

Turkey

Transfer Pricing Country Profile

Updated June 2018

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Under Article 13(3) of CITL, it is stated that "Arm's length principle means that the price or consideration charged for the purchase or sale of goods or services between related parties should be the price or consideration which would have been occurred in the absence of such a relationship between them."	Article 13(3) of Corporate Income Tax Law No. 5520 (CITL) http://www.gib.gov.tr/gibmevzuat
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	In the legal ground for Article 13 of the CITL, it is stated that transfer pricing legislation is prepared by taking into account international developments and particularly the OECD Transfer Pricing Guidelines.	The legal ground of Article 13 of Corporate Income Tax Law No. 5520 (CITL) http://www.gib.gov.tr/fileadmin/user_upload/Genekceler/5520_Sayili_Kanun.pdf
3	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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In general related party refers to: <ul style="list-style-type: none"> • Shareholders of the corporation; • Individuals or legal entities related to the corporation or its shareholders; • Individuals or legal entities which control the corporation directly or indirectly in terms of management, supervision or capital; • Individuals or legal entities which are controlled by the corporation directly or indirectly in terms of management, supervision or capital. 	Article 13(2) of the CITL. Details are provided in Section 3 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat

Article 13(2) also states that “By taking into account whether the taxation capacity of the source country’s tax system is the same with that of Turkey and the issue of exchange of information, all transactions made with persons located in countries or regions to be announced by Council of Ministers will be deemed as if they were made with related parties”.

In order to implement the transfer pricing rules, there must be a minimum 10 percent shareholding ratio in the existence of direct or indirect shareholder relationship.

Transfer Pricing Methods

4 **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 checked="" type="checkbox"/>

The most appropriate method shall be selected in order to determine the arm’s length price in their transactions with related parties. However, if it is not possible to determine the arm’s length price by using these methods, taxpayers may use other methods which are appropriate to the nature of the transactions.

Article 13(4) of the CITL. Details are provided in Section 5 of Transfer Pricing General Communiqué No.1
<http://www.gib.gov.tr/gibmevzuat>

5 **Which criterion is used in your jurisdiction for the application of transfer pricing methods?**

Please check all that apply:

Hierarchy of methods
 Most appropriate method
 Other (if so, please explain)

There is no hierarchy of methods. Taxpayers must use the method which is most appropriate to the nature of the transaction.

Article 13(4) of the CITL. Details are provided in Section 5 of Transfer Pricing General Communiqué No.1
<http://www.gib.gov.tr/gibmevzuat>

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 type="checkbox"/> Other (<i>if so, please explain</i>)</p>	
		<p>There is no specific regulation regarding commodity transactions.</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>Transfer Pricing General Communiqué No.1 includes clear explanations on comparability analysis in line with Chapter I D.I of the OECD TPG.</p> <p>There is no clear reference to Chapter III of the OECD TPG but the implementation of transfer pricing rules are generally in line with Chapter III of the OECD TPG.</p>	<p>Details are provided in Section 4 of Transfer Pricing General Communiqué No.1</p> <p>http://www.gib.gov.tr/gibmevzuat</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>There is no explicit prohibition against the use of foreign comparables. Depending on the facts and circumstances of the controlled transaction, the most appropriate comparables are preferred.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>There is no specific prohibition of using secret comparables.</p>	

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 Depending on the facts and circumstances of the controlled transaction, the use of both arm's length range and other statistical tools (interquartile range, weighted average, median, multiple-year data etc.) are allowed.	Details are provided in Section 4 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If necessary comparability adjustments are required depending on the facts and circumstances of the case.	Details are provided in Section 4 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The arm's length principle also applies for intangibles.	Details are provided in Section 10 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Details are provided in Section 11 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
		The arm's length principle also applies for intra group services transactions.	
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> <input 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 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 checked="" type="checkbox"/> Other (specify): APA documentation We have prepared draft regulation to implement Master File and Country-by-Country report, but it is has not been in force yet.	Details are provided in Section 7 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
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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>There are currently three types of documentation requirements:</p> <ol style="list-style-type: none"> 1. Annual Transfer Pricing Report (Local File) which must be prepared by all corporate income taxpayers until the deadline for filing the annual CIT return and, upon request, submitted to Turkish Revenue Administration or other tax authorities entitled to make tax examination. 2. Transfer Pricing, Controlled Foreign Corporations and Thin Capitalisation Form which must be filled by all corporate income taxpayers and submitted to the relevant tax office as an attachment to the annual CIT return. 3. Taxpayers having an APA should prepare an Annual APA Report every year during the term of the APA and submit it to Turkish Revenue Administration until the deadline for filing the annual CIT return. <p>As a general rule, tax administration or tax inspectors need to provide at least fifteen days to taxpayers in order to submit any written information including transfer pricing documentation</p> <p>The transfer pricing documentation should be prepared in Turkish. If the documents are prepared in a foreign language, Turkish version is required.</p>	<p>Details are provided in Section 6 and 7 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat</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 <input type="checkbox"/> No</p> <p>There are no specific transfer pricing penalties regarding transfer pricing documentation. The provisions of Tax Procedural Law regarding irregularity penalties apply.</p> <p>According to article 13(8) of the CITL, if the transfer pricing documentation requirements are fulfilled timely and properly, tax penalties in case of a tax assessment due to the application of non-arm's length prices will be reduced by 50%.</p>	<p>Article (repetitive) 355 of Tax Procedural Law. Details are provided in Section 8 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat Article 13(8) of the CITL. http://www.gib.gov.tr/gibmevzuat</p>
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>All corporate taxpayers have to prepare the transfer pricing documentation but income tax taxpayers (individuals) do not have to prepare the transfer pricing documentation. However, upon the request of tax administration or tax inspectors, income tax taxpayers also have to provide information involving related party transactions.</p>	<p>Details are provided in Section 7 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat</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>):	Article 13(5) of the CITL. Details are provided in Section 6 of Transfer Pricing General Communiqué No.1 http://www.gib.gov.tr/gibmevzuat
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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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In case of a non-arm's length related party transaction, profits arising from that transaction is deemed to be "constructive dividend" (disguised profit distribution).	http://www.gib.gov.tr/gibmevzuat

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
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>)	Turkey drafted a regulation to implement the master file and the Country-by-Country report, but it is not in force yet.	