

Ireland

Transfer Pricing Country Profile

Updated August 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>Section 835C of the Taxes Consolidation Act 1997 (as inserted by Section 42 of the Finance Act 2010).</p> <p>The Taxes Consolidation Act 1997 (and the Finance Acts amending that Act) may be accessed on the Irish Statute Book.</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>Ireland's domestic legislation is construed in accordance with the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2010 ("TPG").</p>	<p>Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</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>Ireland's domestic legislation provides a definition of "associated", as below:</p> <p>(1) For the purposes of this Part—</p> <p>(a) 2 persons are associated at any time if at that time—</p> <p>(i) one of the persons is participating in the management, control or capital of the other, or</p> <p>(ii) the same person is participating in the management, control or capital of each of the 2 persons, and</p> <p>(b) a person (in this paragraph referred to as the "<i>first person</i>") is participating in the management, control or capital of another person at any time only if that other person is at that time—</p> <p>(i) a company, and</p> <p>(ii) controlled by the first person.</p>	<p>Section 835B of the Taxes Consolidation Act 1997 (as inserted by Section 42 of the Finance Act 2010).</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; border-collapse: collapse;"> <thead> <tr> <th style="width: 12%;">CUP</th> <th style="width: 12%;">Resale Price</th> <th style="width: 12%;">Cost Plus</th> <th style="width: 12%;">TNMM</th> <th style="width: 12%;">Profit Split</th> <th style="width: 12%;">Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Ireland's domestic legislation does not explicitly provide for any transfer pricing methods to be used in respect of transactions between related parties. However, the domestic legislation is construed in accordance with the TPG.</p> <p>"Other" methods may be acceptable in accordance with paragraph 2.9 of the TPG.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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 (if so, please explain)</p> <p>In accordance with the OECD TPG, the most appropriate method is used for the application of transfer pricing methods.</p>	<p>Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</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 (if so, please explain)</p> <p><input type="checkbox"/> Other (if so, please explain)</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>Ireland's domestic legislation is construed in accordance with the TPG.</p>	<p>Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</p>												

8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>In line with the EU Code of Conduct on Transfer Pricing Documentation (EU TPD) adopted by the European Council on 27 June 2006, Ireland accepts European comparables. If there are insufficient European comparables, Ireland may accept other foreign comparables.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
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>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Ireland's rule is interpreted in accordance with Chapter II of the TPG.</p>	
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>In accordance with the guidance in Chapter II of the TPG, to the extent that the adjustments are arm's length.</p>	
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Ireland's domestic legislation is construed in accordance with the TPG.</p>	<p>Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</p>
13	<p>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No Ireland's domestic legislation is construed in accordance with the TPG.	Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Ireland follows the EU Joint Transfer Pricing Forum's guidelines on low value-adding intra-group services, where appropriate.	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No Ireland's domestic legislation is construed in accordance with the TPG.	Section 835D of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).

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> <p>Transfer pricing documentation must be sufficient to demonstrate a company's compliance with the transfer pricing rules. The actual documentation required will be dictated by the facts and circumstances of the transactions.</p>	<p>Country-by-country reporting is legislated by way of:</p> <ul style="list-style-type: none"> • Section 891H of the Taxes Consolidation Act 1997 (as inserted by Section 33 of the Finance Act 2015 and as amended by Section 24(1) of the Finance Act 2016), and • S.I. No. 653 of 2016, Taxes (Country-by-Country Reporting) Regulations 2016 <p>Other documentation:</p> <p>Section 835F of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</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>Country-by-country reports must be filed within 12 months from the end of each fiscal year (for example, by 31 December 2017 for fiscal years ending 31 December 2016).</p> <p>In relation to other transfer pricing documentation, the legislative requirement is that a company have such records available, as may be reasonably required to determine that its transfer prices are consistent with the arms length requirements of the legislation. The documentation must be prepared on a timely basis and must be kept in Irish or English. There is no legislative requirement for documentation to be kept in a standard form, however, Revenue guidance sets out that documentation prepared in accordance with chapter V of the TPG or the EU TPD will be accepted as representing good practice.</p>	<p>Country-by-country reporting is legislated by way of:</p> <ul style="list-style-type: none"> • Section 891H of the Taxes Consolidation Act 1997 (as inserted by Section 33 of the Finance Act 2015 and as amended by Section 24(1) of the Finance Act 2016), and • S.I. No. 653 of 2016, Taxes (Country-by-Country Reporting) Regulations 2016 <p>The legislative requirement for general transfer pricing documentation is contained in Section 891F) of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</p> <p>Further guidance on transfer pricing documentation obligations can be found at: http://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-35a/35a-01-02.pdf</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>The penalty for a failure to file a country-by country report/equivalent country-by-country report is €19,045 plus €2,535 for each day the failure continues. The penalty for filing an incomplete or incorrect country-by country report/equivalent country-by-country report is €19,045.</p> <p>In relation to general transfer pricing documentation; where a request, by an authorised Revenue officer, for information is not complied with or assistance in interpreting the documentation is not given, a penalty of €4,000 will apply.</p>	<p>Penalties in relation to country-by-country reporting are provided for in section 891H (7) of the Taxes Consolidation Act 1997 (as inserted by Section 33 of the Finance Act 2015 and as amended by Section 24(1) of the Finance Act 2016).</p> <p>Penalties in relation to general transfer pricing documentation are provided for in section 835F (3) of the Taxes Consolidation Act 1997(as inserted by Section 42 of the Finance Act 2010).</p>
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>In line with the OECD model legislation, country-by-country reporting requirements only apply to multinational enterprises with annual consolidated group revenue equal to or exceeding €750 million in the preceding fiscal year.</p> <p>There are no specific exemptions from transfer pricing documentation.</p>	
Administrative Approaches to Avoiding and Resolving Disputes			
23	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	
Safe Harbours and Other Simplification Measures			
24	<p>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.		
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 To the extent that there is sufficient justification for the adjustment, and that the adjustment is arm's length in nature.	
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	Revenue has published guidance on both Bilateral Advance Pricing Agreements and Mutual Agreement Procedures.	Bilateral APA Guidelines: http://www.revenue.ie/en/companies-and-charities/documents/guidelines-apa-programme.pdf Guidelines on Requesting MAP Assistance: http://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-35/35-02-08.pdf
29	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)		