Israel</b></p>  <p>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.</p>   |
| <p><b>Colombia</b></p>  <p>Documentation to support transfer prices is required, and must be kept for a five-year period.</p>   | <p><b>Italy</b></p>  <p>No statutory requirements, but documentation is recommended to avoid shifting burden of proof of arm's length prices to the taxpayer.</p>  |
| <p><b>Czech Republic</b></p>  <p>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.</p>  | <p><b>Japan</b></p>  <p>No statutory requirements, but strongly recommended for audit defense. No contemporaneous documentation obligation.</p>  |
| <p><b>Denmark</b></p>  <p>Statute requires contemporaneous transfer pricing documentation. An exemption from documentation requirements exists for small and medium-sized enterprises. *DEN</p>   | <p><b>Kazakhstan</b></p>  <p>Transaction parties are obliged to maintain documentation justifying the reasonableness of the prices used. Kazakhstan transfer pricing regulations also introduce annual reporting requirements in the form of monitoring of international transactions in certain goods and services, the list of which is approved by the Government of Kazakhstan. Reporting includes: documentation confirming the justification of prices used; the method used to determine the market price and the source of information used; a description of the goods (work, services), contractual terms, and business strategy; information on the trade broker's margin; other documents and data proving the consistency of the prices applied with market prices.</p> |
| <p><b>Ecuador</b></p>  <p>Taxpayers engaged in transactions with their overseas related parties for an accumulated amount exceeding US\$3,000,000; and/or those performing transactions between US\$1,000,000 and US\$3,000,000 when the proportion of such transactions exceeds 50 percent of revenues, must file a transfer pricing appendix...cont'd on Page 65</p>  | <p><b>Kenya</b></p>  <p>Documentation pertaining to transfer pricing must be made available to the Kenyan tax authorities upon request.</p>  |
| <p><b>Finland</b></p>  <p>Documentation requirement is applicable to accounting periods starting on or after 1 January 2007. Documentation requirements are in line with the OECD Guidelines. Documentation drafted in accordance with the EU Code of Conduct is acceptable. *FIN</p>   | <p><b>Korea</b></p>  <p>Contemporaneous documentation is required to avoid the 10 percent underreported tax penalty. (Effective December 26, 2008).</p>  |











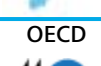

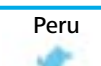













# Documentation requirements

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| <p><b>Luxembourg</b></p>  <p>No specific documentation required.</p>  | <p><b>Singapore</b></p>  <p>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.</p>   |
| <p><b>Malaysia</b></p>  <p>The new Section 140A clearly requires contemporaneous transfer pricing documentation to be prepared.</p>   | <p><b>Slovak Republic</b></p>  <p>The Ministry of Finance of the Slovak Republic published on 22 January 2009 guidelines -- MF/8288/2009-72 -- specifying the content of documentation required for IFRS filer and non-IFRS filers</p>   |
| <p><b>Mexico</b></p>  <p>Contemporaneous documentation must show that prices with each domestic and foreign related party set on a transaction-by-transaction basis are at arm's length. (Documentation requirement effective 1997, transactional analysis effective 2000.)</p>   | <p><b>South Africa</b></p>  <p>Generic statutory requirements followed. Practice Note 7 broadly follows OECD Guidelines Para. 5.4. While there is no requirement to have documentation, the tax return does ask if documentation is available, and SARS has recommended that taxpayers do prepare documentation to cover the relevant intercompany transactions.</p>   |
| <p><b>Netherlands</b></p>  <p>Statutory requirements for entities subject to the Corporate Income Tax Act. Documentation should be part of the taxpayer's general books and records.</p>  | <p><b>Spain</b></p>  <p>Established by Royal Decree 1793/2008. Closely aligned with the EU Transfer Pricing Forum's Code of Conduct concepts, Masterfile and local file. OECD guidelines also apply.</p>   |
| <p><b>New Zealand</b></p>  <p>IRD Guideline suggests specific documentation required to demonstrate compliance. Contemporaneous documentation encouraged. (Effective 1996). Lack of documentation will shift the burden of proof from the Commissioner to the taxpayer.</p>   | <p><b>Sweden</b></p>  <p>Statutory documentation requirements effective as of January 1, 2007. EU transfer pricing documentation is accepted.</p>  |
| <p><b>Norway</b></p>  <p>Contemporaneous transfer pricing documentation is required. Small and medium-sized enterprises are exempt from documentation. *NOR</p>   | <p><b>Switzerland</b></p>  <p>No specific documentation required.</p>  |
| <p><b>OECD</b></p>  <p>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.</p>   | <p><b>Taiwan</b></p>  <p>Contemporaneous documentation has been required since the 2005 tax year.</p>  |
| <p><b>Peru</b></p>  <p>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.</p>   | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>Transactions must be documented by an agreement.</p>  | <p><b>Turkey</b></p>  <p>Contemporaneous documentation is required every year as an obligation starting from 2007 tax year. 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 Communiqués No. 1 and 2 announced on 18 November 2007 and 22 April 2008, respectively...<b>cont'd on pg 65</b></p> |
| <p><b>Poland</b></p>  <p>Documentation must be prepared for domestic and cross-border transactions exceeding annual value thresholds (generally €100,000 for tangibles, €30,000 for services and intangible transactions, €20,000 for transactions with entities in tax havens). Documentation requirements apply to foreign entrepreneurs operating through a permanent establishment in Poland.</p> | <p><b>UK</b></p>  <p>Taxpayers should keep records to support details in the tax return. Records should be retained for six years from end of accounting period for which relevant or from date on which an enquiry for that period is completed.</p>  |
| <p><b>Portugal</b></p>  <p>Taxpayers with net sales and other operating income exceeding €3 million in the previous year must maintain a wide range of contemporaneous documentation.</p>   | <p><b>USA</b></p>  <p>Contemporaneous documentation required for penalty protection. (Effective for tax years beginning after December 31, 1993).</p>  |
| <p><b>Romania</b></p>  <p>Preparation of the transfer pricing documentation file in compliance with domestic requirements regarding transfer prices, to demonstrate the extent to which intragroup transactions meet the arm's length principle.</p>  | <p><b>Venezuela</b></p>  <p>Contemporaneous documentation required (ITL art. 169 effective for tax years beginning after February 16, 2007).</p>   |
| <p><b>Russia</b></p>  <p>No specific documentation requirement. However, under the general rules, the tax authorities are empowered to request any documentation supporting tax calculation.</p>  | <p><b>Vietnam</b></p>  <p>Taxpayers must maintain "contemporaneous" documentation, including a transactional description including related party, product specifications, contractual term, and pricing method adopted. The documents must be available in Vietnamese and submitted to the tax authorities within 30 days upon request. If taxpayer does not maintain contemporaneous documentation, it would be impossible to provide the documents as requested.</p>                           |

























# Deadline to prepare documentation

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| <b>Argentina</b><br><br>No statutory deadline for preparation.  | <b>France</b><br><br>As of fiscal year 2010, contemporaneous TP documentation (documenting fiscal year 2010) should be drafted at the time when the tax return is filed in France.  |
| <b>Australia</b><br><br>Prepared by due date for filing annual income tax return.   | <b>Germany</b><br><br>Documentation must be prepared contemporaneously for extraordinary transactions.  |
| <b>Austria</b><br><br>Not applicable.   | <b>Hong Kong</b><br><br>Not applicable.   |
| <b>Belgium</b><br><br>No statutory deadline for preparation.  | <b>Hungary</b><br><br>Prepared by filing date for annual income tax return.   |
| <b>Brazil</b><br><br>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.  | <b>India</b><br><br>Prepared by due date for filing annual income tax return.   |
| <b>Canada</b><br><br>Prepared by due date for filing annual income tax return.  | <b>Indonesia</b><br><br>No statutory deadline for preparation.  |
| <b>Chile</b><br><br>Not applicable.   | <b>Ireland</b><br><br>Documentation should be available by the due date for filing the corporate tax return.  |
| <b>China</b><br><br>For companies that meet the requirement of Guo Shui Fa [2009] No. 2, the documentation should be prepared by filing date of annual income tax return (31 May). The deadline for FY2008 is extended to 31 December 2009.<br>For companies that meet the requirement of Guo Shui Han [2009] No. 363, documentation should be prepared by June 20 of the following year when the company incurs losses. | <b>Israel</b><br><br>No statutory deadline for preparation. However, an appropriate arm's length analysis is required prior to the submission of the declaration form.   |
| <b>Colombia</b><br><br>Documentation must be available to tax authorities on July 1 of the following year.  | <b>Italy</b><br><br>No statutory deadline for preparation.  |
| <b>Czech Republic</b><br><br>No statutory deadline for preparation.   | <b>Japan</b><br><br>Not applicable.   |
| <b>Denmark</b><br><br>Transfer pricing documentation should be prepared by income tax return filing date.   | <b>Kazakhstan</b><br><br>By 15 April of the year following the reporting year for transactions in goods (works, services) subject to monitoring. Additional supporting documents for purposes of monitoring may be requested and must be submitted within 30 calendar days after receipt of the request. Otherwise, in general cases upon request of the authorities, supporting information and documents must be prepared and submitted within 90 days. |
| <b>Ecuador</b><br><br>Within two months of filing income tax returns (June of each year).   | <b>Kenya</b><br><br>No statutory deadline for preparation.  |
| <b>Finland</b><br><br>Documentation must be prepared annually, and the request to provide documentation for a specific tax year may be made six months after the end of that financial year.  | <b>Korea</b><br><br>Tax Return Disclosures are required to be prepared and submitted when the tax return is filed.  |

# Deadline to prepare documentation


















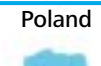

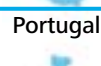

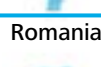
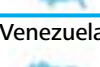
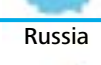

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| <b>Luxembourg</b><br><br>No statutory deadline for preparation.   | <b>Singapore</b><br><br>No statutory deadline for preparation.  |
| <b>Malaysia</b><br><br>No statutory deadline for preparation. Documentation should be contemporaneous.  | <b>Slovak Republic</b><br><br>Documentation must be prepared up front for the relevant taxation period.   |
| <b>Mexico</b><br><br>Documentation must be prepared by due date for filing income tax return (March 31).  | <b>South Africa</b><br><br>There is no formal deadline for preparing documentation. However, there are certain questions in the income tax return that ask whether or not a transfer pricing policy has been prepared.  |
| <b>Netherlands</b><br><br>For entities subject to the Corporate Income Tax Act, documentation should be in place at the time the intercompany transaction takes place.  | <b>Spain</b><br><br>Transfer Pricing documentation should be available for tax authorities at the conclusion of the voluntary period for filing the Annual Corporate Tax Return (for: fiscal year ending 31 Dec. 2009, the due date is 26 July 2010).   |
| <b>New Zealand</b><br><br>No statutory deadline for preparation.  | <b>Sweden</b><br><br>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.   |
| <b>Norway</b><br><br>Effective from tax year 2008, contemporaneous transfer pricing documentation must be prepared for each fiscal year by the tax filing date  | <b>Switzerland</b><br><br>Not applicable.   |
| <b>OECD</b><br><br>Depends on local law. Taxpayer should make reasonable efforts to document transfer prices and maintain documentation prepared in this process. There is not one view on whether documentation needs to be in force when a transaction takes place.         | <b>Taiwan</b><br><br>Contemporaneous documentation must be prepared when taxpayers file corporate income tax returns. For calendar year taxpayers, the period to file tax return is May 1 to May 31 of the year following the closing of the accounting year.   |
| <b>Peru</b><br><br>Tax authorities require that the technical study be ready at the end of the fiscal year.   | <b>Thailand</b><br><br>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.   |
| <b>Philippines</b><br><br>Agreement must be prepared prior to the transaction.  | <b>Turkey</b><br><br>The deadline for preparation of the annual TP documentation report and supporting documents is the last day for submission of the annual corporation tax declaration.  |
| <b>Poland</b><br><br>No statutory deadline for preparation, but case law indicates that the documentation should be prepared no later than the transaction is concluded and updated subsequently.   | <b>UK</b><br><br>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.                                  |
| <b>Portugal</b><br><br>For fiscal years starting on or after January 1, 2001, the deadline is the last day (working or not) of the 7th month following the tax year-end.  | <b>USA</b><br><br>Prepared by filing date of annual income tax return.  |
| <b>Romania</b><br><br>Not applicable. However, in case of a tax audit the taxpayer might obtain up to three months to prepare the documentation. If the TP study is not prepared during that period, the company may obtain an extension equal to the first period of time. | <b>Venezuela</b><br><br>Must be contemporaneously prepared each tax year.   |
| <b>Russia</b><br><br>Not applicable.  | <b>Vietnam</b><br><br>Taxpayers must maintain "contemporaneous" documentation. The documents must be available and submitted to the tax authorities within 30 days upon request. If the taxpayer does not maintain contemporaneous documentation, it would be impossible to provide the documents as requested. |

# Deadline to submit documentation















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| <b>Argentina</b><br><br>Form F742 must be filed within five 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 eight months from the year-end. F 741 must be filed within five months of the end of each semester of the fiscal year. Form F 867 must be filed within seven months from the year-end. | <b>France</b><br><br>Documentation should be provided to the FTA the day the tax audit begins. If the documentation is not available, the tax authorities will send an official request to provide the documentation within the next 30 days. Failure to do so will incur a penalty.  |
| <b>Australia</b><br><br>Upon request.   | <b>Germany</b><br><br>Within 60 days of auditor's request for ordinary business transactions, and within 30 days for extraordinary business transactions.   |
| <b>Austria</b><br><br>Not applicable.   | <b>Hong Kong</b><br><br>Not applicable.   |
| <b>Belgium</b><br><br>Within 30 days of request. Administrative Circular of 14.11.2006 on TP documentation encourages tax inspectors to grant extension if practically impossible to provide TP documentation within 30-day period.   | <b>Hungary</b><br><br>Documentation need not be submitted to the tax authorities; however, it should be provided immediately upon request.  |
| <b>Brazil</b><br><br>Within 20 days of request.   | <b>India</b><br><br>Within 30 days of request (one-time extension of 30 days available on application).   |
| <b>Canada</b><br><br>Within three months of request.  | <b>Indonesia</b><br><br>No statutory deadline for submission.   |
| <b>Chile</b><br><br>Not applicable.   | <b>Ireland</b><br><br>Records to be made available for inspection within a period of not less than 21 days of request.  |
| <b>China</b><br><br>Taxpayers are required to submit documentation within 20 days upon request by the tax authorities.<br><br>For companies that meet the requirement of Guo Shui Han [2009] No. 363, taxpayers should furnish the documentation voluntarily to the tax bureau by the deadline as specified in the circular.  | <b>Israel</b><br><br>Within 60 days of request.   |
| <b>Colombia</b><br><br>Within 15 days from the date of the request from the tax authorities.  | <b>Italy</b><br><br>In case of tax audit, tax inspectors may ask to be provided with transfer pricing documentation, if available. Normally the request should be satisfied within 15 days (the term may be extended, but only at tax authorities' discretion).   |
| <b>Czech Republic</b><br><br>No statutory deadline. Could be requested by the tax authorities during a tax audit.   | <b>Japan</b><br><br>Not applicable.   |
| <b>Denmark</b><br><br>Sixty days upon request from the tax authorities.   | <b>Kazakhstan</b><br><br>By 15 April of the year following the reporting year for transactions in goods (works, services) subject to monitoring. Additional supporting documents for purposes of monitoring may be requested and must be submitted within 30 calendar days after receipt of the request. Otherwise, in general cases supporting information and documents must be submitted within 90 days upon request from the authorities. |
| <b>Ecuador</b><br><br>The transfer pricing appendix and transfer pricing report must be filed with the SRI by June of the following fiscal year.  | <b>Kenya</b><br><br>Upon request.   |
| <b>Finland</b><br><br>Documentation must be provided within 60 days from request. If additional requests are made, 90 days' response time is allowed. Discretionary extension possible.   | <b>Korea</b><br><br>Within 60 days of request for transfer pricing documentation (one-time extension of 60 days available for justifiable reason). Within 30 days of request for contemporaneous documentation.   |



























# Deadline to submit documentation

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| <p><b>Luxembourg</b></p>  <p>Upon request.</p>  | <p><b>Singapore</b></p>  <p>In a timely manner when requested.</p>   |
| <p><b>Malaysia</b></p>  <p>Companies with related-party transactions are expected to have TP documentation ready and to furnish it to the IRB, upon request, within 14 days.</p>                                      | <p><b>Slovak Republic</b></p>  <p>Within 60 days from the date of the request from the tax authorities.</p>  |
| <p><b>Mexico</b></p>  <p>Upon request.</p>  | <p><b>South Africa</b></p>  <p>Documentation must be submitted upon request.</p>   |
| <p><b>Netherlands</b></p>  <p>Upon request. If the documentation cannot be presented upon request, a reasonable time (one to three months) will be granted to prepare the documentation.</p>                          | <p><b>Spain</b></p>  <p>There is no deadline to submit documentation, but the tax authorities may request it even the day after filing the Annual Corporate Tax Return.</p>  |
| <p><b>New Zealand</b></p>  <p>Upon request.</p>   | <p><b>Sweden</b></p>  <p>Upon request. Thirty days generally provided for submission.</p>  |
| <p><b>Norway</b></p>  <p>Within 45 days upon request from the tax authorities.</p>  | <p><b>Switzerland</b></p>  <p>Upon request. In general, a taxpayer has 30 days, although time extensions may be granted if necessary.</p>  |
| <p><b>OECD</b></p>  <p>Depends on local law. In a timely manner when requested. (I think this error came about because in the OECD file the order of two questions had been inverted).</p>                            | <p><b>Taiwan</b></p>  <p>Taxpayers must furnish documentation within one month after receiving a written request from the tax authorities. One extension of another month is possible, for acceptable reasons.</p>   |
| <p><b>Peru</b></p>  <p>The deadline for filing the transfer pricing tax return is published annually. Last year, it was in October.</p>   | <p><b>Thailand</b></p>  <p>In a timely manner when requested.</p>  |
| <p><b>Philippines</b></p>  <p>Must be available at any time during an investigation.</p>  | <p><b>Turkey</b></p>  <p>No specific deadline indicated in TP General Communiqué No. 1 for submission of the annual TP documentation report. The report does not have to be submitted to tax office unless it is officially requested by tax authorities. However, upon any official request that can be made by tax authorities after the submission deadline for the annual corporate tax return, taxpayers are obliged to present the report to the Turkish tax authorities within 15 days from the date of receiving the official notification from the tax authorities.</p> |
| <p><b>Poland</b></p>  <p>Seven days from tax authorities' request.</p>  | <p><b>UK</b></p>  <p>Under general information powers for self-assessment, within 30 days of request.</p>  |
| <p><b>Portugal</b></p>  <p>Upon request.</p>  | <p><b>USA</b></p>  <p>Within 30 days of request.</p>   |
| <p><b>Romania</b></p>  <p>Upon written request issued by the tax authorities.</p>   | <p><b>Venezuela</b></p>  <p>Upon request.</p>  |
| <p><b>Russia</b></p>  <p>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.</p> | <p><b>Vietnam</b></p>  <p>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.</p>   |





