

Austria

Transfer Pricing Country Profile¹

July 2025

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic transfer pricing framework ² make reference to the arm's length principle?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The Austrian Income Tax Act (Section 6 paragraph 6 of the ITA) contains the arm's length principle dealing with transfers of assets (tangible or intangible) or services into and out of the country. Thereupon it is provided that assets transferred to a foreign PE or business of the same taxpayer, as well as to other group companies, must be valued at the price that would be realized if the assets were sold to unrelated parties.</p> <p>Furthermore, Section 8 paragraph 2 of the CITA provides that hidden profit distributions do not reduce the taxable profit of the corporation and Section 8 paragraph 1 of the CITA correspondingly provides that hidden contributions by a shareholder do not increase the taxable income of the corporation.</p> <p>As a general rule, Sections 21 et seq. of the FFC provide for the principle of substance over form which entitles the tax administration to look through artificial arrangements of civil law and to apply taxation measures on the basis</p>	<p>Section 6 paragraph 6 of the Austrian Income Tax Act ("ITA")</p> <p>Section 8 paragraph 1 and 2 of the Austrian Corporate Income Tax Act ("CITA")</p> <p>Sections 21, 22 and 23 et seq. of the Federal Fiscal Code ("FFC")</p>

¹ Information in transfer pricing country profiles is provided directly by jurisdictions. By publishing the transfer pricing country profiles on the OECD website, the OECD does not certify the accurateness of the information provided therein. Importantly, transfer pricing country profiles published on the OECD website are made available to stakeholders for information purposes only, and are not intended to be used in substitution to a jurisdiction's legal instruments, jurisprudence, or administrative guidance or practice nor relied on as an accurate and complete description of domestic law.

² For purposes of transfer pricing country profiles, the term "domestic transfer pricing framework" refers to a jurisdiction's domestic legislation, regulations, administrative guidance or practice, jurisprudence or governing general principles in the jurisdiction.

		of the factual economically intended fact pattern rather than the civil law construction chosen.	
2	Does your domestic transfer pricing framework give the OECD Transfer Pricing Guidelines any role or status (e.g. legal binding effect, subsidiary application in the absence of domestic legislation, source of interpretation of domestic legislation and/or treaty provisions, other)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The OECD Transfer Pricing Guidelines (“OECD TPG”), as they may be revised from time to time, serve as the main basis for the interpretation of the arm’s length principle of Article 9 of the OECD Model Convention. They serve as a tool for interpretation of Austrian tax treaties (see Article 31 paragraph 3 sub-paragraph b of the Vienna Convention on the Law of Treaties).</p> <p>The role of the OECD Transfer Pricing Guidelines is explicitly mentioned and explained in the Austrian Transfer Pricing Guidelines 2021 (“Austrian TPG 2021”; the official regulation of the Austrian tax administration regarding the application of the ALP under Austrian tax treaties).</p>	Section 6 paragraph 6 of the Austrian Income Tax Act (“ITA”) Paragraph 19 of the Austrian TPG 2021
3	Does your domestic transfer pricing framework provide for a definition of related parties applicable for transfer pricing purposes? If so, please provide the definition contained under your domestic transfer pricing framework.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>In general, for the interpretation of “related parties” reference is made to Article 9 of the OECD Model Convention. Furthermore, Section 6 paragraph 6 of the ITA (see under question 1) contains the following criteria:</p> <ul style="list-style-type: none"> - common ownership of the enterprises; - in case of partnerships, the taxpayer is a partner of both enterprises; - in case of companies, substantial shareholding (i.e. more than 25%); or - the same persons manage, have control or influence both enterprises. 	<p>Article 9 OECD Model Convention</p> Section 6 paragraph 6 of the Austrian Income Tax Act (“ITA”)

