

Russian Federation

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>Article 105.3(1), Chapter V.1, Section V.1, Part One of the Tax Code of the Russian Federation</p> <p>http://www.consultant.ru/document/cons_doc_LAW_19671/</p> <p>This resource is publicly available, but is not supported by the Ministry of Finance of the Russian Federation.</p> <p><i>The similar Internet link applies hereafter.</i></p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>Russia is not a member of the OECD. Thus, Russia is not legally obliged to follow OECD documents; however the OECD Transfer Pricing Guidelines are used as recommendations. Generally, OECD transfer pricing principles are the basis for the Russian transfer pricing legislation.</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>Under Article 105.1 of the Tax Code of the Russian Federation (hereafter-TC RF), related persons are persons whose mutual relations may affect the conditions or results of their activity or the activity of persons represented by them. The TC RF lists particular situations where persons are treated as related, including when a certain level of participation in management, control or capital is required.</p>	<p>Article 105.1, Chapter 14.2, Section V.1, Part One of the Tax Code of the Russian Federation</p>

	<p>According to the provisions Article 105.1 of the TC RF, related persons are persons whose mutual relations may affect the conditions or results of their activity or the activity of persons represented by them. The following persons are deemed to be related:</p> <ul style="list-style-type: none"> - one entity has more than a 25% shareholding (including any indirect shareholding) in another entity; - one individual has more than a 25% shareholding (including any indirect shareholding) in an entity; - one individual is an official subordinate of another individual; - entities, when a person directly and/or indirectly participates in these entities with a share of such participation in each entity of more than 25%; - an entity and an individual having authority to appoint (elect) the sole executive body of this entity, or to appoint (elect) not less than 50% of the collegial executive body or board of directors (supervision council) of the entity; - entities, the sole executive bodies of which or not less than 50% of the collegial executive body or board of directors (supervision council) of which are appointed or elected by the decision of one person (or an individual jointly with the interdependent persons-individuals, mentioned in the last section of this sentence); - entities in which over 50% of the collegial executive body or board of directors (supervision council) consist of the same individuals jointly with the interdependent persons mentioned in the last section of this sentence; - an entity and an individual, exercising powers of its sole executive body; - entities in which the powers of the sole executive body are exercised by the same person; - entities and/or individuals, if the share of direct participation of every person above in every subsequent entity is greater than 50%; - individuals, if one individual is subordinate to another individual by virtue of his official position; and - an individual, his spouse, parents (including adopted parents), children (including those adopted), blood brothers and sisters and half-brothers and half-sisters, his guardian (trustee) and wards. 	
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Transfer Pricing Methods

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Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?

- Yes**
 No

If affirmative, please check those provided for in your legislation:

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 type="checkbox"/>

1) According to Article 105.9 of the TC RF, the comparable market price method is a method of determining the conformity of the price of the goods (works, services) in the analysed transaction to the market price by comparing the price used in the analysed transaction with the market price range, determined according to Article 105.9 of the TC RF.

2) According to Article 105.10 of the TC RF, the resale price method is a method of determining the conformity of the price in the analysed transaction to the market price by comparing gross profitability achieved by the person who performed the analysed transaction upon subsequent sale (resale) of the goods bought in the analysed transaction (group of similar transactions) with the market range of gross profitability determined according Article 105.8 of the TC RF.

The resale price method is preferred to other methods for determining the conformity to the market prices at which the goods are acquired in the analysed transaction and are resold without any processing in a transaction where the parties are non-related entities. This method is used, if the reseller does not have any intangible assets significantly affecting its gross profitability level.

3) According to Article 105.11 of the TC RF, the cost plus method is a method of determining the conformity of the price in the analysed transaction to the market price by comparing the gross return on costs of a person being a party to the analysed transaction (group of similar analysed transactions) with the market range of gross return on costs in the reference transactions determined according to Article 105.8 of the TC RF.