# Acceptable languages for documentation

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| <p><b>Argentina</b></p>  <p>Documentation must be in Spanish.</p>   | <p><b>France</b></p>  <p>Documentation must be in French.</p>  |
| <p><b>Australia</b></p>  <p>Documentation must be in English.</p>   | <p><b>Germany</b></p>  <p>Documentation must be in German; however, taxpayers may ask for approval to prepare English documentation, which is often granted.</p>   |
| <p><b>Austria</b></p>  <p>Generally, documentation should be prepared in German. However, a tax auditor, depending on his or her language ability, may accept documentation in English.</p>   | <p><b>Hong Kong</b></p>  <p>English.</p>   |
| <p><b>Belgium</b></p>  <p>Documentation may be in English, Dutch, French, or German.</p>  | <p><b>Hungary</b></p>  <p>Transfer pricing documentation and supporting documentation may be compiled in languages other than Hungarian, but the taxpayer is liable to present the official Hungarian translation of documentation at the tax authorities' request by the deadline specified.</p>  |
| <p><b>Brazil</b></p>  <p>Documentation must be in Portuguese.</p>   | <p><b>India</b></p>  <p>Documentation in English is accepted and in practice preferred.</p>  |
| <p><b>Canada</b></p>  <p>Documentation is accepted in both English and French, the official languages of Canada.</p>  | <p><b>Indonesia</b></p>  <p>No statutory acceptable languages to be used in documentation. However, the languages accepted for bookkeeping are English and Indonesian.</p>   |
| <p><b>Chile</b></p>  <p>There is no documentation obligation.</p>   | <p><b>Ireland</b></p>  <p>Records are required to be kept in an official state language -- Irish or English.</p>   |
| <p><b>China</b></p>  <p>Documentation must be in Chinese.</p>   | <p><b>Israel</b></p>  <p>Generally, documentation may be submitted in English or in Hebrew. The Israeli Tax Authority may require, in certain circumstances, the submission of documentation in Hebrew, the official language of Israel.</p>   |
| <p><b>Colombia</b></p>  <p>Documentation must be in Spanish; however, some annexes have been submitted in English and accepted, but the tax authorities could request a translation.</p>  | <p><b>Italy</b></p>  <p>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.</p> |
| <p><b>Czech Republic</b></p>  <p>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 office is familiar with, such as English.</p>    | <p><b>Japan</b></p>  <p>Documentation must be in Japanese.</p>   |
| <p><b>Denmark</b></p>  <p>Documentation may be in Danish, English, Swedish, or Norwegian.</p>   | <p><b>Kazakhstan</b></p>  <p>Generally, documentation in Russian and Kazakh is acceptable. However, the reporting forms for transfer pricing monitoring must be in Russian.</p>  |
| <p><b>Ecuador</b></p>  <p>Documentation must be in Spanish.</p>   | <p><b>Kenya</b></p>  <p>Documentation must be in English.</p>  |
| <p><b>Finland</b></p>  <p>According to the National Board of Taxes Guidance Letter, documentation drafted in Finnish, Swedish, or English is acceptable. If English is used, translation of key points into either of the official languages -- Finnish or Swedish -- may be requested.</p> | <p><b>Korea</b></p>  <p>Documentation must be submitted in Korean. Documentation in English might be acceptable, but only if the NTS allows it.</p>  |











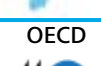

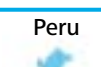


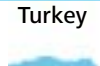










# Acceptable languages for documentation

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| <p><b>Luxembourg</b></p>  <p>Official languages are Luxembourgish, French, and German. English is generally accepted.</p>  | <p><b>Singapore</b></p>  <p>Documentation must be in English.</p>  |
| <p><b>Malaysia</b></p>  <p>Documentation may be in Malay or English.</p>   | <p><b>Slovak Republic</b></p>  <p>Transfer pricing documentation must be submitted in the Slovak language. However, at the taxpayer's request, the tax authorities may allow the transfer pricing documentation to be submitted in a language other than the Slovak language.</p>  |
| <p><b>Mexico</b></p>  <p>Documentation must be in Spanish.</p>   | <p><b>South Africa</b></p>  <p>Documentation must be in English.</p>   |
| <p><b>Netherlands</b></p>  <p>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.</p>   | <p><b>Spain</b></p>  <p>No specific rule. Documentation should be acceptable in line with the recommendations of the EU Joint Transfer Pricing Forum. Languages other than Spanish 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. If needed as evidence (especially in court) it should be translated into Spanish.</p> |
| <p><b>New Zealand</b></p>  <p>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.</p> | <p><b>Sweden</b></p>  <p>Documentation may be prepared in Swedish, English, Danish, or Norwegian.</p>  |
| <p><b>Norway</b></p>  <p>Norwegian, Swedish, Danish, and English.</p>  | <p><b>Switzerland</b></p>  <p>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.</p>  |
| <p><b>OECD</b></p>  <p>Local languages preferred, but growing acknowledgement that English may also be appropriate.</p>  | <p><b>Taiwan</b></p>  <p>Documentation should be in Chinese, except as otherwise approved by the tax authorities.</p>  |
| <p><b>Peru</b></p>  <p>Documentation must be in Spanish.</p>   | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>Section 234 states that books and records must be kept in Pilipino, English, or Spanish; documents kept in other languages must be translated.</p>   | <p><b>Turkey</b></p>  <p>According to TP General Communiqué No. 1, the only acceptable language is Turkish. Notarized Turkish translations of supporting documents in other languages must be made available and presented to the tax authorities upon request.</p>  |
| <p><b>Poland</b></p>  <p>Documentation must be in Polish.</p>  | <p><b>UK</b></p>  <p>Documentation must be in English.</p>   |
| <p><b>Portugal</b></p>  <p>The legislation requires documentation to be submitted in Portuguese. However, there is a provision for submission of documentation in other languages, provided the taxpayer seeks approval.</p>   | <p><b>USA</b></p>  <p>Documentation must be in English.</p>  |
| <p><b>Romania</b></p>  <p>Documentation must be prepared in the Romanian language.</p>   | <p><b>Venezuela</b></p>  <p>Documentation and information related to transfer pricing calculations indicated in the tax return or informative return forms must be kept by the taxpayer duly translated to Spanish, if necessary.</p>  |
| <p><b>Russia</b></p>  <p>Documentation must be in Russian, or include a translation into Russian.</p>  | <p><b>Vietnam</b></p>  <p>Documentation must be in Vietnamese. Documents in other languages must be translated.</p>  |



























# Advance pricing agreement (APA) available?

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| <b>Argentina</b><br> <p>Not available.</p>  | <b>France</b><br> <p>Bilateral and unilateral agreements available (in specific cases). Multilateral agreements may be possible.</p>  |
| <b>Australia</b><br> <p>Taxation Ruling TR 95/23 (unilateral, bilateral, and multilateral). The ATO is currently developing improved guidance surrounding admission criteria and acceptance into the APA Program. It has also introduced a simplified APA program for small to medium-sized taxpayers (less than A\$250M turnover). An APA guide accessible on the ATO website that will replace TR95/23 is expected to be released in 2010.</p>                          | <b>Germany</b><br> <p>Available; details on implementation of APAs are outlined in the Federal Ministry of Finance's ordinance of October 5, 2006.</p>  |
| <b>Austria</b><br> <p>No formal APA procedure, but a ruling request, binding on the basis of good faith, is possible. A formal APA procedure is in discussion.</p>  | <b>Hong Kong</b><br> <p>No APA mechanism available.</p>   |
| <b>Belgium</b><br> <p>APAs available under Law of 21.06.2004 introducing new ruling regime and (in the case of bilateral APAs) under MAP of applicable double tax treaty.</p>   | <b>Hungary</b><br> <p>APAs have been available since 1 January 2007.</p>  |
| <b>Brazil</b><br> <p>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.</p>   | <b>India</b><br> <p>Not available.</p>  |
| <b>Canada</b><br> <p>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).</p>   | <b>Indonesia</b><br> <p>No guidelines on APAs have been issued.</p>   |
| <b>Chile</b><br> <p>Not available.</p>  | <b>Ireland</b><br> <p>No guidelines on APAs have been issued.</p>   |
| <b>China</b><br> <p>APAs are allowed under Chapter 6 of the State Administration of Taxation on the Issuance of the Implementation Measures for Special Tax Adjustments (Trial Implementation) (Guo Shui Fa [2009] No. 2). An APA generally includes six phases, including pre-filing meeting, formal application, review and evaluation, negotiations, signing of the agreement, and monitoring and execution. APAs may be unilateral, bilateral, or multilateral.</p> | <b>Israel</b><br> <p>According to Article 85a, APA procedure is available.</p>  |
| <b>Colombia</b><br> <p>APAs are available for fiscal year 2006 and subsequent years.</p>  | <b>Italy</b><br> <p>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.</p> |
| <b>Czech Republic</b><br> <p>Available since 1 January 2006.</p>  | <b>Japan</b><br> <p>Both unilateral and bilateral APAs are available. The NTA prefers bilateral. TP commissioner's directive (guideline) issued June 1, 2001.</p>   |
| <b>Denmark</b><br> <p>Yes. Unilateral and bilateral.</p>  | <b>Kazakhstan</b><br> <p>Yes.</p>   |
| <b>Ecuador</b><br> <p>Not applicable.</p>   | <b>Kenya</b><br> <p>Not available.</p>  |
| <b>Finland</b><br> <p>Not available, except (possibly) under treaty's mutual agreement procedure. Taxpayers may also apply for a general advance ruling on transfer pricing issues.</p>   | <b>Korea</b><br> <p>Both unilateral and bilateral APAs are available.</p>   |











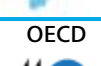

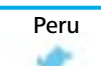













# Advance pricing agreement (APA) available?

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| <b>Luxembourg</b><br><br>No formal APA procedure. Taxpayers may request a unilateral tax clearance from LTA for guidance on the application of Luxembourg tax law.  | <b>Singapore</b><br><br>Yes (unilateral and bilateral). The TP Guidelines provide guidance on making an APA request. Supplementary guidelines on APAs issued on 20 October 2008.  |
| <b>Malaysia</b><br><br>APA provisions have been enacted under section 138C of the Income Tax Act, effective January 1, 2009. APA rules are expected to be released soon. The IRB has accepted a number of unilateral APA applications, and a few are being finalized.   | <b>Slovak Republic</b><br><br>Yes. APAs cover only the appropriateness of the method used, not the margin/mark-up.  |
| <b>Mexico</b><br><br>Federal Fiscal Code Article 34-A (unilateral and bilateral APAs).  | <b>South Africa</b><br><br>Not available.   |
| <b>Netherlands</b><br><br>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. | <b>Spain</b><br><br>Yes, there is a specific regulation that includes provisions on: Information and documentation requirements, procedure, Competent Authority, terms and timing, modifications and extensions, resolutions, and multilateral APAs.  |
| <b>New Zealand</b><br><br>Section 91E of the Tax Administration Act of 1994 or under mutual agreement procedure (unilateral and bilateral).   | <b>Sweden</b><br><br>Formal rules on APA filing procedures effective January 1, 2010. Only bilateral or multilateral APAs allowed.  |
| <b>Norway</b><br><br>Available only for the pricing of natural gas.   | <b>Switzerland</b><br><br>Yes. Contents of application follow the guidance provided in OECD Transfer Pricing Guidelines.  |
| <b>OECD</b><br><br>Chapter IV.F (multilateral, bilateral, and unilateral); Annex "Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure."   | <b>Taiwan</b><br><br>APAs are allowed for taxpayers who meet criteria defined in the Transfer Pricing Guidelines. Eligible taxpayers must file application to the tax authorities by the end of the first year in which the transactions covered in the APA were conducted.   |
| <b>Peru</b><br><br>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.  | <b>Thailand</b><br><br>According to Departmental Instruction No. Paw. 113/2545 (Clause 5) APAs are available. However, based on current practice, the Thai Revenue Department is not willing to accept applications for unilateral APAs. Bilateral agreements may be applied for under mutual agreement procedure of treaties.  |
| <b>Philippines</b><br><br>Available under draft rules.  | <b>Turkey</b><br><br>Yes. Organization of an APA unit within the Turkish Revenue Administration is still in progress. According to the TP Decrees officially announced on 6 December 2007 and 13 April 2008, the scope of APAs is limited to cross-border related-party transactions of corporate taxpayers. Applications for unilateral, bilateral, and multilateral APAs are allowed. |
| <b>Poland</b><br><br>Available, including for foreign entrepreneurs operating through a permanent establishment in Poland.  | <b>UK</b><br><br>Yes. HMRC Statement of practice 3/99 on Advance Pricing Agreements and Tax Bulletin Issue 43.  |
| <b>Portugal</b><br><br>APAs have been available since July 2008 through Ministerial Order # 620-A/2008.   | <b>USA</b><br><br>Yes. Rev. Proc. 2006-9 (multilateral, bilateral, and unilateral).   |
| <b>Romania</b><br><br>According to Government Decision no. 529 / 2007 regarding the approval of APAs and advanced fiscal solutions, unilateral, bilateral, and multilateral APAs may be entered into.   | <b>Venezuela</b><br><br>Yes (unilateral and bilateral). Title VII, Chapter III, Fifth Section of ITL (Latest amendment effective February 16, 2007).  |
| <b>Russia</b><br><br>Not available.   | <b>Vietnam</b><br><br>Not available.  |



























# APA filing fee

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| <b>Argentina</b><br> Not applicable.  | <b>France</b><br> No fee.  |
| <b>Australia</b><br> No fee.  | <b>Germany</b><br> €20,000 application fee.  |
| <b>Austria</b><br> Not applicable currently.  | <b>Hong Kong</b><br> Not applicable.   |
| <b>Belgium</b><br> No fee.  | <b>Hungary</b><br> <b>Fees for unilateral APAs:</b> • HUF 500,000 (app. \$2,600) – HUF 2 million (app. \$10,500) if the arm's length price can be determined with CUP, Resale Minus or Cost-Plus methods, • HUF 2 million (app. \$10,500) – HUF 7 million (app. \$36,800) if the arm's length price can be determined by using other methods. <b>Fees for bilateral APAs:</b> • HUF 3 million (app. \$15,800) – HUF 8 million (app. \$42,100). <b>Fees for multilateral APAs:</b> • HUF 5 million (app. \$26,300) – HUF 10 million (app. \$52,600) |
| <b>Brazil</b><br> Not applicable.   | <b>India</b><br> Not applicable.   |
| <b>Canada</b><br> 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. | <b>Indonesia</b><br> Not applicable.   |
| <b>Chile</b><br> Not applicable.  | <b>Ireland</b><br> Not applicable.   |
| <b>China</b><br> No fee.   | <b>Israel</b><br> Not specified.  |
| <b>Colombia</b><br> No regulations to date.   | <b>Italy</b><br> Not applicable.   |
| <b>Czech Republic</b><br> CZK 10,000 (approx. \$500 USD, €375 EUR).   | <b>Japan</b><br> No fee.   |
| <b>Denmark</b><br> Filing fee for unilateral APA: DKK 300; for bilateral APA: no filing fee.  | <b>Kazakhstan</b><br> No fee.  |
| <b>Ecuador</b><br> Not applicable.  | <b>Kenya</b><br> Not applicable.   |
| <b>Finland</b><br> Not applicable.  | <b>Korea</b><br> No fee.   |

# APA filing fee

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| <b>Luxembourg</b><br> <p>No fee.</p>  | <b>Singapore</b><br> <p>No fee.</p>   |
| <b>Malaysia</b><br> <p>Not fixed at the moment.</p>   | <b>Slovak Republic</b><br> <p>Small application fee (up to €10).</p>  |
| <b>Mexico</b><br> <p>Approximately US \$780 for filing the request, US \$156 for submission of annual report during APA term. The amount is periodically updated for inflation.</p>   | <b>South Africa</b><br> <p>Not applicable.</p>  |
| <b>Netherlands</b><br> <p>No fee.</p>   | <b>Spain</b><br> <p>No fee.</p>   |
| <b>New Zealand</b><br> <p>No fee for bilateral APA. Minimal application fee for unilateral APA.</p>   | <b>Sweden</b><br> <p>Filing for APA, approximately €15,000. Filing for renewal of APA, approx. €10,000. Filing for renewal with changes, approx. €12,500.</p>   |
| <b>Norway</b><br> <p>Not applicable.</p>  | <b>Switzerland</b><br> <p>No fee.</p>   |
| <b>OECD</b><br> <p>Depends on local law. OECD Guidelines recognize that APA user fees may be charged, but do not have to be.</p>  | <b>Taiwan</b><br> <p>No fee.</p>  |
| <b>Peru</b><br> <p>Not specified.</p>   | <b>Thailand</b><br> <p>No fee.</p>  |
| <b>Philippines</b><br> <p>Not applicable.</p>   | <b>Turkey</b><br> <p>The APA application fee is 30,800 TL (approximately €14,750) and 24,640 TL (approximately €11,800) for subsequent renewals.</p>  |
| <b>Poland</b><br> <p>In general, 1 percent of transaction value, with the following thresholds: 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.</p> | <b>UK</b><br> <p>No fee.</p>  |
| <b>Portugal</b><br> <p>Between €3,150 and €35,000, depending on taxpayer turnover. These fees are reduced by 50 percent for renewals or revisions of existing APAs.</p>   | <b>USA</b><br> <p>\$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.</p> |
| <b>Romania</b><br> <p>Between €10,000 and €20,000. For the modification of an existing APA the fee is set between €6,000 and €15,000.</p>   | <b>Venezuela</b><br> <p>Not specified. Taxpayer must bear cost.</p>   |
| <b>Russia</b><br> <p>Not applicable.</p>  | <b>Vietnam</b><br> <p>Not applicable.</p>   |

# APA term of agreement


























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| <b>Argentina</b><br>        | Not applicable.   | <b>France</b><br>       | Three to five years forward.   |
| <b>Australia</b><br>        | Generally three to five years forward.  | <b>Germany</b><br>      | The Federal Ministry of Finance ordinance states that the APA term should be no less than three years, but should not exceed five years.   |
| <b>Austria</b><br>          | Not applicable.   | <b>Hong Kong</b><br>    | Not applicable.  |
| <b>Belgium</b><br>          | Maximum term of five years, potentially renewable.  | <b>Hungary</b><br>      | Three to five years. It could be extended by an additional three years.  |
| <b>Brazil</b><br>           | Not applicable.   | <b>India</b><br>        | Not applicable.  |
| <b>Canada</b><br>           | Depending on proposal, industry, and transactions involved, term is usually three to five years, but may vary depending on facts, circumstances, and resolution of the particular case. Can only roll back to taxation years that are not under audit or for which documentation request letter has not been received. Rollbacks are not permitted for Small Business APAs. | <b>Indonesia</b><br>    | Not applicable.  |
| <b>Chile</b><br>            | Not applicable.   | <b>Ireland</b><br>      | Not applicable.  |
| <b>China</b><br>           | Generally three to five years forward; rollback available subject to approval from tax authorities.   | <b>Israel</b><br>      | Not specified.   |
| <b>Colombia</b><br>       | Up to three years forward and year of request.  | <b>Italy</b><br>      | 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. |
| <b>Czech Republic</b><br> | Maximum three years.  | <b>Japan</b><br>      | Generally, three to five years forward; rollback available on bilateral APAs (TP commissioner's directive). In practice, APA terms vary.   |
| <b>Denmark</b><br>        | No stated term.   | <b>Kazakhstan</b><br> | Up to three years from the signing date.   |
| <b>Ecuador</b><br>        | Not applicable.   | <b>Kenya</b><br>      | Not applicable.  |
| <b>Finland</b><br>        | Not applicable.   | <b>Korea</b><br>      | No limitation on APA period. The taxpayer shall specify the fiscal years for which the APA would apply.  |













