

# Ukraine

## Transfer Pricing Country Profile<sup>1</sup>

October 2025

|                                   | SUMMARY  | REFERENCE  |
|-----------------------------------|--|--|
| <b>The Arm's Length Principle</b> |  |  |
| 1                                 | <p><b>Does your domestic transfer pricing framework<sup>2</sup> make reference to the arm's length principle?</b></p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 39, clause 39.1 of the Tax Code of Ukraine states that:</p> <p>“The taxpayer that participates in a controlled transaction must determine the amount of his taxable profit in accordance with the arm's length principle.</p> <p>The amount of taxable profit received by a taxpayer that participates in one or more controlled transactions is considered to be in accordance with the arm's length principle if the terms of those transactions do not differ from those applied between unrelated parties in comparable uncontrolled transactions.</p> <p>If the conditions in one or more controlled transactions do not comply with the arm's length principle, the profit that would be accrued to the taxpayer in a controlled transaction that complies with this principle is included in the taxable income of the taxpayer.</p> | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.1</p> |

<sup>1</sup> Information in transfer pricing country profiles is provided directly by jurisdictions. By publishing the transfer pricing country profiles on the OECD website, the OECD does not certify the accurateness of the information provided therein. Importantly, transfer pricing country profiles published on the OECD website are made available to stakeholders for information purposes only, and are not intended to be used in substitution to a jurisdiction's legal instruments, jurisprudence, or administrative guidance or practice nor relied on as an accurate and complete description of domestic law.

<sup>2</sup> For purposes of transfer pricing country profiles, the term “domestic transfer pricing framework” refers to a jurisdiction's domestic legislation, regulations, administrative guidance or practice, jurisprudence or governing general principles in the jurisdiction.

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|   |   | Determining whether the conditions of the controlled transaction comply with the arm's length principle shall be performed according to the methods specified in sub-clause 39.3 of this Article, in order to verify the correctness, completeness of accrual and payment of corporate profit tax.”   |  |
| 2 | <b>Does your domestic transfer pricing framework give the OECD Transfer Pricing Guidelines any role or status (e.g. legal binding effect, subsidiary application in the absence of domestic legislation, source of interpretation of domestic legislation and/or treaty provisions, other)?</b> | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No <p>The OECD Transfer Pricing Guidelines are not incorporated in Ukrainian legislation, however, the TPG are considered as internationally accepted guidance providing explanation and clarification of the (application of the) arm's length principle.</p>  |  |
| 3 | <b>Does your domestic transfer pricing framework provide for a definition of related parties applicable for transfer pricing purposes? If so, please provide the definition contained under your domestic transfer pricing framework.</b>   | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No <p>Related parties are legal entities and / or individuals and / or formations without legal entity status, the relationship between which may affect the conditions or economic results of their activities or the activities of the persons they represent, taking into account the following criteria:</p> <p>a) for the legal entities:</p> <p>one legal entity directly and / or indirectly (through related parties) owns the corporate rights of another legal entity in the amount of 25% or more, except for international financial organizations, which in accordance with international treaties of Ukraine are endowed with privileges and immunities, and business entities, which are owned by such international financial institutions in the amount of 75% or more);</p> <p>the same legal entity or individual directly and / or indirectly owns corporate rights in each legal entity in the amount of 25% or more;</p> <p>the same legal entity or individual makes decisions on the appointment (election) of sole executive body of each legal entity;</p> <p>the same legal entity or individual makes a decision on the appointment (election) of 50% or more of the collegial executive body or supervisory board of each legal entity;</p> <p>at least 50% of the collegial executive body and / or supervisory board of each legal entity shall be the same individuals;</p> | <a href="#">Tax Code of Ukraine</a> Article 14, clause 14.1, sub-clause 14.1.159 |

