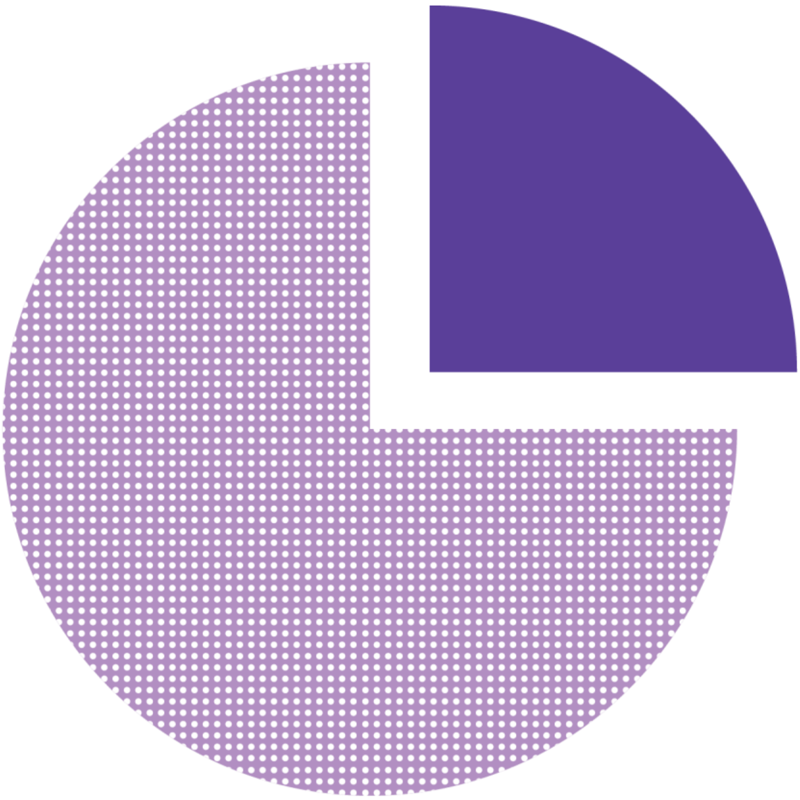
UHY GLOBAL TRANSFER PRICING GUIDE

January 2015



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UHY GLOBAL TRANSFER PRICING GUIDE

FOREWORD

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

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

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

UHY works closely with clients to:
-Determine if selected transfer pricing methods comply with the requirements of the jurisdictions concerned
-Reduce the potential for double tax while minimising the worldwide tax burden
-Meet all documentation and reporting requirements
-Assist with any audits by tax authorities
-Make appropriate applications for advance pricing agreements (APAs).

To discuss the implications of transfer pricing for your business, please contact any one of our national tax specialists who will help you with any queries you may have.

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

UHY International
January 2015

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ALBANIA

TAX AUTHORITY
Drejtoria e Përgjithshme e Tatimeve (English: Directorate General of Taxation). Website: www.tatime.gov.al

TAX LAW
Law Nr. 8438 of 28 Dec 1998 'Income Tax law', (amended with Law Nr. 8711; 8841; 8919; 9161; 9326; 9459).

REGULATIONS & RULINGS
Ministry of Finance Guidance Issue Nr. 1 dated 11 Feb 2002, Transfer Pricing Guidance.
New regulations are coming out in the beginning of 2014.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related parties' transactions as defined in the Article 36 of Tax law 8438 date 28.12.1998 (amended). Ministry of Finance Guidance 2006 Issue Nr. 5 date 30.01.2006.Article 6 'Transfer Pricing'.

PRICING METHODS PRIORITY
Arm's length principle (ALP); OECD methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); and if these methods are inappropriate tax authorities can use other alternative methods.

TRANSFER PRICING PENALTIES
No specific penalties for this matter, however, 100% penalties on the VAT and tax on profit apply as a general rule for tax evasion.

REDUCTION IN PENALTIES
No provisions.

DOCUMENTATION REQUIREMENTS
No statutory documentation required. However, tax authorities can enter into conditional agreement with taxpayers, specifying that price for related parties will not differ from the price used for unrelated parties.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No provision.

STATUTE OF LIMITATIONS
No provision.

ADVANCE PRICING AGREEMENTS (APAS)
Tax authorities can enter into conditional agreement with taxpayers, specifying that price for related parties will not differ from the price used for unrelated parties.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost all OECD Guidelines are followed.

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ANGOLA

TAX AUTHORITY

The tax authority administering transfer pricing law is the Angola Ministry of Finance (MinFin)/National Directorate of Taxes.

TAX LAW

The current tax law on Transfer Pricing in Angola is the Presidential Decree 147/13 – 'Statute of Large Taxpayers' – released on 1 October 2013 and entering into force five days after the publication.

REGULATIONS & RULINGS

The framework for the application of the arm's length principle (ALP) is established both in the Industrial Code (article 55) and the Statute of Large Taxpayers (article 11), with the definition of the types of dependencies that will result in special relations for transfer pricing purposes.
The taxpaying companies whose annual profits exceed 7.000.000.000 Kwanzas (approximately USD 70.000.000) are required to submit a transfer pricing file.
The special relations that should be described in the file take place when one entity has the power to control directly or indirectly the decisions of the other, namely:
-When managers or directors of a company or their close family members hold direct or indirect participation of more than 10% of another company (including vote rights)
-When the majority of board members, managers or directors (or close family members) are the same in both companies
-When entities are bound by a contract of subordination
-When domain, group or reciprocal participations relations exist between the entities, or any other similar relations as foreseen in commercial law
-When trade relations between the parties exceed 80% of total operations
-When one entity finances the other in more than 80% of its credits. It is important to be aware that a comprehensive tax reform in Angola is underway.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The interpretation of the arm's length principle (ALP) in Angola is that tax authorities may enforce corrections to tax returns whenever the conditions of transactions between two entities with special relations differ from those that would be set between independent entities in a way that taxable profits are influenced.

PRICING METHODS PRIORITY

The established pricing methods mentioned in the law are:

-Comparable uncontrolled (CUP);
-Resale price (RPM);
-Cost plus (CP).

All methods are accepted. The law does not mention any priorities between these methods.

TRANSFER PRICING PENALTIES

Not complying with transfer pricing obligations may lead a company to being forbidden from performing capital or trading operations that require the intervention of the National Bank of Angola, meaning that the company will be blocked in fundamental parts of its day-to-day activities.
If transfer pricing adjustments are enforced a 50% penalty on additional tax will be applied and a 2.5% monthly non-compounded rate (or a 30% yearly rate) will be levied.

REDUCTION IN PENALTIES

There are no specific rulings on reductions in penalties. The possibilities for appeal exist in theory but the results are uncertain as the judicial and administrative system in Angola is still improving responsiveness.

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ANGOLA

DOCUMENTATION REQUIREMENTS

The taxpaying companies to whom this law applies (Large Taxpayers) are required to prepare a transfer pricing file that should include information on special relations and prices agreed with related entities in commercial and financial operations. The file should have the following structure:

-Summary;
Macro-economic framework;
-Presentation of the entity;
-Functional analysis of the entity;
-Identification of related-party activities;
-Economic analysis of related-party activities.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

The transfer pricing file should be submitted before a six months deadline, after the closing of the each financial year. That means the 2015 file should be submitted before 30 June 2016. The voluntary submission is mandatory. Therefore taxpayers should deliver the file at their respective tax office.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Identification of related-parties and activities with them is required in the transfer pricing file to be submitted.

STATUTE OF LIMITATIONS

The current statute of limitations applicable to transfer pricing in Angola is five years.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The OECD Guidelines have not been adopted in Angola. Angola is not a member of OECD. There is uncertainty on whether OECD Guidelines will be adopted in the future or followed in practice.

ADVANCE PRICING AGREEMENTS (APAS)

The transfer pricing law in Angola does not mention advance pricing agreements.

BURDEN OF PROOF

The burden of proof for transfer pricing transactions in Angola belongs to the taxpayer. Tax authorities may adjust prices and conditions in operations between related parties based on their conclusions on eventual non-compliance with transfer pricing regulations.

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ARGENTINA

TAX AUTHORITY
AFIP - Agencia Federal de Ingresos Públicos (English: Federal Public Revenue Agency). Website: www.afip.gov.ar

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

REGULATIONS & RULINGS
ITA Regs., Sections 10, 11 & 19 through 21.11. AFIP Reg. No. 1122/2001 (t.o. 2005, as amended).

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Generally follows OECD Guidelines with certain domestic departures. The tested party must be the Argentinean one.

PRICING METHODS PRIORITY
International Price (in transparent markets) is regarded as the best method for tangible goods imports and exports of commodities, or most appropriate method between comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM); transaction or spot price at load date (for commodities exports using certain intermediaries); and other methods (not specified).

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

Late filing of other transfer pricing returns: AR$ 20,000.Non-compliance with formal duties of furnishing information requested by AFIP or failure to keep supporting documents, and failure to file transfer pricing returns upon request: up to AR$ 45,000.

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

Unpaid amounts as a result of international transactions: 100% to 400%.
Fraudulently unpaid amounts: twice to 10 times.

Criminal tax law: imprisonment for two to six years (tax balance in excess of AR$ 100,000 for tax and fiscal year) and for 3½ to 9 years (tax balance in excess of AR$ 1 million). Regular interest on unpaid tax balances.

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

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
-Transfer pricing study, report, annual form 743 and financial statement: 8th month as from fiscal year-end.
-Semi-annual form 742: 5th month as from second quarter end.
-Semi-annual form 741: 5th month as from second and fourth quarter end.
-Annual form 867: 7th month after fiscal year-end.
-Annual form 969: 15 working days after the deadline corresponding to the income tax return.
-Tri-annual forms 886 and 887: next month following end of each four-month period.

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ARGENTINA

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

The arm’s length principle (ALP) test is mandatory for cross-border related parties’ transactions, including common control or management situations, certain intermediaries (in commodities exports transactions), functionally related parties (e.g.: main creditors or debtors) and tax haven entities. Argentinean entity must be the tested party.

STATUTE OF LIMITATIONS

Five years as from 1 January after the transfer pricing return deadline for registered taxpayers and 10 years for unregistered taxpayers. Transfer pricing documentation must be kept for five years on top of the statute of limitation.

ADVANCE PRICING AGREEMENTS (APAS)

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

BURDEN OF PROOF

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

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Local taxpayer must be the tested party. Effective 2014, jurisdictions to be considered Tax Heavens, are listed by the AFIP. Commodities exports using certain intermediaries must be marked to market as of the date of load (i.e.: forwards and futures are disregarded unless price is higher than spot price at load date). Cross-border independent parties' transactions must be benchmarked under certain circumstances.

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AUSTRALIA

TAX AUTHORITY
Australian Taxation Office (ATO). Website: www.ato.gov.au

TAX LAW
Income Tax Assessment Act 1997, Subdivision 815-B, 815-C and 815-D. Specific Double Tax Agreements may also be relevant.

REGULATIONS & RULINGS
The Australian Taxation Office (ATO) has issued a number of public rulings on transfer pricing issues. These rulings can be obtained from the ATO website (under the category Public Rulings, Determinations and Bulletins) at http://law.ato.gov.au/atolaw/index.htm?locid=TXR

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Dealt with in ATO rulings, particularly Taxation Rulings TR94/14, TR97/20, TR98/11 and TR 2014/D3.

PRICING METHODS PRIORITY
No prescribed priorities. ATO preferred approach is first to apply 'traditional' transactional methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP). If these are not acceptable, then 'profit methods' ie: profit split (PSM); or transactional net margin method (TNMM) can be used.

TRANSFER PRICING PENALTIES
Base penalty is typically 25% of tax avoided, however it can be increased to 50% where it is asserted that dominant purpose of the incorrect pricing was tax avoidance. It can also be increased for repeat offenders or by hindering the ATO in their investigations.

REDUCTION IN PENALTIES
The penalties may be reduced to 10%, or 25% respectively, where the taxpayer has a 'reasonably arguable position' for the pricing methodology which was taken by the taxpayer.

DOCUMENTATION REQUIREMENTS
No statutory requirement for documentation, however, a well-documented transfer pricing review may establish a 'reasonably arguable position'. Dealt with in Tax Ruling TR 2014/D4 and PS LA 3672.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Prepared by the time by which the entity lodges its income tax return for the income year relevant to the matter. Not submitted to the ATO.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
International related party dealings are disclosed by all taxpayers on a schedule to the income tax return.

STATUTE OF LIMITATIONS
Generally four years from date of assessment. No time limit in cases of fraud or evasion.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the ATO and bilaterally with foreign tax authorities. APAs cannot be retrospective. Valid for 3-5 years, with an option to extend.

BURDEN OF PROOF
Taxpayer must establish that dealings with related parties are on an arm's length principle (ALP) basis.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
No significant differences.

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AUSTRIA

TAX AUTHORITY
Relevant authority (differs from case to case).

TAX LAW
Austrian Income Tax (§ 6 EStG); Austrian Corporation Tax (§ 8 KStG)

REGULATIONS & RULINGS
Austrian Guidelines 2010 (last version from 28.10.2010) and the OECD Guidelines

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
See above tax law and double tax treaties.

PRICING METHODS PRIORITY
The selection of a transfer pricing method always aims at finding the most appropriate method for a particular case.

If there is the same confidence interval between traditional transaction methods and transactional profit methods, the traditional transaction methods should be preferred.

Traditional transaction methods:
Comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP).

Transactional profit methods:
Transactional net margin (TNMM); transactional profit split (TPS).

TRANSFER PRICING PENALTIES
No specific regulations. During a tax inspection, tax audit adjustments may be carried out because of a discrepancy from arm's length principle (ALP). A penalty is only possible if there is proof of fraudulent intent.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
The Austrian tax law requires documentation. Austrian entrepreneurs are obliged to co-operate with the tax offices in several foreign affairs. As is common between third parties, a prior written contract is necessary. (§ 124 BAO (Bundesabgabenordnung - Federal Tax Code) provides that the person who is obliged under company law to the maintenance and preservation of 'books', has to meet these obligations in the interest of revenue collection.

The relevant records must within a reasonable time allow a third-party expert to examine whether and to what extent the division of income between the taxpayer and the related party complies with the principle of foreign behaviour.)

If the TPD of multinational companies is bulit on the basis of the EU Council Resolution on the EU Code of Conduct on transfer pricing documentation for associated enterprises (OJ from 28.07.2006 p.1, No C 176), it is recognised as a core documentation in the evaluation of transfer prices of a multinational corporation.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
A statutory period does not exist. (But for a tax audit, it is advantageous if the documentation is already available.)

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Generally five years; in special cases more than five years.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Austrian Tax Authorities and multilaterally between tax authorities of several countries. APAs cannot be made retrospectively.

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AUSTRIA

From 1.1.2011 agreements with the tax authority concerning transfer pricing are newly regulated (§ 118 BAO). The written agreement is only binding for the tax authoriy. The request has to be made before realisation of the case and it will cost from EUR 1.500 up to EUR 20.000 depending on the sales revenue.

BURDEN OF PROOF

Austrian tax authorities have to prove the use of non-market values, but the company must co-operate with the tax authorities.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

There are no principal differences with OECD Guidelines.

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AZERBAIJAN

TAX AUTHORITY
Ministry of Taxes. Website: www.taxes.gov.az

TAX LAW
Tax Code, 2001.

REGULATIONS & RULINGS
None at this time. Transfer pricing is a relatively new concept in Azerbaijan.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Tax Code, Article 16.

PRICING METHODS PRIORITY
The government has not established preferred pricing methods. The price between two parties must be established on a fair market value basis. The sale price cannot be less than market price.

TRANSFER PRICING PENALTIES
While the law has varying penalties depending on circumstances, for an outstanding tax amount, the penalty is 0.1% per day.

REDUCTION IN PENALTIES
While the law contains references to penalty relief, reductions are wholly dependent on circumstances.

DOCUMENTATION REQUIREMENTS
Any documents decreasing taxable income (contracts, invoices, board minutes, advice on the distribution of dividends, related-party agreements showing the differences with fair agreements).

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Tax liabilities must be discharged simultaneous with the filing of tax returns, according to the dates published in the tax code.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Related party transactions are not required to be disclosed except upon audit by the tax authority.

STATUTE OF LIMITATIONS
Three years starting from last tax return submitted.

ADVANCE PRICING AGREEMENTS (APAS)
Not available in Azerbaijan.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
No significant differences.

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BANGLADESH

TAX AUTHORITY
National Board of Revenue, Government of Bangladesh. Website: www.nbr-bd.org

TAX LAW
Income Tax Ordinance 1984, Section 144 and Seventh Schedule.

REGULATIONS & RULINGS
Seventh Schedule of Income Tax Ordinance 1984.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
A controlled transaction shall meet the arm's length principle (ALP) standard if the result of the transaction is consistent with the result (referred to as the arm's length result) that would have been realised if an uncontrolled person had engaged in the same transaction under the same conditions.

PRICING METHODS PRIORITY
Arm's length principle (ALP) price may be determined using the following acceptable common criteria:

(a) Comparable uncontrolled price (CUP)
(b) Resale price (RPM)
(c) Cost plus (CP)
(d) Profit split (PSM).

There is no specific provision in the income tax laws but the tax authorities normally choose between (a), (b) and (c) having regard to the facts and circumstances of the case; (d) is applied only when arm's length principle (ALP) results cannot be reliably determined under (a), (b) or (c).
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REDUCTION IN PENALTIES
There are no specific provisions.

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

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Within two years from the end of the year of assessment for which that income falls to be charged to Bangladesh tax. However, if the amount of any credit given under the agreement (agreement to avoid double taxation) is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Bangladesh or under the laws of any other country, no time limit for making the assessment or claims for refund shall apply.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No specific requirement.

STATUTE OF LIMITATIONS
Within five years from the end of the assessment year.

ADVANCE PRICING AGREEMENTS (APAS)
There is no formal APAs programme.

BURDEN OF PROOF
National Board of Revenue, Bangladesh.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Transfer pricing regulations are largely based on OECD Guidelines.

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BELGIUM

TAX AUTHORITY
Service Public Fédéral Finances - Administration de la Fiscalité des Entreprises et des Revenus – AFER (Belgian Tax authorities, Transfer Pricing Department). Website: http://minfin.fgov.be

TAX LAW
Income Tax Law. Article 185§2 (year of adoption: 2004) introduces the arm's length principle (ALP), which is equivalent to OECD model Treaty. + Articles 26, 49, 54, 55, 56 79, 207, 344 and 345 of the Income Tax Law.

REGULATIONS & RULINGS
Administrative guidelines on transfer pricing dated 06.28.1999 (AAF/98-0003), 07.04.2006 (Cp.221.4/A/601.321) and 11.14.2006 (Ci.RH.421/580.456). Royal Decree 08.10.2009 on reporting obligation of certain material non-arm's length inter-company transactions in their accounts.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Reference to the market price and the mechanisms of the market. Related party legislation.

PRICING METHODS PRIORITY
The preferred methods are split profit (PSM) and transactional profit (TP); but comparable uncontrolled price (CUP); cost plus (CP); and resale price (RPM) are acceptable (OECD Transfer Pricing Guidelines conform).

TRANSFER PRICING PENALTIES
Only general penalties. The penalties can vary from 10% to 200% of the additional tax depending on the degree of intent to avoid tax or of negligence of the company. Interest on late payment is due on additional tax assessments.

REDUCTION IN PENALTIES
If the taxpayer can prove his intention of establishing transfer prices in accordance with the arm's length principle (ALP), penalties can be reduced or eliminated.

DOCUMENTATION REQUIREMENTS
According to the Administrative Guidelines dated 11.14.2006, the European Union Transfer Pricing Documentation (EU TPD) dated 06.27.2006 is applicable:

-Activities of the group
-Identification of the inter-company transactions
-Functional analysis
-Transfer pricing methods
-Economic analyses.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
One month from the date of receipt of the request from the tax authorities (Article 316 of the Income Tax Law). One or two months' extension may be granted upon the taxpayer's request.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Total figure on related party disclosure is required in the annual accounts.

STATUTE OF LIMITATIONS
Three years starting from the closing of the accounting year. In case of fraud, the tax authorities have the right to adjust the income during a five or seven-year period.

ADVANCE PRICING AGREEMENTS (APAS)
The Belgian tax authority accepts advance pricing agreements. For unilateral decisions, there is also a service for anticipated decisions; it's an autonomous department of the Belgian tax authority.

BELGIUM

BURDEN OF PROOF

The tax authority has the burden of proof for transfer pricing transactions.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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BRAZIL

TAX AUTHORITY
Receita Federal do Brasil (RFB); English: Federal Revenue of Brazil. Website: www.receita.fazenda.gov.br

TAX LAW
- Law 9430/96 and 9959/00 (before 2013)
- Law 12715/12 and 12766/12 (from 1st January 2013)

REGULATIONS & RULINGS
Normative instructions:

- 243/02,
- 321/03,
- 382/03,
- 602/05,
- 703/06,
- 801/07,
- 898/O8,
- 1124/11,
- 1312/12,
- 1322/13.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
It is the principle of equal and fair conditions of competition in the market.

PRICING METHODS PRIORITY
Several methods are acceptable. These methods may vary in accordance with the nature of the transaction, import or export.

For import transactions:
1. PIC - Comparable uncontrolled price;
2. CPL - Production cost in the country of origin plus 20% profit margin;
3. PCI - Commodity exchange import price;
4. PRL (After 2013) - Resale price method proposes 20% to 40% of the statutory gross profit.

For export transactions:
1. CAP - Production cost plus 15% profit margin;
2. PVEX - Sales price on exports;
3. PVA and PVV - Resale price minus 15% for wholesale, 30% for retail;
4. PCEX Commodity exchange export price.

Normative Rulings 243/02, 382/03, and 1,312/12 instruct the exceptions on safe-harbour exports.

According to Brazilian legislation, taxpayers may use the most beneficial method, except for commodities transactions, which are subject to a specific transfer pricing method.

TRANSFER PRICING PENALTIES
Penalties are applied over the additional tax: 75% to 150% up to 112.5% to 225%.

Incorrect or omitted information are the subject of a 5% penalty fee over the transaction price, restricted to maximum 1% of annual gross revenue.

Electronic files submitted after the deadline is subject to 0.02% up to 1% of penalty fee, over the net revenue.

Interest will be charged over the penalties unpaid or paid after the due date.

REDUCTION IN PENALTIES
50% reduction in penalties may be established for recognised payments, after analysis and valuation.

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BRAZIL

DOCUMENTATION REQUIREMENTS
The required documentation is the Income Tax Return (DIPJ), considering its in-deep information. Further information may be requested during the authority's assessment.

Import and export forms (Forms 38A, 38B, 39, 40, 41, and 42) may be requested.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The Brazilian Income Tax Return should be delivered on the last business day of June, where all taxpayers' transaction details are publicised.

On 31 January of the following fiscal year the necessary Transfer Pricing Adjustments and the payment of interests arisen from January to June should be accomplished. Penalties over the transfer pricing adjustments, misplaced from the income tax and social contribution basis, should be paid at the same date.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
For the transfer pricing disclosure forms provided, the parties, transfer pricing method adopted, prices practiced at the transactions and interests should be registered. Transfer pricing method cannot be changed after the tax assessment has started.

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STATUTE OF LIMITATIONS
The statute of limitations is five years.

ADVANCE PRICING AGREEMENTS (APAS)
APAs are not available at this time

BURDEN OF PROOF
The taxpayer is indebted to satisfy the burden of proof and the tax authorities can refuse evidence when considered unsuitable or inconsistent.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Brazilian transfer pricing rules do not focus on the identification of the true arm's-length price or profit, but on objective methods for determining the most suitable transfer price for tax purposes.

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BULGARIA

TAX AUTHORITY
National Revenue Agency

TAX LAW
Bulgarian Corporate Income Tax Law; Bulgarian Tax and Social Security Procedure Code.

REGULATIONS & RULINGS
Finance Ministry Decree N H-9/14.08.2006 for the order and ways for applying the pricing methods.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
In accordance with the present Bulgarian legislation, the arm's length principle (ALP) could be interpreted as an objective that the transfers made between related parties should be concluded for the same prices of those transfers made between non-related parties. For this purpose, the methods below, which meet the 'best method' rule, are used.

PRICING METHODS PRIORITY
In principle, no priorities. The following methods are used: comparable uncontrolled price (CUP); market price; raised value price (RVP); transactional net margin (TNMM); profit split (PSM).

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

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

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
All transactions should be documented (including legal, accounting and business papers) for justification purposes in case of a tax inspection. Pursuant to Article 37 of the Bulgarian Tax and Social Security Procedure Code, the tax authorities may request to be provided with all documents, data, papers and other proofs with regard to the rights and obligations of the applicant in accordance with the facts and circumstances that have to be specified in the respective proceedings.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The general deadline is 14 days from the date of receipt of the above-referred request from the tax authorities. However, the tax authorities reserve the right to determine another time limit with regard to each specific situation.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Only when requested by the tax authorities; see Art. 116 of the Bulgarian Tax and Social Security Procedure Code.

STATUTE OF LIMITATIONS
Pursuant to Article 38 of the Bulgarian Tax and Social Security Procedure Code, bookkeeping and commercial databases as well as any other information and documents significant to the taxation and the obligatory insurance payments should be kept as follows:

-Payrolls: for 50 years
-Bookkeeping registers and financial reports: 10 years
-Documents for tax-insurance control: five years after the expiration of the period of prescription for the redeeming of the respective public obligation
-All other database forms: five years.

BULGARIA

ADVANCE PRICING AGREEMENTS (APAS)

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

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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CANADA

TAX AUTHORITY
Canada Revenue Agency (CRA). Website: **WWW.CRA-ARC.GC.CA**

TAX LAW
Income Tax Act (Canada) Section 247.

REGULATIONS & RULINGS
Information Circular IC 87-2R – International Transfer Pricing.

INTERPRETATION OF ARM’S LENGTH PRINCIPLE (ALP)
Section 251 of the Act – definition of arm’s length principle (ALP).

PRICING METHODS PRIORITY
No statutory requirement, however comparable uncontrolled price (CUP) is preferred. Others in priority are: resale price (RPM); cost plus (CP); profit split (PSM); and transactional net margin (TNMM).

TRANSFER PRICING PENALTIES
Penalty is 10% of the amount by which the transfer pricing adjustments exceed the lesser of (i) 10% of gross revenue and (ii) CAD 5 million.