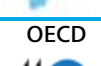

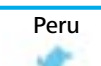













# APA term of agreement

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| <b>Luxembourg</b><br><br>No stated term.  | <b>Singapore</b><br><br>Generally three to five years forward. Rollback may be allowed on a case-by-case basis.  |
| <b>Malaysia</b><br><br>Will be included in the APA rules that are expected to be issued soon. In practice, the IRB has accepted a three-to-five-year term.  | <b>Slovak Republic</b><br><br>Maximum five years.  |
| <b>Mexico</b><br><br>Up to three years forward, one year back, and issuing year. Term can be longer if negotiated under the mutual agreement procedure in accordance with a tax treaty.                             | <b>South Africa</b><br><br>Not applicable.   |
| <b>Netherlands</b><br><br>Four to five 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. | <b>Spain</b><br><br>Up to four fiscal years following the year of approval, the negotiation year itself, and one year rollback in some cases. Maximum term is six years.                               |
| <b>New Zealand</b><br><br>No stated term.   | <b>Sweden</b><br><br>Generally three to five years.  |
| <b>Norway</b><br><br>Not applicable.  | <b>Switzerland</b><br><br>Subject to negotiation, generally three to five years forward.   |
| <b>OECD</b><br><br>Depends on local law.  | <b>Taiwan</b><br><br>An APA will be effective for a period of three to five years, or the duration of the covered transactions, whichever is shorter. An extension of up to five years may be allowed. |
| <b>Peru</b><br><br>Fiscal year of approval and three years thereafter.   | <b>Thailand</b><br><br>No stated term.  |
| <b>Philippines</b><br><br>The proposed regulations limit the application of the APA to prospective years and transactions, and the actual term will depend on the industry, products, or transactions involved.   | <b>Turkey</b><br><br>Up to a maximum period of three years.  |
| <b>Poland</b><br><br>Five years, may be extended for further unlimited five-year periods.   | <b>UK</b><br><br>Generally three to five years forward; either taxpayer or HMRC may seek rollback.   |
| <b>Portugal</b><br><br>Maximum term of three years. Taxpayers may seek renewal.   | <b>USA</b><br><br>Generally, five years forward; either taxpayer or IRS may seek rollback for longer period as appropriate.  |
| <b>Romania</b><br><br>Up to five years. However, in case of long-term transactions, the period may be extended.   | <b>Venezuela</b><br><br>ITL specifies only that APAs may be longer as a result of a friendly procedure under the terms of a tax treaty.  |
| <b>Russia</b><br><br>Not applicable.  | <b>Vietnam</b><br><br>Not applicable.  |



























# Self-initiated adjustments

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| <b>Argentina</b><br><br>No formal procedures.   | <b>France</b><br><br>Permitted if substantially justified.   |
| <b>Australia</b><br><br>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. | <b>Germany</b><br><br>Adjustments are expected to be based on agreements concluded in advance. Upward adjustments may be required by law if German income is too low.  |
| <b>Austria</b><br><br>Intercompany agreement required in advance. If transfer prices are recognized as not being at arm's length, an adjusted tax return must be filed.   | <b>Hong Kong</b><br><br>Adjustments permitted after year-end if net effect is to increase taxable income. If net effect is to decrease taxable income, the adjustment (i.e., true-down) must be done before closing the accounts for the current financial year, and taxpayer must demonstrate there was a binding agreement with its related supplier obligating retroactive true-down/ up to ensure profit complies with arm's length requirement. |
| <b>Belgium</b><br><br>Not permitted in principle, but possibly allowed under APA.   | <b>Hungary</b><br><br>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.  |
| <b>Brazil</b><br><br>Adjustments of taxable income based on transfer pricing study.   | <b>India</b><br><br>No formal procedure.   |
| <b>Canada</b><br><br>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.                         | <b>Indonesia</b><br><br>No formal procedure.   |
| <b>Chile</b><br><br>No information available.   | <b>Ireland</b><br><br>Self-initiated adjustments to income not allowed under transfer pricing law.   |
| <b>China</b><br><br>Upward adjustments permitted when filing the annual income tax return after closing of the accounts.   | <b>Israel</b><br><br>No formal procedure.   |
| <b>Colombia</b><br><br>No formal procedure.   | <b>Italy</b><br><br>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. Adjustments may trigger penalties, on an increasing scale, the later they are made in respect to the deadline provided for the filing of the income tax return they refer to.  |
| <b>Czech Republic</b><br><br>Upward adjustments permitted; unclear whether a decreasing adjustment is available.  | <b>Japan</b><br><br>Written guidelines were issued for self-initiated adjustments (TP commissioner's directive (guideline)) on October 22, 2008.   |
| <b>Denmark</b><br><br>No specific legislation, practice, or case law. Adjustments are likely acceptable if made pursuant to prior agreement and they result in arm's length pricing.  | <b>Kazakhstan</b><br><br>Allowed. The procedure for self-initiated tax adjustments is regulated under general tax legislation (the Tax Code).  |
| <b>Ecuador</b><br><br>Not applicable.   | <b>Kenya</b><br><br>No formal procedures.  |
| <b>Finland</b><br><br>Through standard tax assessment and appeal mechanisms.  | <b>Korea</b><br><br>Adjustment is permitted in filing original return and amended tax return. In case of decreasing taxable income, an amended tax return must be filed within three years of filing the original return.  |











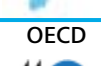

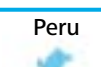


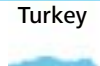










# Self-initiated adjustments

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| <b>Luxembourg</b><br><br>Adjustments are in principle permitted in filing of original tax return before assessment becomes final.   | <b>Singapore</b><br><br>Not permitted.  |
| <b>Malaysia</b><br><br>Upward adjustments permitted (may or may not be subject to audit) but downward adjustments may not be acceptable, and would most likely trigger TP audit.  | <b>Slovak Republic</b><br><br>Upward adjustments permitted; unclear whether a decreasing adjustment is available.   |
| <b>Mexico</b><br><br>May be made only if it does not derive from a primary adjustment proposed by the competent authority of a treaty partner.  | <b>South Africa</b><br><br>No formal procedures. However, SARS requires taxpayers to make adjustments; income tax return for companies specifically provides a line for transfer pricing adjustments.   |
| <b>Netherlands</b><br><br>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.  | <b>Spain</b><br><br>The General Tax Directorate has publicly expressed its distaste for self-initiated adjustments, because they could mean the taxpayer has not fulfilled the "fair value" accounting compulsory principle. This position could evolve.  |
| <b>New Zealand</b><br><br>An adjustment may be made by filing a notice of proposed adjustment within four 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).  | <b>Sweden</b><br><br>No formal procedure.   |
| <b>Norway</b><br><br>No formal procedure.   | <b>Switzerland</b><br><br>No formal procedure.  |
| <b>OECD</b><br><br>Depends on local law. Self-initiated adjustments are not accepted by many OECD member countries without considerable scrutiny.   | <b>Taiwan</b><br><br>Based on an MOF ruling, self-initiated adjustments to the median of the interquartile range are allowed under the comparable profits method.   |
| <b>Peru</b><br><br>Permitted.   | <b>Thailand</b><br><br>Adjustments permitted whether increasing or decreasing profit. In case of a profit increase, taxpayer will be subject only to a surcharge of 1.5 percent per month. In either case, there must be adequate documentation to substantiate the adjustment in the current period.   |
| <b>Philippines</b><br><br>Self-initiated adjustments may be made through amendment of tax returns.  | <b>Turkey</b><br><br>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.  |
| <b>Poland</b><br><br>No formal procedure. Taxpayer-initiated adjustments may be made on an amended return within five years from the date of filing the tax return.   | <b>UK</b><br><br>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. |
| <b>Portugal</b><br><br>Adjustments in both original and amended returns after year-end permitted as long as there is no decrease in taxable income. Adjustments to decrease taxable income allowed only after administrative appeal.  | <b>USA</b><br><br>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.   |
| <b>Romania</b><br><br>Year-end adjustments are not covered by the Romanian legislation on transfer pricing, and to what extent the Romanian tax authorities will accept such adjustments cannot be determined. In practice, the tax authorities analyze carefully year-end transfer pricing adjustments received by Romanian entities from related parties. For certainty, obtaining a binding ruling is advisable. | <b>Venezuela</b><br><br>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.               |
| <b>Russia</b><br><br>No formal procedure.   | <b>Vietnam</b><br><br>No formal procedure.  |
















# Taxpayer set-offs for other related-party transactions

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| <b>Argentina</b><br><br>No formal provision.  | <b>France</b><br><br>No formal provision; follows OECD Guidelines.   |
| <b>Australia</b><br><br>Intentional set-offs allowed if on arm's length terms and conditions. Unintentional set-offs considered only in context of mutual agreement procedures.   | <b>Germany</b><br><br>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.   |
| <b>Austria</b><br><br>Follows OECD Guidelines with regard to international transactions.  | <b>Hong Kong</b><br><br>Set-off of transactions is subject to the Inland Revenue Department's agreement, and taxpayers are required to explain and support the set-off, upon query by the IRD.   |
| <b>Belgium</b><br><br>Tax authorities traditionally reluctant to accept set-offs. Intentional set-offs (direct or indirect) have been accepted by tax courts.   | <b>Hungary</b><br><br>No formal provision.   |
| <b>Brazil</b><br><br>Not applicable.  | <b>India</b><br><br>No formal provision.   |
| <b>Canada</b><br><br>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. | <b>Indonesia</b><br><br>No formal procedure.   |
| <b>Chile</b><br><br>Not applicable.   | <b>Ireland</b><br><br>Finance Act (No 2) 2008 introduced a restriction on tax deductions for any payment an Irish company makes as a result of a transfer pricing adjustment. Such adjustments must be agreed under the relevant MAP article in a tax treaty or under the EU Arbitration Convention, and not adjusted by reference to the provisions of a contractual agreement. |
| <b>China</b><br><br>When transactions between related parties are offset, the tax authorities will in principle restore the transactions and evaluate each related-party transaction separately when conducting a comparability analysis and making adjustments.  | <b>Israel</b><br><br>No formal provision.  |
| <b>Colombia</b><br><br>No formal provision.   | <b>Italy</b><br><br>No formal provision. In general, set-offs must be separately booked, both for civil and tax regulation purposes.   |
| <b>Czech Republic</b><br><br>Generally not permitted.   | <b>Japan</b><br><br>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.  |
| <b>Denmark</b><br><br>Follows OECD Guidelines.  | <b>Kazakhstan</b><br><br>No specific provision.  |
| <b>Ecuador</b><br><br>No formal provision.  | <b>Kenya</b><br><br>No formal provision.   |
| <b>Finland</b><br><br>No formal provision.  | <b>Korea</b><br><br>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.   |











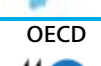

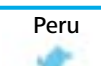













# Taxpayer set-offs for other related-party transactions

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| <b>Luxembourg</b><br><br>No formal provision.  | <b>Singapore</b><br><br>Generally not permitted.  |
| <b>Malaysia</b><br><br>Generally not permitted.  | <b>Slovak Republic</b><br><br>Generally not permitted.  |
| <b>Mexico</b><br><br>Only intentional set-offs are permitted under OECD guidelines.  | <b>South Africa</b><br><br>Practice Note 7 recognizes that such arrangements do sometimes occur between independent enterprises and should be assessed in terms of the arm's length principle.  |
| <b>Netherlands</b><br><br>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.   | <b>Spain</b><br><br>Not permitted.  |
| <b>New Zealand</b><br><br>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.  | <b>Sweden</b><br><br>No formal provision, but generally follows the OECD Guidelines.  |
| <b>Norway</b><br><br>No formal provision.  | <b>Switzerland</b><br><br>No formal provision.  |
| <b>OECD</b><br><br>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. | <b>Taiwan</b><br><br>No formal provision.   |
| <b>Peru</b><br><br>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.  | <b>Thailand</b><br><br>No formal provision.   |
| <b>Philippines</b><br><br>Not applicable.  | <b>Turkey</b><br><br>No formal provision.   |
| <b>Poland</b><br><br>Set-offs are permitted for transactions with the same party.  | <b>UK</b><br><br>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.  |
| <b>Portugal</b><br><br>No formal provision.  | <b>USA</b><br><br>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. |
| <b>Romania</b><br><br>Set-offs are allowed only on arm's length terms and conditions.  | <b>Venezuela</b><br><br>No formal provision.  |
| <b>Russia</b><br><br>No formal provision.  | <b>Vietnam</b><br><br>No formal provision.  |

























# When may taxpayer submit tax adjustment to competent authority (CA)?

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| <b>Argentina</b><br><br>Tax adjustment must be included in the income tax return whose deadline is within the fifth month after the year-end.  | <b>France</b><br><br>In most cases, within three years following receipt of a notice of tax assessment (depending on the relevant tax treaty).   |
| <b>Australia</b><br><br>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.   | <b>Germany</b><br><br>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.  |
| <b>Austria</b><br><br>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.   | <b>Hong Kong</b><br><br>MAP request will be entertained after a taxpayer receives in writing a transfer pricing adjustment proposed by the tax authority of the other contracting state.   |
| <b>Belgium</b><br><br>Application for MAP must be filed within two or three years (or shorter time frame, depending on applicable double tax treaty) of first notification of proposed adjustment communicated to taxpayer in writing.   | <b>Hungary</b><br><br>No formal procedure. Taxpayer could submit tax adjustments in its annual tax return.   |
| <b>Brazil</b><br><br>Upon filing income tax return (DIPJ).   | <b>India</b><br><br>Application for mutual agreement procedure may be filed after notification of the tax assessment, and must be filed normally within three years of notification, unless modified by a treaty.  |
| <b>Canada</b><br><br>Request may be submitted after proposed adjustment is communicated to taxpayer in writing.  | <b>Indonesia</b><br><br>No formal procedure.   |
| <b>Chile</b><br><br>Not applicable.  | <b>Ireland</b><br><br>No formal procedure.   |
| <b>China</b><br><br>After obtaining 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 SAT, which will deal with it accordingly. The enterprise should apply for corresponding adjustments within three years from the date the enterprise or its related parties receive the transfer pricing adjustment notice. Late applications will not be entertained. | <b>Israel</b><br><br>No formal procedure.  |
| <b>Colombia</b><br><br>No formal procedure.  | <b>Italy</b><br><br>Follows mutual agreement procedure for pertinent treaty, or Arbitration Convention procedure if the related party is located in an EU member state (pursuant to EU Arbitration Convention 90/436/CEE).   |
| <b>Czech Republic</b><br><br>No formal procedure. Follows mutual agreement procedures for pertinent treaty provisions.   | <b>Japan</b><br><br>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. |
| <b>Denmark</b><br><br>Request may be submitted after proposed adjustment is communicated to taxpayer.  | <b>Kazakhstan</b><br><br>No specific provisions.   |
| <b>Ecuador</b><br><br>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.   | <b>Kenya</b><br><br>No formal provision.   |
| <b>Finland</b><br><br>No formal procedure, but provisions of tax treaties and the European Union Arbitration Convention must be observed.  | <b>Korea</b><br><br>Application for CA must be filed within three 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)?



























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| <b>Luxembourg</b><br><br>In most cases, within three years from the first notification of proposed adjustment (depending on the relevant tax treaty).  | <b>Singapore</b><br><br>Follows mutual agreement procedure for pertinent treaty provisions as well as that stated in the TP Guidelines.  |
| <b>Malaysia</b><br><br>No formal procedures. Generally follows MAP procedures for pertinent treaty provisions.   | <b>Slovak Republic</b><br><br>No formal procedure. Follows mutual agreement procedure for pertinent treaty provisions.   |
| <b>Mexico</b><br><br>Follows mutual agreement procedures for pertinent treaty provisions.  | <b>South Africa</b><br><br>No formal procedure.  |
| <b>Netherlands</b><br><br>Application for mutual agreement procedure may be filed after notification of the tax assessment, and must be filed within three years of notification, unless modified by a treaty.   | <b>Spain</b><br><br>Request may be submitted after proposed adjustment is communicated to taxpayer in writing.   |
| <b>New Zealand</b><br><br>Follows mutual agreement procedure for pertinent treaty provisions.  | <b>Sweden</b><br><br>Within three years from receiving the tax assessment decision the taxpayer believes is in conflict with the tax treaty.   |
| <b>Norway</b><br><br>No formal procedure.  | <b>Switzerland</b><br><br>No formal procedure.   |
| <b>OECD</b><br><br>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.   | <b>Taiwan</b><br><br>No formal procedure.  |
| <b>Peru</b><br><br>At any time after filing the original annual income tax return, but before the beginning of the fiscal review.  | <b>Thailand</b><br><br>No formal procedure. Follows mutual agreement procedure under relevant treaty (usually 3 years).  |
| <b>Philippines</b><br><br>Any time before issuance of Letter of Authority (LOA), and within three years from filing of tax return.   | <b>Turkey</b><br><br>No formal provision.  |
| <b>Poland</b><br><br>Application for mutual agreement procedure (based both on the Arbitration Convention and a tax treaty) may be filed after notification of the tax assessment, and must be filed within three years of notification (Executive Ordinance). | <b>UK</b><br><br>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. |
| <b>Portugal</b><br><br>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.   | <b>USA</b><br><br>Request may be submitted after amount of proposed adjustment is communicated to taxpayer in writing.   |
| <b>Romania</b><br><br>When the taxpayer realizes that the transaction was not performed according to the arm's length principle. Also if the related party's tax authority performs adjustments on the transaction carried out with the Romanian company.      | <b>Venezuela</b><br><br>No formal procedure.   |
| <b>Russia</b><br><br>No formal procedure.  | <b>Vietnam</b><br><br>No formal procedure.   |

# May CA develop new settlement positions?













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| <b>Argentina</b><br><br>No formal procedure.  | <b>France</b><br><br>Yes, unless taxpayer has entered into a closing agreement or received a court decision. |
| <b>Australia</b><br><br>CA may negotiate agreement based on different position from ATO-initiated adjustment (unless adjustment decided by appellate body, e.g. AAT or court).  | <b>Germany</b><br><br>Yes, but taxpayer is asked for approval before settlement.                             |
| <b>Austria</b><br><br>Yes.  | <b>Hong Kong</b><br><br>It is possible.  |
| <b>Belgium</b><br><br>Tax authorities may unilaterally withdraw or reduce tax adjustment (Article 376, Sec. 1 of ITC). In practice, however, withdrawal is unlikely.  | <b>Hungary</b><br><br>No practice relating to CA settlements.  |
| <b>Brazil</b><br><br>Yes.   | <b>India</b><br><br>No formal procedure.   |
| <b>Canada</b><br><br>CA may negotiate agreement based on new settlement positions, unless adjustment has been determined by Appeals or the courts. CA cannot settle on an amount higher than the amount initially reassessed. | <b>Indonesia</b><br><br>No experience or precedent on this issue.  |
| <b>Chile</b><br><br>No formal procedure.  | <b>Ireland</b><br><br>Yes.   |
| <b>China</b><br><br>No formal procedure. However, CA may develop a new position after tax administrative or judicial review.   | <b>Israel</b><br><br>No formal procedure.   |
| <b>Colombia</b><br><br>No formal procedure.   | <b>Italy</b><br><br>Yes.   |
| <b>Czech Republic</b><br><br>Yes.   | <b>Japan</b><br><br>Yes. Follows OECD Guidelines.  |
| <b>Denmark</b><br><br>Yes, unless taxpayer has received a court decision.   | <b>Kazakhstan</b><br><br>No specific provisions.   |
| <b>Ecuador</b><br><br>Once the return, appendix, and/or transfer pricing study are filed, the competent authority may perform inspections and determine other adjustments.  | <b>Kenya</b><br><br>No formal provision.   |
| <b>Finland</b><br><br>Yes.  | <b>Korea</b><br><br>Yes.   |





























