

Transfer Pricing Country Profile
(to be posted on the OECD Internet site www.oecd.org/taxation)

Name of Country: Russian Federation Date of profile: 10 April 2009

[based on TP rules in force in 2009]

No.	Item	Reference to and wherever possible text of the provisions; Wherever needed and possible, a translation into one of the OECD official languages would be welcome
1	Reference to the Arm's Length Principle	<p>Article 40 of Part 1 of the Russian Tax Code (adopted on 17 July 1998 with subsequent amendments) establishes the Arm's Length Principle and methods for determining market prices in controlled transactions.</p> <p>Although Article 40 does not make formal reference to the Arm's Length Principle and the Arm's Length range, Article 40.3 provides that the tax authorities may levy additional taxes and late payment interest if the prices of goods, work or services applied by the parties to a controlled transaction witness an increase or decrease of more than 20 per cent on the market price of identical or similar goods, work or services. Under Article 40.8, in order to determine the market price of goods in controlled transactions, prices in transactions between unrelated parties shall be taken into account.</p> <p>Under Article 40.2 of the Russian Tax Code, the list of controlled transactions includes:</p> <ul style="list-style-type: none"> • Transactions between related parties • Barter transactions • Foreign trade (cross-border) transactions, and • Transactions where the price within a short period of time witnesses an increase or decrease of more than 20 per cent on the prices set by the taxpayer for identical or similar goods, work or services.
2	Reference to the OECD Transfer Pricing Guidelines (if any)	The Russian Tax Code makes no reference to the OECD transfer pricing guidelines. There are no specific regulations on the application of Russian transfer pricing rules.
3	Definition of related parties	<p>Article 20 of the Russian Tax Code contains a definition of related parties; the following three situations are described:</p> <ol style="list-style-type: none"> 1) one party has a greater than 20 per cent direct or indirect equity participation in the other 2) one individual is subordinate to the other according to their official position, or 3) the individuals have a marital, kinship, affinity, adoptive or adopted, trustee, or ward relationship. <p>In addition, under Article 20.2, courts can recognise parties as being related for reasons other than those stipulated above if the relationship between the parties could have some bearing on the outcome of the transaction.</p>

4	Transfer pricing methods	<p>Article 40.9 and Article 40.10 of the Russian Tax Code provide for the following methods to be used by the tax authorities to determine market prices:</p> <ol style="list-style-type: none"> 1. The comparable uncontrolled price (CUP) method 2. The resale price method, and 3. The cost plus method. <p>The above methods should be applied in strict hierarchy, with the CUP method taking priority. If the CUP method cannot be applied, then the resale price method should be used; and if the resale minus method cannot be applied, the cost plus method should be used.</p>
5	Transfer pricing documentation requirements	<p>There are no formal transfer pricing documentation and reporting requirements under the Russian Tax Code. However, during a field tax audit the taxpayers may be asked to present supporting documentation confirming the calculation of prices applied in controlled transactions.</p>
6	Specific transfer pricing audit procedures and / or specific transfer pricing penalties.	<p>The Russian Tax Code contains no specific procedures related to conducting separate transfer pricing audits. The tax authorities control prices during ordinary desk or field tax audits. There are no specific transfer pricing penalties provided by the Russian Tax Code; under Article 40.3 of the Russian Tax Code, the tax authorities may only levy additional taxes and late payment interest in the event of transfer pricing adjustments. Under Article 122 of the Russian Tax Code, an underpayment of taxes may result in the imposition of a fine corresponding to 20% of the underpaid taxes (the fine may be increased to 40% if intent can be proved).</p>
7	Relevant regulations on Advance Pricing Arrangements	<p>The Russian Tax Code does not contain provisions regarding APAs.</p>
8	Link to relevant Government Internet sites	<p>http://www1.minfin.ru/ru/ - The Ministry of Finance of the Russian Federation http://www.nalog.ru/ - The Federal Tax Service</p>
9	Other relevant information	<p>According to the main tax policy objectives adopted by the Russian Government for 2009-2011, new Russian transfer pricing rules should become effective from 2009-2010. In November 2007, the Russian Ministry of Finance published on its website the draft law on amendments to Part 1 of the Russian Tax Code, which is related to developing principles for determining prices for tax purposes. Under the draft law, key anticipated changes will include:</p> <ul style="list-style-type: none"> • Expanding the list of criteria according to which parties can be considered to be related • Introducing the arm's length range; the 20% allowable fluctuation from the market price will be no longer permitted • Expanding the list of official sources of information • Formally introducing the following new transfer pricing methods: <ol style="list-style-type: none"> (a) The transactional net margin method (b) The profit split method, and (c) The resale of the secondary product method

		<ul style="list-style-type: none"> • Introducing reporting requirements with respect to controlled transactions • Introducing transfer pricing documentation requirements. <p>The new Russian transfer pricing rules will be closer to OECD transfer pricing principles.</p>
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Note

1. Relevant provisions of domestic legislation referring to the Arm's Length Principle.
2. Reference if any to the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations in domestic legislation or regulations.
3. Relevant legislation or regulations containing a definition of related parties or associated enterprises.
4. Relevant legislation or regulations containing guidance on transfer pricing methods including hierarchy among them if any.
5. Relevant regulations if any in relation to transfer pricing documentation requirements.
6. Relevant regulations if any on specific transfer pricing audit procedures and / or specific transfer pricing penalties.
7. Relevant regulations if any on Advance Pricing Arrangements.
8. Addresses of the Internet sites of the relevant authorities in charge of transfer pricing policy, its administration and advance pricing arrangements.
9. Other relevant information, for instance having gone through a peer review, or having new transfer pricing regulations in preparation.