REDUCTION IN PENALTIES
A penalty may be reduced where reasonable efforts were made to determine and use arm’s length principle (ALP) transfer prices.

DOCUMENTATION REQUIREMENTS
Taxpayers are required to contemporaneously document their methodology of determining their transfer pricing method, as well as transfer pricing transaction details.

Documentation should include a complete and accurate description of:
property or services transferred; terms and conditions; identity of participants and relationships; functions performed, property used, risks assumed; analysis to determine the transfer pricing method used; factors that influenced the determination of transfer prices; and overview of business.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Documentation must be prepared by the filing due date of the taxpayer's tax return. The taxpayer must submit the documentation within three months of a request by the CRA.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Form T106 is required in most cases.

STATUTE OF LIMITATIONS
Generally four years from the date of notice of assessment for a particular year, unless there is fraud or misrepresentation, in which case there is no time limit.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the CRA.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost all OECD Guidelines are followed.

CANADA

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CHILE

TAX AUTHORITY
Servicio de Impuesto Internos, Aduana.
Website: www.sii.cl

TAX LAW
Internal Taxes Service and Customs Service.

REGULATIONS & RULINGS
Revenue Tax Law D.L. Nº 824.- Tax Law to Sales and Services D.L. N°825.- Tributary Code D.L. N°830 and Customs Duty.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The indicated legislation and regulation dictated by the fiscal authority (circular letters, resolutions).

PRICING METHODS PRIORITY
Sales values are used to appraise market value or the global presumed profit (utility) of the business.

TRANSFER PRICING PENALTIES
Decided by a fiscal inspection and through computational means. Fines and interests and/or corporate sanctions are applied if there is a crime.

REDUCTION IN PENALTIES
Subject to the conduct and gravity of the committed act.

DOCUMENTATION REQUIREMENTS
There is a legal obligation to preserve countable records and all support documentation (documents of sales and buys, contracts, etc.) for six years to demonstrate the truth about operations when the fiscal authority needs it.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The fiscal authority grants the term according to the magnitude of the case.

RETURN DISCLOURE RELATED PARTY DISCLOSURE
No obligation exists to reveal information.

STATUTE OF LIMITATIONS
Six years.

ADVANCE PRICING AGREEMENTS (APAS)
No legal regulation exists but the fiscal authority can carry out an appraisal if it discovers that values are lower than those of market values.

BURDEN OF PROOF
The fiscal authority contests the market values and requires the company to justify values through documentation and any legal proof.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
These procedures are not legally required. The government might base a voluntary arrangement on the guidelines, if suitable.

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CHINA

TAX AUTHORITY
State Administration of Taxation. Website: www.chinatax.gov.cn

TAX LAW
The State Council: Income Tax Law of the People's Republic of China for Enterprises 2007 Article 44 and the Law Concerning the Administration of Tax Collection Article 36.

REGULATIONS & RULINGS
Detailed Rules for Implementation of the Income Tax Law 2007 Article 111. Guoshuifa [2009] No. 2.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Associated enterprises legislation (see 'Tax law' above).

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP) are the first three methods applicable. If they are inappropriate, other reasonable methods, such as comparable profits; profit split (PSM); and transactional net margin (TNMM) may be used.

TRANSFER PRICING PENALTIES
The Chinese tax authority can make adjustments as a result of the provision of false information, or when companies are unwilling to provide required information on related-party transactions.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No mandatory requirements. Annual Report of Business Transactions with Related Parties by Foreign-invested Enterprises and Foreign Enterprises.

Special rules apply to adjustments and notifications made by chinese tax authorities. Annual tax returns in written form.

DOCUMENTATION
Generally within a taxable year. Under local tax authorities' inspection, enterprises should provide relevant information within 60 days.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Only for companies quoted in Chinese exchanges.

STATUTE OF LIMITATIONS
Generally within three years beginning from the following tax year, no more than 10 years.

ADVANCE PRICING AGREEMENTS (APAS)
APAs are regulated by the Chinese tax authorities for related-party transactions. For detailed procedure see Guoshuifa [2009] No. 2.

BURDEN OF PROOF
Taxpayers must provide proper documentation and support for their transfer pricing policies.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Revised OECD Guidelines are followed, but they only enumerate pricing methods and lack regulations to apply practically the methods and to deal with the most important international comparative problems.

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COLOMBIA

TAX AUTHORITY
Dirección de Impuestos y Aduanas Nacionales (DIAN). English: Directorate of National Taxes and Customs. Website: www.dian.gov.co

TAX LAW
In Colombian regulation all the information is developed in the tax code (Article 260).

REGULATIONS & RULINGS
In Colombian regulation all the information is developed in the tax code (Article 260) and in the decree 4394/2004. There is also a manual prepared DIAN that can be downloaded from: www.uhy-co.com

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The definition is the same as that established by the OECD: 'This valuation principle is commonly applied to commercial and financial transactions between related companies. It says that transactions should be valued as if they had been carried out between unrelated parties, each acting in his own best interest.' Also defined in Colombian Tax Code Article 260-1

PRICING METHODS PRIORITY
No statutory requirement, however, comparable uncontrolled price (CUP) is preferred. Other methods in priority are: cost plus (CP) and resale price (RPM).

TRANSFER PRICING PENALTIES
Minimum penalty: it is 10 UVT (units of value) for 2010, around USD 120. This means that if the penalty is lower than this value the entity must pay the minimum penalty. Out of time inform and correction: it is 1% of the operations with related companies for each month of delay.
The maximum that might be paid is 39000 UVT, around USD 500,000. Inaccuracy: Colombian tax code article 647. Not presented: it is 20% of the operations with related companies. The maximum that might be paid is 39000 UVT, around USD 500,000.

REDUCTION IN PENALTIES
If transfer pricing documents have not been presented, after a legal process at the DIAN, the entity might accept the penalty and pay 75% immediately.

DOCUMENTATION REQUIREMENTS
Complete and accurate description of: property or services transferred; terms and conditions; identity of participants and relationships; functions performed, property used, risks assumed; analysis to determine the transfer pricing methods used, factors that influences the determination of transfer prices; and overview of business.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The documentation must be prepared by the filing due date of the taxpayer's tax return, usually the first week of July.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Form 120 (Informative Statement of Transfer Pricing) is mandatory. This form must be submitted to the Colombian Revenue Agency.

STATUTE OF LIMITATIONS
Does not apply.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Colombian Revenue Agency (DIAN). They are valid for the year in which they are requested and three more years. There are bilateral and multilateral APAs.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost all OECD Guidelines are followed.

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CROATIA

TAX AUTHORITY
Ministarstva financija Porezne uprave (English: Tax Administration, Ministry of Finance). Website: www.porezna-uprava.hr

TAX LAW
Profit Tax Act (Official Gazettes: „Narodne novine' , No. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12), Articles 13,14,15.

REGULATIONS & RULINGS
Profit Tax Ordinance (Official Gazettes: „Narodne novine' , No. 95/05, 133/07, 156/08, 146/09, 123/10, 137/11, 61/12), Article 40

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
-Comparable uncontrolled price (CUP)
-Resale price (RPM)
-Adding gross profit to the costs
-Profit split (PSM)
-Net profit.

TRANSFER PRICING PENALTIES
From 5.000 to 500.000 HRK for a legal entity; from 5.000 to 100.000 HRK for the person responsible (2013).

REDUCTION IN PENALTIES
No provisions.

DOCUMENTATION REQUIREMENTS
Master file, Country specific file, Study on transfer pricing.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The deadline is not set. Permanent documentation is necessary.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No provisions proscribed.

STATUTE OF LIMITATIONS
No provisions.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
It's not yet prescribed, however, it's recommended that all OECD Guidelines be followed.

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CYPRUS

TAX AUTHORITY
Inland Revenue Department. Website: www.mof.gov.cy/ird

TAX LAW
The Income Tax Law of 2002, No. 118 (I) of 2002 and subsequent amendments.

REGULATIONS & RULINGS
Section 33: arm's length principle (ALP).

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Generally, OECD Guidelines.

PRICING METHODS PRIORITY
No specific provisions.

TRANSFER PRICING PENALTIES
No specific provisions. The general provisions relating to penalties apply.

REDUCTION IN PENALTIES
No specific provisions.

DOCUMENTATION REQUIREMENTS
No specific provisions.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
No specific provisions.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No specific provisions. The annual income tax return requires specific disclosure of balances and transactions with group companies and with other related parties. Financial statements are required by company law to be prepared under IFRS.

STATUTE OF LIMITATIONS
Six years from year of assessment; 12 years in fraud cases. No time limit in cases under investigation or appeal.

ADVANCE PRICING AGREEMENTS (APAS)
No specific provisions. Advance rulings are given by the Cyprus Income Tax Office, but these are only on matters of law, not on facts.

BURDEN OF PROOF
Generally the taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
OECD principles followed.

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CZECH REPUBLIC

TAX AUTHORITY
Financní správa (Tax administration).
Website: www.financnisprava.cz

TAX LAW
Income Tax Act No. 586/1992 Coll., Articles 23/7, 22/1/g/3, 23/11, 25/1/w, 35a/2/d, 35b, 37 and 38nc. Tax Administration Code No. 280/2009 Coll., Articles 132 and 133.

REGULATIONS & RULINGS
Administrative Rulings of Ministry of Finance No. D-332, D-333, D-334, D-335 based on OECD Guidelines and EU Transfer Pricing Documentation. Administrative Ruling of General Financial Directorate No. D-10 based on JTPF Report Guidelines on Low Value Adding Intra-Group Services.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Czech tax authorities verify if prices agreed between related parties correspond to those that would be agreed with respect to comparable transactions between independent parties. Differences discovered must be explained to the tax authority. If this explanation is not sufficient, tax authority may adjust the prices and assess penalties.

The TP requirements apply to both domestic as well as cross-border transactions, subject to certain exceptions (e.g. financing with no or low interest provided by a non-resident taxpayer).

PRICING METHODS PRIORITY
There is no preferred pricing method. Generally, all OECD methods (CUP, RPM, CPM, PSM and TNMN) are equal, for each case the most suitable method shall be chosen.

TRANSFER PRICING PENALTIES
TP documentation is not explicitly required by the law, thus its non-existence as such is not penalised. However, in order to avoid any tax assessments, it is strongly recommended to have a tp documentation prepared in advance.

General provisions about penalties are applicable to transfer pricing disputes. Where prices agreed between related parties differ from an arm's length price without proper documentation and explanation, the tax authority will increase the taxpayer's tax base by the ascertained difference. Consequently, penalty amounting to 20% of the additional tax assessment (or 1% of the reduced tax loss) and interest for late payment (approx. 14% p.a.) will be due.

REDUCTION IN PENALTIES
It is not possible to apply for reduction of penalties.

DOCUMENTATION REQUIREMENTS
No local regulation requires preparing of documentation in advance, but this documentation will be requested if transfer prices are subject to tax inspection.

Generally all kinds of documentation can be used to prove that correct transfer pricing policy has been pursued. Even though neither OECD Guidelines nor EU Transfer Pricing Documentation is compulsory, they are generally accepted and sufficient. Although no written contracts are mandatory, tax authorities usually ask for written contracts on management, marketing and other services stating the content of such services. If the local TP Documentation refers to Group Masterfile, or local contracts refer to Group agreements even these Group documents can be required by the local tax authority.

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CZECH REPUBLIC

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
As no local regulation requires preparing of documentation in advance, there is no deadline for it. Usually, an extendable period of 15 days is given to the taxpayer to provide the documentation within the course of tax inspection.

RETURN DISCLOURE RELATED PARTY DISCLOURE
Financial authority is entitled to ask all subjects under Czech law to provide all facts relevant for tax duty (for example facts about related parties). According to Czech Commercial law, all companies are required to prepare and publish annual Report on Relationship between Affiliated Companies in the Commercial Register. Moreover, Czech Commercial Register publishes information about executives of every company and shareholders of limited companies.

STATUTE OF LIMITATIONS
All taxable years are open for tax inspection for three years, in some cases even up to 10 years.

ADVANCE PRICING AGREEMENTS (APAS)
Taxpayers may apply for APAs with respect to their current or future transactions. APAs are not made retrospectively. They are subject to a fee of 10,000 CZK and are valid for maximum of three years. Documentation stated in the Administrative Ruling No. D-333 has to be provided to the tax authority.

BURDEN OF PROOF
Initially, the taxpayer bears the burden of proof. If the tax authority disagrees with the transfer prices set and documented by the taxpayer, it has to prove the difference. Still, the taxpayer has the possibility to explain the difference claimed by the tax authority in order to avoid additional tax and penalty.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
All OECD Guidelines are followed.

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DENMARK

TAX AUTHORITY
SKAT (English: Tax and Customs Administration). Website: www.skat.dk

TAX LAW
Tax law regarding assessments §2, law 2013-04-22 no. 405. Tax law regarding control by the authorities §3B, law 2013-10-31 no. 1264.

REGULATIONS & RULINGS
Rulings have been in place since 1998-06-28 and are specified in Regulation 2006-01-24 no. 42.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
Following OECD recommendations.

TRANSFER PRICING PENALTIES
If the documentation is insufficient a basic fine amounting to DKK 250,000 + 10% of the increase in the taxable income is applicable if ALP is not followed.

REDUCTION IN PENALTIES
The basic fine will be reduced to DKK 125,000 if the documentation is made afterwards in good quality.

DOCUMENTATION REQUIREMENTS
Regulation 2006-01-24 no. 42. Documentation must be prepared according to specific requirements.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Written documentation must be submitted to the Tax & Customs Administration at request within 60 days.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Part of tax return.

STATUTE OF LIMITATIONS
At least five years from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Danish tax authorities.

BURDEN OF PROOF
The taxpayer has the burden of proof.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost OECD Guidelines.

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ECUADOR

TAX AUTHORITY

The *Servicio de Rentas Internas (SRI)*, is an autonomous organism of the Ecuadorian state. Its main function is the collection of taxes, the organism has the ability to disseminate and train taxpayers in subjects related to their tax obligations, and additionally has the ability to prepare studies regarding Tax Legislation, as well as determine and apply sanctions. The organism was created with based on the former General Directorate of Revenues and its current director is economist Ximena Amoroso Iñiguez.

English: Internal Revenue Services (IRS). Web site: www.sri.gob.ec.

TAX LAW

Transfer Price Annex

The taxpayers who have carried out operations with related local and/or foreign parties within the fiscal period for a cumulative value equal or greater to 3,000,000.00 United States Dollars are in the obligation to surrender the Annex of Operations with Related Parties.

The surrendering of the Annex of Operations with Related Parties is not applicable for transactions that have a cumulative value of less than 3,000,000.00 United States Dollars.

Comprehensive Report of Transfer Prices

The taxpayers that have carried out operations with related local and/or foreign parties within a fiscal period for a cumulative value of over 6,000,000.00 United States Dollars are required to surrender the Report of Transfer Prices to the Internal Revenue Service (IRS).

Furthermore, the Director of the Internal Revenue Service (IRS) emitted ruling #NAC-DGERCGC12-00829 of December 18, 2010 which modified official Form 101, and included informational sections to report the transactions with local related parties.

Assessment Authority of Transfer Prices

The Reformatory Law of Tax Equity in Ecuador, published in December 2007, grants the Tax Authority, the faculty to determine transfer prices in operations with related parties. The reformatory Law of Tax Equity in Ecuador, establishes in Article 81 that: “The tax authority may determine the income, costs and deductible expenses in the tax payers, establishing the price or value of the compensation in operations carried out between related parties, taking into consideration for these operations, the prices and values of the compensation that comparable independent parties may have used. Whether these have been carried out with societies residing in the country or abroad, individuals, and permanent establishments in the country of residence, abroad, as well as activities that have been carried out through trusteeships.”

Exemptions

The fourth unnumbered article which succeeds Article 15 of the Internal Tax Regime Law (second section-of transfer prices), establishes that:

Art. (...) The taxpayers that carry out operations with related parties will be exempt from the application of the transfer price regime when: (a) They have a tax generated that is over three per cent (> 3.00%) taxable income, (b) They do not carry out operations with residents of tax havens or preferential tax regimes; and (c) They do not have an undersigned contract with the State for the exploration and exploitation of non-renewable resources.

The taxpayers that comply with these three (3) conditions will be exempt from the aforementioned Regime.

Declaration of Information of Related Parties
The amount of the transactions carried out with related parties must be explicitly stated in the declaration of Income Tax (in the informative sections of the form).
Assessment Authority of Transfer Prices

The Reformatory Law of Tax Equity in Ecuador, published in December 2007, grants the Tax Authority, the faculty to determine transfer prices in operations with related parties. The reformatory Law of Tax Equity in Ecuador, establishes in Article 81 that: "The tax authority may determine the income, costs and deductible expenses in the tax payers, establishing the price or value of the compensation in operations carried out between related parties, taking into consideration for these operations, the prices and values of the compensation that comparable independent parties may have used. Whether these have been carried out with societies residing in the country or abroad, individuals, and permanent establishments in the country of residence, abroad, as well as activities that have been carried out through trusteeships."

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The taxpayers that comply with these three (3) conditions will be exempt from the aforementioned Regime.

Declaration of Information of Related Parties
The amount of the transactions carried out with related parties must be explicitly stated in the declaration of Income Tax (in the informative sections of the form).

REGULATIONS & RULINGS

The regulations in regards to Transfer Prices in Ecuador begin with the modification of Article #91 of the Tax Code, which was substituted by Article #4 of Law 9924 (Supplement of the Official Registry # 181 of April 30, 1999). This modification allows the Tax Authority to regulate the Transfer Prices of goods or services for tax purposes, within direct determination, when the sales are done at low cost, or when the imports and exports of goods and services are carried out with prices which are inferior to the market price.

With the publication of Executive Decree #2430, (Supplement of the Official Registry #494 of December 31, 2004), the Bylaw for the Application of the Internal Tax Regime Law is modified. This modification incorporates substantial aspects that allow for control in relation to Transfer Prices.

For the application of the regulations, the Internal Revenue Service (IRS) emitted official rulings #NAC-DGER2005-0640 and #NAC-DGER2005-0641 which were published in the Official Registry #188 of January 16, 2006. In 2008, with the comprehensive tax reform (Tax Equity Law), there were inherent changes to Transfer Prices.

In May 2009, according to ruling #NAC-DGERCGC09-00286 of the Internal Revenue Service (IRS) which was published in the Official Registry #585 of May 7,2009 there was a reform to ruling #NAC-DGER2008-0464 (Official Registry #324 of April 25, 2008), which issued the content of the Annex and of the Comprehensive Report of Transfer Pricing.

This reform changed every resolution that included the phrase "Annex of Transfer Pricing" for "Annex of Operations with Related

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Parties." The director of the Internal Revenue Service, economist Carlos Marx Carrasco, emitted ruling #NAC-DGERCGC13-00011 of January 16, 2013, which modified ruling #NAC-DGER2008-0464 and established changes in the minimum values and in the type of transactions under which it is obligatory to present the Annex and Report of Transfer Prices.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

As a technical reference for the determination of the Arm's Length Principle, "The Guidelines Related to Transfer Prices of Multinational Companies and Tax Administrations" are used. They were approved by the Council of the Organization for Economic Cooperation and Development (OECD) in 1995, as long as they are congruent to what is established in the Internal Tax Regime Law and with the treaties concluded by Ecuador.

PRICING METHODS PRIORITY

In order to determine the fulfilment of the Arm's Length principle in the prices of the operations carried out between related parties; the taxpayer, with a view to establishing the most appropriate valuation method will follow the following order. Initially the taxpayer will begin with the use of the method of Uncontrolled Comparable Price and will then go on to use the methods for Resale Price, Added Cost, Profit Sharing, Residual Distribution of Profits as well as the method of Transactional Margins of Operational Profits, taking into account which method is more compatible with the development of the business, functions, and structure of the company or organization.

If the operations between the related parts which have to be analysed are complex or the information related to the operations possesses special characteristics, the application of every method can be applied following the order that was previously established and ruling out each one under the previously established foundations until the most adequate method for the analysis of the operations is determined.

The Tax Authority will evaluate whether the method used by the passive subject is the most adequate one in function of the types of operations; business activities, availability and quality of the information provided, comparability between the parties, operations and functions. As well as the level of adjustments made in order to eliminate the existing differences with the comparable parties.

TRANSFER PRICING PENALTIES

If the taxpayers have not surrendered the Comprehensive Report of Transfer Taxes or the Annex of Operations with Related Parties, or if they have surrendered incomplete, inexact or forged data, they will be sanctioned with fines of up to 15,000.00 United States Dollars.

REDUCTION IN PENALTIES

Not Applicable

DOCUMENTATION REQUIREMENTS

The taxpayers are in the obligation to fulfil certain documentation and information requisites to demonstrate that the prices and margins established in the operations carried out with the related parties comply with the Arm's Length Principle. The passive subjects of the Income Tax that carry out operations with related local and/or foreign parties must surrender, in addition to their annual income tax return, a Comprehensive Report of Transfer Prices and an Annex of Operations with Related Parties two (2) months after the deadline date of their Income Tax.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

The taxpayers must prepare and surrender the information relating to Transfer Prices to the Tax Authority, whether it is the Annex of operations with related parties or the Comprehensive Report on Transfer Prices (according to the obligation that each passive subject has), in a period of no greater than two (2) months after the date of Income tax declaration (which is done in accordance to the ninth digit of the Unique Taxpayer Number.) The maximum deadline to surrender these documents is the month of June of every fiscal exercise.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

For taxation effect, related parties are the individuals or societies that are domiciled or not in Ecuador who are in direct or indirect participation of the direction, administration, control or capital of the other. Or in the cases where third parties whether they are individuals or societies domiciled or not in Ecuador that are in direct participation of the direction, administration, control or capital of one of these parts.

Additionally, the Tax Authority determines various relationship or connection assumptions which are clearly defined in Unnumbered Article which succeeds Article 4 of the Internal Tax Regime Law.

STATUTE OF LIMITATIONS

Three (3) years after the income tax return for the taxpayers that have complied with the surrendering of the income tax return on time; and, six (6) years if the taxpayers have not surrendered or have only partially surrendered their income tax return.

The documentation of Transfer Prices must be kept for six (6) years starting from the Income Tax Return.

ADVANCE PRICING AGREEMENTS (APAS)

The Advance Price Agreements (APA) are approached specifically through requests to the Tax Authority. This query will be accompanied by a proposal that will be based on the valuing according to the Arm's Length Principle.

BURDEN OF PROOF

Not Applicable

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The methodology established by the Tax Authority of Ecuador is the same as what is established by the OECD. There are no differences.

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EGYPT

TAX AUTHORITY

Egyptian Tax Authority. Website (in Arabic only): www.incometax.gov.eg

TAX LAW

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

REGULATIONS & RULINGS

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

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

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

PRICING METHODS PRIORITY

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

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

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

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

TRANSFER PRICING PENALTIES

Where the taxpayer has been negligent in filing a transfer pricing position as part of a tax return, the tax authorities could impose tax

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EGYPT

geared penalties where further tax becomes due as a result of adjustments. Penalties may amount up to 80% of the additional tax which falls due, and/or imprisonment for a period from six months to five years.

TRANSFER PRICING PENALTIES - continued

Penalties could also be imposed for failing to document and retain evidence justifying the transfer pricing adopted.

REDUCTION IN PENALTIES

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

DOCUMENTATION REQUIREMENTS

A transfer study including: a review of the group activities; analysis of risks and assets; and transactions with connected parties. It should discuss the basis for the pricing method adopted and an analysis of the data reviewed for benchmarking purposes. Any corporate entity subject to Egyptian income tax on its profit is required to prepare and maintain documentation which outlines its transfer pricing policy. It must retain documentation and supporting benchmarking materials used to establish pricing. Documentation should include written agreements and board minutes which approve the conclusions of the transfer pricing study.

All the above information should be agreed with the Egyptian tax code no. 91 of 2005 Article 30.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

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

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

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

STATUTE OF LIMITATIONS

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

ADVANCE PRICING AGREEMENTS (APAS)

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

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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EL SALVADOR

TAX AUTHORITY
Ministerio de Hacienda (English: Ministry of Finance). Website: www.mh.gob.sv

TAX LAW
Codigo Tributario (Tax Code) - Art. 62-A, Art. 124-A, Art. 147-E, Art. 135 letter f, Arts. 199-A, 199-B, 199-Cand, 199-D.

REGULATIONS & RULINGS
None at present.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The market price for local and international transactions between related parties or entities domiciled in tax havens or territories with nil or low tax rates. Market price is determined through comparable transactions (local or international).

PRICING METHODS PRIORITY
The methods with priority are: comparable price (CP) internal and external. If this is not possible, OECD-approved methods are acceptable.

TRANSFER PRICING PENALTIES
0.5% of equity art. 241 of 'Codigo Tributario', if there is no documentation of transfer pricing.

REDUCTION IN PENALTIES
Art. 261, number 1 of 'Codigo Tributario' allows for a penalty reduction of up to 75% if transgressions are voluntarily corrected before the tax authority issues judgment; otherwise, a reduction of up to only 30% is possible.

DOCUMENTATION REQUIREMENTS
Transfer pricing documents which contain a functional and economic analysis.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
There is no deadline to submit documentation, however, it must be prepared by the end of May of each year for purposes of the Fiscal Opinion Report.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Art. 124-A of 'Codigo Tributario' requires that transactions greater than USD 571,429 must be reported within the first quarter that follows the end of the fiscal year.

STATUTE OF LIMITATIONS
Three years after submission of a tax return for the period.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
If suitable documentation exists, the burden of proof falls on the tax authorities.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Comparable methods are proscribed by law, but OECD Guidelines are also accepted.

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FINLAND

TAX AUTHORITY
Transfer pricing is centralised at Large Taxpayers' Office (KOVE) which is part of Tax Administration: http://www.vero.fi

TAX LAW
The Finnish national legislation contains its basic requirement for the arm's length principle in § 31, Act on Assessment Procedure. Other sections of Act on Assessment Procedure include rules governing documentation requirements (§ 14 a – § 14 c).

REGULATIONS & RULINGS
The Finnish Tax Administration has released an abbreviated English version of Memorandum Transfer Pricing Documentation Requirements - Siirtohinnoittelun dokumentointi (1471/37/2007) regarding transfer pricing on 16 April 2009.