Transfer Pricing Methods

4	<p>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <th style="width: 16.6%;">CUP</th><th style="width: 16.6%;">Resale Price</th><th style="width: 16.6%;">Cost Plus</th><th style="width: 16.6%;">TNMM</th><th style="width: 16.6%;">Profit Split</th><th style="width: 16.6%;">Other (<i>If so, please describe</i>)</th></tr> <tr> <td style="text-align: center;">☒</td><td style="text-align: center;">☒</td><td style="text-align: center;">☒</td><td style="text-align: center;">☒</td><td style="text-align: center;">☒</td><td style="text-align: center;">☒</td></tr> </table> <p style="margin-top: 10px;">The domestic TP legislation does not provide for TP methods to be used in respect of transactions between related parties. However, Austria follows the OECD TPG for the application of the arm's length principle, which means that any of the above methods has to be used and other methods are allowed as well.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	☒	☒	☒	☒	☒	☒	<p>Article 9 OECD Model Convention</p> <p>Section 6 paragraph 6 of the Austrian Income Tax Act ("ITA")</p> <p>Paragraphs 25 et seq. of the Austrian TPG 2021</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)										
☒	☒	☒	☒	☒	☒										
5	<p>Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input checked="" type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p style="margin-top: 10px;">The selection of a transfer pricing method always aims at finding the most appropriate method for a particular case. With regard to the proper method of establishing transfer prices, Austria relies on the general recommendations of the OECD TPG (see paragraphs 50 et seq. of the Austrian TPG 2021). Where a traditional transaction based method (CUP, Resale Price and Cost Plus) and a transactional profit method can be applied in an equally reliable manner, the traditional transaction method is preferable to the transactional profit method.</p>	<p>Paragraphs 50 et seq. of the Austrian TPG 2021</p>												

6	Does your domestic transfer pricing framework contain specific guidance on commodity transactions?	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic transfer pricing framework provides for the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> No	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The respective guidance under the Austrian TPG 2021 (at paragraph 57 et seq.) follows the guidance as set out under Chapter I, D.1 and Chapter III of the OECD TPG.	Paragraphs 57 et seq. of the Austrian TPG 2021
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No According to paragraph 57 of the Austrian TPG 2021, the choice of comparables rather depends on the approach that provides for the most reliable data.	Paragraphs 57 et seq. of the Austrian TPG 2021
9	Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	Does your domestic transfer pricing framework allow or require the use of an arm's length range and/or	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Paragraph 76 et seq. of the Austrian TPG 2021

	statistical measure (e.g. the interquartile range or other percentiles) for determining arm's length remuneration?	<p>If the appropriate use of a transfer pricing method leads to an arm's length range, any price within this range will be allowed. In line with international practice, statistical measures are accepted in Austria if the reliability of the comparability analysis is increased by statistical tools narrowing the range (e.g. by using interquartile ranges).</p> <p>If the price of a controlled transaction falls outside the arm's length range, the adjustment by the tax administration to a point within the range can be based on measures of central tendency (e.g. the median).</p>	
11	Are comparability adjustments required under your domestic transfer pricing framework?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>If an (alleged) comparable does not meet all comparability factors, comparability adjustments should be considered if they increase the reliability of the results.</p>	Paragraph 71 of the Austrian TPG 2021
Intangible Property			
12	Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VI of the TPG? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input type="checkbox"/> No	<p>Chapter 1.3.4. of the Austrian TPG 2021 (paragraphs 137 et seq.)</p> <p>HTVI Implementation Questionnaire</p>
13	Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>According to the Corporate Income Tax Act (CITA), royalty payments are non-deductible under certain circumstances (i.e. in intra-group situations, where there is no or low taxation at the level of the receiving company).</p>	<p>Section 12 paragraph 1 (10) of the CITA</p> <p>Section 197 paragraph 2 of the Austrian Entrepreneurial Law</p> <p>Section 99a of the ITA</p>

