

Liechtenstein

Transfer Pricing Country Profile

Updated March 2018

| | SUMMARY | REFERENCE |
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| 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. 49 of the Tax Act in connection with Art. 31b of the Tax Ordinance create the necessary legal basis for application of the arm's length principle.</p> | <p>The Liechtenstein Tax Act of 23. September 2010, National Gazette 2010 No. 340 (Tax Act), is accessible under: www.gesetze.li</p> <p>An unofficial English translation of the Liechtenstein Tax Act is accessible under: www.regierung.li/law</p> <p>The Liechtenstein Tax Ordinance of 21. December 2010, National Gazette 2010 No. 437 (Tax Ordinance), is accessible under: www.gesetze.li</p> <p>An unofficial English translation of the Liechtenstein Tax Ordinance is accessible under: www.regierung.li/law</p> |
| 2 | <p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>Liechtenstein relies on the OECD Transfer Pricing Guidelines (TPG) as a source for the interpretation of the arm's length principle.</p> <p>Pursuant to Art. 31b para. 1 of the Tax Ordinance taxpayers are required to apply the current version of the OECD TPG when determining the transfer prices for transactions with closely related persons and permanent establishments.</p> | <p>See question 1.</p> |

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| 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>Art. 31a of the Tax Ordinance provides the definition of related parties.</p> <p>Under Art. 31a of the Tax Ordinance, the following natural and legal persons in particular shall be deemed to be closely related:</p> <ul style="list-style-type: none"> a) Persons who have a direct or indirect interest in the taxpayer; b) Persons who currently, or will in future, directly or indirectly benefit from the taxpayer; c) Persons in whom the taxpayer has a direct or indirect interest, or from whom the taxpayer directly or indirectly benefits; d) Executive bodies of the taxpayer; e) Persons with whom the taxpayer is in a close personal relationship, in particular through a family connection or as a friend; f) Persons in a close relationship with closely related persons as referred to in a) to d) in the way referred to in e); g) Persons in whom closely related persons referred to in a) to c) have a direct or indirect interest or from whom they directly or indirectly benefit. | See question 1. |
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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 <input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="678 1027 1527 1187"> <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 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>Liechtenstein relies on the transfer pricing methods suggested in the OECD TPG. Art. 31b para. 1 of the Tax Ordinance provides the legal basis.</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 checked="" type="checkbox"/> | See question 1. |
|-------------------------------------|--|--|-------------------------------------|-------------------------------------|---|------|--------------|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-----------------|
| 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 checked="" type="checkbox"/> | | | | | | | | | | |

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| 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/> As defined in Art. 31b para. 1 of the Tax Ordinance, Liechtenstein relies on the most appropriate transfer pricing method as recommended by the OECD TPG. | See question 1. |
| 6 | If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed. | <input 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>) <hr/> Liechtenstein domestic legislation does not contain specific guidance on commodity transactions. | |
| 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/> Pursuant to Art. 31b para. 1 of the Tax Ordinance, Liechtenstein follows the OECD TPG, which include the guidance on comparability analysis in Chapter III of the TPG. | See question 1. |
| 8 | Is there a preference in your jurisdiction for domestic comparables over foreign comparables? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 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/> In practice, statistical tools are used (different interquartiles). | |

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| 11 | Are comparability adjustments required under your domestic legislation or regulations? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 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 However, pursuant to Art. 31b para. 1 of the Tax Ordinance, Liechtenstein follows the OECD TPG. | See question 1. |
| 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 However, pursuant to Art. 31b para. 1 of the Tax Ordinance, Liechtenstein follows the OECD TPG. | See question 1. |
| 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 However, pursuant to Art. 31b para. 1 of the Tax Ordinance, Liechtenstein follows the OECD TPG. | See question 1. |
| 16 | Do you have any simplified approach for low value-adding intra-group services? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Liechtenstein applies the simplified approach for low value-adding intra-group services as described by the OECD. Art. 31b para. 1 of the Tax Ordinance provides the legal basis. | See question 1. |