The *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, as amended, is used as a source of reference in matters that require interpretation.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Domestic law closely follows Article 9 of the OECD Model Tax Convention. Intra-group transactions should be priced without deviations from the arm's length principle - the same conditions and amounts should be used that would be used in the case of similar transactions between independent, non-associated parties in comparable circumstances.

PRICING METHODS PRIORITY
Finland follows the OECD Transfer Pricing Guidelines regarding the priority of the methods.

TRANSFER PRICING PENALTIES
There are two types of penalties: a TP specific surtax of a maximum of EUR 25,000 relating to missing, or insufficient documentation, which can be compunded,
or it being late, and a punitative tax which is based on income adjustment and which ranges from 0 – 30% of the amount of income adjustment depending on the level of negligence. In addition, there is an annual penalty interest.

REDUCTION IN PENALTIES
The Tax Administration and the tax courts (the Court of Appeal and the Supreme Administrative Court) are involved in assessment of, in reduction or a waiver of penalties. The Tax Administration and the Ministry of Finance publish general guidance on application of the penalty regimes.

DOCUMENTATION REQUIREMENTS
List of required TP documentation content under § 14 b, Act on Assessment Procedure which is normally organised in a transfer pricing study:
(1) Description of business (company description)
(2) Description of associated enterprises (company description)
(3) Information on transactions between associated enterprises (transactions and their terms)
(4) Functional analysis of transactions between associated enterprises
(5) Comparability analysis, including information on comparables, and (economic analysis and financial analysis)
(6) Description of applied pricing policy.

In addition any other documentation, e.g. contracts and board minutes, that the tax authorities may require has to be presented.

FINLAND

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Pursuant to § 14 c, Act on Assessment Procedure, taxpayers should submit the documentation for a specific fiscal year within 60 days on a request of the tax authorities, but not earlier than six months after the end of the accounting period. Any additional explanations concerning the documentation have to be submitted within 90 days of request. Extensions can and will be granted.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Annual form for reporting the business transactions that involve transfer pricing (as instructed in § 14a, Act on Assessment Procedure) is form 78 Explanation of Transfer Prices (3054e). This information form is attached to the annual corporate tax return which is due four months from the end of the accounting period in question.

STATUTE OF LIMITATIONS

The statute of limitations is five years from the end of the year of assessment. It is thus in practise six years from the end of tax year in question.

ADVANCE PRICING AGREEMENTS (APAS)

The Finnish authorities grant EU APAs, MAP based on treaties, and unilaterial advance rulings on transfer pricing matters including valuation.

BURDEN OF PROOF

In practise, the taxpayer bears the burden of proof regarding arm's length character of its related party transactions since it has the possibility in most cases to obtain the relevant data. Tax authorities manage in most cases to shift the burden of proof to the taxpayer by making claims.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Finnish law generally confirms to the OECD Guidelines and Courts and the tax authorities expressly refer to them for interpretation. In a recent case, the president of the Supreme Admininstrative Court ruled that a re-characterisation of a loan transaction was not possible based on mere support of arm's length requirement (§ 31 of VML) but required a support of tax avoidance clause (§ 28 of VML).

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FRANCE

TAX AUTHORITY
French Tax Authorities. Website: www.impots.gouv.fr

TAX LAW
-Article 57 of the French Tax Code (Code Général des Impôts) and /or article 238 A of the FTC
-Article 223 quinquies B of the FTC, adopted on December, 6th, 2013-
-Articles L 13AA, L 13 AB and L13B of the French Livre des Procédures Fiscales; Abnormal act of management theory also applicable.

REGULATIONS & RULINGS
Administrative statements BOI-BIC-BASE-80-10 and BOI-BIC-80-20

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
International group companies must fix the price of their internal transactions as unrelated parties would do for identical transactions. This principle also applies to domestic group companies.

PRICING METHODS PRIORITY
Article 57 provides that, in the absence of specific elements to assess tax, the tax basis may be determined by comparison with the one of similar businesses 'operating normally'.

In practice, traditional OECD methods are applied, such as uncontrolled price (CUP); resale minus (PRL); and cost plus (CP) / profit split (PSM); net margin or other fixed or global methods, but the last ones mentioned are rarely used.

TRANSFER PRICING PENALTIES
-In case of tax audit
For large companies subject to documentation requirements or for companies operating with related parties located in a non-cooperative state, French Tax Authorities address a summon to produce documentation as of the tax audit start date. If failing to produce it, the company is subject to a €10 000 fine per year under audit. In some specific cases, a 5% penalty on profit which has been transferred can apply.

For other companies and for large companies in addition to the above, no specific penalty, except if the company's reply to formal request of information by the Tax Authorities is either nil or insufficient, in which case a €10,000 penalty per year is applicable.

Ordinary penalties include: in all cases, late-payment interest of 0.4% per month and 40% penalties in case of bad faith or 80% penalties in case of fraudulent operation or of an abuse of law.

-Annual documentation to provide to French tax authorities
If the documentation is not provided, the company is subject to a €150 fine.
In case of omission or inaccuracy, a €15 fine is applied for each omission or inaccuracy with a maximum of €10, 000.

REDUCTION IN PENALTIES
Penalties and fines are applicable to large companies, or to companies with operations in a non-cooperative state. As they are new, it cannot be said whether they are negotiable or not.

Late-payment interests are generally non-negotiable. Companies may ask for a total or partial waiver of other penalties. The decision of French Tax Authorities on this point is discretionary.

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DOCUMENTATION REQUIREMENTS

Types of documentation required:

-Documentation required in case of tax audit: reminder of rules:

It is mandatory for large companies meeting specific conditions to have a documentation justifying their operations with related parties. A list of general and specific information is provided by law.

For operations with related parties located in non-cooperative states, there are additional documentation requirements.
For other companies, no statutory requirement, although all transactions should be documented (including legal, accounting and business papers) in case of a tax audit.

For large companies, description of business and changes related to the accounting period, general description of the company and of its group and of the intra group operations, identification of intra group companies, role of the companies of the group, list of intangible assets, general description of transfer pricing policy in the group, description of operations carried out with related parties and amounts, list of agreement related to transfer pricing, APA, tax rulings if any including rulings issued by foreign tax authorities, presentation of the methods used, elements of comparison if need be depending on the method used.

For companies in relation with companies located in a non-cooperative State, the same documentation must be produced including a P/L and a set of accounts.

For other companies, French Tax Authorities may request to be provided with all documents and information regarding (i) the nature of the relations between the taxpayer and another related company, (ii) the pricing method(s) used, (iii) activities carried out by related parties and (iv) tax treatment applied by the taxpayer's foreign subsidiaries or branches.

-A new requirement: Documentation to provide to French Tax Authorities on an annual basis:
Article 223 quinquies B of FTC creates a new obligation for large companies to provide on a yearly basis the main elements of the documentation mentioned above.
This new requirement is applied for large companies as described under article L 13 AA of LPF.

The main elements are the following: description of business and changes related to the accounting period, list of intangible assets, general description of transfer pricing policy in the group and changes during the accounting period, description (summary statement) of the operations performed with related parties which amount exceeded €100 000 per type of transaction, presentation of the main method used and changes during the accounting period.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

-In case of tax audit
For large companies and for companies operating with related parties in a non-cooperative state, the documentation must be ready on the first day of the tax audit or within 30 days of the summon from French Tax Authorities to produce it.

For other companies, depending on the situation, two months from the date or receipt of the above-referred request from the tax authorities; one-month extension may (or may not) be granted upon the taxpayer's request.

- Annual documentation to provide to French tax authorities

Main elements of the documentation to be provided to French tax authorities must be filed within six months following the corporate tax return. For example, if a company close its yearly financials on December 31 2013,

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corporate tax return must be filed before May 3 2014 and transfer pricing documentation must be provided to French tax authorities before November 3 2014.

As of today, French tax authorities have not specified under which format and what presentation they expect to receive the information. No specific formalism should be required.

For companies which must provide their documentation between June and November 2014, French authorities have granted an extension to November 20 2014.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Total figure on related party disclosure is required.

STATUTE OF LIMITATIONS

Generally 31 December of the 3rd year following the current financial year.

ADVANCE PRICING AGREEMENTS (APAS)

Regulation BOI-SJ-RES-20-10 dated February 18 2014 provide for possible bilateral APAs involving Tax Authorities of two countries, not retroactive, but renewable; duration between three and five years.

Article 20 of the law of December 30 2004 and Regulation BOI-SJ-RES-20-20 dated February 18 2014 provide for possible unilateral APAs involving only the French Tax Authorities; procedure, duration, renewal same as under Regulation BOI-SJ-RES-20-10.

Finally, Regulation BOI-SJ-RES-20-30 provides for a Transfer Pricing Guide helping SME to respect proceedings. When the APA is granted, in theory, French Tax Authorities do not challenge it unless facts were misrepresented or information was not disclosed.

BURDEN OF PROOF

French Tax Authorities must prove that the parties are related (except if the foreign party is located in a tax haven or a non-cooperative State or if the abnormal act of management theory is applied), and that the transactions between the parties provide for a specific ‘advantage’ to the foreign/other party. The party subject to tax audit may oppose the tax reassessment in evidencing that such an ‘advantage’ provided to the foreign/other party is justified by operating needs.

A draft of bill could amend this rule for companies located in non-cooperative State and could shift the burden of proof.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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GEORGIA

TAX AUTHORITY

Sagadasakhado Samsakhuri (Revenue Service (RS)).
Website: www.rs.ge
The Revenue Service is under the jurisdiction of the Ministry of Finance.

TAX LAW

Certain transfer pricing concepts have been included in the Georgian tax legislation since 1993 (Law of Georgia on Corporate Income Tax). Although specific provisions related to transfer pricing are very limited, some general transfer pricing rules were added to the Georgian Tax Code on June 13 1997. Similar provisions were incorporated into the latest tax code, effective from January 1 2005. In particular, Article 22, Principles of Determining the Price of Goods (Services) for Taxation Purposes, and Article 23, Interrelated Parties, provides the basis for transfer pricing control by the tax authorities. Specific transfer pricing regulations have become effective from January 1 2011. Chapter XVII. Articles: 126, 127, 128, 129. (Amended in 2011).

REGULATIONS & RULINGS

Georgian transfer pricing rules generally apply to cross-border transactions between a Georgian company and a related foreign company. For the purpose of transfer pricing rules, two persons are related if:
-one person is directly or indirectly involved in the management or control of another person, or directly or indirectly holds the capital of this person
-same persons are directly or indirectly involved in the management or control of two other persons, or directly or indirectly hold the capital of those other persons.
For this purpose, a person is considered to be directly or indirectly involved in the management or control of a company, or directly or indirectly hold the capital of that company if she directly or indirectly holds more than 50% of another person or controls decision-making in the latter.

In certain cases these rules may also apply to transactions between a Georgian company and an unrelated foreign company, where the latter is a resident of a low tax jurisdiction/offshore country.

The head of the RS is authorised to issue an advance tax ruling on such cross-border transactions upon the taxpayer's request. The ruling is issued for a certain period of time before the start of operations. It sets the method, comparable operations and respective corrections, significant assumptions, etc. for the purpose of determining the price for the operations. If a person acts in accordance with the ruling issued to the latter, the GTA (Georgian Tax Authorities) shall not impose additional taxes and/or tax sanctions later on.

An advance tax ruling becomes invalid if:

-the facts and circumstances mentioned in the advance tax ruling are different from actual ones
-the provisions of the TCG upon which advance tax ruling is based have been cancelled or amended.
The Georgian tax authorities may evaluate transfer pricing involving the following types of transactions:
-Controlled transactions involving various jurisdictions between related parties; and
-International controlled transactions.
In the following cases, transfer pricing regulations may apply:
-Controlled transaction between Georgian companies; and
-Independent parties' transaction if one of the parties is a tax haven resident or registered in Free Industrial Zone (FIZ).

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The tax authorities may apply transfer pricing regulations in the following cases:
-Transactions between related parties, unless their relationship does not affect results of the transaction; and
-Transactions in which the tax authorities can prove that the price declared by the transacting parties differs from the actual price.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The GTA can adjust the tax base if there is evidence that the arm's length price was not used in a transaction between related parties. Parties are recognised as related if special relations between them may affect the conditions or economic results of their activities.

Such special relations include, in particular, relations where:

-Persons are founders (participants) of the same enterprise and their total share amounts to at least 20%
-A person has a direct or indirect interest in an enterprise, where such interest is at least 20%
-An enterprise is under control of another person
-An individual is subordinated to another individual
-A person is under direct or indirect control of another person
-Persons are under direct or indirect control of another person
-Persons jointly directly or indirectly control another person
-Individuals are relatives
-Individuals are members of a partnership.
For the purpose of determining the existence of special relations between the persons, control means:
-Being a member of a supervisory board, director, or a person authorised to appoint others to these positions
-Having 20% of voting rights.

A taxpayer to whom the provisions of this Article are applicable shall be obligated to in case of the demand from a tax authority submit thereof economic justification of the prices used in a transaction and the documents that prove the conformity of the prices stated in a transaction with the market principle. The rule, timeframes and procedures for the submission of documents shall be prescribed under the Minister of Finance of Georgia order.

When a tax authority of another country has made an adjustment in a transaction concluded between an enterprise that is taxed in Georgia and its related enterprise as a result of which in this country the share of profit was taxed that had already been taxed in Georgia, and with such country Georgia has concluded an agreement about avoidance of double taxation, then Georgia's taxation authority on the basis of the demand from a Georgian taxpayer enterprise shall check whether or not the entered adjustment corresponds to the market principle. If a tax authority concludes that the above-mentioned adjustment corresponds to the market principle, it shall enter a relevant adjustment and perform the correction of the tax amount of a taxpayer enterprise of Georgia.

PRICING METHODS PRIORITY

The following are the generally accepted transfer pricing methods:

-Comparable uncontrolled price (CUP)
-Resale price (RPM)
-Cost plus (CP)
-Net profit margin (NPM)
-Profit split (PSM).

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If the cost plus (CP) method is chosen, the law indicates that the mark-up should be benchmarked against similar transactions between non-related parties. However, the tax legislation does not provide any additional information with this regard, and it remains to be seen how the government will seek to implement the benchmarking requirement, particularly given the limited data that is likely to exist in Georgia.

TRANSFER PRICING PENALTIES

There are no specific penalty regulations for the violation of transfer pricing rules. However, transfer pricing adjustments made by the tax authorities during a tax audit that would increase the taxable revenue of the taxpayer may be subject to tax underpayment administrative measures. Specific measures include but are not limited to the following:

-Profit tax – at 15% rate;
-VAT – at 18% rate; and
-Possible excise tax – depending on the nature of the goods.

Current tax legislation also imposes fines for the under-reporting of income and the late payment of interest.

REDUCTION IN PENALTIES

Not applicable.

DOCUMENTATION REQUIREMENTS

Rules and instructions for submitting transfer pricing documentation to the tax authorities should be determined by the order of the Ministry of Finance. However, such instructions have not been published yet.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Rules and instructions for submitting transfer pricing documentation to the tax authorities should be determined by the order of the Ministry of Finance. However, such instructions have not been published yet.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

This information is not considered as confidential information and depends on taxpayers' cooperation.

STATUTE OF LIMITATIONS

The statute of limitation is 10 years and will be calculated from the following year. The inspection time is six years.

ADVANCE PRICING AGREEMENTS (APAS)

Any taxpayer may apply for an advance ruling. The ruling must be issued within 60 days of application and is binding on the tax authorities, but only for the taxpayer for whom it is issued.

BURDEN OF PROOF

The burden of proof remains with the taxpayer to confirm acceptability of the prices in place.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The Georgian transfer pricing law follows recognised OECD principles and there are no provisions in the law to suggest that non-OECD positions will be taken. Consequently, it is reasonable to expect that an analysis based on OECD Guidelines will prove acceptable in Georgia.

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GERMANY

TAX AUTHORITY
Bundesministerium der Finanzen (English: Federal Ministry of Finance). Website: www.bundesfinanzministerium.de

TAX LAW
Art. 1 International Relation Tax Act of 09-08-1972 with latest amendments of 06-26-2013.

REGULATIONS & RULINGS
TZ 1 AEAStG and Regulations from German Federal Ministry of Finance (BMF): of 02-23-1983, 12-24-1999, 12-30-1999, 11-09-2001, 10-28-2003, 11-13-2003, 02-26-2004, 04-12-2005, 08-14-2007, 08-12-2008, 04-16-2010, 10-13-2010.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above) and High Court decisions.

PRICING METHODS PRIORITY
In principle no priorities, but the following order is practice: resale price (RPM); comparable uncontrolled price (CUP); cost plus (CP). Profit split (PSM) is not yet applicable.

TRANSFER PRICING PENALTIES
Tax Inspection can alter the prices on basis of market values or estimate. High penalties in case of non-performance of documentation.

REDUCTION IN PENALTIES
Only in cases of successful remedy.

DOCUMENTATION REQUIREMENTS
Art. 90 Abs. 2 + 3, Art. 162 Abs. 3 + 4 AO (fiscal code): strict duties of documentation, BMF-Regulations of 10-28-2003, 02-26-2004, 04-12-2005, 10-13-2010. Required types of documents: all price- or cost-sharing arrangements and related back-up documentation in German language. In the case of a cross-border transfer of functions: documentation of the group structure and the functions of the group member companies.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
60 days after request; in extraordinary cases only 30 days.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Associated companies or persons must be disclosed.

STATUTE OF LIMITATIONS
Four years deadline from last filing; 10 years in case of fraudulent intent.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be concluded with the BMF and the consent of the tax authority of the affected Bundesland.

BURDEN OF PROOF
German tax authorities have to prove the wrongness of price-agreements, however, strict duties of cooperation apply.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
OECD Guidelines are followed, except the profit split (PSM) and transactional net margin (TNMM) methods.

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GHANA

TAX AUTHORITY
Ghana Revenue Authority

TAX LAW
Transfer Pricing Regulations, 2012, LI 2188

REGULATIONS & RULINGS
The Internal Revenue Act , 2000 (Act 592) with amendments ACTs (622,644,669,684,700,710 and 731).

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
A transaction is conducted at arm's length between persons in a controlled relationship, if the terms of the transaction do not differ from the terms of a comparable transaction between independent persons.

PRICING METHODS PRIORITY
The following transfer pricing methods have been proposed by the Ghana Revenue Service:

-Comparable incontrollable price (CUP)
-Resale price (RSM)
-Cost plus (CP)
-Transactional net margin method (TNMM)
-Profit split (PSM).
The Commissioner General may use a method other than the above.

TRANSFER PRICING PENALTIES
A tax due and unpaid as a result of an adjustment made by the Commissioner General under regulation 8(4) is deemed to be additional tax for purpose of section 79 of the Act: The Commissioner General shall adjust the taxable profit of a person if the commissioner is satisfied after the examination.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
These documents are required:

-Benchmark on the market
-Group agreement
-Commissioner General's discretion.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The Transfer Pricing Returns go concurrent with the company tax returns, thus four months after the year end April 30.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Public Interest companies who have adopted IFRS mandates which Ghana has fully adopted. The disclosure requirement can be found in the year-end financial statements. In short, the laws in Ghana demand it.

STATUTE OF LIMITATIONS
Not applicable.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
The taxpayer has to prove to the Commissioner General.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
The Ghana transfer pricing law conforms with the OECD, but a key departure is the proposal to widen the scope of Ghana's transfer pricing provision by using 'connected persons' instead of associated enterprises, so as to include individuals, corporate and unincorporated bodies.

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GHANA

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GREECE

TAX AUTHORITY
General Secretariat of Public Revenue, General Division of Tax Administration, Ministry of Finance

TAX LAW
Law 4172/2013 (articles 48-51) and law 4174/2013 (articles 21-22 and 56)

REGULATIONS & RULINGS
Ministerial Decisions 1097/9.4.2014 and 1144/15.5.2014

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Article 50 (first subparagraph of paragraph 1) of the Law 4172/2013 uses the 'principle of an open market or free market or arm's length (ALP) in order to determine the price of inter-company transactions. This principle is reflected in paragraph 1 of Article 9 of OECD Model Tax Convention on Income and Capital and is as follows:

'If the conditions of the commercial or financial relations between two (connected) firms differ from those which would be valid between independent enterprises, then any profits which would have been accrued to one of the enterprises, but have not been accrued due to those conditions, may be included in the profits of that enterprise and taxed accordingly.'

PRICING METHODS PRIORITY
The traditional methods are the most direct way to determine whether transactions between associated enterprises follow the principle of the free market: arm's length principle (ALP). Consequently, the traditional methods are preferred to the other methods.

If there are no available data or the data for the application of traditional methods are insufficient and in particular, if there are no fully comparable data, businesses can justifiably apply the transactional methods.

TRANSFER PRICING PENALTIES
According to law 4174/2013 (article 56), the penalties are as follows:

1. In case of late submission of the summary TP table, the penalty is calculated at the rate of one millimetre (1/1000) of the reported gross income of the taxpayer. Said fine shall not be less than 1,000 euros and more than 10,000 euros.
This fine is also imposed in cases where the documentation is not made available to the Tax Administration within 30 days from the request, or submitted with incomplete or sufficient context.
2. In case the summary TP table has not been submitted or there is unavailability of documentation of paragraph 1 of Article 21 of the Tax Code, the fine is calculated as a hundredth (1/100) of the reported gross income, including any correction gains of the taxpayer. Said fine shall not be less than 10,000 euros and more than 100,000 euros.
3. If relapse happens within five years, the fine amounts to twice of the original fine. In the case of a second relapse within five years, the fine amounts to four times the original fine.

REDUCTION IN PENALTIES
No reduction in penalties is possible

DOCUMENTATION REQUIREMENTS
Transfer pricing study including flow of the invoices, copies of the signed contracts, description of the contractual terms, transfer pricing policies adopted etc.

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GREECE

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

The documentation, which consists of the Basic documentation and the Greek documentation, is prepared within four months from the end of the tax year and the same applies for the Summary Table of Information which is submitted electronically to the Tax Administration within the same period.
The documentation file is kept at the premises of the company during the entire period for which there is obligation for retention of books and records of the relevant tax year. The documentation made available to the tax administration whenever required within 30 days of receipt of the request from the company.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

The disclosure is made in the notes to the annual FS.

STATUTE OF LIMITATIONS

The same period applies to that for the retention of books and records.

ADVANCE PRICING AGREEMENTS (APAS)

According to the article 22 of the law 4174/2013 and the Ministerial Decision 1284/31.12.213, Greek tax authorities accept the advance pricing agreements. Subject of the preliminary approval is the appropriate set of criteria used for pricing inter-company transactions during a given period. These criteria include mainly used method documentation, data comparison or reference and the related adjustments and the critical assumptions about future conditions. Subject of the preliminary approval is the appropriate set of criteria used for pricing inter-company transactions during a given period. These criteria include mainly used method documentation, data comparison or reference and the related adjustments and the critical assumptions about future conditions.

Pre-approval can also be any other specialised matters concerning the pricing of transactions with related persons.
A relevant application is submitted towards the General Secretariat in order the request to be examined and further accepted or rejected. The decision shall be issued within a period of 120 days commencing from the application date. The validity of the decision prior authorisation may not exceed four years and the period of validity cannot be traced back to a tax year that has elapsed at the time of application for pre-approval.

BURDEN OF PROOF

Liability for the proof for transfer pricing transactions is the legal representative of the company, the president and managing director of the board of directors and any other members of the board with executive power against local tax authorities.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Greek law conforms to OECD Guidelines. Thus, there are no key differences.

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GUATEMALA

TAX AUTHORITY
Superintendencia de Administración Tributaria (SAT). English: Tax Administration Superintendency. Website: www.sat.gob.gt

TAX LAW
Guatemala suspended transfer pricing laws until January 1 2015.

REGULATIONS & RULINGS
The application Regulations & Rulings is based on Decree 10-2012, of the Congress of the Republic of Guatemala, that is based on the principles of OECD.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The price or amount for a particular operation that independent parties would have agreed in arm's-length transactions to those made.

PRICING METHODS PRIORITY
-Comparable uncontrolled price (CUP)
-Cost plus (CP)
-Resale price (RPM)
-Utility partition
-Net margin of transaction method
-Imports and exports of goods valuation.

TRANSFER PRICING PENALTIES
Failing to submit the reports established by the tax law to the Tax Authorities will incur a penalty of Quetzales 5, 000 for the first time; Q. 10, 000 for the second time; and in the event of failing more than twice will incur a penalty of Q. 10, 000 plus the payment of 1% of the gross income from the taxpayer during the last month in which he declared income. This penalty will be applied for each time it fails to meet its obligation.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Transfer Price Study:

-Any contract between the company and the related parties
-Audited financial statement
-Financial Statement of all comparable companies
And any other important information that the company uses in the Transfer Price Study.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The Study has to be prepared before March 31 with the income tax statement.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Not applicable.

ADVANCE PRICING AGREEMENTS (APAS)
1. Taxpayers may request to the tax authorities to determine the valuation of transactions between related persons prior to the completion of these. Such application shall be accompanied by a proposal from the taxpayer based on the value agreed by independent parties in similar transactions.

2. The tax authorities will have the power to establish and resolve this procedure.

3. The tax authorities may approve the proposal, reject or modify it with the acceptance of the taxpayer.

4. This agreement takes effect with respect to

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GUATEMALA

the transactions made after the date approval and is valid during the settlement periods that are realised in the agreement itself, but it may not exceed the four following periods as of the date of approval. It also can be determined that its effects reach the transactions of the current period.

5. The proposal referred to in this article can be understood as dismissed within 30 days elapsed from the application; without prejudice to the obligation to resolve the procedure in accordance with the paragraph 3.

BURDEN OF PROOF

The taxpayer has the burden of proof.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The principal difference with OECD is that there are six methods. The sixth method is imports and exports of goods valuation.

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HONG KONG

TAX AUTHORITY
Inland Revenue Department, Hong Kong (HKIRD). Website: www.ird.gov.hk

TAX LAW
The Inland Revenue Ordinance (IRO) is the tax law which governs taxation of income in Hong Kong.

REGULATIONS & RULINGS
The IRO does not have specific transfer pricing provisions. Nevertheless, Hong Kong does have legislation preventing local companies and their associates from manipulating the prices of goods, services, finance and intangibles passed between one another in Hong Kong. Relevant provisions in the IRO include:

-S.20 profits earned by a related non-resident from non-arm's length transactions with local associates are deemed taxable
-S.61 artificial or fictitious transactions can be disregarded
-S.61A transactions entered into for the sole or dominant purpose of obtaining a tax benefit may be disregarded and/or an adjustment made.