# May CA develop new settlement positions?

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|---|---|
| <b>Luxembourg</b><br><br>No formal procedure.  | <b>Singapore</b><br><br>Yes.   |
| <b>Malaysia</b><br><br>No formal procedure.  | <b>Slovak Republic</b><br><br>Yes.   |
| <b>Mexico</b><br><br>Yes.  | <b>South Africa</b><br><br>No formal procedure.  |
| <b>Netherlands</b><br><br>Yes, unless taxpayer has entered into a closing agreement or received a court decision.  | <b>Spain</b><br><br>Yes.   |
| <b>New Zealand</b><br><br>Yes.   | <b>Sweden</b><br><br>No formal procedure.  |
| <b>Norway</b><br><br>No formal procedure.  | <b>Switzerland</b><br><br>No formal procedure.   |
| <b>OECD</b><br><br>CAs should endeavor to reach agreement acceptable to taxpayer. CAs' power to compromise an adjustment depends on provisions of domestic law.  | <b>Taiwan</b><br><br>Yes.  |
| <b>Peru</b><br><br>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. | <b>Thailand</b><br><br>No formal procedure.  |
| <b>Philippines</b><br><br>Yes, if it determines that the correct amount of tax was not paid.   | <b>Turkey</b><br><br>No formal procedure and no practice relating to CA settlements.   |
| <b>Poland</b><br><br>Yes, unless taxpayer has received a court decision.   | <b>UK</b><br><br>Yes.  |
| <b>Portugal</b><br><br>CA may issue a new position after administrative and/or judicial review.  | <b>USA</b><br><br>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. |
| <b>Romania</b><br><br>The competent authority may reconsider and develop new settlement if the arm's length principle is not met.  | <b>Venezuela</b><br><br>Yes.   |
| <b>Russia</b><br><br>No formal procedure.  | <b>Vietnam</b><br><br>No experience or precedent, because Vietnam is not known to have ever been involved in a CA procedure under any of its tax treaties.                                   |

# May taxpayer go to CA before paying tax?

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| <b>Argentina</b><br><br>Yes, it is not necessary to pay tax due before going to CA.   | <b>France</b><br><br>Yes. CA procedure automatically defers payment.   |
| <b>Australia</b><br><br>Yes. Taxpayer may go to CA after amount of proposed adjustment is communicated in writing to taxpayer – this may be before paying tax.  | <b>Germany</b><br><br>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.  |
| <b>Austria</b><br><br>Yes, provided certain procedures are followed. Interest may be assessed.  | <b>Hong Kong</b><br><br>Yes. Taxpayer may go to MAP after amount of proposed adjustment is communicated in writing to taxpayer – this may be before paying the tax.  |
| <b>Belgium</b><br><br>Yes. MAP request can be filed before tax is paid. Usually, suspension of collection is granted as long as MAP is pending.   | <b>Hungary</b><br><br>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.                    |
| <b>Brazil</b><br><br>Yes. The taxpayer may go to CA for a formal consultation to verify the correct application of transfer pricing legislation.  | <b>India</b><br><br>Yes, payment may be suspended by tax authority at taxpayer's request.  |
| <b>Canada</b><br><br>Yes. Taxpayer may go to CA after proposed adjustment is communicated in writing to the taxpayer. There are also rules allowing full or partial deferral of payment of taxes in dispute.  | <b>Indonesia</b><br><br>No experience or precedent on this issue.  |
| <b>Chile</b><br><br>No formal procedure.  | <b>Ireland</b><br><br>No formal process in place – would need to be considered on a case-by-case basis.  |
| <b>China</b><br><br>Generally, no, 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. | <b>Israel</b><br><br>No formal procedure.  |
| <b>Colombia</b><br><br>No formal procedure.   | <b>Italy</b><br><br>Yes. If certain circumstances are met (e.g., if payment would imply severe and irreparable damage to taxpayer), the tax authorities, at the taxpayer's request, may temporarily suspend recovery of tax and interest assessed if a mutual agreement/ arbitration procedure is started. |
| <b>Czech Republic</b><br><br>Yes, but liability to pay tax will not be avoided.   | <b>Japan</b><br><br>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.   |
| <b>Denmark</b><br><br>Yes. Extension to pay tax may be obtained upon application. If extension is granted, taxpayer incurs variable nondeductible interest on the amount from Nov. 1 of the year following the tax year until payment. Interest is currently 0.6 percent per month.   | <b>Kazakhstan</b><br><br>No specific provisions.   |
| <b>Ecuador</b><br><br>Unnumbered article 4 following article 15 of the Tax Law states that taxpayers may consult the tax administration with respect to the methodology and valuation of operations with related parties.   | <b>Kenya</b><br><br>No guidelines provided.  |
| <b>Finland</b><br><br>Generally, tax must be paid. Tax authorities' authority to postpone collection of unpaid taxes does not cover mutual agreement procedures.  | <b>Korea</b><br><br>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?

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| <b>Luxembourg</b><br><br>No formal procedure. Tax to be paid may be suspended.  | <b>Singapore</b><br><br>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.   |
| <b>Malaysia</b><br><br>No formal procedure.   | <b>Slovak Republic</b><br><br>Yes, but liability to pay tax will not be avoided.  |
| <b>Mexico</b><br><br>Generally, tax must be paid.   | <b>South Africa</b><br><br>No.  |
| <b>Netherlands</b><br><br>Yes. Taxpayer may go to CA after receiving final tax assessment; accelerated CA is available upon request.  | <b>Spain</b><br><br>No. The tax due must be paid or otherwise guaranteed but then payment suspended.  |
| <b>New Zealand</b><br><br>Yes, but liability to pay tax will not be avoided.  | <b>Sweden</b><br><br>Yes.   |
| <b>Norway</b><br><br>No.  | <b>Switzerland</b><br><br>No formal procedure.  |
| <b>OECD</b><br><br>Countries are encouraged to suspend collection of tax and interest until mutual agreement procedures are completed.  | <b>Taiwan</b><br><br>No tax payment is required at the reexamination stage. However, the taxpayer is required to pay half of the tax payable before filing appeals applications with the MOF.   |
| <b>Peru</b><br><br>Yes, the taxpayer may file a sustained claim with the CA within 20 working days after notification of a tax assessment.  | <b>Thailand</b><br><br>No. The tax due must be paid or otherwise guaranteed.  |
| <b>Philippines</b><br><br>Yes.  | <b>Turkey</b><br><br>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.  |
| <b>Poland</b><br><br>Yes, but liability to pay tax will not be avoided.   | <b>UK</b><br><br>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. |
| <b>Portugal</b><br><br>Yes. Taxpayer may appeal the assessment or file for judicial review. Deferral of payment is subject to further conditions.   | <b>USA</b><br><br>Yes. Taxpayer may go to CA after amount of proposed adjustment is communicated in writing to taxpayer, before paying tax.   |
| <b>Romania</b><br><br>If an adjustment is received from the Romanian tax authorities, the taxpayer can contest this adjustment in a court of justice. However, until a favorable answer is received from the court, the tax should be paid. If the adjustment is received indirectly from a related party, as a result of an audit by foreign tax authorities, this adjustment should be accepted by the Romanian fiscal authorities before modifying the corporate income tax computation. | <b>Venezuela</b><br><br>Yes.  |
| <b>Russia</b><br><br>No formal provision.   | <b>Vietnam</b><br><br>No experience or precedent, because Vietnam is not known to have ever been involved in a CA procedure under any of its tax treaties.  |



























# Additional assessment payment deadline

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| <b>Argentina</b><br><br>Additional payment due when assessment issued; interest assessed from original income tax return filing due date (five months after year-end).  | <b>France</b><br><br>General rules apply.  |
| <b>Australia</b><br><br>Generally 30 days from date of assessment. Further extension of time for payment may be negotiated with the ATO.  | <b>Germany</b><br><br>Payment is due one month after assessment, if no suspension is granted.  |
| <b>Austria</b><br><br>Payment is due one month after assessment, if no suspension is granted.   | <b>Hong Kong</b><br><br>Generally 40 to 50 days from the date of assessment.   |
| <b>Belgium</b><br><br>Must be paid within two months after notification sent. Interest for late payment due as well. If taxpayer files a tax protest, special rules are applicable for payment of tax and interest.                   | <b>Hungary</b><br><br>Generally, 15 days from the date of enforcement of the document establishing additional payment.   |
| <b>Brazil</b><br><br>Generally, 30 days from date of assessment. Deadline may vary if assessment is administratively and/or judicially contested.   | <b>India</b><br><br>Generally 30 days from date of service of notice of demand. Extension of time may be requested but interest must be paid.  |
| <b>Canada</b><br><br>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.                  | <b>Indonesia</b><br><br>The additional assessment with penalties should be settled within one month after the date of issuance of tax assessment. From 2008 onwards, the objected or appealed assessment could be settled within one month after the final decision.                               |
| <b>Chile</b><br><br>Not applicable.   | <b>Ireland</b><br><br>General rules of assessment apply; the tax paid on account must be at least 90 percent of the final liability to avoid interest charges.   |
| <b>China</b><br><br>Due within time frame set by governing tax bureaus, normally 15 days to one month. Extension (maximum three months) for payment will be subject to approval by the governing tax bureau at the provincial level. | <b>Israel</b><br><br>General rules apply.   |
| <b>Colombia</b><br><br>Additional payment due when assessment issued; interest assessed from due date of original filing.   | <b>Italy</b><br><br>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.                                     |
| <b>Czech Republic</b><br><br>Additional tax is payable within 30 days of receipt of assessment.   | <b>Japan</b><br><br>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. |
| <b>Denmark</b><br><br>Payable the first day of the month following the additional assessment (Corporate Tax Act, Section 30(2)).  | <b>Kazakhstan</b><br><br>Within 20 working days, as stipulated by general tax legislation (the Tax Code).  |
| <b>Ecuador</b><br><br>Not applicable.   | <b>Kenya</b><br><br>No guidelines provided.  |
| <b>Finland</b><br><br>General rules apply. Penalties and interest may also be applicable.   | <b>Korea</b><br><br>Normally 30 days from the date of issuance of the tax assessment bill by the tax authorities.  |



























# Additional assessment payment deadline

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| <b>Luxembourg</b><br><br>General rules apply. Payment is due one month after assessment, if no suspension is granted.   | <b>Singapore</b><br><br>Additional tax is payable within one month from the date of the Notice of Additional Assessment, unless the “stand over” of tax applies.  |
| <b>Malaysia</b><br><br>Usually within 30 days from the date of Notice of Additional Assessment.   | <b>Slovak Republic</b><br><br>Additional tax is usually payable within 30 days of receipt of assessment.  |
| <b>Mexico</b><br><br>Forty-five days from notification in writing.  | <b>South Africa</b><br><br>Outstanding tax must be paid by the second date reflected on the assessments; this is 30 days after the date of assessment.  |
| <b>Netherlands</b><br><br>General rules apply. Interest accrues from the end of the tax year in which the assessment is made to the final assessment date.  | <b>Spain</b><br><br>General rules for administrative assessments apply. Interest applicable from date tax would have been payable.  |
| <b>New Zealand</b><br><br>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.  | <b>Sweden</b><br><br>General rules apply.   |
| <b>Norway</b><br><br>General rule for assessments apply (normally some weeks after reassessment is made).   | <b>Switzerland</b><br><br>Not specified.  |
| <b>OECD</b><br><br>Depends on local law.  | <b>Taiwan</b><br><br>Ten days after the determination of reexamination, or after receiving the decision letter from the MOF or Administration Court. Penalties and interest may also be applicable.   |
| <b>Peru</b><br><br>Not specified.   | <b>Thailand</b><br><br>Generally 30 days from the date of receipt of the assessment notice. Extension may be requested.   |
| <b>Philippines</b><br><br>Normally, 30 days from receipt of assessment.   | <b>Turkey</b><br><br>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. |
| <b>Poland</b><br><br>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. | <b>UK</b><br><br>Generally 30 days from the date of receipt of the assessment notice. Extension may be requested.   |
| <b>Portugal</b><br><br>Taxes are payable within 30 days from date of assessment, on the combined amount of the defaulted tax and the appropriate compensatory interest.   | <b>USA</b><br><br>Interest assessed from due date of original filing. Additional extensions for payment of tax available when filing protests.  |
| <b>Romania</b><br><br>The Romanian legislation on transfer prices does not include any regulations in this respect.   | <b>Venezuela</b><br><br>Additional payment due when assessment issued.  |
| <b>Russia</b><br><br>No specific regulations applicable to transfer pricing. General settlement procedure is applicable.  | <b>Vietnam</b><br><br>If the tax authorities request the additional assessment payment during a tax audit, the taxpayer must pay by the deadline set by the tax officer on a case-by-case basis.  |



























# Cost contribution arrangements or cost sharing agreements accepted?

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| <b>Argentina</b><br><br>No specific provision. However, it usually depends on the documentation and the way in which taxpayers prove the rationality of the charges.   | <b>France</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.  |
| <b>Australia</b><br><br>Yes - Taxation Ruling TR 2004/1.   | <b>Germany</b><br><br>Yes. Cost Sharing Regulations of December 30, 1999. German Ministry of Finance Letter IV B4-S1341-14/99.                             |
| <b>Austria</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   | <b>Hong Kong</b><br><br>No specific guidelines.  |
| <b>Belgium</b><br><br>Yes. Articles 26, 49, and 185 §2 of ITC.   | <b>Hungary</b><br><br>No specific statutory authority. HTA is likely to follow OECD Guidelines.  |
| <b>Brazil</b><br><br>No specific statutory authority, but limited cost sharing may be possible.  | <b>India</b><br><br>Yes.   |
| <b>Canada</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.  | <b>Indonesia</b><br><br>No specific rule. Most likely will follow OECD Guidelines and review on a case-by-case basis. Benefits analysis will be requested. |
| <b>Chile</b><br><br>No specific statutory authority.   | <b>Ireland</b><br><br>Yes.   |
| <b>China</b><br><br>Yes. Chapter 7 of Circular of the State Administration of Taxation on the Issuance of the Implementation Measures for Special Tax Adjustments (Trial Implementation) (Guo Shui Fa [2009] No. 2) provides guidance on CSA administration in the PRC. An enterprise is required to report the CSA to the SAT within 30 days of the arrangement being concluded, and the CSA should comply with the cost-revenue matching principle. Generally, the tax authorities prefer R&D CSAs; currently service CSAs are acceptable for group procurement and group marketing activities only. | <b>Israel</b><br><br>No specific statutory authority; however, accepted by the tax authorities.  |
| <b>Colombia</b><br><br>Yes.  | <b>Italy</b><br><br>Yes. Circular letter no. 32/9/2267, September 22, 1980, chapter VI, par. 6.  |
| <b>Czech Republic</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.  | <b>Japan</b><br><br>Yes. Follows the TP commissioner's directive (guideline) issued March 20, 2006.  |
| <b>Denmark</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   | <b>Kazakhstan</b><br><br>No specific provisions.   |
| <b>Ecuador</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   | <b>Kenya</b><br><br>No guidelines provided.  |
| <b>Finland</b><br><br>Yes.   | <b>Korea</b><br><br>Yes.   |

# Cost contribution arrangements or cost sharing agreements accepted?











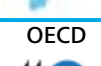

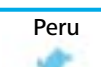


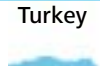










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| <b>Luxembourg</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   | <b>Singapore</b><br><br>No specific statutory authority. Singapore Tax Authority likely to follow OECD Guidelines.  |
| <b>Malaysia</b><br><br>No specific mention of CCAs or CSAs in TP Guidelines. Most likely will follow OECD Guidelines and review on a case-by-case basis. Benefits analysis will be requested.   | <b>Slovak Republic</b><br><br>Generally, yes; however, tax deductibility is determined on a case-by-case basis.   |
| <b>Mexico</b><br><br>Domestic law prohibits the deduction of costs charged by a nonresident on an allocation basis. For treaty countries, possible relief under nondiscrimination basis, provided every case is presented to the competent authorities under the mutual agreement procedure.  | <b>South Africa</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   |
| <b>Netherlands</b><br><br>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).  | <b>Spain</b><br><br>Yes, CCAs/CSAs are specifically mentioned and requirements are set out in law: identification of the parties, description of activities or project, calculation method and allocation criteria applied, extension, and buy-in and buy-out payments.   |
| <b>New Zealand</b><br><br>No specific statutory authority. The IRD Guidelines endorse OECD Guidelines Chapter VIII.   | <b>Sweden</b><br><br>Yes.   |
| <b>Norway</b><br><br>Yes. No specific statutory requirements. Norwegian tax authorities likely to follow OECD Guidelines.   | <b>Switzerland</b><br><br>Yes.  |
| <b>OECD</b><br><br>Yes. OECD Guidelines Chapter VIII.   | <b>Taiwan</b><br><br>The Rules to Recognize Taiwan-Source Income, released by the MOF on September 3, 2009, accepted CSAs for R&D expenses, with the following conditions: <b>1.</b> The CSA is a joint research and development project between all participants; <b>2.</b> All participants shall jointly own the IP and enjoy its benefits according to the cost and effort contributed by each party respectively; and <b>3.</b> No royalty payment or tax evasion is involved under the CSA. For other cost sharing expenses, advanced application to the tax authorities on a case-by-case would be required. |
| <b>Peru</b><br><br>Yes.  | <b>Thailand</b><br><br>No specific statutory authority. Thailand's tax authority is likely to follow OECD Guidelines.  |
| <b>Philippines</b><br><br>Yes.  | <b>Turkey</b><br><br>CCAs and CSAs are generally acceptable within the framework of intragroup services shared by and between the group companies. However, sufficient documentation must be presented regarding the receipt, benefit, and arm's length nature of services received.  |
| <b>Poland</b><br><br>No specific provision.   | <b>UK</b><br><br>Yes. Follows OECD Guidelines Chapter VIII.   |
| <b>Portugal</b><br><br>Yes. Specific documentation requirements are also set out for CCAs.  | <b>USA</b><br><br>Yes. Reg. §1.482-7T (intangible property); Reg. §1.482-9 (services). IRS and Treasury published final and temporary cost sharing regulations on January 5, 2009.  |
| <b>Romania</b><br><br>Yes, but these types of agreements are carefully scrutinized by the Romanian tax authorities. The allocation key used should demonstrate consistency in its applicability. The use of such allocation key should be clearly described, not only for the Romanian taxpayer, but for all entities to which the allocation key is applied. The local transfer pricing documentation should illustrate how the Romanian company benefits from the services received, and should provide details regarding the allocation key (and must demonstrate that the services were actually provided). | <b>Venezuela</b><br><br>Yes, CCAs and CSAs are accepted for permanent establishments only.  |
| <b>Russia</b><br><br>No specific provision.   | <b>Vietnam</b><br><br>No specific statutory authority.  |

