

Transfer Pricing Country Profile  
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Name of Country: Korea Date of profile: 1 March 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>	Paragraph 1 of Article 4 of the 'Law for the Coordination of International Tax Affairs (LCITA)'
2	<b>Reference to the OECD Transfer Pricing Guidelines (if any)</b>	None
3	<b>Definition of related parties</b>	<p>Paragraph 1(8) of Article 2 of the LCITA The LCITA recognizes "special relationship" under the following circumstances:</p> <p>(Equity Ownership Test) - where a foreign company directly or indirectly owns 50% or more the voting shares of a Korean company; or, - where a Korean company directly and indirectly owns 50% or more of the voting shares of a foreign company; or, - if a corporation (or an individual), which directly or indirectly owns 50% or more of the voting shares of a foreign company, directly or indirectly holds 50% or more of the voting shares of a Korean company; or</p> <p>(Substantial Control Test) - if one transaction party ("Company A") substantially controls the business policy of the other transaction party ("Company B") or vice versa and at the same time they share the same interest; or - if the same party substantially controls the business policy of both Company A and Company B and at the same time both transaction parties share the same interest.</p>
4	<b>Transfer pricing methods</b>	<p>Article 5 of the LCITA</p> <p>The LCITA lists the following methods for applying an Arm's Length Principle(ALP): the comparable uncontrolled price (CUP), the resale price method (RP), and the cost plus method (CP). Further the LCITA elaborates upon the profit split method (PS), the transactional net margin method (TNMM) and other methods.</p> <p>Among the methods of applying an ALP, traditional transaction methods (i.e., CUP, RP, CP) have priority over transactional profit methods (i.e., PS, TNMM, Berry Ratio) and other methods. The latter methods are intended to be used only if the traditional</p>

		methods are inapplicable.
<b>5</b>	<b>Transfer pricing documentation requirements</b>	<p>No specific transfer pricing documentation requirements.</p> <p>Under Article 7 of the Presidential Decree of the LCITA, however, the method used and reasons for adopting that particular one for an ALP application must be disclosed to the tax authorities by taxpayers in a report submitted along with their annual tax returns.</p>
<b>6</b>	<b>Specific transfer pricing audit procedures and / or specific transfer pricing penalties.</b>	<p>No specific transfer pricing audit procedure.</p> <p>Under Article 12 of the LCITA, the tax authorities can request from a taxpayer the data required to verify the appropriateness of the price of related transactions. If a taxpayer fails to submit the requested data without any justification, the tax authorities can levy penalties.</p>
<b>7</b>	<b>Relevant regulations on Advance Pricing Arrangements</b>	Article 6 of the LCITA
<b>8</b>	<b>Link to relevant Government Internet sites</b>	<a href="http://www.nts.go.kr/eng/default.html">http://www.nts.go.kr/eng/default.html</a>
<b>9</b>	<b>Other relevant information</b>	International standards used to verify appropriateness of the cost sharing between a resident and its foreign related parties have been reflected in Article 6-2 of the LCITA.

## **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.