The Hong Kong Inland Revenue Department (HKIRD) may also address transfer pricing issues when HKIRD officers examine a taxpayer's books and records during a field audit and investigation, when references are made to OECD and other guidelines.

A number of recent court cases exist wherein HKIRD attacked non-arm's length transactions of certain taxpayers by relying on S.61 or S.61A of the IRO.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Section 20(2) of the IRO addresses the situation when business is conducted between a taxpayer and a closely connected non-resident person, and the business is arranged such that it produces to the taxpayer either no profits which arise in Hong Kong, or less than the ordinary profits which might be expected to arise in or derive from Hong Kong. In the above situation, the non-resident person business shall be deemed to be carried on in Hong Kong, and the profits of the non-resident person shall be assessed in the name of the Hong Kong taxpayer as if the Hong Kong taxpayer were the agent of the non-resident person.

PRICING METHODS PRIORITY
Not applicable. No specific transfer pricing methods. In general, the HKIRD will review the pricing policy case-by-case, e.g. the contractual terms, the characteristics of the goods and services, the economic situations, the business functions carried out, risks borne and the business strategy.

TRANSFER PRICING PENALTIES
Not applicable. No specific penalties for transfer pricing. Generally, penalties may be imposed on a taxpayer who participates in a blatant or over-aggressive tax avoidance scheme, in breach of section 80 or 82A or providing incorrect or misleading information.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Not applicable. No specific documentation required for transfer pricing. In general, taxpayers must keep business records as required by the IRO.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable. No specific return of related

BURDEN OF PROOF
Onus of proof is with taxpayer in the case of suspected tax avoidance (including transfer pricing).

HONG KONG

party disclosure for transfer pricing. However, all persons should report the transaction with non-resident or closely connected non-resident in Profits Tax Return (B.I.R. 51/52) under Section 51 and 52 of the IRO.

STATUTE OF LIMITATIONS

Six years, or 10 years in the case of criminality.

ADVANCE PRICING AGREEMENTS (APAS)

Not applicable. No specific APAs for transfer pricing. Advance rulings can be obtained from the HKIRD for the seriously contemplated transaction. Generally, the advance ruling is valid for the period to which the particular arrangement relates; usually it is not valid for more than two years of assessment from the year of issue of the ruling. Hong Kong does not have double taxation agreements or tax treaties with other countries except: Mainland China; Czech Republic; Italy; Macao SAR; the Netherlands; and Vietnam. This restricts the application of bilateral APAs.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

No official transfer pricing guidelines. OECD Guidelines are used for reference only.

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HUNGARY

TAX AUTHORITY
Nemzeti Adó-és Vámhivatal (APEH). English: National Tax and Customs Administration of Hungary, Website: www.nav.gov.hu

TAX LAW
Hungarian Corporate IncomeTax law: 1996. LXXXI. Article 18.

REGULATIONS & RULINGS
Finance Ministry Decree 22/2009.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP); Transactional Net Margin Method (TNMM); Profit Split Method (PSM). Tax law states no priorities. Other methods may be used if above are not applicable.

TRANSFER PRICING PENALTIES
Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may carry a penalty of up to 50% of tax deficit plus late payment charges.
The consequence of not preparing documentation: Those Businesses, which are obliged to prepare transfer-pricing documentation, may face penalties, in case of not complying with the obligation to prepare documentation. In case of repeated infringement, a penalty - up to 4 million forints can be levied in contrast to the default penalty of HUF 2 million. If in the respect of the same contract taxpayers don't fulfil their obligation, then the originally imposed penalty will be up to four times more, i.e. 16 million HUF.

REDUCTION IN PENALTIES
A reduction may be requested at the tax office with considerations of fairness.

DOCUMENTATION REQUIREMENTS
Transfer Pricing Study must be prepared (though not necessary for small-medium size enterprises) detailing all factors considered in transfer price calculations.

With the modification of legislation, effective January 1 2010, the EU master file concept was adopted.

The transfer pricing study should be made to the contracts with the fulfilment value above 50 million HUF of the tax year. The legislation introduced the concept of 'low value added services'

The taxpayer can fulfil registration requirements by preparing a study with contents specified in the Finance Ministry Decree. Among others, it should contain:
-affiliated company's name, address and its tax number or equivalent ID
-the subject of the contract; contracting date or its modification date
-the normal market price
-function analysis
-introductions of the market and comparable businesses
-sources of data used.

The register of related party contracts must be submitted only at the request of the tax authority. There is a requirement to indicate in the Corporate Tax Return, if the company uses a common register of the company group (master file concept).

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
May 31 following current year.

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HUNGARY

STATUTE OF LIMITATIONS
Five years following last day of year corporate income tax return was filed.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Only in case of request by tax office. The related parties must be disclosed within 15 days after the contract.

ADVANCE PRICING AGREEMENTS (APAS)
Available, bears a fee between HUF 500.000 to 10.000.000, depending on the complexity of the case.

BURDEN OF PROOF
If study was prepared, tax office must prove their statements, if they challenge the content.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Hungarian regulations were prepared based on OECD Guidelines. All noted methods are applicable.

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INDIA

TAX AUTHORITY
Under the overall supervision and administration of the Central Board of Direct Taxes (CBDT), transfer pricing falls under the purview of the Directorate of Transfer Pricing in India which is headed by Director General, (International Taxation) Income Tax Department, New Delhi. Website: http://www.incometaxindia.gov.in/Pages/about-us/central-board-of-direct-taxation.aspx

TAX LAW
Income Tax Act, 1961, read with Income-tax Rules 1962.

REGULATIONS & RULINGS
Rules 10A to 10E of the Income-tax Rules pertaining to Transfer Pricing and Rules 10G to 10T of the Income-tax Rules pertaining to Advance Pricing Agreements.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The interpretation of the arm's length principle (ALP) is consistent with the OECD Guidelines and applies to all international transactions and specified domestic transactions between associated enterprises.

PRICING METHODS PRIORITY
Arm's length price (ALP) may be determined by any of the methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM), or any other method. Though no priorities are laid down, the factors to be taken into account are indicated.

The law permits a variation between the ALP so determined and the actual price at which the international transaction takes place up to a pre-specified percentage. It is proposed to introduce necessary Rules to incorporate the concept of range for determination of ALP with effect from April 1 2015.

TRANSFER PRICING PENALTIES
Penalties are laid down for: penalty consequent to re-determination of arm's length principle (ALP) price; failure to keep and maintain information and documents; failure to furnish report from an accountant; failure to furnish information or documents to the tax authorities.

REDUCTION IN PENALTIES
No penalty may be imposed if the taxpayer proves that there was reasonable cause for the failure. However, in the case of penalty consequent to re-determination by the tax authorities of arm's length principle (ALP) price, the taxpayer has to prove to the satisfaction of the tax authorities that the transaction value was computed in accordance with the provisions of the law and in the manner provided thereunder in 'good faith' and with 'due diligence'.

DOCUMENTATION REQUIREMENTS
Documentation is prescribed by law. Extensive documentation is required where:

a) the aggregate of international transactions with associated enterprises exceeds 10 million Indian rupees;

b) the aggregate of specified domestic transactions with associated enterprises exceeds 50 million Indian rupees.

The information and documentation includes general industry information, transaction specific information, economic analysis justifying the ALP and supporting documentation.

Documentation also includes a report from a chartered accountant (in a prescribed form) certifying that the transactions adhere to the arm's length principle (ALP).

INDIA

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

The report of the chartered accountant in a specified form is required to be filed along with the return of income on or before the specified due date. All necessary documentation is required to be maintained (not filed) contemporaneously.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

All taxpayers having international transactions/specified domestic transactions with associated enterprises need to file a report from a chartered accountant in the prescribed form along with their tax return.

STATUTE OF LIMITATIONS

Where, during the assessment proceedings, the computation of the arm's length price is referred to a Transfer Pricing Officer: 48 months from the end of the relevant tax year. In all other cases: 36 months from the end of the relevant tax year. However, returns of the past six years can be reopened under certain circumstances.

ADVANCE PRICING AGREEMENTS (APAS)

The law has incorporated the concept of APAs in 2012. With the approval of the Central Government, a taxpayer may enter into an APA, which will be binding for a period of maximum five consecutive years provided there is a change in law/facts or fraud involved. Roll back provisions are proposed to be introduced by April 1 2015 wherein APAs may also be applied to international transactions undertaken in previous four years in specified circumstances.

BURDEN OF PROOF

In case of tax proceedings the burden of proof is on the taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The transfer pricing regulations are largely based on OECD Guidelines, but do not make a direct reference to the guidelines. Adherence to the arm's length principle (ALP), use of CUP, RPM, CPIM, PSM and TNMM for arriving at the arm's length price are some of the similarities. Certain marginal differences do exist. For example, OECD permits use of foreign comparables while Indian TP legislation does not. The difference between the OECD and Indian regulations has further narrowed due to the proposed (with effect from April 1 2015) introduction of permissibility to use multiple year data and introduction of the 'range' concept over arithmetic mean for economic analysis of comparables.

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INDONESIA

TAX AUTHORITY

Direktorat Jenderal Pajak (English: Directorate General of Taxes). Website: www.pajak.go.id

TAX LAW

Relevant regulations and rulings
The ITL contains transfer pricing provisions under Article 18, which requires that all inter-company transactions be conducted in accordance with 'fairness' and 'common business practice'. The article's implementing regulation PER-43/PJ/2010 (PER-43), which adopts the arm's length' principle, was promulgated by the tax authority on September 6 2010. Amendments to this regulation were introduced by regulation PER 32/PJ/2011 (PER-32)1. PER-43 mandates the preparation of transfer pricing documentation and provides the guidelines for establishing the arm's length nature of the transactions. In particular, it requires taxpayers to:

-Conduct a comparability analysis and determine comparable transactions
-Identify the appropriate transfer pricing method
-Apply the arm's length principle (ALP) based on the results of the comparability analysis and appropriate transfer pricing methods on the transaction between a taxpayer and the parties having a special relationship
-Document the steps taken in determining the fair price or fair profit in accordance with the provisions of the prevailing tax regulations.
Taxpayers are no longer required to document and conduct comparability analyses for transactions with a total value of less than IDR10 billion for each transaction counterpart.
PER-43, as amended by PER-32, applies to domestic transactions only if the related domestic enterprises are subject to different tax rates, and the related party transaction is:
-Subject to final and non-final taxes within a specific sector
-Subject to Luxury Goods Tax
-Conducted with a taxpayer that is an oil and gas production sharing contractor.

REGULATIONS & RULINGS

DGT Circular Letter No. SE-04/PJ.7/1993 dated March 9 1993. A new Income Tax Law implemented in January 2001 contains transfer pricing provisions in Article 18. Directorate of Tax Circular letter related to transfer pricing are: SE-01/PJ.7/2003 of April 1 2003 (revised); SE-02/PJ.7/2005 of March 31 2005; SE-10/PJ.04/2008 of December 31, 2008; PER-67/PJ.2009 of December 30 2009; and PER-43/PJ.2010 of September 6 2010 which rules the price determination for those related in arm's length transactions.

PER-48/PJ./2010 of November 3 2010 rules the mutual agreement procedures based on tax treaty agreement.

PER-69/PJ/2010 of December 31 2010 rules the agreed fair price between Directorate of Tax and the taxpayer, whereas the taxpayer should prepare TP Documentation.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

In March 2009, the DGT issued letter No. S-153/PJ.4/2010, which provides guidelines for tax officers for application of the arm's length principle (ALP) in the context of a tax audit. In general, the main issues that have to be examined in an audit of the related party transactions are as follows:

-Existence of special relationship between the parties (since tax adjustments can be made only with regards to related party transactions)
-Selection of independent transactions that are comparable

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-Selection of examined/audited party and tested transaction
-Comparability of conditions of related party transaction and comparable independent transaction
-Selection of a profit level indicator for benchmarking
-Selection and application of a transfer pricing method to apply the arm's length principle (ALP).

Under PER-43, as amended by PER-32, any transfer pricing adjustment made by the tax authority can result in a corresponding adjustment to the income or costs of the foreign or local counterpart of the transaction.

In general, the risk of an annual tax audit is characterised as medium; however, the risk of an immediate tax audit after a taxpayer applies for a tax refund is high. The risk that transfer pricing will be reviewed as part of a regular tax audit is characterised as high, while the risk that tax authority will challenge the transfer pricing methodology is also high.

PRICING METHODS PRIORITY

Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP are cost plus (CP) and sale minus, or resale price (RPM). If the above cannot be determined, comparable profits (CPM) or ROI on similar business must be applied.

Selection of a transfer pricing method is to be carried out via 'the most appropriate method' test. This implies that taxpayers can choose to use the method that is appropriate based on the nature of the transaction and available data, inter alia, without having to first reject methods that were traditionally preferred. In applying the most appropriate transfer pricing method, the following factors should be considered:

-The advantages and disadvantages of each method
-The appropriateness of the method with the nature of related parties transactions, which is established based on the functional analysis
-The availability of reliable information to be applied on the chosen method and/or any other method
-The level of comparability of the transactions between related parties with transactions between unrelated parties, including the reliability of adjustments made to eliminate any discrepancy of the differences that exist.

TRANSFER PRICING PENALTIES

Penalties of 2% per month are imposed for late payment of tax, up to a maximum of 48% of the unpaid tax. In criminal cases, fines of 200%-400% of the unpaid tax are possible, as is imprisonment.

REDUCTION IN PENALTIES

Tax auditors adjust related party transactions where they do not believe an arm's length price has been used. Taxpayers have the right to object to assessments made by the tax office. The objection must be lodged in writing within three months of the issuance of the assessment and should be addressed to the DGT at the particular office from which the assessment was issued. The DGT has 12 months to issue a decision in relation to the objection.

Under the 2007 Tax Administration Law, which was effective from 1 January 2008 (and applies to tax years beginning on or after this date), taxpayers are required to pay only an amount agreed with the tax auditors during the tax audit's closing conference.
If the taxpayer does not agree with any of their corrections, it need not pay anything at this point.

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However, taxpayers need to take care when deciding how much to pay, because an unfavourable DGT decision on their objection results in an administrative penalty of 50% of the underpaid tax. The penalty increases to 100% if an appeal is lodged and the decision is not in the taxpayer's favour.

Taxpayers may appeal to the Tax Court against DGT decisions on their objections. To have the Tax Court hear the appeal, the taxpayer must pay 50% of the total tax assessment. There is uncertainty over the minimum amount to be paid for filing an appeal.

According to the 2007 Tax Administration Law, the same rule should apply: taxpayers pay only as much as agreed in the closing conference. However, the Tax Court Law, which governs tax appeals, demands a minimum payment of 50% of the tax due. Notwithstanding the above, we note from some experiences of taxpayers, the court judges did not throw out taxpayers' cases on a technicality when the 50% minimum payments have not been satisfied.

Currently, the Tax Court gives taxpayers their best chance of receiving a fair hearing. If an appeal to the Tax Court is still unsuccessful, taxpayers can appeal to the Supreme Court, provided that certain criteria are met.

It is worth noting that Indonesia has a civil law system in which the courts do not operate on the basis of precedence and their decisions are not published. Furthermore, tax cases cannot be appealed beyond the Tax Court or Supreme Court or in any civil court other than the State Administrative Court. This court deals with complaints by persons adversely affected by government decisions and has rarely, if ever, been used in tax cases.

DOCUMENTATION REQUIREMENTS

Under PER-43, transfer pricing documentation is mandatory. Within 90 days of the close of the fiscal year, and simultaneously with the submission of the corporate tax return, taxpayers are required to disclose information used to establish the arm's length nature of its price or profit in related party transactions. The information required must include:

-Detailed description of the tested party, such as structure of group's business, ownership structure, organisational structure, operational aspects of activities, list of competitors, and descriptions of business environment
-Pricing policies and/or cost allocation policies
-Results of comparable analysis on characteristics of products being traded, results of functional analysis, economic conditions, provisions of the contracts/agreements, and business strategy
-Selected comparable transactions
-Application of the transfer pricing methods selected by the taxpayer.

Based on the DGT's letter No. S-479/PJ.033/2012 issued on April 27 2012, taxpayers are not required to submit their transfer pricing documentation simultaneously with their corporate tax returns. However, taxpayers are required to present their transfer pricing documentation upon request from the Indonesian tax authorities.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Under PER-32, taxpayers are required to submit the transfer pricing documentation in reporting their related party transactions. Related party transactions must be reported in the Annual Income Tax return. Furthermore, in a tax audit, any document requested by tax auditor must be provided within a month from the date of request. Further, under PER-43, all documentation to support the arm's length nature of the related party transactions, including a transfer pricing study, must be maintained for 10 years from the close of the relevant fiscal year.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Disclosure of related party transactions in the tax return has been required since January 1 2002. Domestic and international related party transactions must be disclosed. Required information includes the type of transaction, the value of the transaction, the transfer price and the method used to determine the transfer price. However, since 2009, the disclosure requirements have expanded to include a confirmation of the information that the taxpayer used to establish the arm's length nature of the related party transactions.

STATUTE OF LIMITATIONS

There is no separate statute of limitations under PER-43. However, under the tax laws, the tax authority is allowed to conduct a tax audit, which includes assessing the arm's length nature of related party transactions, within five years from the relevant fiscal year.

ADVANCE PRICING AGREEMENTS (APAS)

As from January 1 2001, the Indonesian Income Tax Law includes a provision that authorises the Indonesian DGT to enter into an APA, which is valid for agreed periods and is renegotiable. As is the case in many other countries, unilateral or bilateral APAs can be an advantageous way of resolving transfer pricing uncertainties before they become acrimonious disputes.
On December 31 2010, the DGT released APA regulation No.69/PJ/2010 (PER 69). The coverage period for an APA is three fiscal years from the conclusion of the agreement. A rollback to previous years is possible, provided that the following criteria are met:

-The taxpayer's corporate income tax return for the relevant tax year has not been audited.
-The taxpayer has not filed any tax objection regarding the tax return.
-There is no indication of tax crime.

The rollback of an APA to prior years is not automatic and will be subject to negotiation between the taxpayer and the ITO (Indonesian Tax Office). GR-74 stipulates that any documents used during the negotiation of an APA should be returned to the taxpayer if no agreement is reached and the documents cannot be used by the ITO as the basis to conduct a tax audit or audit for preliminary evidence.

In addition, under PER-43, a Mutual Agreement Procedure (MAP) is available, in accordance with the provision of an applicable tax treaty. The procedures for applying for MAP relief is further regulated under PER-48/PJ/2010 that was issued by the DGT on November 3 2010.

BURDEN OF PROOF

In March 2009, the DGT issued letter No. S-153/PJ.4/2010, which provides guidelines for tax officers for application of the arm's length principle (ALP) in the context of a tax audit. In general, the main issues that have to be examined in an audit of the related party transactions are as follows:

-Existence of special relationship between the parties (since tax adjustments can be made only with regards to related party transactions)
-Selection of independent transactions that are comparable
-Selection of examined/audited party and tested transaction
-Comparability of conditions of related party transaction and comparable independent transaction
-Selection of a profit level indicator for benchmarking
-Selection and application of a transfer pricing method to apply the arm's length principle (ALP).

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INDONESIA

Under PER-43, as amended by PER-32, any transfer pricing adjustment made by the tax authority can result in a corresponding adjustment to the income or costs of the foreign or local counterpart of the transaction.

In general, the risk of an annual tax audit is characterised as medium; however, the risk of an immediate tax audit after a taxpayer applies for a tax refund is high. The risk that transfer pricing will be reviewed as part of a regular tax audit is characterised as high, while the risk that tax authority will challenge the transfer pricing methodology is also high.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Indonesia is not a member of the OECD, although it has been granted 'enhanced participation' status. PER-43 reconfirms the basic transfer pricing concepts and principles of the OECD Guidelines.

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IRELAND

TAX AUTHORITY
Office of the Revenue Commissioners.
Website: www.revenue.ie

TAX LAW
The Tax Consolidation Act of 1997 is the major tax law which governs direct taxation of income in Ireland.

REGULATIONS & RULINGS
Ireland has enacted transfer pricing legislation with effect for accounting periods commencing on or after January 1 2011 in relation to any arrangements other than those in place on July 1 2010. The transfer pricing legislation was introduced in the Finance Act 2010. It applies to any agreement or arrangement of any kind involving the supply and acquisition of goods, services, money or intangible assets where at the time of supply and acquisition the person making the supply and person making the acquisition are associated and the profits/gains or losses are within charge to Case I or II of either party. It should be noted that the new legislation will not apply to loans between related parties unless these loans are as a results of trading transactions.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Interpreted in accordance with Organisation for Economic Co-Operation and Development (OECD) Transfer Pricing Guidelines.

PRICING METHODS PRIORITY
There are no specific pricing methods, but application of the arm's length principle (ALP) and open market values are considered appropriate when dealing with related party transactions and are based on the OECD Guidelines.

TRANSFER PRICING PENALTIES
No specific provisions. The Irish tax authorities have indicated that the general corporate tax penalty provisions and the Code of Practice will apply to assessments raised due to transfer pricing adjustments under the new transfer pricing rules. The Finance Act (No.2) Act 2008 includes a tax geared penalty system with a revised penalty regime applying to cases of tax default occurring on or after December 24 2008.

Interest will arise on underpaid tax at a daily rate of 0.0273%.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
The legislation requires that a company must have transfer pricing documentation available. There is no legislated format for the documentation and the documentation does not have to be prepared in Ireland. Transfer pricing documentation completed for tax purposes in another jurisdiction may be sufficient to meet Revenue requirements, on the basis that this documentation is in English.

The tax authorities in Ireland recognise that the format of the documentation will depend on the types of transactions. For example, more complex transactions would require more detailed documentation.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
There is no deadline to prepare and submit documentation other than any figures included in the annual tax return must be based on actual calculations completed using the relevant transfer pricing legislation. The documentation must be available for inspection if the annual tax return is reviewed.

IRELAND

Revenue guidance states that it is best practice that the documentation be prepared at the same time as the terms of the transaction are agreed, and that the documentation should exist at the time that the Tax Return is filed.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

There are no specific requirements other than those to comply with the completion of the annual tax return.

STATUTE OF LIMITATIONS

Four years, or in the case of fraud or negligence an assessment may be made at any time.

ADVANCE PRICING AGREEMENTS (APAS)

The competent authority for transfer pricing Mutual Agreement Procedures (MAPs) and Advance Pricing Agreements (APAs) is: Director, Corporate Business and International Division, Office of the Revenue Commissioners, Stamping Building, Dublin Castle, Dublin 2, Ireland.

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Legislation has been adopted to align Ireland with international standards by adopting the OECD arm's length principles (ALPs).

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ISRAEL

TAX AUTHORITY
Israeli Tax Authority (ITA). Website:
http://ozar.mof.gov.il/customs/eng/mainpage.htm

TAX LAW
Income Tax Ordinance, article 85a.

REGULATIONS & RULINGS
Income tax regulations (determining market value), 2006 (hereinafter 'the regulations').

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
According to the regulations, in order to determine whether the transfer price in a certain transaction fits the arm's length principle (ALP), the transaction must be compared to similar transactions made between the Israeli company on hand and other unrelated parties (as elaborated below).

In case the transfer price in the checked transaction is found to be within the interquartile range of similar transactions, it is considered to fit the arm's length principle (ALP).

PRICING METHODS PRIORITY
First, the transfer price should be compared to transfer prices in similar transactions of the company on hand. In case the above is not feasible, the profit ratio of the transaction should be compared with the profit ratio in similar transactions. If neither of the above is feasible, the transaction should be examined with regards to the division of the profit and loss of the parties, taking into account the risks and probabilities to profit or loss from the transaction. In case none of the above is feasible, a different method of comparison, best suitable to the transaction, must be made.

TRANSFER PRICING PENALTIES
In case the transaction does not fit the arm's length principle (ALP), its price would be set in accordance to the 50th percentile of similar transactions, and the tax would be calculated respectively.

REDUCTION IN PENALTIES
No specific provision.

DOCUMENTATION REQUIREMENTS
All documentation related to the following:

-The Israeli company checked - its scope of activity, the economic environment in which it operates, an elaboration of all transactions made by the company, similar transactions, and the comparison method chosen
-The transaction and the pricing methodology according to the agreement between the parties
-The interquartile range, and how it was set
-The details of the transaction as it was submitted to the tax authorities of the related party's state of residency (including rulings received, if any)
-A market study.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Within 60 days of a request from the Israeli Tax Authority.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Related party disclosure is required.

STATUTE OF LIMITATIONS
No specific provision. The regular statute of limitation, with accordance to the Israeli Tax Ordinance, is up to four years as of the year-end in which the tax returns have been submitted.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Israeli Tax Authority (ITA).

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ISRAEL

BURDEN OF PROOF

After delivering the documentation, the burden of proof passes to the ITA.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

No differences.

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ITALY

TAX AUTHORITY
Agenzia delle Entrate (English: Italian Revenue Agency). Website: www.agenziaentrate.gov.it

TAX LAW
Presidential Decree no. 917/1986 – Art. 109 and art. 110.

REGULATIONS & RULINGS
Ministerial Circular no. 32/9/2267/1980; Ministerial Circular no. 42/12/1587/1981; Art. 8 Legislative Decree no. 269/2003; Provision July 23, 2004, Law no. 122/2010, Decision of the Director of Italian Revenue Agency of September 29, 2010.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Art. 9 Presidential Decree no. 917/1986.

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP) is the primary method applicable. Subsidiary to CUP, resale price (RPM) and cost plus (CP). If the above cannot be determined, profit split (PSM); or comparable profits (CPM); or invested capital profit; or gross profit margin can be applied.

TRANSFER PRICING PENALTIES
Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. In general, penalties from 100% to 200% of non-paid taxes are applicable.

REDUCTION IN PENALTIES
In case of tax assessment, penalties are not applicable if the taxpayer complies with the documentation requirements (see below) and delivers it to the tax administration.

Moreover, reduction in penalties could incur if the assessment is totally or partially (within certain limits) accepted.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
To avoid penalties in the case of tax audit the communication attesting to the ownership of the aforesaid documentation to the Italy Revenue Agency is effectuated with the filing of the annual income tax return.