		<p>According to Section 197 paragraph 2 of the Austrian Entrepreneurial Law, the costs for intangible assets, which are not acquired for a valuable consideration, must not be capitalised.</p> <p>Section 99a of the ITA contains the implementation of the European Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. Royalties which are in scope of this rule are exempt from withholding tax at source.</p>	
Hard-to-Value Intangibles			
14	Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?³	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p>	Chapter 1.3.4.4. of the Austrian TPG 2021 (paragraphs 154 et seq.)
		In general, Austria applies the OECD TPG in its latest version. Accordingly, the HTVI concept as set forth in Chapter VI has been incorporated into the Austrian TPG 2021 in chapter 1.3.4.4.	
15	If your jurisdiction applies the HTVI approach, what are the conditions for the application of the HTVI approach?	There are no specific conditions for the application (other than the conditions set forth in the OECD TPG).	
16	Are transactions falling within the scope of the HTVI approach subject to a transfer pricing analysis different from the one established in Chapters I and VI, or to other compliance requirements specifically applicable to transfer prices (e.g. domestic anti-abuse rules)?	No. Austria generally applies the OECD TPG in its latest version	

³ In the case of jurisdictions that do not apply the HTVI approach (i.e. they responded “no” to question 14), it is not necessary to respond to the remaining questions in the HTVI section and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

17	What is the statute of limitations applicable to transactions falling within the scope of the HTVI approach in your domestic transfer pricing framework? Does this statute of limitations differ from those applicable to other transactions?	The general statute of limitations applies to transactions falling within the scope of the HTVI approach. The absolute statute of limitations is 10 years from when the taxable event occurred.	
18	Can taxpayers request a bilateral or multilateral advance pricing agreement (“APA”) for transactions falling within the scope of the HTVI approach under your domestic transfer pricing framework?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No There are no restrictions specific to HTVIs when requesting an APA.	
19	What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?	Paragraph 6.188 of the OECD Transfer Pricing Guidelines applies, which states that the use of hindsight shall be avoided. No additional measures were introduced in Austria. The HTVI approach is also included in the training of tax auditors so that correct application of the approach is ensured.	
20	Is it possible for your tax administration to make adjustments under the HTVI approach in open years amounts pertaining to closed years?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No As a general rule (not specific to HTVIs), it is not possible to make transfer pricing adjustments in open years for closed years.	
21	Does your domestic transfer pricing framework allow the tax administration to make corresponding adjustments under the HTVI approach in open years for amounts pertaining to closed years?	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No If the corresponding adjustment results from an agreement reached under a mutual agreement procedure, the domestic statutes of limitation are overridden. Otherwise, the same principles apply as set forth under question #20.	
22	Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No In Austria, transfer pricing adjustments by the tax administration are generally based on a procedural rule which requires that new evidence has occurred in the course of the audit. Assuming that ex-post evidence for one single HTVI	

		transaction only occurs once, only one transfer pricing adjustment would be possible.	
Intra-group Services			
23	Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VII of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p>	Chapter 1.3.2. of the Austrian TPG 2021 (paragraphs 86 et seq.)
		<p>The Austrian TPG provide that a direct-charge method facilitates the determination of whether the charge is consistent with the arm's length principle, especially where specific services that form a main business activity are provided not only to associated enterprises but also to independent parties. However, in some cases an indirect-charge method may be necessary, e.g. where a separate recording and analysis of the relevant services for each beneficiary would involve a burden of work that would be disproportionately heavy in relation to the activities themselves. Each case is dependent upon its own facts and circumstances and the arrangements within the group.</p>	
24	Does your domestic transfer pricing framework provide for or allow the application of a simplified approach for low value-adding intra-group services?	<p><input checked="" type="checkbox"/> Yes. If so, does it follow (largely follow) the low value-adding services approach in Chapter VII?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p>	Paragraph 90 of the Austrian TPG 2021 Paragraphs 94 et seq. of the Austrian TPG 2021

		<p>As a general guidance, a net profit margin between 3-10% can serve as an orientation in respect of services of routine character (based on the report by the EU Joint Transfer Pricing Forum).</p> <p>In addition, Austria has adopted the low value-adding intra-group services approach in the Austrian Transfer Pricing Guidelines 2021 without any thresholds (OECD TPG para. 7.63).</p>	
25	Are there any other rules outside your transfer pricing framework for pricing intragroup services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Financial Transactions			
26	Does your domestic transfer pricing framework provide guidance specific to financial transactions?	<input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter X of the TPG? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input type="checkbox"/> No	Chapter 1.3.3. of the Austrian TPG 2021 (paragraphs 106 et seq.)
		The Austrian TPG 2021 (at paragraphs 106 et seq.) provide guidance in respect of financial transactions based on Chapter X of the OECD TPG.	
27	Are there any other rules outside your transfer pricing framework that are relevant for the tax treatment of financial transactions? (e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>According to the Corporate Income Tax Code, the following limitations on the deductibility of interest exist:</p> <ul style="list-style-type: none"> • Intra-group interest payments to low tax jurisdictions are non-deductible. • If a loan (intra-group or from a third party) is used to acquire shares within the group or to finance a capital repayment, the interest payments are non-deductible. • In line with the EU Anti-Tax Avoidance Directive (ATAD), Austria has implemented an additional interest limitation rule which will cap 	Section 12 CITA and Section 12a CITA