# Cost contribution or cost sharing payments deductible?
























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| <b>Argentina</b><br><br>Yes, but payments must satisfy the arm's length standard and have a direct relation with the income generated, and documentation must be kept.   | <b>France</b><br><br>Yes. General Tax Code, CGI, art. 39-1-1.   |
| <b>Australia</b><br><br>Yes - Taxation Ruling TR 2004/1.   | <b>Germany</b><br><br>Yes. Chapter 2 of Cost Sharing Regulations.   |
| <b>Austria</b><br><br>Yes, provided the arm's length payments to the CCA or CSA are deductible according to general Austrian tax rules.  | <b>Hong Kong</b><br><br>No specific guidelines; taxpayer must rely on the general deduction rule, Section 16(1) in the Inland Revenue Ordinance.  |
| <b>Belgium</b><br><br>Yes. Articles 26, 49, and 185 §2 of ITC.   | <b>Hungary</b><br><br>No formal guidelines or rulings exist, but these costs should be deductible in accordance with standard deductibility rules.  |
| <b>Brazil</b><br><br>Yes, provided the conditions for deductibility are met – the payments must have a direct relation with the income generated and documentation must be kept.   | <b>India</b><br><br>No formal guidelines, but payments for shared research and development costs may be deductible.   |
| <b>Canada</b><br><br>Yes. *CAN   | <b>Indonesia</b><br><br>Generally, yes. To the extent payments are arm's length, amounts are deductible if related to taxable income and not capital.   |
| <b>Chile</b><br><br>No specific procedure.   | <b>Ireland</b><br><br>Yes.  |
| <b>China</b><br><br>Yes, provided the arrangement complies 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. However, the allocated costs may become nondeductible if there is a lack of commercial purpose and economic substance; failure to comply with the arm's length principle; failure to maintain documentation; or if the enterprise's operating period is less than 20 years from the signing of the CSA. | <b>Israel</b><br><br>Generally, yes, as long as the payments satisfy the arm's length standard and are not capital in nature.   |
| <b>Colombia</b><br><br>Yes, only if the payments have a direct relation with income generated in Colombia.   | <b>Italy</b><br><br>Yes, but payments must satisfy the arm's length standard and have sufficient nexus with taxpayer's income production.   |
| <b>Czech Republic</b><br><br>Generally, yes; however, tax deductibility is determined on a case-by-case basis.   | <b>Japan</b><br><br>Yes, as long as the payments satisfy the arm's length standard.   |
| <b>Denmark</b><br><br>Yes.   | <b>Kazakhstan</b><br><br>No specific provisions. However, under general tax legislation (the Tax Code), nonresident companies operating in Kazakhstan through permanent establishments are allowed to deduct general and administrative expenses if stipulated by the relevant income tax treaty. The methodology and procedure of such deductibility is regulated by provisions of the Tax Code. |
| <b>Ecuador</b><br><br>Yes, if performed at cost and certified by external auditors' report and subject to 25 percent withholding tax at source.  | <b>Kenya</b><br><br>No guidelines provided.   |
| <b>Finland</b><br><br>Yes.   | <b>Korea</b><br><br>Yes.  |













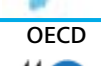

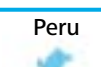


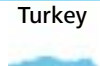










# Cost contribution or cost sharing payments deductible?

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| <b>Luxembourg</b><br><br>Yes, as long as the payment satisfies the arm's length standard.  | <b>Singapore</b><br><br>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).  |
| <b>Malaysia</b><br><br>Yes, to the extent that 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.                                 | <b>Slovak Republic</b><br><br>Generally, yes; however, tax deductibility is determined on a case-by-case basis.  |
| <b>Mexico</b><br><br>No.   | <b>South Africa</b><br><br>Yes. Income Tax Act Section 11(a) – General deductions formula.   |
| <b>Netherlands</b><br><br>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.                            | <b>Spain</b><br><br>Yes, if requirements of law and regulation (arm's length principle) are met.   |
| <b>New Zealand</b><br><br>No specific statutory authority. To the extent payments are arm's length, amounts are deductible if related to revenue items and not capital.  | <b>Sweden</b><br><br>Yes, if the cost equals the benefit received. OECD principles generally apply.  |
| <b>Norway</b><br><br>Yes. However, in some cases payments must be capitalized and amortized according to the rules that apply for the asset to be developed.   | <b>Switzerland</b><br><br>Yes, as long as the payment satisfies the arm's length standard.   |
| <b>OECD</b><br><br>Deductibility determined under laws of applicable country, based on nature of the activity undertaken in the arrangement. Chapter VIII, s.23.   | <b>Taiwan</b><br><br>Yes.  |
| <b>Peru</b><br><br>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. | <b>Thailand</b><br><br>Yes, provided the taxpayer can substantiate that the cost relates specifically to the taxpayer's business.  |
| <b>Philippines</b><br><br>Yes.   | <b>Turkey</b><br><br>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; and (d) relevant supporting documentation must be maintained. |
| <b>Poland</b><br><br>Yes, provided the benefit test is met. Detailed cost breakdown and transfer pricing documentation are usually required.   | <b>UK</b><br><br>Yes, though may be required to recognize the underlying character of the costs shared and treat accordingly.  |
| <b>Portugal</b><br><br>No formal guidelines. Payments will be deemed deductible provided they comply with the domestic general deduction provision.  | <b>USA</b><br><br>Yes. Reg. §1.482-7T(j)(3).   |
| <b>Romania</b><br><br>Yes, but they must comply with certain domestic deductibility rules.   | <b>Venezuela</b><br><br>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.  |
| <b>Russia</b><br><br>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.            | <b>Vietnam</b><br><br>Not applicable.  |







# Cost contribution or cost sharing payments subject to withholding tax?

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| <b>Argentina</b><br><br>It depends on the nature of the charges (e.g., does the CCP or the CSP include services?)   | <b>France</b><br><br>No.   |
| <b>Australia</b><br><br>No.   | <b>Germany</b><br><br>Generally, no. Withholding taxes may be triggered if cost contribution or cost sharing activities also involve the transfer of intellectual property.                    |
| <b>Austria</b><br><br>Generally no. However, royalties and payments for the provision of technical or commercial consulting services carried out in Austria are subject to withholding tax. | <b>Hong Kong</b><br><br>No specific guidelines; withholding will apply if the payment is for the use of intangibles specified in Section 15(1)(a), (b), (ba) of the Inland Revenue Ordinance.  |
| <b>Belgium</b><br><br>No.   | <b>Hungary</b><br><br>Withholding tax may apply, depending on the nature of the payment and on the residence of the recipient. Detailed withholding tax rules discussed under management fees. |
| <b>Brazil</b><br><br>Yes. Ordinary Federal Law 9.779/99.  | <b>India</b><br><br>Arguably, no.  |
| <b>Canada</b><br><br>No. Income Tax Act 212(1)(d)(viii).  | <b>Indonesia</b><br><br>Depends on the type of payment. For example, if payment is considered a royalty, withholding tax would apply.  |
| <b>Chile</b><br><br>No specific procedure.  | <b>Ireland</b><br><br>No.  |
| <b>China</b><br><br>Currently no specific provisions.  | <b>Israel</b><br><br>No formal guidelines.  |
| <b>Colombia</b><br><br>Yes, under ordinary rules.   | <b>Italy</b><br><br>No.  |
| <b>Czech Republic</b><br><br>No.  | <b>Japan</b><br><br>No specific statutory authorization.   |
| <b>Denmark</b><br><br>No.   | <b>Kazakhstan</b><br><br>Yes, depending on the nature of the agreements.   |
| <b>Ecuador</b><br><br>Yes, subject to 25 percent income tax withholding.  | <b>Kenya</b><br><br>No official guidelines provided. The principle will have to be tested with the KRA.  |
| <b>Finland</b><br><br>Depends on the nature of the arrangement.   | <b>Korea</b><br><br>No, subject to certain exceptions.   |



























# Cost contribution or cost sharing payments subject to withholding tax?

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| <b>Luxembourg</b><br> <p>No, but if payment can be characterized as a disguised profit distribution it may be subject to withholding tax.</p>  | <b>Singapore</b><br> <p>No, subject to certain exceptions.</p>   |
| <b>Malaysia</b><br> <p>May be subject to withholding tax, depending on context.</p>  | <b>Slovak Republic</b><br> <p>Generally, no.</p>   |
| <b>Mexico</b><br> <p>Decided on a case-by-case basis.</p>  | <b>South Africa</b><br> <p>No.</p>   |
| <b>Netherlands</b><br> <p>No.</p>  | <b>Spain</b><br> <p>Yes, unless an income tax treaty is in force.</p>  |
| <b>New Zealand</b><br> <p>Generally no, but need to consider the nature of the underlying costs.</p>   | <b>Sweden</b><br> <p>No.</p>   |
| <b>Norway</b><br> <p>No.</p>   | <b>Switzerland</b><br> <p>No, as long as the price is at arm's length. If not at arm's length, it is considered a "deemed dividend" and therefore subject to withholding tax.</p>  |
| <b>OECD</b><br> <p>Generally, no. However, tax treatment should be determined under laws of applicable country. Chapter VIII s.23.</p>   | <b>Taiwan</b><br> <p>If the cost sharing payment qualified as a payment pursuant to a CSA according to the Rules to Recognize Taiwan-Source Income, it will not be recognized as Taiwan-source income and therefore will be exempt from Taiwan withholding tax.</p>  |
| <b>Peru</b><br> <p>Yes, depending on the nature of the payment. *PER</p>   | <b>Thailand</b><br> <p>Yes, depending on the nature of the payment. For example, if payment is considered a royalty, withholding tax would apply.</p>  |
| <b>Philippines</b><br> <p>Depends on the nature of the cost.</p>   | <b>Turkey</b><br> <p>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.</p> |
| <b>Poland</b><br> <p>No in the case of tax treaty partner countries, provided the Polish entity presents a tax residency certificate of payment prior to the payment and there is tax treaty protection.</p> | <b>UK</b><br> <p>No.</p>   |
| <b>Portugal</b><br> <p>Yes. However, if payments are structured as services there is no withholding tax under double tax treaties, if certain procedures are followed.</p>                                   | <b>USA</b><br> <p>No. Reg. §1.482-7T(j)(3) and IRC §1441.</p>  |
| <b>Romania</b><br> <p>Generally, no.</p>   | <b>Venezuela</b><br> <p>No. However, certain treaties may impose withholding tax.</p>  |
| <b>Russia</b><br> <p>May be applicable, depending on the nature of the payment. However, treaty relief is usually available.</p>   | <b>Vietnam</b><br> <p>Not applicable.</p>  |
















# Payer's tax treatment of payments to a contributor of preexisting intangibles to CCA or CSA

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| <b>Argentina</b><br><br>Deductible if they satisfy the arm's length standard, have a direct relation with the income generated, and documentation is kept.                              | <b>France</b><br><br>If deemed acquisition, no current-year deduction but amortizable over useful life (General Tax Code, art. 39, 1-2). If deemed royalty payment, current deduction permitted.   |
| <b>Australia</b><br><br>Generally follows OECD Guidelines – Taxation Ruling TR 2004/1.  | <b>Germany</b><br><br>Buy-in payments are deductible or amortizable over useful life. Buy-in payments may result in taxable gains for recipient.   |
| <b>Austria</b><br><br>In principle, under the Austrian Commercial Code it must be decided if buy-in payments are deductible or amortizable over useful life.                            | <b>Hong Kong</b><br><br>No specific guidelines; taxpayer must rely on the general deduction rule, Section 16(1) in the Inland Revenue Ordinance.   |
| <b>Belgium</b><br><br>Follows OECD Guidelines.  | <b>Hungary</b><br><br>Deductible or amortizable.   |
| <b>Brazil</b><br><br>Deductible, provided the conditions for deductibility are met – the payments must have a direct relation with the income generated and documentation must be kept. | <b>India</b><br><br>No formal guidelines. Payer can consider such payment as for the acquisition of intangible depreciable assets, i.e., a capital expenditure.  |
| <b>Canada</b><br><br>Follows OECD Guidelines. Deductible or amortizable over useful life.   | <b>Indonesia</b><br><br>Deductible or amortizable, depending on specific facts. Payments must relate directly to the taxpayer's taxable income.  |
| <b>Chile</b><br><br>No specific procedure.  | <b>Ireland</b><br><br>Deduction not permitted if buy-in payments are capital in nature. Buy-ins would generally be treated as revenue, in which case they would be deductible.   |
| <b>China</b><br><br>Buy-in payments should be treated in accordance with the relevant provisions for asset purchase.  | <b>Israel</b><br><br>No formal guidelines; however, in most cases, payments are treated as royalty payments.   |
| <b>Colombia</b><br><br>Deductible or amortizable if tax has been withheld.  | <b>Italy</b><br><br>Payments for patents, processes, and formulas can be depreciated over two years; trademarks over 18 years. Other rights deductible or amortizable over useful life or agreed period (Presidential Decree no. 917/86, article 103). |
| <b>Czech Republic</b><br><br>Deductible or amortizable.   | <b>Japan</b><br><br>Deductible or amortizable over useful life.  |
| <b>Denmark</b><br><br>Deductible or amortizable.  | <b>Kazakhstan</b><br><br>No specific provisions.   |
| <b>Ecuador</b><br><br>Deductible if they relate to the Ecuadorian taxpayer's activity and the withholding tax is 25 percent.  | <b>Kenya</b><br><br>No guidelines provided.  |
| <b>Finland</b><br><br>Deductible directly or amortizable over useful life, maximum of 10 years.   | <b>Korea</b><br><br>Deductible or amortizable over useful life.  |



























# Payer's tax treatment of payments to a contributor of pre-existing intangibles to CCA or CSA

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| <b>Luxembourg</b><br><br>Follows OECD Guidelines, Chapter VIII.  | <b>Singapore</b><br><br>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.  |
| <b>Malaysia</b><br><br>Deductibility will depend on the nature of intangibles. Payments incurred during the development of an intangible would more likely than not be considered capital in nature, and hence not deductible for tax purposes.    | <b>Slovak Republic</b><br><br>Deductible or amortizable.   |
| <b>Mexico</b><br><br>Decided on a case-by-case basis.  | <b>South Africa</b><br><br>Deductible or amortizable over useful life.   |
| <b>Netherlands</b><br><br>Generally, capitalization of payments and amortizable over the economic life of the Intangible. The maximum amortization for goodwill is 10 percent of the value per year.   | <b>Spain</b><br><br>Deductible or amortizable over useful life.  |
| <b>New Zealand</b><br><br>Amortizable over useful life, provided asset satisfies the definition of depreciable intangible property.  | <b>Sweden</b><br><br>Deductible or amortizable.  |
| <b>Norway</b><br><br>Normally capitalized and amortized to the extent that the decline in value is obvious.  | <b>Switzerland</b><br><br>Buy-in payments are deductible or amortizable over useful life (decided on a case-by-case basis depending on facts and accounting treatment).  |
| <b>OECD</b><br><br>CCA rules state that the costs of any CCA should be judged by reference to the benefits derived or expected.  | <b>Taiwan</b><br><br>Deductible or amortizable over useful life.   |
| <b>Peru</b><br><br>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 it relates to the generation of taxable income in Peru, and the amount is reasonable. | <b>Thailand</b><br><br>Deductible or amortizable over useful life depending on specific facts. Payments must relate directly to the taxpayer's business.   |
| <b>Philippines</b><br><br>Not applicable.  | <b>Turkey</b><br><br>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. |
| <b>Poland</b><br><br>No specific provision.  | <b>UK</b><br><br>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.  |
| <b>Portugal</b><br><br>Deductible and amortizable over the period of use of the intangible, if applicable.   | <b>USA</b><br><br>Reg. §1.482-7T. Buy-in deductible or amortizable over the appropriate useful life (see, e.g., IRC §167, §197).   |
| <b>Romania</b><br><br>Generally follows OECD Guidelines. The Romanian legislation does not include any requirements in this respect.   | <b>Venezuela</b><br><br>Not applicable.  |
| <b>Russia</b><br><br>Not applicable.   | <b>Vietnam</b><br><br>Not applicable.  |



# Statute of limitations on assessment for transfer pricing adjustments

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| <b>Argentina</b><br><br>Generally six years from tax year-end.  | <b>France</b><br><br>Three 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 (Tax Procedure Book, L. 188A).   |
| <b>Australia</b><br><br>Currently no time limit on ATO's authority to make transfer pricing adjustments; however, it has been proposed to limit this to eight years.  | <b>Germany</b><br><br>Four years from end of year within which the return is filed; 10 years in case of tax evasion or fraud.  |
| <b>Austria</b><br><br>Five to ten years from tax year-end, depending on the specific circumstances.   | <b>Hong Kong</b><br><br>Within six years after the year of assessment in which the transaction took place.   |
| <b>Belgium</b><br><br>Generally, three years from tax year-end (five years in case of fraud).   | <b>Hungary</b><br><br>Five years from the last day of the year when the pertinent tax return is due.   |
| <b>Brazil</b><br><br>Five years from the date of filing the return.   | <b>India</b><br><br>Forty-five months from tax year-end.   |
| <b>Canada</b><br><br>For Canadian private corporations, six years from date of initial assessment after return filing; for foreign controlled corporations and public corporations, seven years from that date. | <b>Indonesia</b><br><br>General rule. Starting with tax year 2008, the statute of limitations is five years.   |
| <b>Chile</b><br><br>The general statute of limitations is three years from the date of the infraction or breach.  | <b>Ireland</b><br><br>General rules of assessment apply. Effective January 1, 2005, time limit is four 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. Domestic time limits are overridden by the terms of any applicable tax treaty and the EU Arbitration Convention. |
| <b>China</b><br><br>The new EIT law confirms that the statute of limitations on assessment of transfer pricing adjustments is 10 years.   | <b>Israel</b><br><br>Three years from the end of the tax year for which a return is filed.   |
| <b>Colombia</b><br><br>General rule is two years from date of filing income tax return.   | <b>Italy</b><br><br>Four calendar year from the end of the calendar years in which the tax return was filed. The term is extended to eight years in case of assessment of criminal infringements. Tax returns for years 1997-2002 remain open to assessment for six years (instead of the ordinary four) if the company did not avail itself of any of the tax amnesties available for those years.  |
| <b>Czech Republic</b><br><br>General provisions apply; term of limitation at least three years from the end of taxable period in which tax return was submitted; period can be extended up to 17 years.       | <b>Japan</b><br><br>Six years from due date for filing return.   |
| <b>Denmark</b><br><br>Five years and four months from tax year-end.   | <b>Kazakhstan</b><br><br>Five years, as stipulated by general tax legislation (the Tax Code).  |
| <b>Ecuador</b><br><br>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.                                 | <b>Kenya</b><br><br>No information available.  |
| <b>Finland</b><br><br>General rules apply; five years from finalization of the actual assessment of the filed tax return (in practice, six years from tax year-end).  | <b>Korea</b><br><br>Five years from the day after the due date for filing tax return; seven years for nonfilers; 10 years in case of fraud.  |