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| 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 type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): <p>Art. 31b para. 2 of the Tax Ordinance provides the legal basis concerning the filing requirement for Master files and Local files.</p> <p>Art. 31b para. 4 and 8 of the Tax Ordinance provide the legal basis for other filing requirements (smaller entities).</p> <p>The CbC Act in connection with the CbC Ordinance provide the necessary legal basis for CbC-Reporting.</p> | <p>See Question 1 for the legal reference to the Tax Ordinance.</p> <p>The Law of 4 November 2016 on the International Automatic Exchange of Country-by-Country Reports of Multinational Enterprise Groups (CbC Act), National Gazette 2016 No. 502 is accessible under: www.gesetze.li</p> <p>An unofficial English translation of the Liechtenstein CbC Act is accessible under: www.llv.li/#/117658/cbc-reporting</p> <p>The Ordinance of 20 December 2016 on the International Automatic Exchange of Country-by-Country Reports of Multinational Enterprise Groups (CbC Ordinance), National Gazette 2016 No. 510 is accessible under: www.gesetze.li</p> <p>An unofficial English translation of the Liechtenstein CbC Ordinance is accessible under: www.llv.li/#/117658/cbc-reporting</p> |

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| 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>The requirement for transfer pricing documentation differs according to the size of the company. The relevant legal basis can be found in Art. 31b para. 2, 4 and 8 of the Tax Ordinance.</p> <p>Pursuant to Art. 31b para. 6 of the Tax Ordinance, the documentation according to Art. 31b para. 2 to 5 of the Tax Ordinance has to be filed upon request with the Fiscal Authority of Liechtenstein within 60 days in German or English.</p> <p>The CbC report shall be filed with the Fiscal Authority within 12 months after the end of the reporting fiscal year in German or English (Art. 6 of the CbC Act).</p> | See Question 1 and 19. |
| 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 <input type="checkbox"/> No</p> <p>The Tax Act provides for penal provisions under Art. 135 et sqq. Sanctions may apply if the taxpayer fails to fulfil a duty imposed under the Tax Act or the Tax Ordinance.</p> <p>The penal provisions of Art. 20 et sqq. CbC Act provide for compliance incentives regarding the CbC-Reporting. A violation of the filing obligation (this includes failure to file a CbC report, a late filing of a CbC report, inaccurate filing of a CbC report) is subject to fines of up to CHF 250.000.</p> | See Question 1 and 19. |
| 22 | <p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p> | <p>Pursuant to Art. 49 para. 2 of the Tax Act all taxpayers are obligated to provide, upon request by the Liechtenstein Fiscal Authority, documentation regarding the adequacy of transfer prices of transactions with related persons and permanent establishments. However, the Tax Ordinance provides some facilities for smaller entities.</p> | See Question 1 and 19. |

Administrative Approaches to Avoiding and Resolving Disputes

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| 23 | 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 type="checkbox"/> Enhanced engagement programs</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"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <hr/> <p>Art. 93a of the Tax Act in connection with Art. 38a of the Tax Ordinance constitutes the legal basis for Rulings and Advance Pricing Agreements.</p> <p>The relevant legal provisions concerning Mutual Agreement Procedures can be found in Art. 124 of the Tax Act and in the respective Double Taxation Agreement (DTA).</p> | <p>See Question 1 for legal reference to the Tax Act and Tax Ordinance.</p> <p>A list of all DTA of Liechtenstein is provided under:</p> <p>www.llv.li/#/11469/internationale-steuerabkommen</p> |
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Safe Harbours and Other Simplification Measures

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| 24 | Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions? | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>The Fiscal Authority of Liechtenstein issues a circular containing safe harbour rules with regard to intra-group interest rate.</p> | <p>The circular containing safe harbour rules is available hereafter (German only):</p> <p>Zinssätze für die Berechnung der geldwerten Leistungen</p> <p>www.stv.llv.li</p> |
| 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

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| 26 | Does your jurisdiction allow/require taxpayers to make year-end adjustments? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | The financial statements of a company can be changed, among other things to make year-end adjustments, until they are formally approved by the competent organ. | |
| 27 | Does your jurisdiction make secondary adjustments? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | In practise, secondary adjustments are made. | |

Other Relevant Information

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| 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>) | - | |