For taxpayers having prepared the proper documentation relating to tax periods earlier than the ones in course as at May 31, 2010, this shall be electronically filed by December 28, 2010 or later, but before any tax inspection referred to the tax period.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Transactions with blacklist countries to be disclosed in the income tax return; since 2010, an appropriate communication shall be submitted to the tax administration (first submission within November 2, 2010) with reference to VAT subject transactions with blacklist countries.

STATUTE OF LIMITATIONS
31 December of the 4th year after the date when the return is filed.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Italian Tax Authorities only by the companies carrying out an international activity on specific matter (normal value, royalties, dividends, interests, other income components, inter-company charges, etc.). Validity for three financial years.

BURDEN OF PROOF
Italian Tax Authorities must prove the use of non-market values.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost all OECD Guidelines are followed.

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JAMAICA

TAX AUTHORITY

Tax Administration Jamaica (TAJ). Website: http://www.jamaicatax.gov.jm

TAX LAW

Jamaica has no specific transfer pricing guidelines, but limited Transfer Pricing Concepts apply where there is a close connection between a resident and a non-resident.

REGULATIONS & RULINGS

As indicated above limited Transfer Pricing Concept applies where there is a close connection between a resident and a non-resident. Payments to foreign affiliates for management fees, research and development, and general and administrative expenses, are deductible for income tax purposes, provided they are made at arm's length rates in consideration of the services rendered and the relevant withholding tax deducted where applicable.

Jamaica has joined OECD's 'Global Forum on Transparency and Exchange of Information for Tax Purposes' and has accepted recommendations made by the forum's first peer review. These recommendations will affect transfer pricing regulations in the future.

Jamaica has entered into Tax Information Exchange Agreements (TIEAs), bilateral agreements that have been signed to establish exchange of information for tax purposes, with a number of jurisdictions.

Jamaica has bilateral tax treaties with 12 countries, namely Switzerland,Canada, the Peoples Republic of China, Denmark, France, Germany, Israel, Norway, Spain, Sweden, the UK and the US. Jamaica is also a member of the CARICOM Multilateral Tax Treaty, which is signed by 11 jurisdictions; the other 10 are: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Jamaica has also signed a tax information exchange agreement (TIEA) with the US. All of Jamaica's treaties and its TIEAs are usually accompanied by an agreement for affording relief from double taxation with respect to individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises where conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

Payments to foreign affiliates for management fees, research and development, and general and administrative expenses, are deductible for income tax purposes, provided they are made at arm's length rates in consideration of the services rendered and the relevant withholding tax deducted where applicable.

PRICING METHODS PRIORITY

No specific provisions.

TRANSFER PRICING PENALTIES

No specific provisions. The general provisions relating to penalties apply.

REDUCTION IN PENALTIES

No specific provisions. Taxpayers can apply for waiver of penalties in the normal manner.

DOCUMENTATION REQUIREMENTS

No specific provisions. However, the TAJ usually asks for written contracts on management, marketing and other services and necessary supporting documents to verify taxpayer returns. In addition, the Companies Act (s.144) requires every company to keep proper books and documents of account to give a true and fair view of the state of the company's affairs and to explain its transactions. These books and documents of account are with respect to all sums of money

JAMAICA

received and expended by the company, matters in respect of which the receipt and expenditure takes place, all sales and purchase of goods by the company and the assets and liabilities of the company.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

There is no specific deadline unless requested by the TAJ.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

TAJ has the right to ask the taxpayer to provide all facts required to verify their tax returns. In addition, all financial statements must contain relevant disclosure relating to Related Party Transactions in keeping with IFRS.

STATUTE OF LIMITATIONS

Section 21(3) of the Tax Collection Act 1867 provides a limitation of seven years for the collection of taxes from a person. This means that the revenue department may conduct audits of taxpayers within seven years of the date at which collection of taxes was due.

Therefore, it is in the interests of Jamaican taxpayers to main related documentation for a period of seven years.

ADVANCE PRICING AGREEMENTS (APAS)

Therefore, it is in the interests of Jamaican taxpayers to main related documentation for a period of seven years.No specific rule applies.

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

There are no specific rules, however, with Jamaica's recent admission to the 'Global Forum on Transparency and Exchange of Information for Tax Purposes' the OECD Guidelines will influence future decisions.

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JAPAN

TAX AUTHORITY
National Tax Agency of Japan. Website: www.nta.go.jp

TAX LAW
Article 66-4 of the Act on Special Measures concerning Taxation.

REGULATIONS & RULINGS
Article 39-12 of the Cabinet Order of the Act on Special Measures concerning Taxation; Commissioner's Directive on Interpretation of the Act on Special Measures concerning Taxation 66-4(3).

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
An arm's length price for a transaction is defined as the price of that transaction were the parties not related.

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); profit split (PSM); and transactional net margin (TNMM).

TRANSFER PRICING PENALTIES
Under-reported tax: 10%/15% of the increase in tax. Failure to file a tax return: 15% of the tax on a late return. Heavy penalty tax: under-reported tax 35%; failure to file 40%.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
'Information on Foreign Related Persons' (Form 17-(3)) to its final tax return or to provide sufficient information in Form 17-(3).

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Within two months from the day after the end of the tax year.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Related party dealings must be disclosed by all taxpayers in the income tax return (Form 17-(3)).

STATUTE OF LIMITATIONS
Six years starting from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
The taxpayer can ask the tax authorities to determine the market price. Valid for three through five years.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
No significant differences.

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JORDAN

TAX AUTHORITY
Income & Sales Tax Department. Website: www.istd.gov.jo

TAX LAW
Income Tax law No.28 of 2009. Article No.20, Paragraph D,E & F.

REGULATIONS & RULINGS
Royal Decree, published in the official gazette, page 7131, volume 5005 on 30 December 2009, effective 1 January 2010.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The disposition transaction shall be considered as a revocable transaction if it included a provision allowing the transfer of the income or re-transferring it to the person who made the disposition transaction or allowed him to control the income or the assets which the income was incurred from directly or indirectly.

If a person(s)who have mutual benefits in enterprise(s), concluded commercial or financial transactions between them and these enterprises, or among these enterprises, in a way different than what is being conducted in the market, and these transactions may reduce the profits subject to tax for any of them or of the enterprises, these transactions shall be ignored and the real profits shall be estimated according to the regular market value of the transactions.

Any illusionary or fake disposition transaction shall be ignored and the due tax shall be estimated on the related taxpayer as if there was no transaction.

PRICING METHODS PRIORITY
Market value.

TRANSFER PRICING PENALTIES
No specific provision. Penalties will be reflected in the adjustments that may be carried out during income tax inspection.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No statutory requirements, but original invoice and certificate of origin are required in income tax inspection.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Four years following the year the transactions were recorded.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
Not applicable.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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KAZAKHSTAN

TAX AUTHORITY
Both the Tax Committee (website: www.salyk.kz/eng/Pages/default2.aspx) and Customs Control Committee (website: www.customs.kz/en/) have authority over transfer pricing. Both committees report to the Ministry of Finance (www.minfin.kz/index.php?lang=eng).

TAX LAW
Code of the Republic of Kazakhstan, law No. 209-II 'About Taxes and Other Obligatory Payments in the Budget', 12 June 2001; law No. 67-IV, 'On Transfer Pricing', dated July 5 2008 (which came into effect on January 1 2009).

REGULATIONS & RULINGS
As above.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
While the law introduces a new definition of the arm's length principle (ALP), it is generally not reflective of the spirit of OECD's original principle, focusing mainly on the transaction price rather than financial results of the transaction in general. This has the effect of restricting the application of this principle with respect to profit-based transactions methods (which were included in the new law). Furthermore, at present the new definition of 'market price' is unclear and further clarification is expected soon.

PRICING METHODS PRIORITY
Five pricing methods are permitted: comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); profit split (PSM); and net profit. Comparable uncontrolled price (CUP) is considered the foremost of these.

TRANSFER PRICING PENALTIES
KZT 2,000 monthly, index linked. One month's counting index equals KZT 1,852.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Transaction parties (when transactions are within the scope of the transfer pricing regime) are obligated to maintain suitable documentation to justify the reasonableness of transaction prices used.
Kazakhstan's transfer pricing regulations also introduced annual reporting requirements in the form of monitoring of international transactions for a specified list of goods and services 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, business strategy, and information on the trade broker's margin
-Other documents and data proving the consistency of the prices applied with market prices.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Documentation must be prepared by May 15 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 prepared and submitted within 90 days upon request by the authorities.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Return disclosure related party disclosure should be carried out under the arm's length principle (ALP).

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KAZAKHSTAN

ADVANCE PRICING AGREEMENTS (APAS)
There is no mechanism for establishing binding APAs.

BURDEN OF PROOF
The burden of proof is on the taxpayer to establish and document that dealings with related parties are on an arm's length principle (ALP) basis and penalties are levied for failure to do so.

STATUTE OF LIMITATIONS
Three years from the time of a debt's incurrence.

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

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KENYA

TAX AUTHORITY

Kenya Revenue Authority (KRA). Website: www.kra.go.ke

TAX LAW

Kenyan Laws, CAP 470 Income Tax Act Section 18 (3), The Income Tax (Transfer Pricing) Rules, 2006. Period of adoption 1.7.2006.

The rules have been derived from and are an expansion of Section 18(3) of the Income Tax Act, which states: 'Where a non-resident person carries on business with a related person and the course of that business is so arranged that it produces to the resident person either no profits or less than the ordinarily profits which might be expected to accrue from that business if there had been no such relationship, then the gains or profit of that resident person from that business shall be deemed to be the amount that might have been expected to accrue if the course of that business had been conducted by independent dealings at arm's length' - defined as price payable in a transaction between independent enterprises.

REGULATIONS & RULINGS

None so far.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The price payable in a transaction between independent enterprises. For a transaction to be said to be at arm's length the following conditions have to be fulfilled:

-Comparable transactions - meaning transactions between which there are no material differences, or in which reasonably accurate adjustment can be made to eliminate material differences

-Controlled transactions - meaning a transaction which is monitored to ensure payment of an arm's length price for goods and services.

-Related enterprises - meaning (a) one of the enterprises participates directly or indirectly in the management, control, or capital of the other; or a third person participates directly or indirectly in the management, control or capital or both.

PRICING METHODS PRIORITY

-Comparable uncontrolled price (CUP): the transfer price in a controlled transaction is compared with prices in an uncontrolled transaction
-Resale price (RPM): the transfer price is compared with the resale price at which the product is sold to an independent enterprise
-Cost plus (CP): costs are assessed using the costs incurred by the supplier of a product and a mark-up added to make an appropriate profit
-Transactional net margin (TNMM): net profit margin attained by a multinational enterprise is compared to the net profit that would have been earned in a comparable transaction by an independent enterprise
-Profit split (PSM): Residual profits/profit split is a reliable transfer pricing method only if it covers an entire pool of profits, excluding only those that are known to be at arm's length because they are earned by unrelated parties, or because they have been tested by a method other than the profit split.

TRANSFER PRICING PENALTIES

Penalties for failure to comply with the income tax act provisions are levied by the KRA and are levied for:

-Failure to furnish returns
-Underpayment of taxes relating to transfer pricing
-Involvement in fraud
-Failure to provide policy for approval.

REDUCTION IN PENALTIES

None. Where there is no negligence in misapplication of policy arises, it is possible to seek waiver of interest and penalties. However, the principal amounts must be settled before the application of waiver is submitted.

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KENYA

DOCUMENTATION REQUIREMENTS
-Books of accounts
-Other documents relating to transfer pricing and translated into English.
-A transfer pricing policy presented to the Kenya Revenue Authority for approval.

The documents and books of accounts must be retained for seven years and made available to the KRA on demand.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
There is no statutory period for submitting documentation to the KRA, however, documentation should be available for inspection upon request by the KRA. The taxpayer should maintain records for at least seven years.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
The taxpayer should disclose in the financial statements any transactions with related parties and the nature of the transaction. The KRA, however, needs disclosure of related party transactions with overseas enterprises.

STATUTE OF LIMITATIONS
None.

ADVANCE PRICING AGREEMENTS (APAS)
None.

BURDEN OF PROOF
The burden of proof, once the Transfer Pricing Policy has been approved KRA, rests with the Kenya Revenue Authority (KRA).

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
None.

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KOREA, REPUBLIC OF

TAX AUTHORITY
National Tax Service (NTS). Website: www.nts.go.kr

TAX LAW
Law for Coordination of International Tax Affairs (LCITA).

REGULATIONS & RULINGS
Presidential Enforcement Decree, Ministerial Enforcement Ordinance, Notice of NTS.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
Comparable profits (CUP); resale price (RPM); cost plus (CP); profit split (PSM); transactional net margin (TNMM); and other reasonable methods are accepted by the National Tax Service.

TRANSFER PRICING PENALTIES
10% - 30% penalty for under-reported taxable income.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
While there are no specific documentation requirements, the following are required annually as part of the tax return:

-Transfer pricing method selected and the reason for the selection
-Schedule of related party transactions by related party, type of transaction, and amount of transaction
-Condensed P&L of overseas parties.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Within three months of the end of each fiscal year as part of the annual tax return.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No specific requirements.

STATUTE OF LIMITATIONS
Five years.

ADVANCE PRICING AGREEMENTS (APAS)
Unilateral and bilateral are available under the LCITA and Presidential Enforcement Decree.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Almost all OECD Guidelines are followed but according to the LCITA, comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP) have priority over profit split (PSM); transactional net margin (TNMM), and other methods.

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KUWAIT

TAX AUTHORITY
Tax Department, Ministry of Finance.
Website: http://en.mof.gov.kw.

TAX LAW
Kuwaiti income tax decree No 3 of 1955, as amended by law No 2 of 2008. This new law is applicable for all taxable periods that started from February 3 2008.

REGULATIONS & RULINGS
Such rules and regulations issued by the Minister of Finance or his delegates, including the procedures regulating the executions of provisions of the Decree and executive bylaws.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The tax department assumes a deemed profit or mark-up on all transactions from affiliates or head office.

PRICING METHODS PRIORITY
The tax department assumes a mark-up of 10% to 15% if materials are supplied by head office; a mark-up of 25% if designing works are done by head office. Lower mark-ups are assumed if works/supplies are from affiliates or third parties.

TRANSFER PRICING PENALTIES
Not applicable.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Tax declaration must be supported by:

An approved report from the auditor registered at the Ministry of Commerce & Industry and approved at the Ministry of Finance enclosing the following papers and documents:
1- The public budget and the closing accounts of the taxable period for which the declaration is submitted
2- A list of assets, including purchase date of each assets, its value, the depreciation rate applied, additions and disposal of assets
3- A list of subcontractors and the last payment certificate of each subcontractor indicating the work done
4- The end of term stock list regarding the amount and value
5- Copies of under-construction contracts and the amount of each contract revenues and expenditures according to the data mentioned in the tax declaration
6- Final trial balance used for preparing the closing accounts and the tax declaration
7- The final payment certificate issued by the contract owner of the project
8- Insurance companies shall attach to the public budget and the tax declaration a detailed statement with the reinsured documents and the related terms and conditions.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The tax declaration must be submitted to the tax administration on or before the 15th day of the fourth month following the end of the taxable period of the incorporated body.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Five years, per tax law.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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KUWAIT

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LEBANON

TAX AUTHORITY
Lebanese Department of Income Tax (DIT).
Lebanese Department of Value Added Tax.
Website: www.finance.gov.lb

TAX LAW
Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments, Article 15).

REGULATIONS & RULINGS
Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments, Article 15).

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (Article 15 of Law #144).

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP) is the primary applicable method. Alternatives are resale price (RPM) and cost plus (CP).

TRANSFER PRICING PENALTIES
No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments (in the case of under-statement of taxable profits) will carry a penalty of 12% per month applied on the adjustment, starting the month of June following the year filed.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No statutory requirements. However, documentation will be needed for defence in case of tax inspection. Special rules apply to management support expenses. The deduction of management support provided by a non-Lebanese related party (non-resident related party) to a Lebanese entity would require certain written documentation. These documents should be made available by the taxpayer at any time to the inspectors of the Department of Income Tax (DIT). Laws set maximum limits for support expenses provided by the non-resident related party to be allowed as a tax-deductible expenses.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
According to the Lebanese Code of Commerce (Article 158), the statutory auditors (in conjunction with their audit) are required to prepare an annual special report on related party transactions. These transactions should be approved by the general assembly.

STATUTE OF LIMITATIONS
Four years from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
The Lebanese Tax Authorities (DIT) must prove the use of non-market values.

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

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LUXEMBOURG

TAX AUTHORITY
Administration des contributions directes (English: Direct Taxation Department).
Website: www.impotsdirects.public.lu

TAX LAW
Luxembourg Tax Administration Law 04.12.1967.

REGULATIONS & RULINGS
Income Tax Law articles 56, 97 (1) and 164 (3). The arm's length principle (ALP) is generally applicable; the law does not contain any specific guidelines nor regulations. Tax Administration has not issued any specific guidelines nor regulations.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
OECD Guidelines.

PRICING METHODS PRIORITY
Preference is cost plus (CP), but acceptable are: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); profit split (PSM).

TRANSFER PRICING PENALTIES
Adjustment of taxable income in order to comply with arm's length principle (ALP). Withholding tax (15%) may apply to transactions that are determined to be hidden profit distribution. No specific penalties unless tax fraud.

REDUCTION IN PENALTIES
No specific provisions.

DOCUMENTATION REQUIREMENTS
No specific documentation required, but it is recommended to retain justification for each transaction. It is recommended to have a written transfer pricing contract, including a comprehensive reference to current market conditions.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Since no specific documentation is required according to applicable law, there is no deadline. Based on tax return received, tax authorities may request further information / documentation that may also include questions with regard to transfer pricing. Normally, tax authorities grant a delay of one month to answer the questions or to provide the information / documents.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Detailed information on related parties involved in related party transactions should be attached to the tax return.

STATUTE OF LIMITATIONS
Five years, increased to 10 years in the case of tax fraud.

ADVANCE PRICING AGREEMENTS (APAS)
No APA mechanism foreseen by law. Tax authorities may express an opinion upfront on transfer prices used.

BURDEN OF PROOF
Where the tax authorities have doubts, the taxpayer has to deliver additional information. The burden of proof regarding the correctness of the information contained in the tax return belongs to the taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Generally, tax authorities follow OECD Guidelines.

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MALAYSIA

TAX AUTHORITY
Lembaga Hasil Dalam Negeri Malaysia (LHDNM). English: Inland Revenue Board of Malaysia. Website: www.hasil.gov.my

TAX LAW
Section 140, Section 140A and Section 141 of Income Tax Act, 1967.

REGULATIONS & RULINGS
Transfer Pricing Guidelines issued by IRB in July 2003.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
OECD model.

PRICING METHODS PRIORITY
To be released soon.

TRANSFER PRICING PENALTIES
Only if companies make no attempt to comply with arm's length principle (ALP).

REDUCTION IN PENALTIES
As provided in Transfer Pricing Guidelines.

DOCUMENTATION REQUIREMENTS
No specific provisions. However, documentation will favour the taxpayer. Documents to consider include: global group structure, nature of business, controlled transactions with specific information on Malaysian party, assumptions, strategies, policies comparability, functional & risk analysis, selection and application of transfer pricing method, background documents, and any other information relevant to support a determination of arm's length principle (ALP) price.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
No statutory requirement for annual filing of documentation.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Related companies transaction must be disclosed in the audited accounts.

STATUTE OF LIMITATIONS
Six years if there is no fraudulent intent, otherwise no limitation.

ADVANCE PRICING AGREEMENTS (APAS)
Section 138C of Income Tax Act, 1967.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
None.

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MALTA

TAX AUTHORITY
Inland Revenue. Website: www.ird.gov.mt

TAX LAW
Malta Income Tax Act Chapter 123. There is no specific reference to transfer pricing in Maltese tax law. However, there is a general anti-abuse provision which states that any scheme deemed by the Commissioner as intended to evade tax is unlawful.

REGULATIONS & RULINGS
No specific reference to transfer pricing in Maltese Income Tax Acts.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
No specific reference to Transfer Pricing in Maltese Companies Act. The arm's length principle (ALP) is not defined under Maltese Law.

PRICING METHODS PRIORITY
All methods are allowed, as no specific reference to transfer pricing in Maltese legislation exists.

TRANSFER PRICING PENALTIES
Not applicable.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Hard copies of fiscal documents are required to support all transactions eg: invoices, credit notes, etc.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Not applicable.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
Not applicable.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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MAURITIUS

TAX AUTHORITY
Mauritius Revenue Authority (MRA).
Website:
www.gov.mu/portal/sites/mra/index.htm

TAX LAW
Mauritius Income Tax Act 1995.

REGULATIONS & RULINGS
There is no transfer pricing legislation.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
In the case of a business controlled by a non-resident, or carried on by a non-resident company, Section 75 of the Income Tax Act contains a general provision whereby the Commissioner of Income Tax may determine the net income of the business, if he is not satisfied that transactions were carried out on an arm's length principle (ALP) basis.

PRICING METHODS PRIORITY
Not applicable.

TRANSFER PRICING PENALTIES
Not applicable.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Documentation will be needed to support arm's length principle (ALP) arrangements in the case of a tax investigation.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Disclosures required in financial statements in accordance with International Accounting Standards.

STATUTE OF LIMITATIONS
Four years from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
There is no transfer pricing legislation.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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MEXICO

TAX AUTHORITY
Servicio de Administración Tributaria (SAT). English: The Tax Administration Service (SAT) of the Ministry of Finance and Public Credit (SHCP). Website: www.sat.gob.mx

TAX LAW
Income Tax Law, Articles 86 XII and XV, 215 and 216, and Section III of article 18 of the Corporate Tax at Single Rate Law.

REGULATIONS & RULINGS
Not applicable.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Arm's length principle (ALP) means that inter-company transactions should be agreed on as if they were between independent parties, at market prices.

PRICING METHODS PRIORITY
Income Tax Law establishes strict enforcement laws on methodology mentioned in article 216 of said Law; methods must be applied in the following order:

-Comparable uncontrolled price (CUP)
-Resale price (RPM)
-Cost plus (CP)
-Profit share and residual profit share
-Transactional net margin (TNMM).

TRANSFER PRICING PENALTIES
The consequence for failing to comply with article 215 of ITL: SAT (fiscal authority) exerts its authority, and is entitled to determine the cumulative income and authorised deductions of the taxpayers by means of the specification of the price or total amount of consideration in transactions between related parties, from which the possible tax credit determination including the omitted income tax will derive, determined according to the authority, its updating, surcharge for late payment and applicable fine.

Pursuant to section XVII, both article 81 and article 82 of the Mexican Internal Revenue Code, in the case of not presenting the informative statement, or presenting it incomplete, or with mistakes, a fine of between $47,640 and $95,280 will be imposed.

REDUCTION IN PENALTIES
Consequence of such revision the contribution payment was omitted, due to the compliance of the foreseen obligation on article 86 section XII of ITL, the fines would be reduced by 50% and in the event of losses while complying with the previously mentioned tax provisions, the fine will be from 15% to 20% of the difference resulting when the declared tax losses are greater than the ones really suffered.

DOCUMENTATION REQUIREMENTS
-An explanation of the economic circumstances during the fiscal year
-The company's group description
-The company description
-Name, legal address, ID and country of residence of the related parties of the company
-Operations with related parties and its amounts, as per each related party and type of operation according to amounts for each party and type of operation
-Functional analysis of the company (functions, risks and assets)
-Description of inter-company transactions (characteristics of the property or services transferred, contractual conditions, business strategies carried out by the parties, etc.)
-Application of the transfer pricing methodology
-Supporting documentation provided by the company (agreements and /or contracts; board minutes; invoices; accounting documentation, etc).

MEXICO

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Transfer pricing documentation must be submitted with the annual statement, or by introducing the tax opinion, which is mandatory under Mexican tax laws.

STATUTE OF LIMITATIONS

SAT can pursue legal recourse for the past five years.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Transfer pricing documentation must be submitted with the annual statement, or by introducing the tax opinion, which is mandatory under Mexican tax laws.

ADVANCE PRICING AGREEMENTS (APAS)

SAT and SHCP accept APAs.

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Laws conform to OECD Guidelines.

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MOROCCO

TAX AUTHORITY
Direction Générale des Impots (DGI).
English: Directorate General of Taxes.
Website: www.tax.gov.ma

TAX LAW
Article 213-II of the Moroccan 'Code General des Impôts' (C.G.I) - Livre II ' Fiscal Procedures' relating to the discretion of the administration (arm's length); Article 214-III of the Moroccan C.G.I – livre II 'Fiscal Procedures' on the right of communication and information exchange.

REGULATIONS & RULINGS
As above.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
International group companies must fix the price of their internal transactions as intra parties would do for identical transactions; this principle also applies to domestic group companies.

PRICING METHODS PRIORITY
Article 213-II provides for a correction in profits indirectly transferred, determined by comparing profits of similar companies or through direct assessment on the basis of information available to the administration.

TRANSFER PRICING PENALTIES
No specific penalty. Standard penalties are:

-Punitive rate: 15%, or 100% in case of fraudulent operations with a 10% surcharge
-Late payment: 5% on the first month; 0.5% on each additional month.

REDUCTION IN PENALTIES
Late payment penalties and interest is generally not negotiable. Companies may ask for a total or partial waiver of penalties; the tax authority's decision is discretionary.

DOCUMENTATION REQUIREMENTS
No statutory requirement, however, all transactions should be documented for justification purposes in case of a tax inspection. The Tax Administration may ask the taxable company in Morocco to communicate and provide information and documents concerning:
-The nature of relations between the taxable company in Morocco and the one outside of Morocco
-The nature of services rendered or products marketed
-The method of determination of price transactions between the said companies and the factors justifying them
-The tax regime and rate for companies located outside of Morocco.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The company has 30 days to release information to the tax administration, if requested. If no answer is received or the response does not satisfy the required elements demanded, the dependency factor between these companies will be assumed by default.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Generally December 31 of the fourth year following the current financial year.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

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

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

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MOROCCO

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NETHERLANDS

TAX AUTHORITY
Belastingdienst (English: Tax Administration). Website: www.belastingdienst.nl

TAX LAW
Dutch Corporation Tax law 1969, Article 8b.

