

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

**Name of Country: The Netherlands Date of profile: 10 February 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>Article 8b , paragraph 1 Wet op de Venootschapsbelasting 1969 (Corporate Income Tax Law):</p> <p><i>Indien een lichaam, onmiddellijk of middellijk, deelneemt aan de leiding van of het toezicht op, dan wel in het kapitaal van een ander lichaam en tussen deze lichamen ter zake van hun onderlinge rechtsverhoudingen voorwaarden worden overeengekomen of opgelegd (verrekenprijzen) die afwijken van voorwaarden die in het economische verkeer door onafhankelijke partijen zouden zijn overeengekomen, wordt de winst van die lichamen bepaald alsof die laatstbedoelde voorwaarden zouden zijn overeengekomen.</i></p> <p><i>Non official translation:</i> <i>Where an entity participates, directly or indirectly, in the management, control or capital of another entity, and conditions are made or imposed between these entities in their commercial and financial relations (transfer prices) which differ from conditions which would be made between independent parties, the profit of these entities will be determined as if the last mentioned conditions were made.</i></p>
2	<b>Reference to the OECD Transfer Pricing Guidelines (if any)</b>	<p>Besluit verrekenprijzen IFZ 2001/295 (regulation) Aanpassing besluit verrekenprijzen IFZ 2004/680 M (regulation) These regulations refer directly to the OECD TP Guidelines. Non-official English versions available</p>
3	<b>Definition of related parties</b>	<p>Article 8b , paragraph 1 Wet op de Venootschapsbelasting 1969 (Corporate Income Tax Law):</p> <p><i>Indien een lichaam, onmiddellijk of middellijk, deelneemt aan de leiding van of het toezicht op, dan wel in het kapitaal van een ander lichaam en tussen deze lichamen ter zake van hun onderlinge rechtsverhoudingen voorwaarden worden overeengekomen of opgelegd (verrekenprijzen) die afwijken van voorwaarden die in het economische verkeer door onafhankelijke partijen zouden zijn overeengekomen, wordt de winst van die lichamen bepaald alsof die laatstbedoelde voorwaarden zouden zijn overeengekomen.</i></p>

		<p>Article 8b, paragraph 2 Wet op de Vennootschapsbelasting 1969 (Corporate Income Tax Law):</p> <p><i>Het eerste lid is van overeenkomstige toepassing indien een zelfde persoon, onmiddellijk of middellijk, deelneemt aan de leiding van of aan het toezicht op, dan wel in het kapitaal van het ene en het andere lichaam.</i></p> <p><i>Non official translation:</i>  <i>Where an entity participates, directly or indirectly, in the management, control or capital of another entity, and conditions are made or imposed between these entities in their commercial and financial relations (transfer prices) which differ from conditions which would be made between independent parties, the profit of these entities will be determined as if the last mentioned conditions were made.</i></p> <p><i>The first paragraph will also be applicable, when the same person participates, directly or indirectly, in the management, control or capital of both the first and second entity.</i></p>
4	<b>Transfer pricing methods</b>	<p>Besluit verrekenprijzen IFZ 2001/295 (regulation). The regulation refers directly to the OECD TP Guidelines. Non-official English version available</p>
5	<b>Transfer pricing documentation requirements</b>	<p>Article 8b, paragraph 3 Wet op de Vennootschapsbelasting 1969 (Corporate Income Tax Law):</p> <p><i>De in het eerste en tweede lid bedoelde lichamen nemen in hun administratie gegevens op waaruit blijkt op welke wijze de in dat lid bedoelde verrekenprijzen tot stand zijn gekomen en waaruit kan worden opgemaakt of er met betrekking tot de totstandgekomen verrekenprijzen sprake is van voorwaarden die in het economische verkeer door onafhankelijke partijen zouden zijn overeengekomen.</i></p> <p><i>Non official translation:</i>  <i>The entities referred to in paragraphs 1 and 2 should include in their records information that shows in which way the transfer prices referred to in paragraph 1 were established, and from which can be determined whether - with respect to these transfer prices - conditions were made to which third parties would have agreed.</i></p>
6	<b>Specific transfer pricing audit procedures and / or specific transfer pricing penalties.</b>	<p>The imposition of a penalty based on an incorrect tax return will be limited to cases where it is plausible that a non-arm's length price results from an intentional act. A reversal of burden of proof will only be invoked in transfer pricing situations in case of evident shortcomings in documentation (announcement made by the Under Minister of Finance parl.</p>

		documents, 28 034, no. 3 pag. 22 jo. No. 5 pag. 48)
7	<b>Relevant regulations on Advance Pricing Arrangements</b>	APA-besluit IFZ2004/124 M (regulation) (this regulation is a revised version of regulation IFZ2001/292M of which a non-official English version is available upon request)
8	<b>Link to relevant Government Internet sites</b>	<a href="#">NL Minfin international tax aspects residents</a> <a href="#">NL Minfin international tax aspects non-residents</a> <a href="#">NL Minfin international tax aspects APA/ATR</a>
9	<b>Other relevant information</b>	-

#### 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.