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|  | <p>sole executive bodies of each legal entity are appointed (elected) by the decision of the same body (owner or his authorized body);</p> <p>a legal entity has the authority to appoint (elect) the sole executive body of another legal entity or to appoint (elect) 50% or more of its collegial executive body or supervisory board;</p> <p>the ultimate beneficial owner (controller) of such legal entities is the same individual;</p> <p>the powers of the sole executive body of such legal entities are exercised by the same body;</p> <p>the amount of all loans, repayable financial assistance from one legal entity (except for banks and international financial organizations, which in accordance with international treaties of Ukraine are endowed with privileges and immunities, and business entities, which are owned by such international financial institutions in the amount of 75% or more) and / or the amount of all loans, repayable financial assistance from other legal entities guaranteed by one legal entity (except for banks and international financial organizations, which in accordance with international agreements of Ukraine are endowed with privileges and immunities, and business entities, which are owned by such international financial institutions in the amount of 75% or more), in relation to another legal entity, exceeds the amount of equity more than 3.5 times (for financial institutions and companies engaged in leasing activities only - more than 10 times). The amount of such loans, repayable financial assistance and equity is defined as the arithmetic mean (at the beginning and the end of the reporting period). The provisions of this paragraph do not apply to the amount of loans raised under state guarantees;</p> <p>income of a resident legal entity from the sale of products (goods, works, services) (net of indirect taxes) to a separate non-resident legal entity or a separate foreign entity without the status of a legal entity (including a non-resident conducting business through a permanent establishment in Ukraine) during a calendar year amounts to 75 percent or more of the income of such resident legal entity from the sale of products (goods, works, services) (net of indirect taxes) to all non-residents, provided that such income amounts to 50 percent or more of the total income of such legal entity from the sale of products (goods, works, services) (net of indirect taxes), determined in accordance with the accounting rules;</p> <p>the cost of products (goods, works, services) purchased by a resident legal entity from another separate non-resident legal entity or a separate foreign entity without the status of a legal entity (including a non-resident conducting business through a permanent establishment in Ukraine) during a calendar year is 75 percent or more of the cost of products (goods, works, services) purchased by such entity from all</p> |  |
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non-residents, provided that the amount of such purchase transactions is 50 percent or more of the total cost of products (goods, works, services) purchased by such resident legal entity;

b) for an individual and a legal entity:

an individual directly and / or indirectly (through related parties) owns corporate rights of a legal entity in the amount of 25% or more;

an individual has the right to appoint (elect) the sole executive body of such legal entity or to appoint (elect) at least 50% of its collegial executive body or supervisory board;

an individual exercises the powers of a sole executive body of such legal entity;

an individual has the authority to appoint (elect) a sole executive body of such legal entity or to appoint (elect) 50% or more of its collegial executive body or supervisory board;

an individual is the ultimate beneficial owner (controller) of a legal entity;

the amount of all loans, repayable financial assistance from an individual provided to a legal entity, and / or any loans, repayable financial assistance from other individuals provided to a legal entity, which are provided under the guarantees of this individual, exceeds the amount of equity more than 3.5 times (for financial institutions and companies engaged in leasing activities only - more than 10 times).

The amount of such loans, repayable financial assistance and equity is defined as the arithmetic mean (at the beginning and the end of the reporting period);

c) for individuals - husband (wife), parents (including adoptive parents), children (adults / minors, including adopted children), full-siblings and partial-siblings, guardian, trustee, child under guardianship or custody.

All corporate rights of a legal entity that belong (directly and / or indirectly) to another legal entity are calculated as the sum of shares of corporate rights, which:

directly belong to such legal entity;

belong to any related parties of such a legal entity.