REGULATIONS & RULINGS
Decree 2013/184M; Decree 2014/296M; Decree 2014/3098; Decree 2014/3099; Decree 2014/3102; Decree 2014/3102.)

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above). Internal transactions will have been made as unrelated parties would do for identical transactions.

PRICING METHODS PRIORITY
Traditional transaction methods:

-Comparable uncontrolled price (CUP)
-Resale price (RPM) (distributors)
-Cost plus (CP) (manufacturers).

Other (transactional profit) methods:

-Profit split (PSM)
-Transactional net margin (TNMM or CPM in US).

TRANSFER PRICING PENALTIES
No specific provisions. Tax audit adjustments may be carried out during a tax inspection in case of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
The documentation requirement is part of the administration, but is not specified. An appropriate support is required and can be based on:

-Functional analysis/fact finding
-Contracts
-Market policy/strategy.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Sufficient documentation must be available, preferably before transactions start (see 'Burden of Proof').

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Every person liable for corporation income tax.

STATUTE OF LIMITATIONS
Five years after the filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Dutch tax authorities. APAs can be made for the future and retrospectively. Also possible: an Advanced Tax Ruling (ATR) i.e. an agreement on the characterisation of international corporate structures. Standard rulings have been developed for:
-Holding activities
-Finance activities
-License activities
-Financing permanent establishments.

BURDEN OF PROOF
If there is no documentation the tax authorities can reject the transfer prices (reversed onus of proof).

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
None

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NEW ZEALAND

TAX AUTHORITY
Inland Revenue Department. Website: www.ird.govt.nz

TAX LAW
Income Tax Act 2007: Sections CH9,FE5,FE6,GC6 to GC14, GB2, BG1, GB1, YD5 and subpart YB. Tax Administration Act 1994: Sections 22, 91A to 91J, 141A to 141EC, 141FB and 141G to 141JAA and 141K.

REGULATIONS & RULINGS
Inland Revenue has issued guidelines to be read in conjunction with the legislation. The Inland Revenue Department considers that the guidelines supplement rather than replace the OECD Guidelines. See Tax Information Bulletin Vol 12, No 10, October 2000, Appendix and various Practice Issue notes published on the Inland Revenue website. The Inland Revenue can make APAs under its power to make binding rulings.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Per the standard adopted by OECD and per New Zealand legislation, regulating cross-border associated party transactions by members of Multinational Enterprises (MNEs). An arm's length consideration must be determined by applying whichever method produces the most reliable measure of the amount that completely independent parties would have agreed upon after real and fully adequate bargaining.

PRICING METHODS PRIORITY
Taxpayers are required to use at least one of five methods proscribed in legislation. These include:

Traditional transaction methods:
Comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP); and

Transactional profit methods:
Comparable profits (CPM); transactional net margin (TNMM) and profit split (PSM).

The traditional transaction methods offer a direct means of setting an arm's length transfer price, whereas transactional profit methods take into account the overall profit or loss generated by the transaction. The CPM is more commonly used because of the availability and reliability of data, and because the stricter comparability criteria for traditional transaction methods can be difficult to satisfy. Inland Revenue accepts that the CPM will be the most commonly used method.

TRANSFER PRICING PENALTIES
Penalties can be imposed under the general penalties provisions:
-Lack of reasonable care 20%
-Unacceptable tax position 20%
-Gross carelessness 40%
-Abusive tax position 100%
-Evasion 150%.

These penalties can be increased by 25% for obstruction.

REDUCTION IN PENALTIES
Not taking reasonable care, unacceptable tax position or unacceptable interpretation penalties can be reduced by 100% and other penalties reduced by 75%, if disclosure is made before notification of an audit is received from the Commissioner of Inland Revenue. Each penalty may be reduced by 40% if disclosure is made after notification of an audit.

DOCUMENTATION REQUIREMENTS
Every person who carries on a business is required to keep full financial and tax records for seven years. This retention period also applies to the documents listed further below.

While transfer pricing documentation is not pricing regime specifically described,

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its preparation is generally expected and is advantageous as it can reduce the risk of a tax audit and penalties. In a tax audit the Inland Revenue expects to see: details of operations and financial performance of the company and other entities under its MNE group; details of the market it operates in and the types and value of inter-company transactions, as well as a description of the functions, assets (especially intangibles)and risks of the parties; industry analysis; efforts made to find internal comparables; description of process of selecting best transfer pricing method; details of comparables search undertaken; why companies were selected are comparables; unadjusted income statement for each comparable with adjustments explained; cross-check using at least a second profit level indicator; conclusions and copies of all inter-company agreements; as well as:

-Local and global corporate structures
-Details of any special circumstances
-Working papers including calculations using the selected method
-Supporting data and information.

As a bare minimum for smaller organisations, the Inland Revenue's Transfer Pricing Questionnaire should be completed and analysis carried out on the data with a conclusion that supports the pricing used.

Thin capitalisation rules operate to prevent foreign-controlled or multinational corporations allocating a disproportionate amount of debt to their New Zealand operations (an excess debt entity) and thereby reduce their taxation liabilities.

An ‘excess debt entity’ has deemed interest income on excess debt to the extent that its debt percentage of the New Zealand group for the year is more than 60% (75% prior to April 1 2011), and for a company or a trust, the percentage is also more than 110% of the debt percentage for the worldwide group. The Thin Capitalisation regime is intended to act as a back-up to the transfer-pricing regime.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Document transactions when they occur or at least by the time the relevant tax return is filed. No documentation needs to be filed with the tax return but must be at hand in case of a tax audit.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Disclosure 35: Payments to non-residents;
Disclosure 35A: Was Non-resident Withholding Tax or Non-resident Contractors Tax deducted from all payments?, and
Disclosure 39: Is the company controlled or owned by non-residents?
Note: Related party transactions need to be disclosed in the financial statements.

STATUTE OF LIMITATIONS

Records must be retained for seven years, extended to 10 years if Inland Revenue advises of an audit. Inland Revenue may not amend an assessment four years after the end of a year in which the return was filed. No limitation if the Commissioner considers the tax return to be fraudulent or wilfully misleading or where a source of income has been excluded from a Tax Return.

ADVANCE PRICING AGREEMENTS (APAS)

The Inland Revenue has not established a formal process for obtaining an APA. This is because each application is unique. Legislation allows for unilateral APAs to be issued in the form of a binding ruling and bilateral and multilateral APAs may be entered into pursuant to New Zealand’s double tax treaties. The APA process involves:

-An initial discussion with Inland Revenue or a short written submission to determine whether Inland Revenue is willing to formally discuss

the taxpayer's situation
-A pre-lodgement meeting with Inland Revenue to discuss any issues prior to formal lodgement of an application for a Binding Ruling
-Submit a formal application on a prescribed binding ruling application form and include:

-Transfer pricing documentation
-A draft of the actual APA for which approval is being sought
-Separate submission regarding particular issues Inland Revenue expects the taxpayer to address.

BURDEN OF PROOF

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

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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NIGERIA

TAX AUTHORITY
Federal Inland Revenue Service (FIRS). Website: www.firs.gov.ng
Nigeria Customs Service (NCS). Website: www.customs.gov.ng

TAX LAW
Companies Income Tax Act (CITA) Cap C21 Laws of the Federation of Nigeria 2004.

REGULATIONS & RULINGS
The profits of a company other than a Nigerian company from any business are deemed to be derived from Nigeria where the business is between the company and another person controlled by it or which has a controlling interest in it, and conditions are made or imposed between the company and such person in their commercial or financial relations which in the opinion of the Federal Inland Revenue Service (FIRS) is deemed to be artificial or fictitious. So much of the profit adjusted by the FIRS is to reflect arm’s length principle (ALP) transaction.

INTERPRETATION OF ARM’S LENGTH PRINCIPLE (ALP)
Any transaction which, in the opinion of the FIRS, reduces or would reduce the amount of any tax payable is artificial or fictitious – and therefore not done at arm's length.

PRICING METHODS PRIORITY
Comparable uncontrolled (CUP); resale price (RPM); cost plus (CP); safe harbour.

TRANSFER PRICING PENALTIES
Tax due if transactions were not treated as at arm's length – at company income, personal income, education, value added or withholding tax rates, whichever is applicable.

REDUCTION IN PENALTIES
Subject to appeal process for other tax assessments.

DOCUMENTATION REQUIREMENTS
Annual filing of audited financial statements and tax returns of global income of permanent establishment in Nigeria.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Six months after financial year-end.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Global income – earned in Nigeria plus earned elsewhere – of permanent establishment in Nigeria.

STATUTE OF LIMITATIONS
Six years.

ADVANCE PRICING AGREEMENTS (APAS)
Subject to approval by the Federal Inland Revenue Service.

BURDEN OF PROOF
Taxpayer – permanent establishment in Nigeria.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
No formal guidelines adopted for general application. Each double taxation agreement is a blend of four models – OECD, UN, Nigeria, and the other contracting party. The Nigerian model is closest to the UN model.

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NORWAY

TAX AUTHORITY

Skattedirektoratet (SD). English: Tax Administration. Website: www.skatteetaten.no

TAX LAW

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

REGULATIONS & RULINGS

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

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

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

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

PRICING METHODS PRIORITY

OECD pricing methods are accepted by the Norwegian tax authority. The traditional transaction methods: comparable uncontrolled price (CUP); resale price (RPM); and cost plus (CP); are generally preferred to the transactional profit methods: transactional net margin (TNMM) and profit split (PSM). There seems to be increasing support for application of the profit methods under certain circumstances.

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

TRANSFER PRICING PENALTIES

Transfer pricing penalties (surtax) are normally 30% based on tax adjustments. In the case of gross negligence, a surtax of up to 60% may be levied. Additionally, a non-deductible interest charge will apply per year.

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

REDUCTION IN PENALTIES

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

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NORWAY

DOCUMENTATION REQUIREMENTS
Taxpayers are obliged to prepare transfer documentation that describes how transfer prices have been established between associated enterprises. The documentation needs to include sufficient information to enable the Norwegian tax authority to evaluate the arm's length nature of the transfer prices applied between associated enterprises. Both cross-border and domestic transactions are covered. The filing requirement is an attachment to the annual tax return (Form RF-1123), which includes a statement of all inter-company transactions. The form serves as a basis for the tax authorities when targeting transfer pricing tax audits.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Transfer pricing documentation must be submitted within 45 days after a request by the tax authorities. All documentation must be retained for 10 years.

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

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

ADVANCE PRICING AGREEMENTS (APAS)
APAs on transfer pricing assessments are currently unavailable. There is one exemption for transfer pricing on the sale of gas under the Norwegian Petroleum Tax Act.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
See previous.

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PAKISTAN

TAX AUTHORITY
Federal Board Of Revenue (FBR). Website: www.cbr.gov.pk

TAX LAW
Income Tax Ordinance 2001, Section 108.

REGULATIONS & RULINGS
Rules 20 to 27 of Income Tax Rules 2002.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
A controlled transaction shall meet the arm's length principle (ALP) standard if the result of the transaction is consistent with the result (referred to as the arm's length result) that would have been realised if an uncontrolled person had engaged in the same transaction under the same conditions.

PRICING METHODS PRIORITY
Arm's length principle (ALP) price may be determined using the following:
a. Comparable uncontrolled price (CUP)
b. Resale price (RPM)
c. Cost plus (CP)
d. Profit split (PSM).

The tax authorities are empowered to choose between (a), (b) & (c) having regard to facts and circumstances of the case; (d) is applied only when arm's length principle (ALP) results cannot be reliably determined under (a), (b) and (c).

TRANSFER PRICING PENALTIES
No specific penalty, except if the taxpayer's reply to a formal request for information by the tax authorities is either nil or insufficient, a Rs. 10,000 penalty per failure is applicable.

REDUCTION IN PENALTIES
There is no specific provision.

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

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Normally, one month is allowed for submission of information.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No specific requirement.

STATUTE OF LIMITATIONS
Six years from the date of the filing the return.

ADVANCE PRICING AGREEMENTS (APAS)
No formal APAs programme.

BURDEN OF PROOF
PakistanTax Authorities.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Transfer pricing regulations are largely based on OECD Guidelines.

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PERU

TAX AUTHORITY
Superintendencia Nacional de Administracion Tributaria (SUNAT). English: National Superintendency of Tax Administration. Website: www.sunat.gob.pe

TAX LAW
SUNAT

REGULATIONS & RULINGS
Market value and transfer pricing rules are defined in articles 32 and 32-A of Income Tax Law.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law cited previously).

PRICING METHODS PRIORITY
Transactional methods: comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP).

Profit-based methods: profit split (PSM); residual profit split; transactional net margin method (TNMM).

Even though there is no clear priority, it seems the tax authority prefers the comparable uncontrolled price method (CUP) as the primary method.

TRANSFER PRICING PENALTIES
If SUNAT considers the price is lower than the market, they will recalculate arbitrarily and additional taxes will be levied. Penalties are defined in article 176, number 2) and 4); article 177, numbers 25) and 27); and article 178 number 1) of the tax code. Thresholds and exceptions are issued with Superintendency Resolutions No 167-2006-SUNAT and No 008-2007-SUNAT.

REDUCTION IN PENALTIES
Applicable only if the taxpayer meets certain conditions and it would be for 20%, 30% or 50%.

DOCUMENTATION REQUIREMENTS
Taxpayers must have a technical study which supports transfer pricing calculations, also indicating the method applied. Detailed documentation and information for each transaction and the technical study must be kept available for SUNAT during the current fiscal year.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
SUNAT requires that a technical study must be ready at the end of the fiscal year and the deadline for filing the transfer pricing tax return is June of each year.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable, though certain forms may be required.

STATUTE OF LIMITATIONS
Five years from tax year-end.

ADVANCE PRICING AGREEMENTS (APAS)
Peruvian Law allows for APAs, but there is no experience until now.

BURDEN OF PROOF
Peruvian tax authorities (SUNAT) must prove the use of non-market values.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Transfer Pricing Regulations are based on OECD Guidelines.

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POLAND

TAX AUTHORITY
Departament Podatków Dochodowych (English: Income Tax Department). Website: www.mf.gov.pl

TAX LAW
Legal Entities Tax Act as of 15.02.1992, art.9a and 11. Tax Ordinance Act as of 29.08.1997 art.20a-20q.

REGULATIONS & RULINGS
Ministry of Finance Regulation as of 10.10.1997. Ministry of Finance Regulation as of 31.05.2006.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Legal Entities Tax Act as of February 15 1992, art. 11. If related parties conclude transactions on terms that differ from market practice and, in consequence, the Polish entity discloses a lower taxable income than it would be otherwise have disclosed, the taxable income of the entity will be adjusted in accordance with the arm's length principle (ALP).

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); resale price (RPM); reasonable margin; cost plus (CP). If use of these methods is not possible, transactional net margin (TNMM) is used.

TRANSFER PRICING PENALTIES
There are no special penalties besides a higher tax rate. The difference between the profit declared by the taxpayer and the profit defined by the authorities may be subject to 50% taxation.

REDUCTION IN PENALTIES
Not applicable.

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

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

Documentation should include:

-Description of functions of parties of transaction
-Description of all expected costs and terms of payments
-Methods and way of profit calculation and determination of price
-Determination of economic strategy if it influences price
-Determination of other possible factors
-In case of non-material services, a determination of expected profits.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Taxpayers must present such documentation within seven days of the request of the tax authorities.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Information about related party transactions should be stated in notes to financial statements. Together with the annual tax return, taxpayers should prepare special information for tax authorities when:

-Total amount of transactions with foreign related party exceeds 300,000 euros
-Total amount of transaction exceeds 5,000 euros if foreign party has also representative office or permanent establishment in Poland.

STATUTE OF LIMITATIONS
As for all taxes, five years after end of year in which obligation arose.

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POLAND

BURDEN OF PROOF

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

ADVANCE PRICING AGREEMENTS (APAS)

Based on current regulations it is possible to negotiate an APA with the tax authorities. Validity: maximum three years. APAs cannot be made retrospectively. Details on APAs can be found in the above referenced regulations.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Regulations are based on OECD Guidelines.

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PORTUGAL

TAX AUTHORITY

Autoridade Tributária e Aduaneira(AT); English: Customs and Tax Authority. Website: www.portaldasfinancas.gov.pt

TAX LAW

Articles 63 and 138 of the Portuguese Corporate Income Tax Code.

REGULATIONS & RULINGS

Administrative Decree 1446-C/2001 of 21 December 2001.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

Related parties legislation and regulations (described above).

PRICING METHODS PRIORITY

The Portuguese Tax Authorities prefer the use of traditional transaction-based methods (in decreasing order): comparable uncontrolled price (CUP); resale price (RPM); and cost plus. Profit-based methods, although recognised, are of subsidiary use: profit split (PRM); transactional net margin (TNMM); or other methods.

TRANSFER PRICING PENALTIES

If taxpayers do not have the tranfer pricing documentation, they may be liable for the payment of a fine from 1,000 euros up to 20,000 euros.

Transfer pricing adjustments, resulting from a tax inspection carried out by the tax authorities, are subject to the general tax penalty regime. Late payment interest penalty is 4% per year.

REDUCTION IN PENALTIES

The general tax penalty regime is applicable and the voluntary payment of additional tax assessment may contribute towards the reduction of fines.

DOCUMENTATION REQUIREMENTS

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

Supporting documents should include: organisation structure; related parties status; a description of the company's activity and of related companies; description of transactions; amounts and conditions of the transactions; functional and technical analysis; description of the method used and the reason for its use; a demonstration of price calculation; market comparisons (using databases, of which the Iberian SABI is the most recognised); intra-group contractual agreements and unrelated parties' agreements.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

When the fiscal year is the same as the calendar year documentation must be prepared by July 15 after the tax year-end. Only taxpayers subject to tax inspection are obliged to submit fiscal documentation. Auditors should include a reserve in the Legal Certification of Accounts in case of non-preparation of obligatory documentation.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

The main disclosure requirements are contained in annexes A and H of the Simplified Business Information filing (Informação Empresarial Simplificada (IES)). The deadline to submit the declaration is July 15 after the tax year end.

STATUTE OF LIMITATIONS

Additional assessments are possible within four years from the end of the assessment year. As with all relevant accounting documentation, transfer pricing documents must be kept for 10 years.

PORTUGAL

BURDEN OF PROOF

Taxpayers should have the transfer pricing documentation correctly prepared.

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

ADVANCE PRICING AGREEMENTS (APAS)

APAs are permitted with a validity of up to three years.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Nothing significant.

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QATAR

TAX AUTHORITY
1. Public Revenue and Tax Department – Ministry of Finance
2. Qatar Financial Centre

TAX LAW
The Qatar Tax Law (Law No. 21 of 2009) does not contain specific provisions on transfer pricing. (Public Revenue and Tax Department)

REGULATIONS & RULINGS
Transfer pricing is covered in QFC Tax regulations under part 8, articles 47 -59.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The Qatar Financial Centre (QFC) Authority will imminently issue a New Transfer Pricing Manual providing guidance for the application of the arm's length principle (ALP) to cross border and domestic transactions between registered QFC taxpayers and their associated parties.

PRICING METHODS PRIORITY
The QFC Tax Regulations deals with the tax treatment of transactions between associated persons.

TRANSFER PRICING PENALTIES
Not applicable

REDUCTION IN PENALTIES
Not applicable

DOCUMENTATION REQUIREMENTS
-Primary accounting records
-Tax adjustment records
-Records of transactions with associated businesses
-Evidence to demonstrate an arm's length result.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable

STATUTE OF LIMITATIONS
The normal time limits are overridden in the case of transfer pricing compensating adjustment claims where the time limit for making a claim to a corresponding adjustment is three years from the date the return for the relevant accounting period is filed or such longer time as the Tax Department may allow.

ADVANCE PRICING AGREEMENTS (APAS)
The tax authority does not accept advance pricing agreements.

BURDEN OF PROOF
The tax authority has the burden of proof for transfer pricing transactions.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
The legislation has been influenced by the UK's transfer pricing provisions, which conforms to OECD Guidelines.

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ROMANIA

TAX AUTHORITY
Agentia Nationala de Administrare Fiscala (ANAF). English: National Agency for Fiscal Administration. Website: www.anaf.ro

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

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

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

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

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

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

REDUCTION IN PENALTIES
The penalties are not negotiable.

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ROMANIA

DOCUMENTATION REQUIREMENTS

Documentation must reveal the economic reality of the company as well as the system of transfer pricing. Government Ordinance no. 92/2003 on the Fiscal Procedural Code provides constraint in presenting and drawing up the transfer pricing file for companies who run transactions with affiliated parties. The content of the transfer pricing file was approved by order of the president of ANAF.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

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

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Not applicable.

STATUTE OF LIMITATIONS

The normal time limits are overridden in the case of transfer pricing compensating adjustment claims where the time limit for making a claim to a corresponding adjustment is three years from the date the return for the relevant accounting period is filed or such longer time as the Tax Department may allow.

ADVANCE PRICING AGREEMENTS (APAS)

APAs are regulated in Romania by G.D. no. 529/2007. The agreement is to be issued for a period of 5 years. By rules of exception, it is possible for agreements to be issued for a longer period, where long-term contracts are involved. The terms for issuing APAs are:
-12 months in the case of a unilateral agreement
-18 months in the case of a bilateral or versatile agreement.
The tariffs collected by NAFA for issuing such agreements are the following:
-10,000 euros for small and medium enterprises; 6,000 euros for amendments to the agreement
-20,000 euros for large enterprises; 15,000 euros for amendments to the agreement.

BURDEN OF PROOF

The burden of proof is on the tax administration.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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RUSSIAN FEDERATION

TAX AUTHORITY
Federal Tax Service. Website: www.nalog.ru

TAX LAW
The tax code of the Russian Federation. Chapter V.1 (similar to the OECD Guidelines)

REGULATIONS & RULINGS
The civil code of the Russian Federation.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The civil code of the Russian Federation. Prices between non-related parties in typical contractual conditions.

PRICING METHODS PRIORITY
1. Compared uncontrolled price (CUP)
2. Resale price (RPM)
3. Cost plus (CP)
4. Gross margin
5. Comparable profit (CPM)

(Chapter 105.7 Russian Tax Code). RPM has priority for trading operations.

TRANSFER PRICING PENALTIES
40% (not less than RUR30,000) - article 129.3 RTC

REDUCTION IN PENALTIES
None.

DOCUMENTATION REQUIREMENTS
Transfer Pricing Documentation need to be prepared and available for tax audit.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Within 30 days after receiving the request on submitting TP documentation for tax audit.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Entity should declare (disclose) its operations with related parties by May 20 next year.

STATUTE OF LIMITATIONS
Two years after receiving the Related-Party Disclosure Return (art. 105.17 RTC)

ADVANCE PRICING AGREEMENTS (APAS)
Applicable for large companies - Groups of taxpayers (art. 105.19-105.25 RTC)

BURDEN OF PROOF
Taxpayer

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Close translation from the OECD Guidelines

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SAUDI ARABIA

TAX AUTHORITY

The Minister: Minister of Finance
The Department: Department of Zakat and Income.
Dept. Of Zakat and Income Tax (DZIT)
The website For DZIT is :
https://dzit.gov.sa/en/home

TAX LAW

No specific transfer pricing rules have been issued by the Saudi tax authority, but the principle of arm's length has been laid down in Saudi tax law

REGULATIONS & RULINGS

Zakat Regulations (by-law)
Zakat By-Law was issued per Ministerial Resolution number 393, dated 6/8/1370 H (corresponding to 13/5/1950) consisting of 20 articles as follows:

1. Al Saudi companies and persons: male, female, adults, minors or legally incompetent, are subject to zakat after completion of one year under the provisions of Islamic Jurisprudence starting from 1/1/1370 H (corresponding to 13/10/1950).
2. Capital and its proceeds, receipts, profits and gains of zakat payers are subject to zakat in accordance with relevant Islamic provisions.
3. Capital and its proceeds, receipts, profits and gains of zakat payers from commerce, industrial activity, personal endeavours, financial properties and belongings, of whatever type and form, and inclusive of financial and commercial deals, dividends, in general any type of receipt that is zakat able according to Islamic jurisprudence, are subject to zakat.
4. Zakat is assessed on commercial goods, properties and financial belongings at estimated values at the end of the year in accordance with provisions of Islamic Jurisprudence.
5. Current methods based on orders and instructions to assess zakat on sheep, cattle and plants will continue.

6. All individuals and companies with industrial or commercial activity are required to keep organised books that show capital, receipts and expenditure relevant to their activity for each year to be used to assess their zakat. The books must be certified by commercial courts or, if not available, by notary public.
7. Zakat payers with no reliable accounts will be assessed based on determination of value of zakat able goods, equipment, tools, belongings and properties at the end of the year; or based on estimation for zakat payers with no apparent zakat able items.
8. All zakat payers of individuals and companies are required to file a declaration with financial officers responsible for collection of zakat showing zakat able monies, goods, properties, cash belongings, profits from such items, and zakat amount during the first month of the year following the zakat year.
9. The financial officer responsible for assessment and collection of zakat will review data filed by zakat payers referred to above, and when necessary he may audit books, and upon complete on he will inform the zakat payer of the amount payable by him in official stamped letter.
10. A zakat payer may object to the amount of zakat within 15 days of the receipt date by a registered-mailed memorandum stating reasons for objection addressed to the notifying department. Otherwise, the zakat payer loses the right to object and is required to pay the amount as stated in the received notice.
11. The department receiving the objection shall refer it to the 1st Instance Committee consisting of the Prince of the area or representative (as chairman), and as members the Judge and the senior financial officer of the area, and three representatives elected annually by the Administrative Council of the area.

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The 1st Instance Committee may review zakat payers books and records and any other material that help reach the truth and will issue its resolution within 15 days of the objection date.

