

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

Name of Country: Czech Republic Date of profile: 9.2.2009

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>	Section 23(7) Act on Income Tax: Where prices agreed between related persons (parties) differ from prices that would be agreed between independent persons (parties) in usual business relationships under the same or similar terms (conditions), without such difference being properly documented, the tax administrator (tax office) shall adjust the taxpayer's tax base by the ascertained difference; if the price that would be agreed between independent persons in usual business relationships under the same or similar conditions could not be ascertained, it is necessary to proceed from the price ascertained according to a special legal regulation
2	<b>Reference to the OECD Transfer Pricing Guidelines (if any)</b>	Not directly – see Guidance D-258 <a href="http://cds.mfcr.cz/cps/rde/xchg/SID-53EDF4E6-70266F82/cds/xsl/5938_5978.html?year=0">http://cds.mfcr.cz/cps/rde/xchg/SID-53EDF4E6-70266F82/cds/xsl/5938_5978.html?year=0</a>
3	<b>Definition of related parties</b>	Section 23(7) Act on Income Tax: For the purpose of this Act, “related persons” (parties) shall mean to be: (a) persons (parties) related through capital whereby: 1. one person (party) directly participates in another person's (party's) capital or voting rights, or one person (party) participates in the capital or voting rights of more persons (parties) and this person (party) has a holding of at least 25% in the others' registered capital or voting rights; in such a case all are regarded as mutually related directly through capital; 2. one person (party) indirectly participates in another person's (party's) capital or voting rights, or one person (party) indirectly participates in the capital or voting rights of more persons (parties) and has a holding of at least 25% in the others' registered capital or voting rights; in such a case all are regarded as mutually related through capital; (b) otherwise related persons (parties): 1. whereby one person (party) participates in the management or control of another person (party); 2. whereby identical persons or close persons participate in the management or control of other persons (parties) and such other persons (parties) are otherwise related persons (parties); as an otherwise related persons are not considered persons participating in supervisory board of the both persons (parties);

		<p>3. involving a controlling person (party) and a controlled person (party), and/or also persons (parties) controlled by the same controlling person (party);</p> <p>4. being close person</p> <p>5. being persons (parties) having established a legal relationship predominantly for the purpose of reducing their tax base or increasing their tax loss.</p> <p>A holding in the registered (basic) capital or holding in the voting rights for a period for which a tax returns is filed, shall be computed as an arithmetical average of monthly holdings. Participation in an auditing commission or similar inspection body and the rendering of auditing (inspection) for remuneration shall not be considered as participation in the control.</p>
4	<b>Transfer pricing methods</b>	We follow the OECD Guidelines
5	<b>Transfer pricing documentation requirements</b>	<p>Not directly, we follow EU and OECD recommendations, see Guidance D – 293</p> <p><a href="http://cds.mfcr.cz/cps/rde/xchg/SID-53EDF4E6-70266F82/cds/xsl/5938_5980.html?year=0">http://cds.mfcr.cz/cps/rde/xchg/SID-53EDF4E6-70266F82/cds/xsl/5938_5980.html?year=0</a></p>
6	<b>Specific transfer pricing audit procedures and / or specific transfer pricing penalties.</b>	No specific transfer pricing procedure
7	<b>Relevant regulations on Advance Pricing Arrangements</b>	<p>Section 38nc of Act on Income Tax - binding consideration, see Guidance D – 292</p> <p><a href="http://cds.mfcr.cz/cps/rde/xchg/SID-3EA9846B-A1417C4F/cds/xsl/legislation_methodology_5979.html?year=0">http://cds.mfcr.cz/cps/rde/xchg/SID-3EA9846B-A1417C4F/cds/xsl/legislation_methodology_5979.html?year=0</a></p>
8	<b>Link to relevant Government Internet sites</b>	<p><a href="http://www.mfcr.cz">http://www.mfcr.cz</a></p> <p><a href="http://cds.mfcr.cz">http://cds.mfcr.cz</a></p>
9	<b>Other relevant information</b>	Fee for submission of an application for binding consideration (APA) is 10 000 CZK (effective from 1.1.2008)

## **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.