		<p>the deduction of net interest expenses at 30% of the tax-relevant EBITDA.</p> <p>Besides these rules, no specific thin capitalisation rules exist. The qualification of a transaction as debt or equity is determined based on the arm's length principle.</p>	
Cost Contribution Arrangements			
28	Does your jurisdiction allow cost contribution arrangements?	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VIII of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p>	Chapter 1.3.5. of the Austrian TPG 2021 (paragraphs 159 et seq.)
		<p>The Austrian TPG 2021 provide guidance in respect of CCAs based on Chapter VIII of the OECD TPG.</p>	
Transfer Pricing Documentation			
29	Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input checked="" type="checkbox"/> Other (specify):</p> <p>If the thresholds of the Austrian TPDA are not fulfilled (see the response to next question), the general documentation rules under the FFC apply. This means that</p>	<p>Section 3 of Austrian Transfer Pricing Documentation Act ("TPDA")</p> <p>Chapter 3.1. of the Austrian TPG 2021 (Paragraph 402 et seq)</p>

		<p>the taxpayer does not need to follow the three-tiered approach to TP documentation as set forth in Chapter V of the OECD TPG (but can do so voluntarily). In any case, depending on the volume and complexity of the cross-border intra-group transactions, the TP documentation needs to include a minimum of information on the related parties/the MNE group, the relevant transactions, the value chain within the group, the FAR analysis, the choice of the TP method, the comparability analysis and (written) contracts.</p>	
30	<p>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</p>	<p>Master File/Local File:</p> <ul style="list-style-type: none"> - Threshold: if the revenues of a Constituent Entity of an MNE Group exceeded the amount of EUR 50 million during the two preceding fiscal years. Moreover, any Constituent Entity of an MNE Group resident in Austria shall be required to submit a Master File upon request of the Competent Tax Office if, under the rules of any other country or jurisdiction, preparation of a Master File by any Constituent Entity resident there is required. - Timing: submission to the Competent Tax Office upon its request within 30 days from the date of filing of the corporate tax return / the tax return, where income is assessed. - Language: documentation must be submitted in an official language permitted in tax proceedings or in English. <p>Country-by-country Reporting:</p> <ul style="list-style-type: none"> - Requirements are fully in line with the Action 13 minimum standard and the respective EU Directive. <p>General documentation rules:</p> <ul style="list-style-type: none"> - If the TPDA does not apply and TP documentation is prepared based on the general documentation rules, no TP specific filing obligations exist. This means that the TP documentation has to be prepared together with 	<p>Sections 3, 4, 8 and 11 of the TPDA</p> <p>Paragraphs 476 et seq. of the Austrian TPG 2021</p> <p>Paragraphs 402 et seq. of the Austrian TPG 2021</p>