12. The financial office and the zakat payer have the right to appeal the 1st Instance Committee resolution to the Appeal Committee provided for in article 26 of resolution 340, dated 1/7/1370 H (8/4/1951) within periods as proscribed in article 10 above. The Appeal Committee shall issue its resolution in regard to the objection within a period not to exceed one month of its receipt of the objection.
13. To appeal the 1st Instance Committee's resolution, the zakat payer must first pay zakat in accordance with the objected resolution; or in the case of overpayment by zakat payer, he shall receive refund. To consider the appeal, it should have attached with it an officially certified copy of the receipt of payment of the mentioned zakat.
14. The 1st Instance Committee and the Appeal Committee have the right to call the zakat payer or representative to appear in front of either of them. The Zakat payer must respond, and if he refrains from appearance with no valid reason, the objection or the appeal may not be accepted.
15. The provisions of articles 21 and 31 of resolution 340, dated 1/7/1370 H. (8/4/1951) are applicable to zakat payers.
16. Officials referred to in articles 18 and 19 of resolution 340, dated 1/7/1370 H. (8/4/1951) will perform duties of assessment and collection of zakat in addition to similar tax duties.
17. In the case of lack of clarity that may surface during implementation of articles of this resolution, the Minister of Finance and National Economy shall be the reference authority for clarification and interpretation.
18. The officials responsible for implementation of this resolution are required to keep the necessary books and files to assess and collect zakat, register objections and notices, and to obtain data from zakat payers.

19. This resolution will be printed in sufficient number, published in local newspapers, and circulated to all Financial Offices.

20. The Director General of Finance shall supervise printing of the required books, forms of notices and statements and shall distribute them to Financial Offices as soon as possible of the relief at score method how every document required are different under these methods.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

While Saudi Arabia does not have complex transfer pricing rules like other jurisdictions, transactions between related parties must be concluded on the basis that the parties are independent. As a result we are seeing the Department of Zakat and Income Tax (DZIT) scrutinising cross-border transactions between related parties and challenging such transactions where arm's length principle (ALP)s are not satisfied.

Even though there is a need to maintain arm's length pricing under Saudi tax law, there are no detailed transfer pricing rules in Saudi Arabia to reach an acceptable arm's length price for a particular transaction. In the absence of such detailed rules, the Saudi tax authority generally accept a price if they are satisfied that it represents a fair market value (FMV) of the subject services or supplies.

The lack of specific transfer pricing rules does unfortunately provide wide powers to the Saudi tax authority to accept or reject any particular pricing mechanism. Hence, it is always better to provide as much objective support as possible for arm's length pricing between related parties to be able to defend any potential challenge from the Saudi tax authority.

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SAUDI ARABIA

PRICING METHODS PRIORITY

Tax pricing for investors is mainly divided into two main parts for Saudi citizens and non-Saudi citizens.

Saudi citizens are taxed at 2.5% basic and non-Saudi citizens are taxed at 20% basic. Capital duty, stamp duty, capital acquisition, real property tax and inheritance are not taxable in Saudi Arabia. Royalties are taxable at 15% and technical services fees at 5%. Capital gains is 20%.

Withholding tax is a 5%, levied on dividends paid to a non-resident unless the rate is reduced under a taxation.

Interest at 5% withholding tax is levied on interest paid to a non-resident unless the rate is reduced under a tax treaty.

TRANSFER PRICING PENALTIES

The penalties for failing to observe the requirements are 1% of revenue up to a maximum of 20,000, or between 5% and 25% of the unsettled tax depending on the length of the delay. In addition there is a fine of 1% of the unsettled tax for every 30 days delay in settlements.

Article (76) (a) of the Income Tax Law stipulates that a taxpayer not complying with the provisions of Article (60) (a, b, d, f) of the said law shall be subject to a fine. Article (60) (a) of the said law stipulates that every taxpayer required to file a return shall file it in the proscribed form. Article (67) (1) (b) of the Implementing Regulations stipulates that a fine for failure to file the return shall apply in case of failure to file the return in accordance with the approved form, even if filed within the due date. Therefore, absence of certification by a chartered accountant of a return of income above one million SR makes the taxpayer subject to the fine stipulated by Article (76) (a) of the Income Tax Law due to failure by the taxpayer to comply with the above provisions, i.e. failure to comply with the approved form.

REDUCTION IN PENALTIES

Reduction in penalties could only happen directly from the head of (DZIT) office based on negotiations. There is no process or rule that could prevent reduction.

DOCUMENTATION REQUIREMENTS

The documents that are required for submitting taxes are: The Financial Statement, Articles of Association, Return Forms.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Tax return for a corporation must be filed with the tax authorities within 120 days from the fiscal year end. For partnerships the deadline is 60 days. Taxpayers whose taxable exceeds more than 1 million before the deductions of expenses must have the accuracy of the return certified accounting additionally audited. Financial statements should be filed with Ministry of Commerce within six months of the year end.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

No obligation exists to reveal information.

STATUTE OF LIMITATIONS

There is no specific statute of limitations set out in Saudi tax law; however, there is a general statute of limitations which applies in the case of Saudi tax authority expenses; costs charged to Saudi Arabia would be much higher than usual in such instances. Therefore, a transfer pricing study supported by contemporaneous documentation such as agreements, invoices etc. would be useful in defending prices and costs charged in such circumstances.

ADVANCE PRICING AGREEMENTS (APAS)

Advance Pricing Agreements are not part of the taxation system in Saudi Arabia.

SAUDI ARABIA

BURDEN OF PROOF

Different governmental departments and firms could carry the Burden Of Proof for transfer pricing transactions like the (DZIT), Ministry of Interior Affairs and the Chamber of Commerce.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Saudi Arabia is not listed with the OECD.

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SINGAPORE

TAX AUTHORITY
Inland Revenue Authority of Singapore (IRAS). Website: www.iras.gov.sg

TAX LAW
Section 53(2A) of the Income Tax Act concerns related party business dealings between a non-resident and a resident. Section 33 of the Income Tax Act is a general anti-avoidance provision. Section 34D of the Income Tax Act, which deals with transfer pricing and stipulates the arm's length principle (ALP), is effective from December 29 2009.

REGULATIONS & RULINGS
The IRAS published Transfer Pricing Guidelines on 23/2/2006. It also published a supplementary tax guide on February 23 2009 that provides transfer pricing guidelines for related-party loans and related-party services.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Arm's length principle (ALP) is the internationally endorsed standard for transfer pricing between related parties to reflect comparability to the pricing that independent commercial entities in similar situations would transact at and, hence, there will be no distortion in the profits and tax liabilities.

PRICING METHODS PRIORITY
No specific preference for any of the five proscribed methods outlined in the OECD Guidelines, with the exception of loan transactions where IRAS in the Singapore loans and services guidelines specifies that the CUP method is the preferred method for substantiating the arm's length nature of interest charges. The transfer pricing method that produces the most reliable results should be selected and applied.

TRANSFER PRICING PENALTIES
There are no specific penalties. Under general tax provisions relating to under-statement of income, the penalty range is from 100% of the tax undercharged (for an incorrect return) to 400% of the tax undercharged (for serious fraudulent tax evasion). However, in practice, penalties arising from transfer pricing controversy are relatively infrequent.

REDUCTION IN PENALTIES
In general, tax penalties can be mitigated if there is reasonable cause for the under-statement of income. Good transfer pricing documentation is important in mitigating penalties.

DOCUMENTATION REQUIREMENTS
There are no explicit documentation requirements in the Singapore tax law and transfer pricing guidelines, but contemporaneous documentation in accordance with OECD Guidelines is useful in defending the transfer price.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
None.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
No specified disclosures are required in Singapore Income Tax Return. However, material related party transactions must be disclosed in the notes to the financial statements submitted.

STATUTE OF LIMITATIONS
If the year of assessment is 2007, or a preceding year of assessment, the statute of limitations for transfer pricing adjustments is six years from the end of the year of assessment to which the transfer pricing issue relates. If the year of assessment is 2008, or a subsequent year of assessment, the statute of limitations is four years from the end of the year of assessment to which the transfer pricing issue relates.

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SINGAPORE

ADVANCE PRICING AGREEMENTS (APAS)

Unilateral, bilateral and multilateral APAs are available. However, for bilateral and multilateral APAs, there must be a double tax agreement between Singapore and the other involved country or countries. The Singapore Transfer Pricing Guidelines outline the procedures for applying for an APA.

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The transfer pricing guidelines and circulars/other guidelines are generally consistent with the OECD Guidelines. The principles and transfer pricing methods as set out in the OECD Guidelines are acceptable in Singapore.

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SLOVAKIA

TAX AUTHORITY

There are three tax authorities in Slovakia – tax office (danový úrad), customs office (colný úrad) and municipality (obec).

The second level of tax authorities is the tax directorate (Financné riaditelstvo) and in some special cases the Ministry of Finance of the Slovak Republic (Ministerstvo financií Slovenskej republiky).

TAX LAW

The Income Tax Act No. 595/2003 Coll. Articles 2/n-r, 17/5-7 and 18.

REGULATIONS & RULINGS

OECD transfer pricing guidelines for businesses and tax administration published in the Financial bulletin No. 14/1997 (Part 1), No. 20/1999 (Part 2), No. 3/2002 (Part 3), Direction of the Ministry of finance of the Slovak republic No. MF/8288/2009-72. Transfer pricing principles by OECD.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The Slovak Republic acknowledged the arm's length principle (ALP) as the generally accepted norm by publishing the guidelines.

According to Article 17/5 of Income Tax Act, if foreign related parties performed transactions on price conditions which differ from those that would be set between unrelated parties in a comparable situation, and this difference led to cut of the tax base of the domestic entity, the tax base of this domestic entity has to be increased accordingly.

PRICING METHODS PRIORITY

As of January 1 2014 there is no legal preference of pricing methods. However, the traditional transactional methods: comparable uncontrolled price (CUP), resale minus (RPM), cost plus(CP); continue to be preferred over transactional profit methods: profit split (PSM), transactional net margin (TNMM).

TRANSFER PRICING PENALTIES

If the transfer price is different from the market price, the tax authority can increase the tax base and consequently the income tax according to Article 17/5 of Income Tax Act. Generally, subsequent increase of the tax liability conducted by the tax office on the basis of a tax inspection leads to levying of a penalty currently amounting to 10% of difference in the tax liability.

For non-filing of the transfer pricing documentation the tax office levies a penalty of up to 3,000 euros.

REDUCTION IN PENALTIES

There is no special regulation on a reduction of penalties in transfer pricing cases. However, generally, under special circumstances a reduction in penalties is possible.

DOCUMENTATION REQUIREMENTS

The taxpayers who prepare the financial statements according to the International Financial Reporting Standards (IFRS) should keep full scope transfer pricing documentation for their transactions.

The full scope transfer pricing documentation is based on EU recommendations and should include general transfer pricing documentation (Masterfile) and specific transfer pricing documentation (local file). The Masterfile outlines information about the pricing policy within the whole group of related entities (Slovak and foreign). The local transfer pricing documentation should contain specific information about the Slovak entity and its transactions with its foreign related parties.

Other taxpayers not meeting the set criteria for IFRS reporting should prepare simplified transfer pricing documentation that includes the information on transactions with foreign related parties that generally already has had to be disclosed in the notes to the taxpayer's financial statements.

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SLOVAKIA

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Although the transfer pricing documentation shall be verified during a tax inspection, the obligatory documentation has to be provided to the tax authorities (in Slovak language unless the tax authorities approve another language) within 15 days of the tax authorities request (not only during the tax inspection).

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

The information regarding transactions between related parties has to be mentioned yearly in the tax return and in the notes to the taxpayer's financial statements. The notes as a part of the financial statements have to be disclosed in the Collection of Documents.

In Slovakia there is no special register for publishing of the transfer pricing documentation.

STATUTE OF LIMITATIONS

Transfer pricing transactions might be a subject to scrutiny unless the right to assess the tax hasn't been lapsed. In standard cases it is five years from the last day of the year in which the tax return should have been filed.

In the case of periods with loss which has been carried forward, the period is seven years. In the case of applying of international tax agreements, the period amounts to 10 years.

ADVANCE PRICING AGREEMENTS (APAS)

The taxpayer has the right to request from the tax authorities a proof that a specific transfer pricing method is applicable, however, not the resulting market price. The method can be approved for a maximum of five years.

BURDEN OF PROOF

Primarily the taxpayer must prove sufficiently that there is no difference between transfer prices and market value.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

All OECD Guidelines are being followed.

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SLOVENIA

TAX AUTHORITY

Davcna uprava Republike Slovenije (DURS). English: Tax Administration of the Republic Slovenia. Website: www.durs.gov.si

TAX LAW

-Corporate Income Tax Law – 2 (CIT-2) (Official Gazette 117/2006, 56/2008, 76/2008, 5/2009, 96/2009, 43/2010, 59/2011, 24/2012, 30/2012, 94/2012, 81/2013, 50/2014) Articles 16-19, 32
-Tax Procedure Act -2 (TPA-2) (Official Gazette 117/2006): Article 382
-Decree on transfer pricing (Official Gazette 141/2006).

REGULATIONS & RULINGS

By Tax Administration of the Republic Slovenia:

-Adjustments of tax base arising from related parties transactions, No 4200-116/2011 from November 29 2011
-Adjustments of tax base in case of tax losses carried forward, No 4200-42/2010 from March 31 2010
-Thin capitalisation, No 4200-92/2008 from July 22 2008
-Interest rates among related parties, No 32100-19/2007 from January 17 2008
-And others.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The results arising from transactions among related parties are the same as the results from the interaction of supply and demand in a comparable open market.

PRICING METHODS PRIORITY

Comparable uncontrolled price (CUP) is mandatory, if applicable, otherwise the other four methods from OECD Guidelines can be used, but resale price (RPM) and cost plus (CP) have priority above profit split (PSM) and margin percentage.

TRANSFER PRICING PENALTIES

In cases of transfer pricing, the first paragraph of Article 397 of TPA-2 provides that a fine of between 3,200 euros and 30,000 euros should be imposed on a legal entity for an offence:

-who in contravention of the law does not make available to the tax authority data from records, databases, registers or other records that such person keeps, or does not enable the tax authority to view his own documentation or the documentation held by an associated enterprise (Article 40 of TPA-2),
-who does not submit or does not submit in the proscribed manner or by the proscribed deadline the documentation on associated enterprises, the volume and type of business and on the formulation of transfer pricing (Article 382 of TPA-2).

The responsible employee of a legal person who commits an infringement is liable to a fine of between 400 euros and 4,000 euros.

If the unpaid tax exceeds 5,000 euros the fine for legal entity can amount to 45% of the unpaid tax limited to 300,000 euros and for the responsible person between 900 euros and 5,000 euros.

REDUCTION IN PENALTIES

For small companies (according to Company Law) the fines in cases above are reduced to the range 800 euros to 15,000 euros and for responsible employees to the range 600 euros to 4,000 euros.

DOCUMENTATION REQUIREMENTS

According to Article 382 of TPA- 2 any taxpayer from Article 18 of CIT2 (related party) is obliged to ensure and keep transfer pricing documentation comprising of:

-A 'master file' of standardised information and
-A 'country-specific' version of standardised documentation for each state in which the taxpayer has transactions with associated enterprises.

SLOVENIA

Documentation on transfer is not submitted to the tax authority together with the tax return, but the taxpayer keeps it and submits it upon request of the tax authority at the initiation of the audit procedure. If transactions in essence do not differ, the taxpayer may provide documentation for two or more transactions, and make adjustments for any differences between these transactions if they exist. The taxpayer may keep documentation in electronic form.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Documentation shall be prepared (collected) at the latest till submission of the tax return for the tax year (TPA-2, Article 382).

In case tax inspection the taxpayer has to submit the documentation upon request. If this is not possible the tax inspection will set a due date, but not longer than 90 days (TPA3, Article 382).

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

The related parties and transactions with them are disclosed in the annual tax return. According to CIT-2 Article 16 a taxpayer and a foreign legal entity are considered associated enterprises, when:

-The taxpayer directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of a foreign person, or controls the foreign person on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or

-The foreign person directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer, or controls the taxpayer on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or

-The same person at the same time directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and foreign person or of two taxpayers, or controls this persons on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or

-The same individuals or their family members directly or indirectly hold at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and foreign person or of two residents or control them on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances.

STATUTE OF LIMITATIONS

Ten years after the end of the fiscal year.

ADVANCE PRICING AGREEMENTS (APAS)

Not possible.

BURDEN OF PROOF

The taxpayer has the burden of proof.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

None

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SOUTH AFRICA

TAX AUTHORITY
South African Revenue Service (SARS).
Website: www.sars.gov.za

TAX LAW
The South African Income Tax Act 1962 as amended, Section 31.
Taxation Administration Act.

REGULATIONS & RULINGS
Draft Interpretation Note only - DETERMINATION OF THE TAXABLE INCOME OF CERTAIN PERSONS FROM INTERNATIONAL TRANSACTIONS: THIN CAPITALISATION

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Paragraph 1 of Article 9 of the OECD model.

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); transactional net margin (TNMM); profit split (PSM).

TRANSFER PRICING PENALTIES
0-200% depending on behaviour of taxpayer.

REDUCTION IN PENALTIES
At the discretion of SARS. Subject to appeal.

DOCUMENTATION REQUIREMENTS
No statutory requirement, but the burden of proof rests with the taxpayer.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Normally 21 business days after notice of request.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Disclosure of international transactions with connected persons in annual income tax returns of entities.

STATUTE OF LIMITATIONS
Three years from assessment date if full disclosure made. Otherwise no limitation.

ADVANCE PRICING AGREEMENTS (APAS)
Neither at present or in the foreseeable future.

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
OECD Guidelines are followed.

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SPAIN

TAX AUTHORITY
Agencia Tributaria. English: Spanish Tax Authorities. Website: http://www.agenciatributaria.es/

TAX LAW
Corporate Income Tax Law as passed by Royal Legislative Decree 4/2004, of 5th March.
Article 16.

REGULATIONS & RULINGS
Royal Decree 1777/2004, of July 30. Articles 16 to 29.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Directorate General of Taxation (Dirección General de Tributos - DGT).
National Bureau of Fraud Investigation (Oficina Nacional de Investigación del Fraude - ONIF).

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP); cost plus (CP); resale price (RPM); profit split (PSM); transactional net margin (TNMM).

TRANSFER PRICING PENALTIES
For not providing or providing incomplete, inaccurate or untruthful data, with the proviso that the Tax Authorities do not alter the value assigned to the transactions:
1,500 euros per omitted, inaccurate or untruthful data.
15,000 euros per omitted, inaccurate or untruthful group of data.

Where the Tax Authorities alter the value assigned to the transaction:
15% on the alteration with a minimum of twice the penalties above.

REDUCTION IN PENALTIES
Article 188.1 and 188.3 of the General Tax Law 58/2003, of December 17.
Article 188.1: 30% reduction for not filing any claim or appeal against the tax liability.
Article 188.3: Additional 25% reduction for early payment of the penalty as well as not filing any claim or appeal against the penalty.

DOCUMENTATION REQUIREMENTS
Documentation about the group to which the taxpayer belongs; documentation about the taxpayer. Company description, documentation of inter-company transactions, analysis of company functions and risks, contracts, group agreements, etc.

1. Group documentation: Description of the structure, identification of entities and related party transactions; description of the transfer pricing method policy, distribution agreements, etc.
2. Taxpayer documentation: identification of the taxpayer and the related entities that carry out transactions, comparability analysis, explanation on the selection of the valuation method, distribution criteria, etc.

Exemptions exist for specific taxpayers.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The documentation has to be prepared as soon as transactions among related parties take place. The taxpayer has to keep it available to the Tax Authorities and produce it to the Tax Authorities upon their request.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Transactions among related parties must be disclosed by taxpayers in their annual Corporate Income Tax Return and the notes to their Annual Accounts, when applicable.

STATUTE OF LIMITATIONS
Four years.

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SPAIN

ADVANCE PRICING AGREEMENTS (APAS)

The taxpayer can submit to the tax authorities Advance Pricing Agreements to be approved. APAs do not apply retrospectively. Validity for four years. There is a possibility to file for an extension. Binding for both parties.

BURDEN OF PROOF

The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

No significant differences.

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SWEDEN

TAX AUTHORITY
Skatteverket. English: Swedish Tax Agency.
Website: www.skatteverket.se

TAX LAW
Swedish Income Tax law (1999:1229) and LSK (2001:1227).

REGULATIONS & RULINGS
(1999:1229) ch. 14, Articles 19 and 20.
(2001:1227) ch 19 Articles 2a and 2b.
SKV M 2007:25.
SKVFS 2007:01.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
The result is calculated as if market prices ('arms length') were used.

TRANSFER PRICING PENALTIES
20% extra tax on mispricing. Tax audit adjustments may be carried out during a tax inspection due to the use on non-market values. These adjustments may carry a penalty even if there is no intention to act fraudulently.

REDUCTION IN PENALTIES
If mispricing is possible to detect without a tax audit, penalty is reduced from 20% to 5%-10%.

DOCUMENTATION REQUIREMENTS
Required documentation:

-A company description
-Documentation of inter-company transactions as well as conditions applied
-An analysis of company functions and risks
-Documentation of pricing method and an analysis of compatibility with the arm's length principle (ALP).

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
No deadline applicable, but documentation must be prepared if the tax authorities initiate a tax audit.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Six years from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
APAs (APA) can be made with the Swedish Tax Authorities since January 1 2010.

BURDEN OF PROOF
Swedish Tax Authorities must prove the use of non-market values if documentation by the company is fulfilled according to the above.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Rules are based on EU principles of conduct.

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SWITZERLAND

TAX AUTHORITY
Federal Tax Administration (FTA) as well as Cantonal and Communal Tax Authorities (CTA). Website: www.estv.admin.ch

TAX LAW
No special Swiss tax law or statutory transfer pricing rules.

REGULATIONS & RULINGS
Art. 58 Federal Direct Tax law and Art. 24 of the Federal Tax Harmonization Law are basis for transfer pricing. Instructions issued by the Federal Tax Authorities in 1959, 1960, 1997 and 2004.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Expenditure must be commercially justifiable.

PRICING METHODS PRIORITY
Switzerland accepts OECD Guidelines as closely as possible.

TRANSFER PRICING PENALTIES
No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No statutory requirement, although documentation will be needed for defence in the case of a tax inspection.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
No special deadline for transfer pricing ruling concepts. After an assessment by tax authorities, the taxpayer has 30 days to appeal against decisions.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
The taxpayer has to provide tax authorities with relevant information for properly assessing the taxpayer's profit. If the taxpayer does not comply, fines may be imposed.

STATUTE OF LIMITATIONS
Basically 10 years.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Swiss tax authorities. A large ruling policy exists in Switzerland. This procedure is informal and no explicit statute or guidelines exist, only a code of conduct between tax authorities and tax consultants.

BURDEN OF PROOF
The taxpayer has to prove the justification of tax-deductible expenses. The tax authorities must prove adjustments which increase taxable income.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Switzerland follows the OECD Guidelines as closely as possible.

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TAIWAN

TAX AUTHORITY

National Tax Administration for Taipei city and Kaohsiung city and for different geographic jurisdictions (including Northern, Central and Southern).

TAX LAW

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

REGULATIONS & RULINGS

Examining Guidelines Governing Assessment of Profit Seeking Enterprise Income Tax, article 114-1. Regulations Governing of Assessment Rules for Non-Arm's-Length Transfer Pricing of Profit-Seeking Enterprises Income Tax on Non-Arm's-Length Transfer Pricing.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

Regulations Governing of Assessment Rules for Non-Arm's-Length Transfer Pricing of Profit-Seeking Enterprises Income Tax on Non-Arm's-Length Transfer Pricing, Chapter II.

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

PRICING METHODS PRIORITY

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

Applicable for different types of transaction:

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

TRANSFER PRICING PENALTIES

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

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

-Filed prices of the controlled transactions are more than two times or are less than one half of the arm's length transaction prices assessed by the tax authorities.
-The increased taxable income resulting from the tax authority's adjustment is more than 10% of the total assessed taxable income, and is more than 3% of the assessed net operating income.
-A taxpayer fails to submit a transfer pricing report and related documents upon the tax authorities' request during examination.

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

REDUCTION IN PENALTIES

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

DOCUMENTATION REQUIREMENTS

A transfer pricing report and related documents should be prepared. Though it is not filed with a return, it should be provided upon request from the tax authorities during examination. Those taxpayers who do not reach the requirement thresholds proscribed in 'Safe Harbour Protocols' are exempt from preparing a transfer pricing report. Disclosure requirements for related parities information, controlled transactions and adjustments are applied to all the profit-seeking enterprises in return filings, except for those taxpayers who do not reach the requirement thresholds proscribed in 'Safe Harbour Protocols'.

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

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

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

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

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

STATUTE OF LIMITATIONS

Five years for returns to be filed but when taxpayers have not been accused of tax evasion; seven years for returns that have not been filed within the proscribed time limit, or

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where taxpayers have been accused of tax evasion by the tax authorities during examinations.

ADVANCE PRICING AGREEMENTS (APAS)

APAs are permitted between taxpayers and the Taiwan Tax Authorities. Taxpayers applying for an APA must meet these requirements:
-The amount for the transactions applied for APAs should be over NT$ 1,000 million (approximates USD 33 million) in total, or its yearly transaction amount should be over NT$ 500 million (approximates USD 17 million)
-The applicant has not committed significant tax avoidance and tax evasion for the past three years
-The applicant has prepared the required documents for applications
-Applications should be submitted before the end of the accounting period in which the applicable transaction commences.

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

APAs are effective for the shorter transaction duration or five years since the year of application (the year in which the applicable transaction commences). Taxpayers should keep records and file an annual report with the tax authorities every year within the effective period of APAs, demonstrating compliance with the terms and that critical assumptions remain relevant.

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

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

An APA can be revoked provided that misrepresentations, mistakes or omissions are attributable to the neglect, carelessness or wilful default of the applicants.

The effect of revocation is retroactively traced back to its commencement.

BURDEN OF PROOF

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

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

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

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

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

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THAILAND

TAX AUTHORITY
Revenue Department
Custom Department
Excise Department

TAX LAW
Revenue Code
Custom Code
Excise Code

REGULATIONS & RULINGS
www.rd.go.th
www.customs.go.th
www.excise.go.th

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Revenue Code
section: 66 and 76

PRICING METHODS PRIORITY
Pricing methods that the Revenue Department accepts are as follows:

-Comparable uncontrolled price (CUP)
-Resale price (RPM)
-Cost plus (CP)
-Other methods. If any of the above methods cannot be applied, including profit-based methods adopted by OECD such as profit-split method, transactional net margin method and any other methods that are internationally accepted.

