

## Transfer Pricing Country Profile

Name of Country: Chile Date of profile: February 27, 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	<b>Reference to the Arm's Length Principle</b>	<p><b>Article 38 of the Income Tax Law:</b>            “When the prices that an agency or branch charges to its headquarter or to another agency or related company of the headquarter, do not correspond to the values that by similar transactions are charged between independent companies, the Regional Office will be able to object them justifiably. [...] The same rule will apply to prices paid or accrued with regards to goods or services provided by the headquarter, its agencies or related companies, when those prices do not correspond to normal market prices charged between non-related companies.”</p>
2	<b>Reference to the OECD Transfer Pricing Guidelines (if any)</b>	None.
3	<b>Definition of related parties</b>	<p><b>Article 38 of the Income Tax Law:</b>            “[...] an enterprise incorporated abroad [which] participates directly or indirectly in the management, control or capital of an enterprise established in Chile, or vice versa [...]. The same persons participate directly or indirectly in the management, control or capital of an enterprise incorporated in Chile and an enterprise incorporated abroad.            It will be presumed that companies are related parties as provided before if they pact exclusivity contracts, joint action agreements, preferential treatments, financial or economic dependence, or trusts deposit agreements. The same presumption will apply to transactions with companies located in a country or territory included in the list referred in Article 41 D N° 2 [tax havens].”</p>
4	<b>Transfer pricing methods</b>	<p><b>Article 38 of the Income Tax Law:</b>            “When the prices that an agency or branch charges to its headquarter or to another agency or related company of the headquarter, do not correspond to the values that by similar transactions are charged between independent companies, the Regional Office will be able to object them justifiably, taking as a reference for those prices a reasonable margin according to the features of the operation, or the production costs plus a reasonable margin of profit. The same rule will apply to prices paid or accrued with regards to goods or services provided by the headquarter, its agencies or related companies, when those prices do not correspond to normal market prices charged between non-related companies, besides being able to consider the resale prices of goods acquired from a related company to third parties, less the profit margin seen in similar operations with or between independent companies.”</p>

		“When the agency does not carry out the same operations with independent companies, the Regional Office may justifiably challenge the prices considering the values that the relevant products or services have in the international market. To that effect, the Regional Office shall request a report to the Customs Service, the Central Bank or any other entity having the requested information.”
5	<b>Transfer pricing documentation requirements</b>	<b>Article 38 of the Income Tax Law:</b> “Taxpayers must keep a registry of persons with whom they carry out transactions or have participation in, in the terms described in the last two paragraphs [i.e., with related parties], keeping both the registry and the documentation that supports those transactions available for the Servicio de Impuestos Internos’ examination upon request.”
6	<b>Specific transfer pricing audit procedures and / or specific transfer pricing penalties.</b>	We apply the same procedures used in other audits. In any case, and considering the special difficulty of transfer pricing audits, in practice we give special emphasis to the following stages: <ul style="list-style-type: none"> <li>- Request of information of operations of specific sectors</li> <li>- Economical sector analysis</li> <li>- Selection of the case</li> <li>- Selection of the comparables</li> <li>- Comparability analysis</li> <li>- Functional analysis</li> <li>- Tax difference determination</li> </ul> The new income determined by a transfer pricing audit has to be added to the taxable income. This amount will be considered a distribution or dividend, and will be taxed accordingly. There are no specific transfer pricing penalties.
7	<b>Relevant regulations on Advance Pricing Arrangements</b>	We do not have APA regulations.
8	<b>Link to relevant Government Internet sites</b>	Servicio de Impuestos Internos: <a href="http://www.sii.cl">www.sii.cl</a>
9	<b>Other relevant information</b>	N/A

## **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.