		<p>the tax return and has to be available when the tax return is filed at the latest (paragraph 407 of the Austrian TPG 2021).</p> <p>The TP documentation generally has to be prepared in German. However, if it was written in English, a translation into German should only be required as appropriate (paragraph 414 of the Austrian TPG 2021).</p>	
31	<p>Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<div> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </div> <div> <p>Master File/Local File/general documentation rules:</p> <ul style="list-style-type: none"> - The Master File and Local File (or other TP documentation) are part of a taxpayer's records that generally need to be kept for tax purposes (Section 124 of the FFC). The violation of this requirement to keep records can be prosecuted under Section 51 of the FinCC with a penalty of up to EUR 5 000. <p>Country-by-country Reporting:</p> <p>Section 49b of the FinCC provides for the following penalties in case of violation of the obligation to file the CbC Report (i.e.: late/no or incorrect filing):</p> <p>deliberate violation → fine up to EUR 50 000</p> <p>grossly negligent violation → fine up to EUR 25 000</p> </div>	<p>Section 124 of the Austrian Federal Fiscal Code ("FFC")</p> <p>Section 49b of the Austrian Financial Criminal Code ("FinCC")</p> <p>Section 51 of the Austrian Financial Criminal Code ("FinCC")</p>
32	<p>Does your domestic transfer pricing framework provide for exemption from transfer pricing documentation obligations?</p>	<div> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </div> <div> <p>Master File/Local Filing:</p> <ul style="list-style-type: none"> - The only exemption from transfer pricing documentation is the one for Constituent Entities of an MNE Group that do not reach the respective threshold (see the response to question #30). <p>Country-by-country Reporting:</p> <p>Requirements are fully in line with the Action 13 minimum standard and the respective EU Directive</p> </div>	<p>Sections 3 paragraph 1 of the TPDA</p>

Administrative Approaches to Avoiding and Resolving Disputes

33	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input checked="" type="checkbox"/> Enhanced engagement or cooperative compliance programmes</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> International Compliance Assurance Programme (ICAP)</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Section 118 of the Austrian FFC</p> <p>Sections 153a et seq. of the Austrian FFC</p> <p>Austrian double tax conventions</p> <p>EU Arbitration Convention</p> <p>Austrian EU Tax Dispute Resolution Act</p> <p>Austria's MAP Profile</p> <p>Austria's MAP Guidance (2019) (see also the website of the Austrian Federal Ministry of Finance)</p>
Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities			
34	Does your domestic transfer pricing framework allow the application of the simplified and streamlined approach for baseline marketing and distribution activities in the relevant Annex of Chapter IV of the TPG ⁴ ?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Other (please elaborate)</p>	<p>Austria has not implemented the Streamlined Approach for Baseline Marketing and Distribution Activities (Amount B) into its domestic law or its administrative guidance (Austrian TPG). Therefore, Amount B rules will not apply to baseline marketing and distribution activities in Austria. However, Austria is committed to accepting the outcome of applying Amount B to baseline marketing and distribution activities in covered jurisdictions with which Austria has a Double</p>

⁴ In the case of jurisdictions that do not apply the simplified and streamlined approach (i.e. they responded “no” to question 34), it is not necessary to respond to questions 35, 36 and 38 and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

		Tax Agreement. The list of covered jurisdictions is published and maintained by the OECD.	
35	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach, how is it implemented?	<input type="checkbox"/> In-scope tested parties resident within the jurisdiction can elect to apply the simplified and streamlined approach (i.e. safe harbour) <input type="checkbox"/> In-scope tested parties resident within the jurisdiction are required to follow the simplified and streamlined approach for in-scope qualified transactions and tax administrations are allowed to impose the application of the simplified and streamlined approach to in-scope qualified transactions of tested parties resident within their jurisdiction (i.e. rule) <input checked="" type="checkbox"/> N/A	
36	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach, what is the operating expense to sales (OES) upper bound chosen by your jurisdiction regarding scoping criterion 13.b?	<input type="checkbox"/> 20% <input type="checkbox"/> 30% <input type="checkbox"/> Other (please specify) <input checked="" type="checkbox"/> N/A	
37	Does your jurisdiction respect the outcome of the application of the simplified and streamlined approach by a covered jurisdiction in line with the Inclusive Framework political commitment?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No See explanation under #34.	
38	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach for resident in-scope tested parties, does your jurisdiction respect the outcome of the application of such approach by another jurisdiction that is not a covered jurisdiction?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No See explanation under #34.	