TRANSFER PRICING PENALTIES
There is no penalty, but recalculate for duty and corporate income tax.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Below is a list of documentation that taxpayers should prepare when the transactions are made and submit to the official upon request during the transfer pricing examination. These documentation will help avoid disputes between taxpayers and officials. Documentation includes:

1. Documentation establishing the structure and relationship of a business within the same group, including the business nature of each company
2. Budgets, business plans and financial projections
3. Documentation establishing the business strategies and the reasons of their adoption
4. Documentation establishing the sales, operating results and the nature of its dealing with associated enterprises
5. Documentation establishing the reasons for entering into international dealings with associated enterprises
6. Pricing policies, documents relating to product profitability, relevant market information and profit contributions of each party
7. Documentation establishing the reasons for selection of pricing methodology or methodologies
8. In the case where several pricing methodologies can be adopted, there must be documentation establishing details of other methodologies, and reasons for the rejection of using such methodologies
9. Documentation evidencing the negotiating positions taken with associated enterprises
10. Other documentation that is relevant to the pricing methodologies, if any.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Pre-filing meeting
Entity have to prepare Advance Pricing Arrangement to the Director-General of Revenue Department within six months before year ended of APA preparation.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Not applicable.

THAILAND

ADVANCE PRICING AGREEMENTS (APAS)

www.rd.go.th/publish/fileadmin/download/GUIDANCE-ON-APA-PROCESS-TH.pdf

BURDEN OF PROOF

Entities must proof themselves to Revenue Officer with required documents.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

Definition of market price which is consistent with arm’s length principle (ALP) under OECD's transfer pricing guidelines. Market price under this instruction means the price that would be charged between independent parties at the date of transaction for the sale of assets, provision of services or lending of funds under the same circumstances.

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TUNISIA

TAX AUTHORITY
Ministère des finances (English: Ministry of Finance). Website: www.portail.finances.gov.tn

TAX LAW
Tunisian Income Tax Code (Code de l'Impôt sur le Revenu des Personnes Physiques et de l'Impôt sur les Sociétés) approved by the Law 89-114 dated December 30 1989. Double Tax Agreements may also be relevant.

REGULATIONS & RULINGS
Chapter II: from article 45 to 49.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
International group companies must fix the price of their internal transactions as unrelated parties would do for the same transactions ('normal price' / 'fair price').

PRICING METHODS PRIORITY
In practice, traditional OECD methods are applied, such as comparable uncontrolled price (CUP), which is the primary method applicable. Subsidiary to CUP, resale price (RPM) and cost plus (CPM) can be used for different types of transactions: tangible asset, intangible asset transfer and utilisation.

TRANSFER PRICING PENALTIES
No specific penalty. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No statutory requirement, although all transactions should be documented (including legal, accounting and business papers) for justification purposes in case of a tax audit. In cases of a tax audit or inspection, any corporate entity subject to Tunisian corporation tax on its profits may be required to submit documentation which outlines its transfer pricing policy and supports benchmarking materials used to establish pricing.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Generally December 31 of the third year following the current financial year.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable (with Tunisian tax authorities).

BURDEN OF PROOF
The taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Tunisian practice follows OECD Guidelines, except for certain methods rarely used in practice (see above).

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TURKEY

TAX AUTHORITY
Gelir Idaresi Baskanligi (GIB) (English: Tax Revenue Administration). Website: www.gib.gov.tr

TAX LAW
Turkish Corporate Income Tax Law 5520, Article 13, June 2006.

REGULATIONS & RULINGS
-Article 13(5) of the CITL.
-Ministerial Decree No. 2007/12888 of December 6 2007.
-Ministerial Decree No. 2008/13490 of April 13 2008.
-Transfer Pricing General Communiqué No. 1 of November 18 2007.
-Transfer Pricing General Communiqué No. 2 of April 22 2008.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Article 13(3) of Corporate Income Tax Law No. 5520 (CITL) states: 'Arm's length principle (ALP) means that the price or consideration charged for the purchase or sale of goods or services between related parties should be the price or consideration which would have been occurred in the absence of such a relationship between them.'

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP) is the primary method applicable. Subsidiary to CUP are resale price (RPM) and cost plus (CP).

TRANSFER PRICING PENALTIES
No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non-market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
No statutory requirement, although documentation will be needed for defence in case of a tax inspection.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
All companies.

STATUTE OF LIMITATIONS
Five years from last filing deadline.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be made with the Turkish tax authorities and bilaterally between countries and are valid for three years.

BURDEN OF PROOF
Turkish tax authorities must prove the use of non-market values.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
OECD Guidelines are followed.

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UKRAINE

TAX AUTHORITY
State Tax Administration of Ukraine.
Website: www.sta.gov.ua

TAX LAW
Ukraine law: 'On profit tax of enterprises'; 'On profit tax of physical persons'; 'On VAT'; and international agreement, 'On avoidance of double taxation'.

REGULATIONS & RULINGS
The Civil Code of Ukraine; the Economic Code of Ukraine.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
The Civil Code of Ukraine; the Economic Code of Ukraine.

PRICING METHODS PRIORITY
The prices of goods, services, and works are defined by the parties, unless proven not to correspond to the market price.

TRANSFER PRICING PENALTIES
The tax authorities may impose penalties if able to prove prices do not correspond to market prices.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Contracts, invoices, delivery certificates, etc.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The deadline is to be identified in the contract.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Financial statements.

STATUTE OF LIMITATIONS
Generally, three years (the Ukraine Civil Code).

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
The tax authorities have to prove that prices do not correspond to market prices.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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UNITED ARAB EMIRATES

TAX AUTHORITY
There is no federal or central tax agency in the UAE; each ministry related to a specific industry (which collects any form of levy or charge) is the authority to collect revenue.

TAX LAW
UAE does not impose taxation on corporations and individuals except certain categories of activities which are taxed by the respective ministries under which they fall (i.e., branches of foreign banks, oil and gas companies, courier companies, hotel services and entertainment). Therefore, there are no transfer pricing guidelines.

REGULATIONS & RULINGS
Not applicable.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Not applicable.

PRICING METHODS PRIORITY
Not applicable.

TRANSFER PRICING PENALTIES
Not applicable.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Not applicable.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Not applicable.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Not applicable.

STATUTE OF LIMITATIONS
Not applicable.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable.

BURDEN OF PROOF
Not applicable.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

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UNITED KINGDOM

TAX AUTHORITY

HM Revenue & Customs. Website: www.hmrc.gov.uk

TAX LAW

Primary legislation: Taxation (International and Other Provisions) Act 2010 ('TIOPA 2010') Part 4, formerly Taxes Act 1988, Schedule 28AA, as amended. The legislation is based on the arm's length principle (ALP) as stated in Article 9 of the OECD Model Treaty, and is expressly stated to follow OECD Guidelines. Therefore, the OECD BEP's project will have an impact on UK legislation.

The legislation does not distinguish between UK to UK transactions and UK to non-UK transactions. Most Small Sized Enterprises (as defined by the EU Directive) should be exempt from complying with the legislation, and such compliance requirements for most Medium Sized Enterprises (as defined by the EU Directive) are relaxed somewhat. The primary factor affecting the size of an Enterprise is its headcount. Where the Enterprise is autonomous, the size of the Enterprise is by reference to the number of people employed by that Enterprise. However, when measuring headcount, it may be necessary to look at the size and influence of any Linked or Partner Enterprises, as well.

When reviewing transfer pricing, the basic premise to consider is whether the 'transaction' which is being undertaken by 'connected parties' is at a price which would be charged on a commercial and arm's length price as if the parties were unconnected.

A 'transaction' covers any product, service or facility which is offered or sold, and will range, typically, from the sale or purchase of physical goods, to sales and marketing services, and low risk contracted out manufacturing and research activities, to financing. In the case of financing, transfer pricing may also be a risk where the funding is provided by a third party.

A connected party is one in which generally one party participates in the management, control or capital of the other party. The test can also be met where one party has 40% control in a joint venture. That party will then be connected with the joint venture for transfer pricing purposes.

It should be noted that the connected party need not be a company liable to UK corporation tax. There are situations in which an entity may be subject to UK income tax and which may then be caught under the UK transfer pricing rules. This can apply where, for example a non UK company holds UK real estate. Such activities may be subject to UK income tax. Transfer pricing may be a factor in certain cases where it has procured financing via a connected investor.

There is no requirement for the company's statutory accounts to include such transfer pricing adjustments. Any such adjustment may be made as a 'tax only' adjustment in the company's corporation tax return. This is sometimes a beneficial arrangement.

UK case law: There have been very few reported cases, although HMRC are prepared to litigate: Glaxo Group Ltd and Others v. CIR (68TC166); Waterloo Plc, Euston & Paddington v CIR [2002] STC (SCD) 95; Ametalco v CIR [1996] STC (SCD) 399; DSG Retail and Others v HMRC [2009]STC 397; and Meditor Capital Management v. Feighan [2004]STC 273. The preferred route is resolve cases by way of a settlement, Astra Zeneca and Diageo are two recent cases. Starbucks is, arguably, another. HM Revenue & Customs ('the Revenue') are also encouraging taxpayers generally to encourage settlements through the appointment of facilitators under the Alternative Dispute Resolution mediation programme.

EU law and practice: Lankhorst-Hohorst

GmbH v Finanzamt Steinfurt (Case C-324/00 ECJ).

REGULATIONS & RULINGS

The Revenue's manuals also set out the Revenue's policies, their interpretation of OECD Transfer Pricing Guidelines (issued July 2010) and therefore provide some guidance. These manuals are available to the public. As stated above, the Revenue will apply Article 9 of the OECD Model Treaty in so far as adjustments are made in the UK tax return where the counter party is resident in one of the countries with which the UK has a full OECD Model Treaty. The taxpayer may also make a request to enter into the Mutual Agreement Procedures (MAP) under Article 25 or the EU Arbitration Convention.

MAP may be used where a counter-party wants to make a compensating adjustment to a transaction affected by transfer pricing adjustments. MAPs may not be used in UK-UK transactions. Compensating adjustments can no longer be claimed where the counterparty is a partnership or by individuals.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

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

PRICING METHODS PRIORITY

There are no specific rulings, although UK taxpayers are encouraged to select one of the methodologies adopted under the OECD Guidelines.

The following is a general guide only to some possible pricing methods, and applies where the company undertakes comparable transactions with third parties in similar circumstances:

-Resale minus (RMM) compensates the reseller of goods for costs incurred and provides an appropriate margin for functions performed, assets employed and risks borne. This basis may be inappropriate where the reseller adds substantially to the value of the product or incorporates the product into another
-Cost plus (CPM): An appropriate mark-up is applied to costs incurred. CPM is appropriate where there is a provision of services, in particular where the services are of a routine nature and do not contribute significantly to the profits of the recipient
-Transactional net margin (TNMM) is a profit-based method that tests the arm's length nature of a transaction with third parties by examining the net profit margin. The standard of comparability is less rigorous under TNMM and is more flexible to apply than CPM and RMM.

TRANSFER PRICING PENALTIES

Where the taxpayer has been 'negligent, careless or fraudulent' in filing a transfer pricing position as part of a tax return, HMRC may impose tax-geared penalties where further tax becomes due as a result of adjustments. In serious cases, penalties may be as much as 100% of the additional tax which falls due. A penalty will also be levied where the effect of the enquiry is to reduce the losses carried forward. Interest for late payment of the additional tax may also become payable. Negligence may include cases where the UK company fails to document and/or retain evidence justifying the transfer pricing adopted.

REDUCTION IN PENALTIES

The level of penalties may be decreased at the discretion of the Revenue, dependent upon the circumstances in which the correction to the tax return arose. Where a genuine effort was made to apply UK transfer pricing principles and the Revenue contends that an adjustment should be made, penalties

UNITED KINGDOM

may be reduced considerably. Where the differences in approach and pricing are minor it may be argued that no penalties should be levied. The level of penalties can depend on the taxpayer's circumstances and co-operation.

DOCUMENTATION REQUIREMENTS

Where the UK transfer pricing legislation applies, the UK taxpayer will be required to prepare detailed transfer pricing documentation which set out, inter alia, a detailed background of the company/group's operations, the market in which it operates, and the economic factors affecting the industry, a functional analysis of the transactions with related parties, a detailed review of functions risks, and benefits which flow. The report should then discuss the range of pricing arrangements (as approved by the OECD) which are at its disposal and the reasons for rejecting and selecting the appropriate pricing mechanisms. Finally, a full range of comparables must be selected, the data analysed and a statistical analysis undertaken which then underlines the transfer pricing margin/ benchmarking adopted by the company/group.

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

Board minutes which evidence the company's agreement to the adoption of the study, the group agreements etc.

The EU Code of Conduct on Transfer Pricing documentation model which provides groups with the option to create a master file approach has not been formally adopted by the UK as the primary source standard document, although it is considered 'good practice'. This is in line with BEPS action point 13.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

Documentation as described above forms part of company compliance records and should be in place prior to the filing of a tax return. Without it, the taxpayer is not in a position to make an accurate self-assessment of its chargeable profits. Documentation may be requested by the Revenue during their enquiries into a filed tax return. The deadline for submission will usually be 30 days. The deadline is extended where a company is classed as a Medium Sized Enterprise.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

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

STATUTE OF LIMITATIONS

The Revenue ordinarily confine their enquiries to the period covered by the tax return, and may generally initiate enquiries within 24 months of the balance sheet date. However, where transfer pricing compliance requirements have not been met, they can reassess the previous six years. In the case of fraud or negligence the authorities may review the previous 21 years.

ADVANCE PRICING AGREEMENTS (APAS)

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

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BURDEN OF PROOF

The UK taxpayer is expected to self assess for corporation tax purposes. Therefore, in general, the burden of proof falls on the UK taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The Revenue accept most of the pricing policies which the OECD recommends. However, the pricing policy adopted should be consistent with the circumstances in which the OECD deems these to be acceptable.

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UNITED STATES

TAX AUTHORITY
Internal Revenue Service (IRS). Website: www.irs.gov

TAX LAW
U.S.C. Title 26, Subtitle A, Chapter 1, Subchapter E, Part III, Section 482; U.S.C. Title 26, Subtitle F, Chapter 68, Subchapter A, Part II, Section 6662.

REGULATIONS & RULINGS
Reg. §§1.482-0 through 1.482-9; Reg. §1.6662-6.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Related party legislation (see tax law above).

PRICING METHODS PRIORITY
Best methods include comparable uncontrolled price (CUP); resale price (RPM); cost plus (CP); comparable profits (CPM); profit split (PSM); and other unspecified methods, as appropriate.

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

REDUCTION IN PENALTIES
Generally not applicable.

DOCUMENTATION REQUIREMENTS
Contemporaneous documentation is required and should be maintained in anticipation of the event of an examination by the IRS, as discussed above. Principal documents should include:

-Overview of taxpayer's business
-Description of the taxpayer's organisational structure
-Explicitly required documentation per section 482
-Description of method selected and explanation of why
-Description of alternative methods not used and why
-Description of controlled transactions
-Description of comparables used and why
-Explanation of the economic analysis and projections relied upon
-Description of any relevant data the taxpayer obtains after year-end but before the filing of the tax return
-General index of the principal and background documents used.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
To be considered contemporaneous, transfer pricing documentation must be prepared by the filing date of the annual income tax return. If the documentation is requested by the Internal Revenue Service (IRS), it must be provided within 30 days of the request.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Forms 5471, 5472, or 8865.

STATUTE OF LIMITATIONS
Generally three years from the later of: the due date of the tax return, or the date the tax return is actually filed.

ADVANCE PRICING AGREEMENTS (APAS)
APAs can be negotiated with the IRS. A unilateral, bilateral, multilateral request may be made. APAs are generally prospective in nature, although a rollback may be requested.

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A filing fee of USD 22,500 to USD 50,000 for the original request applies.

BURDEN OF PROOF

The burden of proof generally resides with the taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The US model treaty generally conforms with OECD Guidelines.

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URUGUAY

TAX AUTHORITY
Dirección General Impositiva (DGI). English: General Tax Directorate. Website: www.dgi.gub.uy

TAX LAW
Tax law 18.083, Title 4, Chapter VII, articles from 39 to 46. Enacted December 2006, valid since July 2007. Decrees 150/07,56/009 and 392/009

REGULATIONS & RULINGS
Resolutions: 2084/009; 2098/009; 2269/009; 818/010; 819/010.

INTERPRETATION OF ARM’S LENGTH PRINCIPLE (ALP)
Law 18.083,Title 4 article 38, Decree 56/009 article 2. Transactions with related persons or entities will be considered for all purposes as made by independent parties.

PRICING METHODS PRIORITY
Law 18.083, article 41 and Decree 56/009 article 4. The use of methods which are the most appropriate regarding the type of transaction.

Methods:
-Comparable prices between independent parties
-Resale prices set between independent parties
-Cost of additional benefits
-Share-out of profits
-Net margin of the transaction.

TRANSFER PRICING PENALTIES
There are no specific instructions. Tax Code, fifth chapter, infringements and sanctions.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Special declarations over control operations, Law 18.083, article 46. Decree 56/009 articles 14 and 15.

An annual report is required. Taxpayers are included:

-When defined as taxpayers by DGI
-When engaged in activities where the amount is greater than UI 50,000,000 (50 million indexed units) in the corresponding fiscal period
-When they have been notified by DGI, or will be notified by DGI.

The information provided shall contain:

-An affidavit disclosure giving details of operations during the period of transfer pricing
-A copy of the financial statements for the fiscal year
-The transfer pricing analysis
-Form 3001.

Other taxpayers must retain, for the period of the time limit for action (five to 10 years) vouchers and evidence of transfer pricing and comparison criteria, in order to demonstrate and justify the correct determination of these prices, and the amounts of payments or profit margins reported.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Decree 56/009 article 15. Deadline will be a period not less than the ninth month after close of fiscal year.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
There are no specific instructions. Tax Code-Article 47-Secret of the procedures.

Law 18.083, Title 4 article 45. Will not be applied (Article 47) when this information is linked with transfer pricing that acts as evidence.

URUGUAY

ADVANCE PRICING AGREEMENTS (APAS)
Decree 56/009 article 15 Bis. DGI may enter into agreements with taxpayers, who must apply prior to first transactions and which may not exceed three fiscal years.

BURDEN OF PROOF
There are no specific instructions.

STATUTE OF LIMITATIONS
There are no specific instructions.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Uruguay is not a member of the OECD, but has been aligned with some principles since July 2007.

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UZBEKISTAN

TAX AUTHORITY
Tax Committee Of Republic of Uzbekistan (website: www.soliq.uz) and Customs Committee of Republic of Uzbekistan (website: www.customs.uz)

TAX LAW
The Tax Code of Republic of Uzbekistan.

REGULATIONS & RULINGS
The Civil Code of Republic of Uzbekistan.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
If related (affiliated) legal entities apply to the prices different from the prices in the commercial and financial relations, which would be applied between not related legal entities, at definition of object of the taxation, the taxable base on which is estimated on the basis of the price of realisation of the goods (works, services), bodies of the tax authorities use the prices which would be applied between not related legal entities (Tax Code, article 40).
Related (affiliated) legal entities:
-Registered in the Republic of Uzbekistan, and their founders (participants, members), being legal entities of the foreign countries
-Of foreign countries and their founders (participants, members), being the legal entities registered in the Republic of Uzbekistan
-Registered in the Republic of Uzbekistan, and legal entities of the foreign states, founders (participants, members) which are same legal or individuals.

PRICING METHODS PRIORITY
If related (affiliated) legal entities apply to the prices different from the prices in the commercial and financial relations, which would be applied between not related legal entities, at definition of object of the taxation, the taxable base on which is estimated on the basis of the price of realisation of the goods (works, services), bodies of the tax authorities use the prices which would be applied between not related legal entities.

TRANSFER PRICING PENALTIES
The tax authorities may impose penalties if able to prove prices do not correspond to the market prices.

REDUCTION IN PENALTIES
Not applicable. Tax authorities could defer payments to legal entity for six months only if the amount of penalty is more than 20% of its assets and the penalty could be paid by equal parts within the six-month period.

DOCUMENTATION REQUIREMENTS
Contracts, waybills on shipment, invoices, customs declaration, etc.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
The deadline is to be identified in the contract.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Financial Statements.

STATUTE OF LIMITATIONS
Three years under Civil Code, and five years under Tax Code.

ADVANCE PRICING AGREEMENTS (APAS)
Not applicable

BURDEN OF PROOF
The tax authorities of Republic of Uzbekistan have to prove that prices do not correspond to market prices.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Not applicable.

VENEZUELA

TAX AUTHORITY

Servicio Nacional Integrado de Administración Aduanera y Tributaria (SENIAT). English: Integrated National Customs and Tax Administration. Website: www.seniat.gob.ve

TAX LAW

Transfer pricing was included in the Venezuelan Income Tax Law in 1999 with only seven articles; but significant modifications were introduced in 2001 with 59 articles which are still applicable.
The Tax Code modified in October 2001 sets forth the fines and penalties.
For everything else not considered in these regulations, the OECD rules are applicable.

REGULATIONS & RULINGS

January 2001: Providence 401, which sets forth the rules for the calculation of the net margin and the spread.
December 2010: Providence 0090, which sets forth the procedure for the calculation and use of the range of free competition.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)

The Venezuelan Income Tax Law adopted the arm's length principle for transactions between related parties, similar to the concept established in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations approved by the Organisation for Economic Cooperation and Development (OECD) in 1995, or those rules which replace them.

PRICING METHODS PRIORITY

The law allows the use of the internationally accepted methods: comparable uncontrolled price (CUP); resale price (RSM); cost plus (CP); profit split (PSM); and transactional net margin (TNMM); however, priority is given to the CUP method.

TRANSFER PRICING PENALTIES

Fine of 10 tax units for not submitting the transfer pricing return, increased by 10 tax units for each new violation up to a maximum of 50 tax units.

Fine of five tax units for submitting the transfer pricing return incomplete or late; which will be increased by five tax units for each new violation up to a maximum of 25 tax units.

Fine from 300 to 500 tax units for not applying the methodology.

An additional penalty of 10% of the omitted tax amount if it is accepted by the taxpayer; on the contrary, the penalty might be between 25% and 200%.

Fine from 500 to 2,000 tax units to those individuals that directly or indirectly reveal, disclose or make personal or improper use of the information provided by independent third parties that affect or may affect its competitive position.

The value for each tax unit is about 20 USD for year 2014.

REDUCTION IN PENALTIES

Complying with the transfer pricing rules, but not following the methodology established in the tax law, will be taken into account in the determination of the adjustment.

DOCUMENTATION REQUIREMENTS

Taxpayers must keep all the documentation, in Spanish, that supports the calculations used for the transfer pricing study and for the transfer pricing return.

a. Detailed information of the fixed assets.
b. Risks assumed, such as commercial and finantial.
c. Description of the organisational structure, functional information, strategic association and distribution channels.
d. Taxpayer´s information and its related parties; supporting documentation; type of

business; main clients; investments, etc.
e. Description of transactions with related parties.
f. In case of multinational enterprises: location, main activities, transactions, contracts, shares, etc.
g. Audited financial statements.
h. Contracts or agreements of any kind with related parties.
i. Commercial strategies.
j. Cost statement, if applicable.
k. Criteria used to choose the method.
l. Information about the comparable companies.
m. Information on whether the related parties are/were under a transfer pricing arrangement.
n. Information about the control of inventory.
o. Calculations and any other relevant information.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION

The transfer pricing return must be submitted in June after prior fiscal year.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE

Some general financial information must be disclosed within the transfer pricing return; but much more detailed information must be included in the transfer pricing study.

STATUTE OF LIMITATIONS

Four years as from January 1 after the transfer pricing return was filed; and six years if the return was not filed.

ADVANCE PRICING AGREEMENTS (APAS)

Prior to performing the operations, taxpayers may make a proposal to the tax administration for the assessment of the operations to be made with related parties during a specific period of time.

BURDEN OF PROOF

The burden of proof resides with the taxpayer.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES

The Venezuelan regulations and rulings on transfer pricing conform with OECD Guidelines.

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VIETNAM

TAX AUTHORITY
General Department of Taxation (GDT), Ministry of Finance. Website: www.mof.gov.vn

TAX LAW
National Assembly's corporate income tax law 14/2008/QH12 dated June 3 2008, article 9;
National Assembly's Pricing Ordinance 40/2002/UBTVQH10 dated April 26 2002, articles 21, 28.

REGULATIONS & RULINGS
-Ministry of Finance (MoF) Circular 123/2012/TT-BTC on Corporate Income Tax
-MoF Circular 154/2010/TT-BTC dated October 1 2010 on pricing assets, commodities and services
-MoF Circular 66/2010/TT-BTC dated April 22 2010, 'Guiding the Determination of Market Prices in Business Transactions Between Associated Parties'.

INTERPRETATION OF ARM'S LENGTH PRINCIPLE (ALP)
Not stated in the above law and regulations.

PRICING METHODS PRIORITY
Comparable uncontrolled price (CUP) and cost plus (CP) are in use, depending on the features of the assets, commodities and services in question and current market conditions.

TRANSFER PRICING PENALTIES
Violations are treated under the corporate income tax laws.

REDUCTION IN PENALTIES
Not applicable.

DOCUMENTATION REQUIREMENTS
Form GCN-01/QLT 'Information on Related Party Transactions (RPTs)', which is attached to Circular 66/2010/TT-BTC, should be submitted with the annual corporate income tax return. The form - which came into effect in June 2010 - contains the following changes from the previous version:
-It requires that the transfer pricing method for each category of related party transaction (including transactions concerning goods that form fixed and non-fixed assets) with respect to each related party be stated
-It requires the disclosure of detailed information on the related parties, such as the address and the type of relationship, as defined under Circular 66.

DEADLINE TO PREPARE AND SUBMIT DOCUMENTATION
Such submission is due for each taxable year, no later than 90 days after the year-end.

RETURN DISCLOSURE RELATED PARTY DISCLOSURE
Stated in documentation.

STATUTE OF LIMITATIONS
No specific charges are identified for transfer pricing but serious violations are subject to prosecution under criminal law.

ADVANCE PRICING AGREEMENTS (APAS)
No specific APAs for transfer pricing. It is generally dealt with in double taxation treaties with some countries, including China, Hong Kong, Thailand, the UK, etc.

BURDEN OF PROOF
In cases of suspected tax evasion, the taxpayer is required to provide proof upon demand by the tax authorities.

PRINCIPAL DIFFERENCES WITH OECD GUIDELINES
Transfer pricing guidance is given on a case-by-case basis and at tax authority level, not as official guidelines for long-term use.

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