4) According to Article 105.12 of the TC RF, the comparable profitability

Chapter 14.3, Section V.1, Part One of the Tax Code of the Russian Federation

		<p>method is the comparison of the operating profitability of a person being a party to the analysed transaction with the market range of operating profitability in reference transactions determined according to Article 105.8 of the TC RF.</p> <p>5) According to Article 105.13 of the TC RF, the profit split method is the comparison of the actual distribution of the total profit received by all parties to that transaction among the parties to the transaction with the distribution of profit among the parties to the reference transactions.</p>	
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 checked="" type="checkbox"/> Hierarchy of methods</p> <p><input type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	Chapter 14.3, Section V.1, Part One of the Tax Code of the Russian Federation
	<p>The Tax Code (Article 105.7-105.13 TC RF) provides for a certain hierarchy of methods, giving priority to the CUP and resale price methods. The CUP method is the main method applicable when information on at least one comparable transaction is available (Article 105.5(3) TC RF). In certain circumstances, the resale price method is the main method (e.g. in the case of resale of goods) (Article 105.10(2) TC RF). If none of the methods are appropriate, the market price of a one-off transaction may be determined by performing an independent appraisal in accordance with the applicable Russian or foreign law. The price confirmed by an independent appraisal (under Russian or foreign law) is accepted for transfer pricing purposes if application of the statutory methods does not define the market price. For some methods, there are limitations (e.g. the resale price method and transactional net margin method do not apply to services when intangibles are used (Article 105.11(2)(1) and article 105.12(6)(3) of the TC RF)).</p> <p>Although a combination of two or more methods is permissible, (Article 105.7(2) TC RF).</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> <hr/> <p>There is no specific guidance on commodity transactions. The TC RF allows applying information on prices and quotations on Russian and foreign exchanges/ data provided by pricing agencies. For the purposes of the application of the method resale price publicly available information about the existing level of market prices and/or exchange quotations can be used. The mentioned sources of information in respect of the market prices can be used, if it ensures comparability of the transactions, data for which are contained in those information sources, with the analysed transaction.</p>	<p>Chapter 14.3, Section V.1, Part One of the Tax Code of the Russian Federation.</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> <hr/> <p>Russia largely follows the guidance on comparability analysis outlined in Chapter III of the TPG.</p>	
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	<p>Article 105.5, Chapter 14.2, Section V.1, Part One of the Tax Code of the Russian Federation</p>
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes</p> <p><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</p> <p><input type="checkbox"/> No</p>	<p>Article 105.8, Chapter 14.3, Section V.1, Part One of the Tax Code of the Russian Federation</p>

		<p>For applying methods an arm's length range is used.</p> <p>When determining income (profit, revenues) for the taxation purposes in the transactions where the parties are related entities, the following profitability indicators can be used:</p> <ol style="list-style-type: none"> 1) gross profitability determined as the ratio of gross profit to income from sale calculated without excise duties and value added tax; 2) gross return on costs determined as the ratio of gross profit to the cost of production of the sold goods (work, services); 3) return on sales determined as the ratio of profit from sales to income from sales calculated exclusive of excise duties and value added tax; 4) return on costs determined as the ratio of profit from sales to the sum of the cost of production of the sold goods (work, services) and commercial and management costs related to the sale of the goods (work, services); 5) return on commercial and management costs determined as the ratio of gross profit to commercial and management costs related to the sale of goods (work, services); 6) return on property determined as the ratio of profit from sales to the current market value of assets (non-current and current) directly or indirectly used in the analysed transaction. In the absence of the necessary information in respect of the current market value of the assets, the return on assets can be determined based on the data in the accounting (financial) records. 	
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Under determining comparability of transactions , adjustments are made with an allowance for :</p> <ul style="list-style-type: none"> - commercial and financial terms of transactions - functions, provided by parties - risks, taken by each party of transactions - characteristics of markets of goods, works and services, where transactions take place. <p>(105.5 (12)) Taking into account the analysis of the conditions of the reference transactions the adjustments to ensure the necessary degree of comparability of the conditions of the reference transactions with the conditions of the analyzed transaction are made by the federal executive body authorized to control and</p>	<p>Chapter 14.2, Section V.1, Part One of the Tax Code of the Russian Federation</p>

