

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

Name of Country: **TURKEY** Date of profile: **January, 2012**

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	Under Article 13(3) of Corporate Income Tax Law No. 5520 (CITL), it is stated that " <i>Arm's length principle 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.</i> "
2	Reference to the OECD Transfer Pricing Guidelines (if any)	In the legal ground for Article 13 of the CITL, it is stated that transfer pricing legislation is prepared by taking into account international developments and particularly the OECD Transfer Pricing Guidelines.
3	Definition of related parties	<p>Related parties are defined under Article 13(2) of the CITL. In this respect, the following ones can be given as an example:</p> <ul style="list-style-type: none"> • Shareholders of the corporation; • Individuals or legal entities related to the corporation or its shareholders; • Individuals or legal entities which control the corporation directly or indirectly in terms of management, supervision or capital; • Individuals or legal entities which are controlled by the corporation directly or indirectly in terms of management, supervision or capital. <p>Article 13(2) also states that "<i>By taking into account whether the taxation capacity of the source country's tax system is the same with that of Turkey and the issue of exchange of information, all transactions made with persons located in countries or regions to be announced by Council of Ministers will be deemed as if they were made with related parties</i>".</p>
4	Transfer pricing methods	<ol style="list-style-type: none"> 1. Comparable Uncontrolled Price Method (CUP) 2. Cost Plus Method (C+) 3. Resale Price Method (RPM) 4. Other methods (Profit Split Method, Transactional Net Margin Method, and Method Determined by Taxpayer) <p>Taxpayers shall apply one of the above-mentioned traditional transaction methods (CUP, C+, RPM) in order to determine the arm's length price in their transactions with related parties. In this context, taxpayers should select the method which is most appropriate to the nature of the transaction. However, if it is not possible to determine the arm's length price by using these methods, taxpayers may use other methods which are appropriate to the nature of the transactions. In this regard, there is a hierarchy between the above-mentioned traditional transaction methods and other methods.</p>
5	Transfer pricing documentation requirements	<p>There are 3 types of documentation requirements:</p> <ol style="list-style-type: none"> 1. Annual Transfer Pricing Report which must be prepared by all corporate income taxpayers until the deadline for filing the annual CIT return and, upon request, submitted to Turkish Revenue Administration or other tax authorities entitled to make tax examination.

		<p>2. Transfer Pricing, Controlled Foreign Corporations and Thin Capitalisation Form which must be filled by all corporate income taxpayers and submitted to the relevant tax office as an attachment to the annual CIT return.</p> <p>3. Taxpayers having an APA should prepare an Annual APA Report every year during the term of the APA and submit it to Turkish Revenue Administration until the deadline for filing the annual CIT return.</p>
6	Specific transfer pricing audit procedures and / or specific transfer pricing penalties	<p>A new division of “Thin Capitalization, Transfer Pricing and Cross-Border Transactions” was set up at Ministry of Finance at Tax Audit Board in 2011. Relevant departments of audit are located in Ankara, Istanbul and Izmir.</p> <p>There is no specific legal arrangements on transfer pricing audit procedures and/or transfer pricing penalties. In accordance with the relevant provisions of Tax Procedural Law No. 213, general audit and penalty regimes apply to transfer pricing cases.</p>
7	Relevant regulations on Advance Pricing Arrangements	<p>Article 13(5) of the CITL. Ministerial Decree No. 2007/12888 of 6 December 2007. Ministerial Decree No. 2008/13490 of 13 April 2008. Transfer Pricing General Communiqué No. 1 of 18 November 2007. Transfer Pricing General Communiqué No. 2 of 22 April 2008.</p> <p>Under Article 13(5) of the CITL, an opportunity is provided for taxpayers to request advanced approval of the Turkish Ministry of Finance regarding “the method” to be used in their transactions with related parties. By the Ministerial Decree 2007/12888, the authority to sign an APA with the taxpayer is delegated to Turkish Revenue Administration (TRA).</p> <p>Within this framework, corporate income taxpayers may apply for unilateral, bilateral or multilateral APAs.</p> <p>A formal APA signed between the taxpayer and TRA will be effective as of the signing date of the agreement. Once such an agreement is concluded, both the taxpayer and TRA are bound by the approved method to be applicable for the agreed-upon period (for a maximum period of three years) as long as conditions and critical assumptions of the APA are valid.</p> <p>An existing APA may be renewed only for one more period under the same conditions, assumptions and transfer pricing method.</p>
8	Link to relevant Government Internet sites	www.gib.gov.tr
9	Other relevant information	In parallel with the transfer pricing rules introduced by the CITL, a related provision is added to Article 41 of Personal Income Tax Law No. 193.

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.