

Georgia

Transfer Pricing Country Profile

Updated February 2018

	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>Art. 18 Of Tax Code https://www.matsne.gov.ge/ka/document/view/1043717?impose=translateEn&publication=118</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>TPG can be used for purpose of application of transfer pricing method. We do not have exact legislation about TPG in our domestic law, but it is written to use TPG if something is not considered by domestic law.</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>Chapter XVII, Article 126 of Tax code - Meaning of the concepts for the purposes of this Chapter</p> <p>1. Two persons shall be related if:</p> <p>a) one person directly or indirectly participates in the management, control or capital of the other person;</p> <p>b) the same persons directly or indirectly participate in the management, control or capital of two persons.</p> <p>2. A person directly or indirectly participates in the management, control or capital of an enterprise if:</p> <p>a) he/she directly or indirectly owns over 50% of an enterprise;</p> <p>b) he/she actually controls the business decisions of an enterprise.</p>	<p>Art. 19 Of Tax Code https://www.matsne.gov.ge/ka/document/view/1043717?impose=translateEn&publication=118</p>

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%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>	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>Art. 128 of Tax Code, Chapter XVII https://www.matsne.gov.ge/ka/document/view/1043717?impose=translateEn&publication=118</p>
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>										
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input 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>Art 128 of Tax Code, Chapter XVII https://www.matsne.gov.ge/ka/document/view/1043717?impose=translateEn&publication=118</p> <p>Art 8, Decree #423 Minister of Finance https://www.matsne.gov.ge/ka/document/view/2078069</p>												
6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input checked="" type="checkbox"/> Other (<i>if so, please explain</i>)</p>													
		<p>Since in general domestic legislation does not empower to apply commodity quoted prices as arm's length the latter can be used only as a market indicator, not as an evidence arm's length price. Other transfer pricing methods should be applied in order to examine arm's length conditions.</p>													

Comparability Analysis

7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
		<p>The guidance in Chapter III can be used for purpose of application of transfer pricing method.</p>	

8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Domestic comparables, if appropriate to controlled transaction, more closely reflect the comparability factors and are more reliable. However, in practice, foreign comparables are used in combination with domestic comparables.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Guidance in paragraph 3.55-3.62 of TPG is widely used; however, current practice of tax administration is to look at statistical measures regarded as more critical.</p>	
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Comparability adjustments are required if material differences exist.</p>	
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>There is no specific guidance in Georgia's transfer pricing legislation in respect to the pricing of controlled transactions involving intangibles.</p> <p>However, as Georgia's transfer pricing legislation incorporates the TPG, guidance contained in the TPG relating intangibles would be relevant.</p>	

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 Georgia's domestic transfer pricing legislation does not provide specific guidance on intra-group services transactions. However, as Georgia's transfer pricing legislation incorporates the TPG, guidance contained in the TPG relating intra-group services would be relevant.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<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 type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input 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>	
20	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>Article 17 - Transfer Pricing Documentation</p> <p>For the purpose of Article 129(1) of the GTC, a request by the Revenue Service to provide an explanation regarding the ground base on which it considers its profit consistent with the market principle shall be considered satisfied when:</p> <p>- The Georgian enterprise has prepared transfer pricing documentation in accordance with this article and;</p> <p>- The documentation is provided to the Revenue Service within 30 calendar days of receipt of the request in writing. There is no specific format of TP documentation. It is a simple TP study, or a tax payer's explanation.</p>	<p>Decree #423 Minister of Finance. https://www.matsne.gov.ge/ka/document/view/2078069</p>
21	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>In case a taxpayer does not submit TP documentation, tax administration shall determine price on the basis of the information available to the tax administration. There is no penalty for non-submission of CBCR.</p>	<p>Art 45-5. Of Tax Code http://www.rs.ge/common/get_doc.aspx?id=9964</p>
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>N/A. Until now we do not have thresholds.</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 checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <input checked="" type="checkbox"/> Unilateral APAs <input type="checkbox"/> Bilateral APAs <input type="checkbox"/> Multilateral APAs <input type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>):	Art 129-1 of Tax Code https://www.matsne.gov.ge/ka/document/view/1043717?impose=translateEn&publication=118
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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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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>)	We are working on APA. We have prepared the model of APA, and we are waiting to provide it to the head of Revenue Service, then to the Minister of Finance, and then to implement legislation.	