

Czech Republic

Transfer Pricing Country Profile

Updated October 2017

	SUMMARY	REFERENCE
The Arm's Length Principle		
1	<p>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The Czech Income Tax Act 586/1992 Coll., Section 23 para 7</p> <p>https://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=586~2F1992&rpp=15#seznam</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>The OECD TP Guidelines is not implemented into the Czech tax legislation directly, but in the Guideline D-22 is the recommendation to use TPG.</p>	<p>Instructions of the competent tax authority General Financial Directorate: D-22, D-332, D-333, D-334 and D-10</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/Pokyn_GFR_D-22.pdf</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/D-332.pdf</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/D-333.pdf</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/D-334.pdf</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/PokynGFR-D-10.pdf</p>
3	<p>Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>a) persons associated through capital</p> <p>1. where one person directly participates in the capital or voting rights of the other person, or where one person directly participates in the capital or voting</p>	<p>The Czech Income Tax Act 586/1992 Coll., section 23 para 7 See Ans. 1</p>

		<p>rights of several persons; and where, simultaneously, this share constitutes at least 25 % of the registered capital or 25 % of the voting rights of such persons, then all such persons are persons directly mutually associated through capital,</p> <p>2. where one person indirectly participates in the capital or voting rights of the other person or where one person directly or indirectly participates in the capital or voting rights of several persons; and where, simultaneously, this share constitutes at least 25 % of the registered capital or 25 % of the voting rights of such persons, then all such persons are persons mutually associated through capital,</p> <p>b) persons otherwise associated which are persons</p> <p>1. where one person participates in the management or control of another person,</p> <p>2. where identical persons or close persons participate in the management or control of other persons, then such other persons are persons otherwise mutually associated. Persons otherwise associated shall not be deemed to be persons where one person is a member of the supervisory boards of two persons,</p> <p>3. controlling and controlled and also persons controlled by the same controlling person,</p> <p>4. close,</p> <p>5. that created a legal relationship predominantly for the purpose of reducing a tax base or increasing a tax loss.</p>	
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Transfer Pricing Methods

4	<p>Does your domestic legislation 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> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="padding: 5px;">CUP</th> <th style="padding: 5px;">Resale Price</th> <th style="padding: 5px;">Cost Plus</th> <th style="padding: 5px;">TNMM</th> <th style="padding: 5px;">Profit Split</th> <th style="padding: 5px;">Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> <td style="padding: 5px;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>Czech domestic legislation is consistent with the TPG transfer pricing methods.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Guideline D-332</p> <p>http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/D-332.pdf</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>										

5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) <hr/> Czech domestic legislation is consistent with the TPG transfer pricing methods.	
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<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 legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	
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 <hr/> Czech domestic legislation is consistent with the TPG Chapter III.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <hr/> The Czech Republic has no specific regulation, but, during the administrative procedures domestic comparables or comparables from similar markets are preferred.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <hr/> Czech domestic legislation is consistent with the TPG Chapter I.	

11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Czech domestic legislation is consistent with the TPG Chapter I.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		General transfer pricing regulations in the tax law applies for transactions involving intangibles.	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/PokynGFR-D-10.pdf
		General transfer pricing regulations in the tax law applies for intra-group services transactions.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Instruction of the General Financial Directorate (D-10, see ans. 15)
		The Instruction of the General Financial Directorate D-10. This instruction implements principles of OECD TPG and the “Joint-Transfer Pricing Forum (JTPF) Report: Guidelines on Low Value Adding Intra-Group Services“.	

17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Cost Contribution Agreements			
18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Transfer Pricing Documentation			
19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): 	Master file and Local file are not obligatory, but there is a recommendation in to have them (the Instruction D-334). http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/D-334.pdf
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	The Czech tax return contains specific annex which includes information about transactions with related entities.	
21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The obligation to file the CbC report will be introduced in the Czech Republic in/from 2018. In case that taxpayer fails to comply his obligation, it is possible to impose a fine.	Act 164/2013 Coll. Section 13zp https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=80086&fulltext=164~2F2013&rpp=15#local-content This Section sets the rules for CbCR only.

		<p>Fines</p> <p>(1) The tax administrator is entitled to impose a fine on a Czech Constituent Entity of the MNE Group for non-compliance with an obligation in kind also in case that the entity fails to comply with the obligation to</p> <ul style="list-style-type: none"> a) retain documents, b) request the Ultimate Parent Entity of the Group for assistance. <p>(2) The tax administrator is entitled to impose a disciplinary fine on a Czech Constituent Entity of the MNE Group, which is the Ultimate Parent Entity of the Group, up to CZK 1 500 000, if the entity fails to comply with a reporting obligation.</p> <p>(3) The tax administrator is entitled to impose a disciplinary fine on a Czech Constituent Entity of the MNE Group, which is the Surrogate Entity of the Group, up to CZK 1 500 000, if the entity fails to comply with a reporting obligation.</p> <p>(4) The tax administrator is entitled to impose a disciplinary fine on the Czech Constituent Entity of the MNE Group up to CZK 600 000, if the entity fails to comply with a reporting obligation.</p> <p>(5) A disciplinary fine referred to in paragraph 4 may not be imposed on a Czech Constituent Entity of the MNE Group, which</p> <ul style="list-style-type: none"> c) proves that it has not received or obtained from the Ultimate Parent Entity of the Group the information required for the compliance with the obligation to file the country-by-country report on behalf of the Group, for the provision of which the Czech Constituent Entity asked the Ultimate Parent Entity previously, d) states in the country-by-country report any and all information available to the Czech Constituent Entity, which the entity has received or obtained, and e) states in the report that the Ultimate Parent Entity has refused to provide assistance. 	
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>		

Administrative Approaches to Avoiding and Resolving Disputes

23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	Please check those that apply: <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>):	APA – the Czech Income Tax Act Section 38 nc MAP – double tax treaties
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Safe Harbours and Other Simplification Measures

24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Instruction of the General Financial Directorate D-10 for low value added intra-group services http://www.financnisprava.cz/assets/cs/prilohy/d-zakony/PokynGFR-D-10.pdf
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	No.	

Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See in question 1
		There are no special rules in the Czech Income Act.	

27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See in question 1
Other Relevant Information			
28	Other legislative aspects or administrative procedures regarding transfer pricing		
29	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)		