

Transfer Pricing Country Profile

Name of Country: Japan Date of profile: 28 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	Reference to the Arm's Length Principle	Para 1 Article 66-4 of Special Taxation Measures Law ("STML")
2	Reference to the OECD Transfer Pricing Guidelines (if any)	1-2(3) of Commissioner's Directive on the Operation of Transfer Pricing ("CDOTP"). It prescribes that the Guidelines shall be referred to in the course of examination or APA evaluation.
3	Definition of related parties	Para1 Article 66-4 STML. Para 1-4 Article 39-12 Cabinet Order on the STML. "A foreign-related person" is defined as a foreign corporation having an "associated relationship" with another corporation. A corporation is treated as "associated" with the other if it holds 50 percent or more of the total number of issued stocks or the amount of investment of the other corporation. The Cabinet Order prescribes the other cases to be treated as having an "associated relationship".
4	Transfer pricing methods	Para2 Article 66-4 SMTL. Para8 Article 39-12 Cabinet Order on the STML. Arm's length price is calculated by the use of one of the following methods: a) Comparable uncontrolled pricing method b) Resale price method c) Cost plus method d) Methods equivalent to a)- c), and other methods (profit split method and transactional net margin method) prescribed by Cabinet Order The methods in d) may be applicable when the methods in a) ~ c) cannot be used.
5	Transfer pricing documentation requirements	No specific requirements on transfer pricing documentation. A guidance given in 2-4 CDOTP as to the documents inspected in examinations.
6	Specific transfer pricing audit procedures and / or specific transfer pricing penalties.	(Specific transfer pricing audit procedures) Para8 Article 66-4 STML- Requirement to keep books and documents by a foreign-related person. Para9 Article 66-4 STML- inquiry and inspections power to third parties in the same industry. (Specific transfer pricing penalties) There are no specific transfer pricing penalties.

7	Relevant regulations on Advance Pricing Arrangements	Chapter 5 CDPTM
8	Link to relevant Government Internet sites	<ul style="list-style-type: none"> - Commissioner's Directive on the Operation of Transfer Pricing (Administrative Guidelines) http://www.nta.go.jp/foreign_language/07.pdf - Supplement - Reference Case Studies on Application of Transfer Pricing Taxation http://www.nta.go.jp/foreign_language/08.pdf - Commissioner's Directive on Mutual Agreement Procedures http://www.nta.go.jp/foreign_language/00.pdf - APA Program Report 2008 http://www.nta.go.jp/kohyo/press/press/2008/7270-32/01.pdf
9	Other relevant information	N/A