		<p>supervise taxes and duties based on the following principles:</p> <p>1) income (profit, revenues) of the parties to an uncontrolled transaction is determined taking into account the assets being used and the economic (commercial) risks assumed in the existing economic conditions of the market for the goods (work, services) and reflects the functions performed by each party to the transaction in accordance with the conditions of the agreement and customary business practices;</p> <p>2) performance of additional functions, use of property which materially affect the income (profit, revenues) and additional commercial (economic) taken risks by the parties to the transaction in accordance with their market (commercial) strategy, with all other conditions being similar, is accompanied by increase of the expected income (profit, revenues) from the transaction.</p>	
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	
		Russian tax legislation does not contain specific guidance for transactions involving intangibles. For such transactions the general TP rules contained in articles of the TC RF apply.	
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	
		There are no specific rules for tax treatment of transactions involving intangibles (besides TP rules and withholding taxation at source).	

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	Article 105.14, Chapter 14.3, Section V.1, Part One of the Tax Code of the Russian Federation
		Transfer pricing rules apply to all transactions. If affiliates enter into a consolidated group of taxpayers, transfer pricing rules do not apply.	
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	
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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 type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input 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): 	Article 105.15, Section V.1, Part One of the Tax Code of the Russian Federation
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		According to the TC RF, there is a documentation, which is an analogue of local file. The documentation can be provided as a part of checking the completeness of the calculation and payment of taxes in connection with the transactions between affiliates. Besides that taxpayer can provide the documentation voluntarily.	
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	Transfer pricing documentation could be requested by the tax authorities in the course of specific transfer pricing audit. Such request could be addressed to the taxpayer not earlier than the 1th of June of the year following the year when the relevant controlled transactions have been executed.	Article 105.15, Chapter 14.4, Section V.1, Part One of the Tax Code of the Russian Federation
21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Article 126, Chapter 15, Section V.1, Part One of the Tax Code of the Russian Federation
		No specific transfer pricing penalties regarding transfer pricing documentation. However, a taxpayer shall be released from the liability under the transfer pricing audit provided that it presents to the Federal Tax Service transfer pricing documentation supporting the market level of prices used in controlled transactions under the audit.	
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	Exemptions from transfer pricing documentation are provided for the following situations: <ul style="list-style-type: none"> - where prices are used in transactions in accordance with the instructions of anti-monopoly bodies or the price is statutory regulated; - in case the transactions is concluded by a taxpayer with non-related persons; - in the case of transactions involving securities and term transaction financial instruments which are circulated on the organized securities market; - in the case of transactions in relation to which APA has been concluded 	Article 105.15, Chapter 14.4 , Section V.1, Part One of the Tax Code of the Russian Federation

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 checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Multilateral APAs</p> <p><input type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Chapter 14.6, Section V.1, Part One of the Tax Code of the Russian Federation</p>
		<p>Unilateral APAs are available to Russian companies registered as “largest” taxpayers.</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 checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
		<p>There is not a term “ safe harbours” in the TC RF. Notwithstanding, according to Article 269 of the TC RF, there is a price range. In case of matching this price range, the control of transaction does not carry out.</p>	
25	<p>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</p>	<p>No.</p>	

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	Article 105.3, Chapter 14.2, Section V.1, Part One of the Tax Code of the Russian Federation
		<p>If in the transactions between the related entities the taxpayer applies any prices for the goods (work, services) not corresponding to the market prices or if such application results in any reduction of the amounts of one more taxes (advance tax payments) or overvaluation of amount of losses the taxpayer can independently adjust the tax base and the amounts of the respective taxes after the completion of the calendar year that includes the tax period (tax periods) for the taxes to be adjusted.</p>	
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Chapter 14.5 , Section V.1, Part One of the Tax Code of the Russian Federation
		<p>There is not a special order to make secondary adjustments.</p>	

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>)	<p>Russia does not yet have legislation in place for implementing the BEPS Action 13 minimum standard. The draft of the Federal Law “On the amendments to the Tax Code of the Russian Federation (regarding the implementation of the international automatic exchange of financial account information and country-by-country reports)” was passed in the first reading by the State Duma on the 20 of September 2017.</p> <p>Russia will apply CbC requirements for fiscal years from 1 January 2018. Voluntary filing mechanism allowed for period started before 1 January 2018.</p>	