Safe Harbours and Other Simplification Measures

39	Does your jurisdiction provide for any safe harbours or other simplification measures in respect of certain industries, types of taxpayers, or types of transactions (not listed in other sections of this questionnaire)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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Other Legislative Aspects or Administrative Procedures

40	Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 10px;"> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </div> <div style="border: 1px solid black; padding: 5px; width: 100%;"> <p>A foreign primary adjustment that has been reviewed by the competent tax authority and assessed as being in line with the ALP can be used ex officio as the basis for unilaterally granting a corresponding adjustment in Austria (pursuant to Section 6 para. 6 EStG 1988 in conjunction with Art. 9 DTA). A mutual agreement procedure is not necessarily required for this. The taxpayer seeking such a corresponding adjustment must submit a request to the competent tax authority which must include the following elements: details of the taxpayer, the relevant evidence of the arm's length nature of the foreign adjustments, a precise description of the facts, the taxable period concerned, the relevant tax base and information on any relevant legal remedies. The tax office must also obtain information from the taxpayer to ensure that there is no double non-taxation. An automatic corresponding adjustment to foreign primary adjustments is not permitted.</p> </div> </div>	<u>Paragraph 502 et seq of the Austrian TPG</u>
41	Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?	<input type="checkbox"/> Yes. Year-end adjustments are required. <input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed. <input type="checkbox"/> No	<u>Paragraph 73 of the Austrian TPG 2021</u>

		In general, it is considered that due to the price setting approach (“ex ante”) year-end adjustments would not be in line with the ALP. However, year-end adjustments are accepted, if such practice would also have been agreed between two independent parties. This would particularly be the case if the pricing factors are agreed in advance, there are uncertainties in the price setting and the taxpayer monitors during the fiscal year if the prices are at arm’s length.	
42	Does your domestic transfer pricing framework provide for secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In Austria, secondary adjustments usually take the form of a constructive loan or receivable. However, there are also situations where secondary adjustments take the form of a constructive dividend (or contribution) (e.g. if the parties to the transaction do not accept a loan or receivable). Outbound constructive dividends are generally subject to withholding tax (tax treaty exemption or reduction may be available).	Paragraphs 507 et seq. of the Austrian TPG 2021
Attribution of Profits to Permanent Establishments			
43	Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?	<input checked="" type="checkbox"/> Article 7 as it read before 2010. <input checked="" type="checkbox"/> If so, please indicate in how many treaties: Austria follows Art 7 as it read before 2010 in all of its tax treaties. Austria has reserved its right to use the previous version of Article 7, i.e. the version that was included in the OECD MTC immediately before its 2010 update (see para. 96 of the Commentary on Article 7 OECD MTC). <input type="checkbox"/> Article 7 as it reads after 2010. <input type="checkbox"/> If so, please indicate in how many treaties: <input type="checkbox"/> Other (please provide additional details)	

44	For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please explain the approach used and which tax treaties are concerned)	Paragraphs 279 et seq. of the Austrian TPG 2021
		<p>Austria principally follows the AOA. However, only to the extent that it is compatible with the wording of Article 7 OECD MTC prior to the changes in 2010 (“AOA light”). For the purpose of determining the profits of a permanent establishment (“PE”) this means that a two-step analysis has to be carried out: 1) analysis of the (significant people) functions, assets and risks of a PE; 2) determination of the PE’s profit by pricing dealings between the PE and the rest of the enterprise on an arm’s length basis using the OECD TPG by analogy. However, Austria recognises dealings only to the extent that it is in line with the OECD MTC (and its Commentaries) in its 2008 version.</p> <p>Accordingly, internal interest, royalty and rental payments are generally not recognized. Furthermore, Austria permits the use of the indirect method for the attribution of profits in line with Article 7(4) as it read before 2010.</p>	
45	Does your domestic transfer pricing framework contain specific guidance for the attribution of profits to permanent establishments of non-resident entities? If so, please provide a summary of the main features of this guidance.	<input checked="" type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments <input type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments <input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules) <input type="checkbox"/> No	Paragraphs 279 et seq. of the Austrian TPG 2021
Other Relevant Information			
46	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
47	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or</i>	N/A	

	<i>other relevant aspects not addressed in this questionnaire)</i>		
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For more information, please visit: <https://www.oecd.org/en/topics/sub-issues/transfer-pricing/transfer-pricing-country-profiles.html>