# Statute of limitations on assessment for transfer pricing adjustments















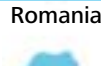

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| <b>Luxembourg</b><br><br>Generally five years from tax year-end; this period is delayed when postponement of payment. In case of tax evasion, 10 years.   | <b>Singapore</b><br><br>Six years from the year of assessment to which the income/expense is related. Effective from year of assessment 2008, this period is reduced to four years. In cases of tax evasion, period is unlimited. |
| <b>Malaysia</b><br><br>Six 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.  | <b>Slovak Republic</b><br><br>Five years from the end of the year in which the annual income tax return should be filed.  |
| <b>Mexico</b><br><br>Generally, five years from date of filing return.  | <b>South Africa</b><br><br>Three years from date of original assessment when full disclosure has been made. No limitation for inaccurate or incomplete disclosure.  |
| <b>Netherlands</b><br><br>Generally, five years from tax year-end. Twelve years if adjustment relates to income from foreign country.   | <b>Spain</b><br><br>Normally four years from the due date for filing the corporate income tax return.   |
| <b>New Zealand</b><br><br>Four years from end of year in which return is filed.   | <b>Sweden</b><br><br>Six years from tax year-end.   |
| <b>Norway</b><br><br>Generally 10 years from tax year-end. Limited to two years if taxpayer has provided all relevant information at the time of filing.  | <b>Switzerland</b><br><br>Generally, five years after the taxable year in question, but in case of appeals, up to 15 years.   |
| <b>OECD</b><br><br>Determined under local law.  | <b>Taiwan</b><br><br>Generally, five years from the date of filing the return.  |
| <b>Peru</b><br><br>Four years, extended to six years if a return was not filed. *PER   | <b>Thailand</b><br><br>Summons for tax examination must be issued within two years of the filing date or five years when tax evasion is suspected. Tax assessment must be issued within 10 years.                                |
| <b>Philippines</b><br><br>Within three years after the last day prescribed by law for the filing of the respective tax return. If the tax return is filed beyond the period prescribed by law, the three-year period will be counted from the day the return was filed. | <b>Turkey</b><br><br>Five years from tax year-end.  |
| <b>Poland</b><br><br>Five years from the end of the year in which the tax return is filed.  | <b>UK</b><br><br>Six years from accounting year-end. May be extended up to 21 years in case of negligence or fraud.   |
| <b>Portugal</b><br><br>General provisions apply. Tax assessments may be issued only within a four-year period following December 31 of the tax year concerned.  | <b>USA</b><br><br>Three years from original due date or filing date of return, whichever is later. For substantial omissions of income, period is extended to six years. In cases of nonfiling or fraud, period is unlimited.   |
| <b>Romania</b><br><br>The statute of limitation is currently five years.  | <b>Venezuela</b><br><br>Four years from the date of filing return. Six years if overall tax compliance was not accomplished.  |
| <b>Russia</b><br><br>Three years from tax year-end.   | <b>Vietnam</b><br><br>General rules apply: five years from tax year-end.  |

# Commissionaire arrangements allowed?

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| <b>Argentina</b><br> Yes.   | <b>France</b><br> Yes, but such arrangements are targeted for tax audits.   |
| <b>Australia</b><br> Yes. While Australian tax law does not prohibit the use of commissionaire arrangements, they are generally ineffective because they give rise to significant permanent establishment issues. | <b>Germany</b><br> Yes.   |
| <b>Austria</b><br> Yes.   | <b>Hong Kong</b><br> Yes. However; the use of commissionaire arrangements is generally ineffective because they give rise to significant permanent establishment issues in Hong Kong for the foreign principal. |
| <b>Belgium</b><br> Yes.   | <b>Hungary</b><br> Yes.   |
| <b>Brazil</b><br> Yes.  | <b>India</b><br> No specific statutory authorization.   |
| <b>Canada</b><br> No.   | <b>Indonesia</b><br> Yes. No restriction.   |
| <b>Chile</b><br> No specific statutory authorization.   | <b>Ireland</b><br> Yes.   |
| <b>China</b><br> There is no specific provision. However, foreign principal will likely have a permanent establishment in China.  | <b>Israel</b><br> Yes.  |
| <b>Colombia</b><br> Yes.  | <b>Italy</b><br> Yes.   |
| <b>Czech Republic</b><br> Yes.  | <b>Japan</b><br> No specific statutory authorization.   |
| <b>Denmark</b><br> Yes.   | <b>Kazakhstan</b><br> No specific provisions.   |
| <b>Ecuador</b><br> Not applicable.  | <b>Kenya</b><br> No guidelines provided. The principle will have to be tested with the KRA.   |
| <b>Finland</b><br> Yes.   | <b>Korea</b><br> Yes.   |


















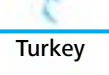
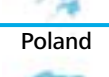



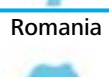
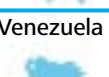




# Commissionaire arrangements allowed?

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| <b>Luxembourg</b><br> Yes.   | <b>Singapore</b><br> Yes, but arrangements give rise to significant risk of creating a permanent establishment.  |
| <b>Malaysia</b><br> Yes, but arrangements give rise to significant risk of creating a permanent establishment.   | <b>Slovak Republic</b><br> Yes.  |
| <b>Mexico</b><br> Yes, although subject to increased scrutiny from tax authorities.  | <b>South Africa</b><br> Yes.   |
| <b>Netherlands</b><br> Yes.  | <b>Spain</b><br> Yes, even though there is no specific legal framework for them, and the Spanish tax authorities have focused from 2008 on analyzing the PE exposure of such agreements. |
| <b>New Zealand</b><br> Undisclosed principal arrangement may be achieved. Care must be taken when drafting the legal agreements to achieve the desired result. | <b>Sweden</b><br> Yes.   |
| <b>Norway</b><br> Yes.   | <b>Switzerland</b><br> Yes.  |
| <b>OECD</b><br> Determined under local law.  | <b>Taiwan</b><br> Yes.   |
| <b>Peru</b><br> Yes.  | <b>Thailand</b><br> Yes, but arrangements give rise to significant risk of creating a permanent establishment.  |
| <b>Philippines</b><br> Yes.  | <b>Turkey</b><br> There is no specific authorization for commissionaire arrangements. Such arrangements may give rise to permanent establishment risk.                                 |
| <b>Poland</b><br> Yes.   | <b>UK</b><br> Yes, but should be expected to be subject to HMRC challenge. In the UK the equivalent of a "commissionaire" is an "undisclosed agent."                                   |
| <b>Portugal</b><br> Yes.   | <b>USA</b><br> No.   |
| <b>Romania</b><br> Yes, commissionaire arrangements are allowed.   | <b>Venezuela</b><br> No.   |
| <b>Russia</b><br> Yes.   | <b>Vietnam</b><br> Not applicable.   |






















# Availability of benchmarking/comparative data

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| <p><b>Argentina</b></p>  <p>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.</p>  | <p><b>France</b></p>  <p>Yes, benchmark and economic analysis are highly recommended to support the audited company's results.</p>  |
| <p><b>Australia</b></p>  <p>Financial data from published accounts is available via numerous databases.</p>  | <p><b>Germany</b></p>  <p>External comparable data on German comparables is hardly available.</p>   |
| <p><b>Austria</b></p>  <p>Pan-European data is used.</p>   | <p><b>Hong Kong</b></p>  <p>Yes. However; the use of commissionaire arrangements is generally ineffective because they give rise to significant permanent establishment issues in Hong Kong for the foreign principal.</p>  |
| <p><b>Belgium</b></p>  <p>Financial data from published accounts is available via numerous databases, mainly Amadeus and Belfirst.</p>   | <p><b>Hungary</b></p>  <p>Limited local data available; however, pan-European data may be used for transfer pricing purposes.</p>   |
| <p><b>Brazil</b></p>  <p>Limited local data available. Reliable international information may be used to calculate comparable prices. Materiality for samples used as PIC or PVL method of 10 percent.</p>   | <p><b>India</b></p>  <p>The available databases provide financial statements and related profitability of external comparables. However, the databases are not comprehensive.</p>   |
| <p><b>Canada</b></p>  <p>Numerous databases containing detailed information on Canadian public companies are available.</p>  | <p><b>Indonesia</b></p>  <p>Limited local database.</p>   |
| <p><b>Chile</b></p>  <p>Limited local data available.</p>  | <p><b>Ireland</b></p>  <p>Not generally available.</p>  |
| <p><b>China</b></p>  <p>The tax authorities generally require the use of Chinese comparable companies (listed on the Shanghai and Shenzhen stock markets) but may also accept foreign comparable companies if necessary. In Circular Guo Shui Han [2005] No. 239, the tax authorities state that they could use as a possible resource the BvD Osiris database during a transfer pricing audit. Based on the newly released implementation regulations, the tax authorities may use both public and nonpublic information to analyze whether related-party transactions conform to the arm's length principle.</p> | <p><b>Israel</b></p>  <p>Limited local data available.</p>  |
| <p><b>Colombia</b></p>  <p>There is information about private companies, but no formal position from the tax authorities on its use as benchmark.</p>  | <p><b>Italy</b></p>  <p>Not generally available.</p>  |
| <p><b>Czech Republic</b></p>  <p>Pan-European database Amadeus is available to the Czech tax authorities. Companies are entitled to support their transfer pricing arrangements with benchmark analysis.</p>   | <p><b>Japan</b></p>  <p>Available using several databases with SIC codes and keywords (many of them in Japanese).</p>   |
| <p><b>Denmark</b></p>  <p>Financial data from published accounts is available via Danish databases.</p>  | <p><b>Kazakhstan</b></p>  <p>A list of international bulletins, magazines, and other sources of information established by Resolution of the Government dated 12 March 2009. The list of officially recognized sources of information on market prices has first priority. Other sources of data may be used under the following hierarchy: (1) sources of information on stock exchange quotations; (2) data of state bodies, authorized bodies of other states and organizations; (3) information programs used for purposes of transfer pricing, information submitted by the transaction parties, and other sources of information.</p> |
| <p><b>Ecuador</b></p>  <p>Yes, but the number of local publicly held companies is limited.</p>   | <p><b>Kenya</b></p>  <p>No database of local comparables is available. KRA has formally accepted the use of European comparables. KRA has subscribed to the <i>Orbis</i> database, which contains global comparables.</p>   |
| <p><b>Finland</b></p>  <p>Available; Finnish companies must file their financial statements with the public trade register each year.</p>  | <p><b>Korea</b></p>  <p>Yes. Several databases are available to the public.</p>   |









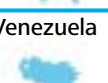
# Availability of benchmarking/comparative data

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| <p><b>Luxembourg</b></p>  <p>Limited Luxembourg comparables data. Pan-European benchmark study usually accepted.</p>  | <p><b>Singapore</b></p>  <p>Several business databases available to identify comparable companies. Financial data from published accounts is available from the Accounting and Corporate Regulatory Authority.</p>             |
| <p><b>Malaysia</b></p>  <p>No online database of local private limited companies exists. Because IRB requires local comparables, searches are done manually at the Companies Commission of Malaysia.</p>  | <p><b>Slovak Republic</b></p>  <p>Pan-European database Amadeus is available to the Slovak tax authorities. Companies are entitled to support their transfer pricing arrangements with benchmark analyses.</p>                 |
| <p><b>Mexico</b></p>  <p>Very limited local comparable transactions and companies information is available; generally taxpayers and the tax administration have used foreign comparable data for benchmarking purposes.</p>   | <p><b>South Africa</b></p>  <p>Comparables data regarding South African companies is not publicly available.</p>   |
| <p><b>Netherlands</b></p>  <p>Yes.</p>  | <p><b>Spain</b></p>  <p>Iberian database Sabi provides information on more than 1 million Spanish companies. Pan-European database with Pan-European data is also used.</p>  |
| <p><b>New Zealand</b></p>  <p>Limited public New Zealand comparable data is available regarding companies and certain transaction types.</p>  | <p><b>Sweden</b></p>  <p>Yes. Information is available from the Swedish Companies Registration Office.</p>   |
| <p><b>Norway</b></p>  <p>Yes.</p>   | <p><b>Switzerland</b></p>  <p>Limited Swiss comparables data. Pan-European benchmark study usually accepted.</p>   |
| <p><b>OECD</b></p>  <p>The OECD guidelines set the standard for comparability.</p>  | <p><b>Taiwan</b></p>  <p>Data on public companies may be found through the Securities and Futures Bureau website or in newspapers.</p>   |
| <p><b>Peru</b></p>  <p>Available local data is very limited.</p>   | <p><b>Thailand</b></p>  <p>Audited financial statements filed by all registered (private and public) companies with the Thai Ministry of Commerce are available through an online database.</p>                               |
| <p><b>Philippines</b></p>  <p>No readily available data. Benchmarking and selection of comparative data for local comparables may be done by accessing the Philippine Securities and Exchange Commission portal.</p>  | <p><b>Turkey</b></p>  <p>Not generally available. There is no local database providing comparative data for Turkish companies. Only public companies' financial statements are available to the public.</p>                  |
| <p><b>Poland</b></p>  <p>Increased role of benchmarking; the tax authorities try to use secret comparables in audits.</p>   | <p><b>UK</b></p>  <p>Detailed information on UK registered companies is available.</p>   |
| <p><b>Portugal</b></p>  <p>General lack of comparative data for independent companies because of the relatively small economy; taxpayers use SABI database covering Portuguese and Spanish companies.</p>   | <p><b>USA</b></p>  <p>Multiple local databases containing sufficient qualitative and quantitative information to identify comparables exist and information from these databases is acceptable to local tax authorities.</p> |
| <p><b>Romania</b></p>  <p>Usually, the Amadeus Bureau van Dijk database is used. However, if there are other ways to obtain relevant financial data available for comparable companies, such information may be used.</p>   | <p><b>Venezuela</b></p>  <p>Yes, but the number of local publicly held companies is limited.</p>   |
| <p><b>Russia</b></p>  <p>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.</p> | <p><b>Vietnam</b></p>  <p>Local Vietnamese company comparables are very limited due to the limited number of public companies and the quality of information available.</p>  |














# Are foreign comparables acceptable to local tax authorities?

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| <b>Argentina</b><br>        | 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.   | <b>France</b><br>       | No, except pan-European benchmarks, and only if they include a meaningful set of French entities.                    |
| <b>Australia</b><br>        | The ATO prefers local comparable data; however, it may accept foreign comparables when suitable local comparables are not available. *AUS  | <b>Germany</b><br>      | Pan-European benchmarks are often accepted by German tax authorities.  |
| <b>Austria</b><br>          | Yes.   | <b>Hong Kong</b><br>    | In the absence of local comparables, yes, as long as they can be proved to be comparable to the tested party.        |
| <b>Belgium</b><br>          | Yes. Belgian tax authorities allow the use of pan-European comparables.  | <b>Hungary</b><br>      | Yes.   |
| <b>Brazil</b><br>           | Foreign comparables are acceptable only for purposes of the PIC method in relation to import transactions, and PVA and PVV method in relation to export transactions. Materiality for samples used as PIC method of 10 percent.  | <b>India</b><br>        | No specific prohibition.   |
| <b>Canada</b><br>           | 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. | <b>Indonesia</b><br>    | No formal provision/guidelines. In practice, Pan-Asian and global public listed comparable companies are acceptable. |
| <b>Chile</b><br>            | Yes.   | <b>Ireland</b><br>      | Yes.   |
| <b>China</b><br>          | 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.                   | <b>Israel</b><br>     | Israeli comparables are preferred, but if not available, relevant foreign comparables may be considered. *ISR        |
| <b>Colombia</b><br>       | Yes.   | <b>Italy</b><br>      | Yes, provided local comparables are not available and foreign markets are deemed similar enough.                     |
| <b>Czech Republic</b><br> | Czech comparables are preferred, but if not available, relevant foreign comparables may be considered. Pan-European benchmark searches are generally accepted by the Czech tax authorities.  | <b>Japan</b><br>      | No.  |
| <b>Denmark</b><br>        | Yes.   | <b>Kazakhstan</b><br> | Yes.   |
| <b>Ecuador</b><br>        | Yes.   | <b>Kenya</b><br>      | Yes. However, there is no guidance on adjustments that should be made.   |
| <b>Finland</b><br>        | Yes. Pan-European comparables accepted, but comparability analyzed on a case-by-case basis.  | <b>Korea</b><br>      | Yes, but subject to aggressive scrutiny. Local comparables are preferred.  |
















# Are foreign comparables acceptable to local tax authorities?

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| <p><b>Luxembourg</b></p>  <p>No specific regulations. Pan-European benchmark study usually accepted.</p>   | <p><b>Singapore</b></p>  <p>No specific guidelines published by the Singapore Tax Authority. Foreign comparables would likely be acceptable if it is not feasible to obtain domestic comparables.</p>  |
| <p><b>Malaysia</b></p>  <p>Only when it can be proven that no Malaysian comparables are available. In those cases, Pan-Asian comparables are preferred.</p>  | <p><b>Slovak Republic</b></p>  <p>Yes. The Slovak tax authorities prefer Slovak comparables. If not available, relevant foreign comparables may be considered. The Slovak tax authorities generally accept Pan-European benchmark searches.</p>  |
| <p><b>Mexico</b></p>  <p>Yes.</p>  | <p><b>South Africa</b></p>  <p>Yes. Pan-European comparables are preferred, although U.S. and Australian comparables may be acceptable in some circumstances.</p>  |
| <p><b>Netherlands</b></p>  <p>Generally, yes, as long as markets are similar.</p>  | <p><b>Spain</b></p>  <p>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.</p>   |
| <p><b>New Zealand</b></p>  <p>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.</p>   | <p><b>Sweden</b></p>  <p>An assessment will be made on a case-by-case basis. Pan-European comparables will normally be accepted if comparability factors according to the OECD Guidelines are met.</p>   |
| <p><b>Norway</b></p>  <p>No specific regulation. Pan-European comparables will normally be accepted if OECD Guidelines' comparability factors are met.</p>   | <p><b>Switzerland</b></p>  <p>No specific prohibition; in practice acceptable.</p>   |
| <p><b>OECD</b></p>  <p>Geographic location is one factor 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</p>  | <p><b>Taiwan</b></p>  <p>Taiwan comparables are preferred. However, the tax authorities will accept foreign comparables if the number of Taiwan comparables is insufficient.</p>   |
| <p><b>Peru</b></p>  <p>Yes, the law expressly states that foreign comparables are acceptable.</p>   | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>Yes, if local comparables are not available.</p>   | <p><b>Turkey</b></p>  <p>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 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 access. Turkish taxpayers are advised to be ready to challenge this approach.</p> |
| <p><b>Poland</b></p>  <p>Only if taxpayer can prove that local data is unavailable.</p>  | <p><b>UK</b></p>  <p>Sometimes (the HMRC's general preference is for UK comparables).</p>  |
| <p><b>Portugal</b></p>  <p>Local comparables preferred, but others permitted whenever Iberian comparables are not available.</p>   | <p><b>USA</b></p>  <p>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. *US</p>   |
| <p><b>Romania</b></p>  <p>Yes. According to Order 222 / 2008 regarding the content of the transfer pricing documentation file, when a benchmark study is performed, it is recommended that Romanian comparables be used. However, if there is not enough information within the Romanian market, comparable companies from the European Union or international comparables are accepted.</p> | <p><b>Venezuela</b></p>  <p>Yes, there is no legal limitation on using foreign comparable companies.</p>   |
| <p><b>Russia</b></p>  <p>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.</p>  | <p><b>Vietnam</b></p>  <p>No formal provision/guidelines, but in practice foreign comparables would be acceptable as supporting documentation if no or limited domestic comparables are available. ASEAN or pan-Asian comparables would be preferable.</p>   |


















