

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

Name of Country: Hungary

Date of profile: 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	Reference to the Arm's Length Principle	<p>Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 18.</p> <p><i>“If in the business contracts between affiliated companies a higher or lower consideration is applied (calculated exclusive of value added tax) than the consideration enforced or that would be enforced vis-a-vis independent parties under comparable circumstances (hereinafter referred to as ‘arm’s length price’), the taxpayer - irrespective of any other items that are to be added to or deducted from the pretax profit as prescribed in this Act - takes the difference between arm’s length price and the consideration applied and deducts it from the pretax profit, or adds it to the pretax profit.”</i></p>
2	Reference to the OECD Transfer Pricing Guidelines (if any)	<p>Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 31. paragraph 2</p> <p><i>„This Act contains regulations made with regard to the following documents in conformity with the Convention on the Organization for Economic Cooperation and Development (OECD), the related protocols and accession statements, as promulgated by Act XV of 1998:</i></p> <p><i>a) Model tax convention on income and on capital;</i></p> <p><i>b) Transfer pricing guidelines for multinational enterprises and tax administrations.”</i></p>
3	Definition of related parties	<p>Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 4. paragraph Subsection 23</p> <p>23) 'affiliated company' means</p> <p>a) the taxpayer and the person in which the taxpayer has a majority interest - whether directly or indirectly - according to the provisions of the Civil Code,</p> <p>b) the taxpayer and the person that has a majority interest in the taxpayer - whether directly or indirectly - according to the provisions of the Civil Code,</p> <p>c) the taxpayer and another person if a third party has a majority interest in both the taxpayer and such other person - whether directly or indirectly - according to the provisions of the Civil Code,</p> <p>d) a foreign enterprise and its domestic place of business and the business premises of the foreign enterprise, furthermore, the domestic place of business of a foreign enterprise and the person</p>

		<p>who is in the relationship defined under Paragraphs a)-c) with the foreign enterprise, whereby da) majority interest shall also mean when any party has the right to appoint or dismiss the majority of executive officers and supervisory board members, db) in terms of majority interest, the voting rights of close relatives shall be taken into account jointly;”</p>
4	Transfer pricing methods	<p>Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 18. paragraph 2</p> <p><i>“The arm’s length price shall be determined by one of the following methods:</i> <i>a) through the method of comparable uncontrolled price where the arm’s length price means the price used by independent parties when selling comparable products or services on an economically comparable market;</i> <i>b) through the method of resale prices where the arm’s length price means the price used in the course of selling the product or service in an unaltered state to an independent party, minus the costs of the reseller and the customary profit;</i> <i>c) through the cost and income method where the arm’s length price constitutes prime costs and customary profit;</i> <i>d) through any other method, if the arm’s length price can not be determined according to Paragraphs a)-c).”</i></p>
5	Transfer pricing documentation requirements	<p>Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 18. paragraph 5 and 18/2003 Ministerial decree on transfer pricing documentation requirements</p> <p><i>„Business associations, professional associations, European public limited-liability companies, cooperatives and nonresident entrepreneurs that are not considered small enterprises shall fix, effective as of the last day of the tax year, the fair market price and the formula (including the data and the type of events on which the formula is based) they use for determining it in line with the instructions laid down in the ministerial decree issued on the basis of the authorization conferred in this Act.”</i></p> <p>According to the main rule transfer pricing documentation has to be prepared for each separate contract by the time the corporate tax return is due. Consolidated documentation may be prepared in the case of group of identical or closely related transactions.</p>
6	Specific transfer pricing audit procedures and / or specific transfer pricing penalties.	<p>Act XCII of 2003 on the Rules of Taxation Section 172 paragraph 16</p> <p>If a taxpayer fails to comply with the transfer pricing documentation requirements it is subject to a fine (up to HUF 2M).</p>

7	Relevant regulations on Advance Pricing Arrangements	<p>Act XCII of 2003 on the Rules of Taxation Section132/A (effective as of 1 January 2007).</p> <p>The APA requests must be submitted to the Hungarian Tax Authority, which will evaluate the bilateral and multilateral requests (if necessary the unilateral requests) in cooperation with foreign tax administrations.</p> <p>The procedure is subject to a filing fee: it is 1 per cent based on the value of the object of the transaction with the following restrictions: unilateral APA with a HUF 5M minimum and a HUF 12M maximum; bilateral APA with a HUF 10M minimum and a HUF 17M maximum; multilateral APA with a HUF 15M minimum and a HUF 20M maximum.</p>
8	Link to relevant Government Internet sites	<p>www.pm.gov.hu</p> <p>www.penzugyminiszterium.hu</p>
9	Other relevant information	-

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.