# Are management fees deductible?

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| <b>Argentina</b><br><br>Yes, but payments must satisfy the arm's length standard and have a direct relation with the income generated, and documentation must be kept.  | <b>France</b><br><br>Yes, provided they meet the arm's length standard.  |
| <b>Australia</b><br><br>Yes, subject to general rules of deductibility under s. 8-1 <i>Income Tax Assessment Act 1997</i> .   | <b>Germany</b><br><br>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).   |
| <b>Austria</b><br><br>Yes. Follows OECD Guidelines.   | <b>Hong Kong</b><br><br>Generally yes, but subject to the general deductibility condition under Section 16(1) of the Inland Revenue Ordinance, as well as the arm's length requirement.  |
| <b>Belgium</b><br><br>Yes. Follows OECD Guidelines.   | <b>Hungary</b><br><br>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.  |
| <b>Brazil</b><br><br>Yes, if the services are provided as rendered and are necessary, useful, and common to the kind of business in question. However, the transfer pricing rules will be applied to determine the deductible amount.   | <b>India</b><br><br>No formal guidelines, but payments for management fees may be deductible.  |
| <b>Canada</b><br><br>Yes, provided the charge is in accordance with the arm's length principle.   | <b>Indonesia</b><br><br>Generally, yes. Articles 6 and 9 of Income Tax Law.  |
| <b>Chile</b><br><br>Yes, as long as there is a direct and verifiable relationship between the need for the service and the income.  | <b>Ireland</b><br><br>No specific legislation. General rules on deductible expenses apply, that is, deductible provided connected with company's trade and on an arm's length basis.   |
| <b>China</b><br><br>According to article 49 of the implementation rules to the new EIT law, management fees are not deductible. Fees for specific services received may be deductible, but the tax authorities will likely request for extensive documentary evidence on the services being provided, the reasonableness of the charging basis, benefits derived by the PRC entity from such services, etc. | <b>Israel</b><br><br>Yes, provided the fees are at arm's length.   |
| <b>Colombia</b><br><br>Yes.   | <b>Italy</b><br><br>Yes, provided the fees are at arm's length; are adequately supported/documented; refer to services inherent to the taxpayer's business activity; and benefits are proved/documented. Stewardship costs, as well as costs for "duplicated" services, are not deductible.  |
| <b>Czech Republic</b><br><br>Generally, yes; however, tax deductibility is determined on a case-by-case basis.  | <b>Japan</b><br><br>Arm's length charges for intragroup management and similar services are deductible (in accordance with the OECD Guidelines and Japan's TP guidelines).   |
| <b>Denmark</b><br><br>Yes.  | <b>Kazakhstan</b><br><br>Yes, in accordance with general tax legislation (the Tax Code), if related to generation of taxable income and documented justifiably. Not deductible by nonresident companies if not associated with a permanent establishment in Kazakhstan.  |
| <b>Ecuador</b><br><br>Yes, provided the corresponding income tax was withheld.  | <b>Kenya</b><br><br>Generally, yes.  |
| <b>Finland</b><br><br>Yes, provided the services benefit the company and the arrangement meets the general documentation and pricing requirements.  | <b>Korea</b><br><br>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; iii) Payments for the services must be at arm's length; and iv) Service agreement should be in writing. |

# Are management fees deductible?





















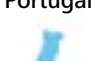


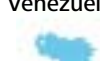


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| <p><b>Luxembourg</b></p>  <p>Yes, provided the fees are at arm's length.</p>   | <p><b>Singapore</b></p>  <p>Yes, if they are incurred wholly and exclusively in the production of assessable income of the payer, are not referable to stewardship function, and the quantum satisfies arm's length standard. For reimbursement /cost allocation, the expense must not be specifically prohibited under Singapore Income Tax Act.</p>  |
| <p><b>Malaysia</b></p>  <p>Yes, to the extent the fees are revenue in nature and directly related to services provided to the Malaysian entity. Benefits analysis, evidence of services received, and proof of arm's length nature of the payment are required.</p>  | <p><b>Slovak Republic</b></p>  <p>Generally, yes; however, tax deductibility is determined on a case-by-case basis.</p>  |
| <p><b>Mexico</b></p>  <p>Yes, provided information is available to demonstrate the service was actually provided, the charge is not made on an allocation basis, and other formal requirements are met.</p>  | <p><b>South Africa</b></p>  <p>Generally yes. When an indirect method of allocation has been used, it is necessary to apply to the South African Reserve Bank to remit the management fees. This application must be made on an annual basis.</p>  |
| <p><b>Netherlands</b></p>  <p>Yes. Specific guidance on management fees is included in the Decree of August 21, 2004, nr. IFZ 2004/680 (Decree on intercompany services and CCAs).</p>   | <p><b>Spain</b></p>  <p>Management fees are deductible if they're at arm's length, and the service produces or may produce a profit to the company receiving the services. This benefit must be proved and documented.</p>   |
| <p><b>New Zealand</b></p>  <p>Yes, to the extent payments are arm's length.</p>  | <p><b>Sweden</b></p>  <p>Yes – if the cost equals the benefit received. OECD principles generally apply for the deductibility of mark-ups.</p>   |
| <p><b>Norway</b></p>  <p>Yes.</p>  | <p><b>Switzerland</b></p>  <p>Yes, provided the fees are at arm's length.</p>  |
| <p><b>OECD</b></p>  <p>Determined under local law.</p>   | <p><b>Taiwan</b></p>  <p>Yes.</p>  |
| <p><b>Peru</b></p>  <p>Yes, they are deductible, except if the fees are paid to a resident in a tax haven.</p>  | <p><b>Thailand</b></p>  <p>Yes, provided the services result in a benefit to the Thai company and the fees are determined on an arm's length basis.</p>   |
| <p><b>Philippines</b></p>  <p>Yes.</p>   | <p><b>Turkey</b></p>  <p>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).</p> |
| <p><b>Poland</b></p>  <p>Yes, provided the benefit test is met. Costs of shareholders' activities are not deductible.</p>  | <p><b>UK</b></p>  <p>Yes.</p>  |
| <p><b>Portugal</b></p>  <p>Yes. However, the management fees must reflect the economic benefit and the arm's length principle, such as the specific rules of intragroup services, as defined in article 12 of TP Ministerial Order.</p>  | <p><b>USA</b></p>  <p>Yes. IRC §162.</p>   |
| <p><b>Romania</b></p>  <p>Yes, if certain conditions are met (i.e., the management services were actually rendered, and supporting documentation for those services is provided).</p>  | <p><b>Venezuela</b></p>  <p>Yes.</p>   |
| <p><b>Russia</b></p>  <p>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).</p> | <p><b>Vietnam</b></p>  <p>Management fees charged to local Vietnamese subsidiaries are not deductible, unless they are for specific services rendered by the foreign parties. Most management fees fail to establish specific services and hence do not get to the question of whether the fees are arm's length. Allocation of overhead expenses to PEs is limited to a formula apportionment based on revenue. However, few companies other than banks operate through PEs in Vietnam due to licensing issues.</p>   |

# Are management fees subject to withholding?

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| <b>Argentina</b><br><br>Yes.  | <b>France</b><br><br>No, except for any portion rejected as not meeting the arm's length standard (deemed dividend).  |
| <b>Australia</b><br><br>No.   | <b>Germany</b><br><br>Generally, no. Withholding taxes may be triggered if management activities also involve the transfer of intellectual property.  |
| <b>Austria</b><br><br>Generally no. However, royalties and payments for the provision of technical or commercial consulting services carried out in Austria are subject to withholding tax.   | <b>Hong Kong</b><br><br>No, but if the foreign company renders the services in Hong Kong, the fees will be subject to tax in Hong Kong itself.  |
| <b>Belgium</b><br><br>No.   | <b>Hungary</b><br><br>As of 1 January, 2010, withholding tax applies on certain payments to foreign entities. Withholding tax is payable by a foreign person or foreign resident person who receives royalties, interest, or certain service fees from a resident taxpayer other than a private individual, provided there is no double tax treaty in effect between the recipient's country of residence and Hungary. Based on the CIT Act, Regulation (EC) No. 1893/2006 should be considered for the determination of service fees, which include fees for management, management consulting, advertising, market research, and business agency activities. The withholding tax rate payable on the income of the foreign entity will be 30 percent, to be deducted and paid by the payer. |
| <b>Brazil</b><br><br>Yes, in general 25 percent withholding tax.  | <b>India</b><br><br>Yes.  |
| <b>Canada</b><br><br>Yes; however, withholding tax is exempted under most income tax treaties.  | <b>Indonesia</b><br><br>Depends on the tax treaty and the availability of the Certificate of Domicile from counterpart tax authority.   |
| <b>Chile</b><br><br>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. | <b>Ireland</b><br><br>No.   |
| <b>China</b><br><br>Effective 1 January 2008, fees for services rendered both in and outside the PRC are subject to Business Tax at a 5 percent rate.  | <b>Israel</b><br><br>Generally, no.  |
| <b>Colombia</b><br><br>Yes, if the service has been rendered in Colombia.   | <b>Italy</b><br><br>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.).   |
| <b>Czech Republic</b><br><br>Depends on pertinent tax treaty. In most cases, there is no withholding tax on management fees.  | <b>Japan</b><br><br>No withholding tax if services are performed outside of Japan. Withholding taxes may be applicable if services are performed in Japan.  |
| <b>Denmark</b><br><br>Subject to withholding tax of 25 percent, to the extent the management fees include a royalty component. Withholding tax may be reduced under tax treaties.   | <b>Kazakhstan</b><br><br>Yes, in accordance with general tax legislation (the Tax Code), if received by a nonresident company from Kazakhstan sources and not attributable to that nonresident company's permanent establishment in Kazakhstan. An exemption from Kazakhstan withholding tax may apply under an applicable tax treaty.  |
| <b>Ecuador</b><br><br>Yes, the withholding tax rate is 25 percent.  | <b>Kenya</b><br><br>Yes, subject to withholding tax at a default rate of 20 percent for nonresidents (subject to income tax treaties).  |
| <b>Finland</b><br><br>No.   | <b>Korea</b><br><br>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.  |


















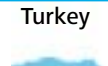








# Are management fees subject to withholding?

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| <p><b>Luxembourg</b></p>  <p>No.</p>  | <p><b>Singapore</b></p>  <p>Following the passing of the Income Tax (Amendment) Act 2009, gazetted on 31 December 2009, withholding tax will no longer apply to management fees for services rendered by nonresidents entirely outside of Singapore.</p>   |
| <p><b>Malaysia</b></p>  <p>Yes, when the services are provided in Malaysia.</p>   | <p><b>Slovak Republic</b></p>  <p>Depends on pertinent tax treaty. In most cases, there is no withholding tax on management fees.</p>  |
| <p><b>Mexico</b></p>  <p>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.</p>   | <p><b>South Africa</b></p>  <p>No.</p>   |
| <p><b>Netherlands</b></p>  <p>No.</p>   | <p><b>Spain</b></p>  <p>Yes, unless a tax treaty is in force. If management fees include intangibles (e.g., software license), royalty withholding tax may apply.</p>  |
| <p><b>New Zealand</b></p>  <p>Withholding tax obligations arise to the extent the fees constitute royalties in accordance with Income Tax Act 2007 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.</p> | <p><b>Sweden</b></p>  <p>No.</p>   |
| <p><b>Norway</b></p>  <p>No.</p>  | <p><b>Switzerland</b></p>  <p>No.</p>  |
| <p><b>OECD</b></p>  <p>Determined under local law.</p>  | <p><b>Taiwan</b></p>  <p>Management fees will be exempt from withholding tax only in the following cases: The fees are allocated from a head office or regional headquarters to Taiwan branch; or the management services are rendered offshore and evidence could be provided to adopt the Rules to Recognize Taiwan-Source Income. Advanced application would be required in the latter situation.</p>   |
| <p><b>Peru</b></p>  <p>Not if the management services are rendered abroad, but if rendered in Peru the fees are subject to 30 percent withholding; if the service qualifies as Technical Assistance, the withholding tax rate would be 15 percent.</p>   | <p><b>Thailand</b></p>  <p>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.</p>  |
| <p><b>Philippines</b></p>  <p>Normally, yes.</p>  | <p><b>Turkey</b></p>  <p>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.</p>  |
| <p><b>Poland</b></p>  <p>No in the case of tax treaty partner countries, provided the Polish entity presents a tax residency certificate of payment prior to the payment and there is tax treaty protection.</p>  | <p><b>UK</b></p>  <p>No.</p>   |
| <p><b>Portugal</b></p>  <p>Yes. However, if there is an income tax treaty the management fees will not be subject to withholding tax, if certain procedures are followed.</p>   | <p><b>USA</b></p>  <p>No.</p>  |
| <p><b>Romania</b></p>  <p>No, if a relevant double tax treaty is in place and a valid certificate of fiscal residency is made available.</p>  | <p><b>Venezuela</b></p>  <p>Yes. The withholding percentage depends on the type of contract. If it is a professional fees contract, withholding is 34 percent of 90 percent of gross income. If it is a technical assistance contract, withholding is 34 percent on a 30 percent basis. When an income tax treaty is in effect, taxation will occur in the country from which the service provision has originated. The company not domiciled in Venezuela will tax according to the treaty, not the local legislation. This applies to both professional fees and technical assistance contracts.</p> |
| <p><b>Russia</b></p>  <p>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.</p>  | <p><b>Vietnam</b></p>  <p>Foreign contractor withholding tax (FCWT) is generally applicable to payments of management fees to foreign entities rendering such services for Vietnamese entities. The FCWT is comprised of both a VAT and a CIT element and has various rates of withholding depending on the circumstances.</p>   |



























# Nature/extent of relationship between parties to a transaction required for transfer pricing rules to apply

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|  <p><b>Argentina</b></p> <p>TP rules apply when transactions are made with foreign affiliates, entities in tax havens, and foreign entities with an economic link.</p>  |  <p><b>France</b></p> <p>Direct or indirect dependence link; dependence can be de jure or de facto.</p>  |
|  <p><b>Australia</b></p> <p>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.</p>  |  <p><b>Germany</b></p> <p>"Related parties" doctrine under sec. 1 para. 2 of the Foreign Tax Code applies. A person is 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 capital, or is able to exercise, directly or indirectly...<b>cont'd on page 66</b></p> |
|  <p><b>Austria</b></p> <p>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.</p>   |  <p><b>Hong Kong</b></p> <p>Both domestic and cross-border transactions could be under attack, if they do not comply with the arm's length principle and result in a tax benefit obtained.</p>   |
|  <p><b>Belgium</b></p> <p>Very broad interpretation of interdependence criteria: not only legal but also factual control (e.g., common management).</p>   |  <p><b>Hungary</b></p> <p>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. Foreign head offices and Hungarian branches are also deemed to be related parties.</p>   |
|  <p><b>Brazil</b></p> <p>Article 2 of Regulatory Instruction No. 243/02 provides detailed list. Entities located in low-tax jurisdictions are considered related for transfer pricing purposes.</p>   |  <p><b>India</b></p> <p>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.</p>  |
|  <p><b>Canada</b></p> <p>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.</p>   |  <p><b>Indonesia</b></p> <p>Related party defined in Article 18 (4) of Income Tax Law. Direct or indirect ownership of at least 25 percent, or association of companies with investment of at least 25 percent. Taxpayers that control other taxpayers, or two or more taxpayers under the same control, either directly and indirectly (incl. management and technology).</p>   |
|  <p><b>Chile</b></p> <p>Transaction between "related parties" (as defined under Chilean law and regulations) in which one of them is a foreign entity.</p>  |  <p><b>Ireland</b></p> <p>The associated test is met if there is more than a 50 percent shareholding connection between two companies, either directly or indirectly.</p>  |
|  <p><b>China</b></p> <p>Broad definition of associated enterprises with a strong emphasis on control. An entity with significant control over the taxpayer's senior management, purchases, sales, production and the intangibles and technologies required for the business is defined as a related party.</p>  |  <p><b>Israel</b></p> <p>When "special relationship" exists between parties to a transaction, includes the relationship between an individual and his/her relatives, the control by 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.</p>  |
|  <p><b>Colombia</b></p> <p>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.</p>   |  <p><b>Italy</b></p> <p>In addition to 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 of, but not limited to, 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).</p>  |
|  <p><b>Czech Republic</b></p> <p>Nature/extent of transaction is decisive, as a substance-over-form rule applies in the Czech Republic.</p>   |  <p><b>Japan</b></p> <p>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).</p>  |
|  <p><b>Denmark</b></p> <p>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.</p>   |  <p><b>Kazakhstan</b></p> <p>The transfer pricing rules apply to both related and unrelated parties.</p>   |
|  <p><b>Ecuador</b></p> <p>Related parties are individuals or legal entities, domiciled or otherwise in Ecuador, in which one party participates, either directly or indirectly, in the management, control, or capital of the other; or in which a third party participates, either directly or indirectly, in the management, control, or capital of the others. Entities domiciled, constituted, or located in a jurisdiction with lower tax rates or in tax havens, and whose taxpayers undertake transactions with Ecuadorian taxpayers, are also considered related parties.</p> |  <p><b>Kenya</b></p> <p>The rules define related parties as one or more enterprises whereby-<br/>(a) one of the enterprises participates directly or indirectly in the management, control, or capital of the other; or<br/>(b) a third person participates directly or indirectly in the management, control, or capital of both.<br/>There is no minimum threshold for either capital or control.</p>  |
|  <p><b>Finland</b></p> <p>Control test: direct or indirect holding of more than 50 percent 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 €500,000.</p>   |  <p><b>Korea</b></p> <p>Special relationship exists if one party i) owns directly or indirectly 50 percent or more of total shares; or ii) has substantial control, and common interests exist between both parties.</p>   |



























# Nature/extent of relationship between parties to a transaction required for transfer pricing rules to apply

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| <p><b>Luxembourg</b></p>     | <p>Concepts of associated enterprises and control are broadly defined. There is no requirement that two parties must be directly linked by way of ownership, but rather that a “special economic relationship” exists between them, i.e. any relationship deviating from usual commercial relationships observed between third parties.</p>   | <p><b>Singapore</b></p>        | <p>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.</p>   |
| <p><b>Malaysia</b></p>       | <p>Under section 140A(5), when transactions or financial assistance arrangements (thin capitalization) are entered into between :-<br/> a) Persons one of whom has control over the other;<br/> b) Individuals who are relatives of each other; or<br/> c) Persons both of whom are controlled by another person.</p>   | <p><b>Slovak Republic</b></p>  | <p>Nature/extent of transaction is decisive, as a substance-over-form rule applies in the Slovak Republic.</p>  |
| <p><b>Mexico</b></p>         | <p>Direct or indirect management, supervision, or ownership in another company.</p>   | <p><b>South Africa</b></p>     | <p>“Connected person” relationships are defined in section 1.1.4 of Practice Note 7 of the South African Income Tax Act.</p>  |
| <p><b>Netherlands</b></p>    | <p>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.</p>  | <p><b>Spain</b></p>            | <p>Extensive rules exist governing the nature of related parties. Those rules have been slightly modified by law 36/2006 and other regulations.</p>   |
| <p><b>New Zealand</b></p>    | <p>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 YB 2(1)). There are also definitions of associated persons for persons, partnerships, and trusts. An anti-avoidance provision (section GB 2) 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.</p>  | <p><b>Sweden</b></p>           | <p>Direct or indirect management, supervision, ownership, or control in another company is required. *SWE</p>   |
| <p><b>Norway</b></p>         | <p>Transfer pricing rules apply when there is community of interest between parties. Filing and documentation rules apply if there is at least 50 percent 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 percent.</p>  | <p><b>Switzerland</b></p>      | <p>No specific rules. OECD definition of “Associated Enterprises” is generally followed by Swiss tax authorities.</p>   |
| <p><b>OECD</b></p>           | <p>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.</p>  | <p><b>Taiwan</b></p>           | <p>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.</p>  |
| <p><b>Peru</b></p>         | <p>1) Partner or common stockholders representing over 30 percent 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 percent of total annual income in favor of one unrelated company or of companies related between themselves and a 30 percent of total annual cost for the buying party...cont’d on page 66</p>   | <p><b>Thailand</b></p>       | <p>Departmental Instruction No. Paw. 113/2545 applies the definition of “Associated Enterprise” from the OECD Guidelines.</p>   |
| <p><b>Philippines</b></p>  | <p>A controlled taxpayer is covered by the transfer pricing rules. Any two or more organizations or trades, or businesses owned or controlled directly or indirectly by the same interests are covered.</p>   | <p><b>Turkey</b></p>         | <p>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 directly or indirectly control or are 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 ...cont’d on page 66</p>   |
| <p><b>Poland</b></p>       | <p>Five 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).</p>   | <p><b>UK</b></p>             | <p>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.</p>   |
| <p><b>Portugal</b></p>     | <p>The main conditions of relationship between related parties are: (i) one entity participates directly or indirectly in at least 10 percent of the share capital or voting rights of another entity; (ii) both entities are at least 10 percent 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; 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).</p> | <p><b>USA</b></p>            | <p>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.</p>  |
| <p><b>Romania</b></p>      | <p>At least one of the entities should own a minimum of 25 percent of the other company (directly or indirectly).</p>   | <p><b>Venezuela</b></p>      | <ul style="list-style-type: none"> <li>• A company’s direct or indirect participation in another company’s management, control or capital.</li> <li>• Direct or indirect participation of two companies in another company’s management, control or capital.</li> <li>• Operations with a party located in a foreign tax haven.</li> <li>• Third party that operates on behalf of a company in Venezuela to perform transactions with a related party of said company in Venezuela. (Art. 116,117, 118 and 119 ITL)</li> </ul>  |
| <p><b>Russia</b></p>       | <p>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 transactions where the price applied by the same taxpayer in analogous transactions deviates by more than 20 percent within a short period of time.</p>  | <p><b>Vietnam</b></p>        | <p>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. In addition, certain commercial relationships such as loans, license of IP, and substantial supplies or purchases between otherwise unrelated entities can make the transactions subject to the TP rules. The TP rules also apply to dealings between a corporate entity and a PE of that entity, and to dealings between PEs.</p> |

# May stock option costs be included in the cost base for intercompany services charges?

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| <b>Argentina</b><br><br>Yes, if the employee who benefits from the plan is included in the subsidiary's payroll.   | <b>France</b><br><br>Administrative costs related to stock option plans could be recharged in the framework of a Management Fees Agreement. General rules of deductibility apply for French tax purposes.   |
| <b>Australia</b><br><br>There are no specific rules in Australia regarding treatment of stock options; therefore, general deductibility rules and the arm's length principle apply, specifically the benefit test.   | <b>Germany</b><br><br>No specific rules; according to the general rules for the cost plus method, the service charge is based on the appropriate costs related to the provision of intercompany services plus an appropriate mark-up. Consequently, as long as the salary including the stock option costs of the employee providing the intercompany services is appropriate, the service charges should be deductible in Germany. However, depending on the structure of the individual stock option plan, this applies only if the stock option plan results in tax deductible cost. |
| <b>Austria</b><br><br>No specific opinion issued by the Austrian tax authorities. The arm's length principle and OECD Transfer Pricing Guidelines must be considered.  | <b>Hong Kong</b><br><br>No specific guidelines. The relevant factors may include the definition of the cost base in the service agreement, and the accounting treatment.  |
| <b>Belgium</b><br><br>No special rules. General OECD principles apply.   | <b>Hungary</b><br><br>No formal guidelines or rulings. Generally, all costs related to the provision of a service should be included in the cost base of that service.  |
| <b>Brazil</b><br><br>No specific regulation. Generally, Brazilian tax legislation considers only the costs directly related to the service performed as part of that service. Each situation must be individually analyzed.  | <b>India</b><br><br>No formal guidelines, but stock options may be included in the cost base for intercompany service charges.  |
| <b>Canada</b><br><br>Stock option costs might be included in the cost base for a Canadian outbound intercompany service charge, but stock option costs are not deductible in Canada.   | <b>Indonesia</b><br><br>No specific restriction.  |
| <b>Chile</b><br><br>No.  | <b>Ireland</b><br><br>Not specified in Irish legislation. Irish Revenue likely to follow OECD guidelines. Tax deductibility of amounts associated with stock option costs depends on the specific costs. Requirement to account for the costs under Irish GAAP/IFRS.  |
| <b>China</b><br><br>No formal provision. In practice, the stock option costs are not included in the cost base for intercompany services charges unless they are included in the local statutory financial statements.  | <b>Israel</b><br><br>No formal provisions.   |
| <b>Colombia</b><br><br>No formal provision or position from the tax authorities.   | <b>Italy</b><br><br>Italian tax authorities have not taken an official position on this topic. In principle, tax deduction might be allowed, provided that, among others, the total intercompany stock option costs recharged are arm's length, and the provisions in the intercompany services agreement are consistent with those that would have been agreed upon by two independent parties.  |
| <b>Czech Republic</b><br><br>Generally, yes. However, Czech tax legislation does not provide any guidance on this subject, and the Czech tax authorities' position is unknown due to lack of practical experience.   | <b>Japan</b><br><br>No specific statutory authorization.  |
| <b>Denmark</b><br><br>No. Stock option costs must be allocated at market price on the date of the allocation.  | <b>Kazakhstan</b><br><br>No specific provisions.  |
| <b>Ecuador</b><br><br>There are no specific rules in Ecuador regarding treatment of stock options; therefore, general deductibility rules and the arm's length principle apply, specifically the benefit test.   | <b>Kenya</b><br><br>Yes, the total costs pertaining to employing certain individuals should be included in the cost base.   |
| <b>Finland</b><br><br>An award settled using newly issued shares does not give rise to a deductible cost for the company. However, if an award is settled using shares purchased from a common stock exchange, the amount paid for the shares will be deductible, provided certain requirements for tax deductibility are met. | <b>Korea</b><br><br>NTS might include stock option costs in the cost base for intercompany service charges if the costs are closely related with the business of the Korean entity.   |

# May stock option costs be included in the cost base for intercompany services charges?

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| <p><b>Luxembourg</b></p>  <p>Yes.</p>  | <p><b>Singapore</b></p>  <p>Yes, as this cost will be considered part of the fully absorbed cost required to provide the service.</p>  |
| <p><b>Malaysia</b></p>  <p>There are no TP rules in Malaysia on the treatment of stock options. Therefore, general deductibility rules and the arm's length principle apply, specifically the benefit test.</p>  | <p><b>Slovak Republic</b></p>  <p>Generally, yes. However, Slovak tax legislation does not provide any guidance on this subject, and the Slovak tax authorities' position is unknown due to lack of practical experience.</p>  |
| <p><b>Mexico</b></p>  <p>There is no specific regulation or audit experience. Likely to be deductible if costs are considered strictly necessary for the Mexican entity's business purpose.</p>  | <p><b>South Africa</b></p>  <p>Yes, the total costs of employing certain individuals should be included in the cost base.</p>  |
| <p><b>Netherlands</b></p>  <p>Certain stock option costs might be included. The Dutch Corporate Income Tax Act, under certain circumstances, excludes these costs from the tax base, making them nondeductible.</p>  | <p><b>Spain</b></p>  <p>Spanish tax law does not provide explicit answer. Nevertheless, any intercompany services charge should pass the "benefit test" and meet the arm's length principle. Accounting regulations could help support the case, but temporary issues need to be handled.</p>  |
| <p><b>New Zealand</b></p>  <p>The IRD has no specific provisions. However, it is expected that general principles will apply and stock option costs can form part of the cost base if they represent a cost of providing services. However, the cost of providing "shareholder services" should not form part of the cost base.</p>  | <p><b>Sweden</b></p>  <p>No formal guidance or case law currently available.</p>   |
| <p><b>Norway</b></p>  <p>No specific regulations.</p>  | <p><b>Switzerland</b></p>  <p>In general, at the level of a Swiss subsidiary, employee stock option costs should qualify as a business-related expense that can be included in the cost base for intercompany service charges, and the tax authorities should allow the deductibility of these costs. However, these costs should be analyzed based on the specific facts and circumstances of each case, as there are some specific rules in Swiss tax law relating to employee stock option costs.</p>   |
| <p><b>OECD</b></p>  <p>There is no bar to this in the OECD Guidelines. It is a question of what would have been agreed to and charged between the parties involved had they been independent enterprises.</p>  | <p><b>Taiwan</b></p>  <p>Yes, stock option costs could be included in the service expenses charged to Taiwan affiliates and not subject to Taiwan withholding tax. The Taiwan entity could take the deduction on its income tax return, but the employees who are granted the stock option must recognize income on their individual income tax returns accordingly.</p>   |
| <p><b>Peru</b></p>  <p>Yes.</p>   | <p><b>Thailand</b></p>  <p>No specific statutory authority. Thailand's tax authority is likely to follow OECD Guidelines.</p>   |
| <p><b>Philippines</b></p>  <p>Yes.</p>   | <p><b>Turkey</b></p>  <p>Stock option cost is a cost incurred for employees and deemed a benefit (salary) provided to the employee. Once charged to a Turkish company regarding an employee, it should normally be made subject to income withholding tax through payroll. Accordingly, stock option costs should be separately treated from intercompany service charges.</p>   |
| <p><b>Poland</b></p>  <p>The issue is not addressed in Polish TP regulations. Costs of stock-based compensation are not listed in Art. 16 of the CIT Act, i.e., they are not directly excluded from tax-deductible costs. Therefore, provisions of Art. 15 of the CIT Act should apply, so if the taxpayer is able to prove that the specific persons whose stock-option plan costs are included in the cost base are engaged in the provision of services for the Polish entity, and these services pass general benefit test, stock-option costs (being a part of the charge-out) may be treated as tax deductible costs...cont'd on page 66</p> | <p><b>UK</b></p>  <p>UK transfer pricing legislation does not include specific guidance on the treatment of stock options as part of a cost plus arrangement. The UK tax authorities have published internal manuals that indicate they would like to see the cost of stock options added to a company's cost base and recharged with a mark up. However, the majority of comparable companies in the UK that would be identified in a benchmarking study do not offer stock options to their employees. Considerable care must be taken in determining whether the cost of stock options should be included in the cost base, and the situation should be reviewed on a case-by-case basis.</p> |
| <p><b>Portugal</b></p>  <p>Yes, provided there is an economic benefit provided to the client company associated to those specific stocks options costs. In general, hedging costs are not allowed.</p>   | <p><b>USA</b></p>  <p>Yes. Treas. Reg. §1.482-9 (services).</p>  |
| <p><b>Romania</b></p>  <p>There are no specific rules in Romania regarding the treatment of stock options; therefore, general deductibility rules and the arm's length principle apply.</p>  | <p><b>Venezuela</b></p>  <p>Considering that the amount of the stock option is a Venezuela-source cost, it may be included in the cost base.</p>   |
| <p><b>Russia</b></p>  <p>Because cost sharing arrangements are not regulated in Russian legislation, the stock option costs may be included in the cost base for intercompany services charges only if the purchase of the stock option was requested by the payer of charges (e.g., under a commissionaire agreement).</p>  | <p><b>Vietnam</b></p>  <p>There are no specific provisions in the regulations that prohibit these costs from being included in the cost base for inter-company services charges.</p>   |

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| Page 3  | CHINA      | <p>... • Circular of the Ministry of Finance and the State Administration of Taxation of Notice on the Tax deductibility of Interest Expense Paid to Related Parties (Cai Shui [2008] No. 121);</p> <ul style="list-style-type: none"> <li>• Circular of the State Administration of Taxation on the Issuance of Requirements of Annual Reporting Forms for Related-Party Transaction of Enterprises (2008 version) (Guo Shui Han [2009] No. 72);</li> <li>• Circular of the State Administration of Taxation on Collection of 2008 Enterprise Income Tax (Guo Shui Han [2009] No. 134) ;</li> <li>• Circular of the State Administration of the Notice on Relevant Issues Concerning Enhancement of the Follow-up Administration on Transfer Pricing Adjustments (Guo Shui Han [2009] No. 188); and</li> <li>• Circular of the State Administration of Taxation on Strengthening Supervision and Investigation of Cross-Border Related-Party Transactions (Guo Shui Han [2009] No. 363).</li> </ul> |
| Page 3  | ECUADOR    | <p>...Resolution No. NAC-DGER 2008-0182, establishing those countries deemed tax havens and jurisdictions with lower tax rates. The supplement to Official Gazette No. 94 of December 23, 2009, introduced a reform effective from year 2010 whereby Ecuadorian taxpayers are exempt from application of the transfer pricing system (a) when their tax liability exceeds 3 percent of taxable income; (b) If no operations are undertaken with tax havens or preferential tax regimes; and (c) the taxpayer has signed no contracts with the Ecuadorian State for the exploration and exploitation of nonrenewable resources.</p>   |
| Page 3  | GERMANY    | <p>...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, which are expected to be issued in 2010.</p>  |
| Page 3  | KAZAKHSTAN | <p>...Order of the Minister of Finance dated 12 February 2009 #63 "On approval of rules for concluding an agreement on application of transfer prices"; Order of the Minister of Finance dated 12 February 2009 #63 "On approval of rules for conducting monitoring of transactions"; "List of exchange goods" adopted by government regulation dated 6 May 2009 #638; "List of countries with concessional tax regime" adopted by government regulation dated 31 December 2008 #1318.</p>   |
| Page 10 | SPAIN      | <p>...<b>For fiscal year 2009 onwards:</b></p> <ul style="list-style-type: none"> <li>• Tax penalty from €1,500 per data to €15,000 per group of data omitted, if there is lack of documentation or incomplete documentation, and no TP adjustment is made.</li> <li>• 15 percent of adjustment (minimum) if documentation is lacking or incomplete and TP adjustment is made.</li> </ul> <p>In some cases, penalties of up to 3 percent of the entity's turnover may be imposed, up to a maximum of €600,000. Secondary adjustments are applicable according to law (i.e. recharacterization of transaction).</p>   |
| Page 10 | VIETNAM    | <p>...When an enterprise commits acts of tax evasion or tax fraud, the fine is one to three times the underdeclared tax. Failure to file the required tax form for related-party transactions and/or to have documentation may trigger the one to three times undeclared tax penalty.</p>  |
| Page 14 | SPAIN      | <ul style="list-style-type: none"> <li>... • Name of the related taxpayer or legal entity</li> <li>• Tax number of the related taxpayer or legal entity</li> <li>• Relationship type</li> <li>• Country or province of the related party</li> <li>• Type of transaction</li> <li>• Transaction characteristic (Income or Payment)</li> <li>• TP Valuation Method</li> <li>• Transaction Amount</li> </ul> <p>The tax authorities are expected to use this information to select TP audit targets.</p>  |
| Page 15 | CHINA      | <p>...excluding transactions covered by APAs or CSAs; or (3) the taxpayer has an advance pricing agreement with tax authorities.</p> <p>Guo Shui Han [2009] No. 363 requires loss-making enterprises with limited functions and risks, such as toll and contract manufacturers, limited -risk distributors or contract R&amp;D service providers to prepare and submit contemporaneous documentation and other relevant materials to justify the structuring of related-party transactions and arm's length nature of their profits to the relevant in-charge tax bureau. Regardless of whether these companies exceed the minimum threshold of documentation requirement under Guo Shui Fa [2009] No. 2 or not, they are required to prepare and submit the contemporaneous by June 20 of the following year when the company incurs losses.</p>  |
| Page 15 | ECUADOR    | <p>...If the total amount exceeds US\$5,000,000, taxpayer must file a transfer pricing report. Taxpayers engaged in transactions with related parties for amounts less than those indicated above, or engaged in transactions with local related parties, must retain adequate supporting information with respect to the application of the arm's length principle in such transactions.</p>  |
| Page 16 | TURKEY     | <p>...Turkish corporate taxpayers 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. 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 reports only with respect to their cross-border transactions with related parties.</p> <p>Related-party transactions with companies in Turkish Free Trade Zones (FTZ) as well as related-party transactions between a company in Turkish FTZ and a local Turkish company are also to be included in the scope of the annual TP documentation report with effect from 1 January 2008.</p>   |

# Answers

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| Page 61 | GERMANY | ...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 62 | PERU    | ...The two requirements must be met to be economically related; 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 persons are included among subjects under analysis if applicable.  |
| Page 62 | TURKEY  | ...(inclusive) natural and in-law relatives of the shareholders. Transactions with parties resident in countries deemed to 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. TP General Communiqué No. 2 has further expanded the scope of related-party definition by treating the purchase of goods by a local Turkish distributor from a foreign company as "related-party transaction" even though there is no shareholder relation between the two parties (an important issue to be considered by motor vehicle distributors in Turkey). |
| Page 64 | POLAND  | ... The issue has not been raised in an audit yet, so there is no case law. If the tax authorities become aware that the stock options are not 'cash expenses' they may begin to disallow or at least more strenuously challenge their deductibility.  |

# Endnotes

## Tax Authority & Law

- Page 1 - 2 \*BEL Law of 21 June 2004 introduced TP-specific cross-border rules and correlative adjustments under Articles 185, §2, and 235 ITC.
- \*CHN The laws and regulations do not govern Hong Kong and Macao as Special Administrative Regions.
- \*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), and 111 (Sec. VI). OECD Transfer Pricing Guidelines.

## Regulations Rulings & Guidelines

- Page 3 - 4 \*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  
TR2007/1 – effect of determinations under Division 13 (3/2007)
- \*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.
- \*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 5 - 6 \*BRZ Safe-harbor exceptions available for exports only. Refer to Regulatory Instructions Nos. 243/02, 382/03.
- \*GER TNMM and CPM are commonly used by tax auditors for a plausibility check.



# Endnotes

## Penalty on Transfer Pricing Assessment

Page 9 - 10 \*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:

|                               |               |
|-------------------------------|---------------|
| 8 March 00 – 7 November 00    | 10.84 percent |
| 8 November 00 – 7 November 01 | 12.62 percent |
| 8 November 01 – 7 March 05    | 11.93 percent |
| 8 March 05 – 7 March 07       | 13.08 percent |
| 8 March 07 – Present          | 14.24 percent |

## Reduction in Transfer Pricing Penalties

Page 11 - 12 \*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.

## Tax Return Disclosures

Page 13 - 14 \*BEL An extensive reporting obligation applies to the following corporations:  
a) corporations listed on a stock exchange;  
b) corporations whose shares are traded on a Multilateral Trading Facility;  
c) corporations that meet more than one of the criteria to be considered a large group under article 16§1 of the Belgian Companies Code.  
These companies must report all non-arm's length transactions with related parties. However, there is an exemption for transactions between group members when the subsidiaries involved are wholly owned by a member of that group. The following information must be reported:  
a) the amounts involved in the transactions;  
b) the nature of the relationship with the related parties; and  
c) all other information needed to ensure an accurate view of the financial position of the corporation.

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

## Documentation Requirements

Page 15 - 16 \*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:

- 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.

## Cost contribution or cost sharing payments deductible?

Page 43 - 44 \*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.

## Cost Contribution Or Cost Sharing Payments Subject To Withholding Tax?

Page 45 - 46 \*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 49 - 50 \*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 Authorities?

- Page 55 - 56 \*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. But this is not restricted to purely geographic market differences; i.e., if there are no comparability differences between geographic markets, then comparable companies should not be rejected merely because they are resident in a different country.
- \*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 Tp Rules To Apply

Page 61 - 62 \*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.

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