For the purpose of determining whether an individual directly and / or indirectly owns corporate rights of a legal entity in the amount of 25% or more, all corporate rights owned (directly and / or indirectly) by an individual are calculated as the sum of shares of corporate rights, which:

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|  | <p>directly and / or indirectly belong to an individual through the possession of corporate rights;</p> <p>belong to any related parties of such individual (excluding bodies related to such individual through direct and / or indirect ownership of corporate rights).</p> <p>If an individual is recognized as a related party to other bodies in accordance with sub-clause 14.1.159, such bodies shall be recognized as related parties.</p> <p>In the case of business transactions performed by formations without legal entity status with a related party of any of the participants of the joint venture agreement, if the amount of their contributions to the common property is 25% or more, formations without legal entity status (of the joint venture agreement) and such related party of any of the participants of such agreement are recognized as related parties.</p> <p>The amount of shares of corporate rights is calculated in the case of:</p> <p>indirect ownership (within one chain) - by multiplying the shares of ownership of corporate rights;</p> <p>ownership within several chains - by summing the shares of ownership of corporate rights in each chain.</p> <p>If the share of corporate rights of each body in the next legal entity within the chain is 25% or more, all bodies within such chain are related parties (regardless of the results of multiplication).</p> <p>The direct or indirect participation of the state in legal entities is not a basis for recognizing such legal entities as related parties. Such taxpayers may be considered related parties for other reasons provided for in this sub-clause.</p> <p>In case of the circumstances specified in the first paragraph of this sub-clause, legal entities and / or individuals who are the parties of a business transaction have the right to recognize themselves as related parties for tax purposes on a basis not provided for in sub-clauses "a"–"c".</p> <p>The controlling authority may prove in court the connection of bodies on the basis of facts and circumstances that one legal entity or individual had actual control over business decisions of another legal entity, formation without legal entity status and / or that the same individual or legal entity had actual control over business decisions of each legal entity and / or formation without legal entity status.</p> |  |
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## Transfer Pricing Methods

| 4                                   | <p><b>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</b></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%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 2px;">CUP</th><th style="text-align: center; padding: 2px;">Resale Price</th><th style="text-align: center; padding: 2px;">Cost Plus</th><th style="text-align: center; padding: 2px;">TNMM</th><th style="text-align: center; padding: 2px;">Profit Split</th><th style="text-align: center; padding: 2px;">Other (<i>If so, please describe</i>)</th></tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td><td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td></tr> </tbody> </table> <p>There is also an opportunity to use valuation methodology based on discounted cash flow for controlled transactions with intangibles, other intellectual property and business restructuring transactions in case of lack of comparable uncontrolled transactions within the application of transfer pricing methods.</p> | CUP   | Resale Price                        | Cost Plus                           | TNMM                                    | Profit Split | Other ( <i>If so, please describe</i> ) | <input checked="" type="checkbox"/> | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3</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"/>     |              |   |                                     |                                     |                                     |                                     |                                     |                                     |  |
| 5                                   | <p><b>Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?</b></p> <p>Please check all that apply:</p> <p><input checked="" 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>The compliance of the controlled transactions with the arm's length principle is confirmed by applying the most appropriate transfer pricing method within the abovementioned hierarchy of methods due to the facts and circumstances of the case, unless the Tax Code of Ukraine determines the requirements for the application of specific transfer pricing method for a certain type of controlled transactions (e.g. application of the comparable uncontrolled price (CUP) method for commodity transactions).</p>  | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.2, sub-clause 39.3.2.1</p>  |                                     |                                     |   |              |   |                                     |                                     |                                     |                                     |                                     |                                     |  |
| 6                                   | <p><b>Does your domestic transfer pricing framework contain specific guidance on commodity transactions?</b></p> <p><input checked="" type="checkbox"/> Yes</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><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.3, sub-clauses 39.3.3.4-39.3.3.8</p> <p>The list of commodities is settled by the <a href="#">Resolution of the Cabinet of Ministers of</a></p> |                                     |                                     |   |              |   |                                     |                                     |                                     |                                     |                                     |                                     |  |

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|  | <p><input checked="" type="checkbox"/> Domestic transfer pricing framework provides for the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> No</p>   | <p><a href="#">Ukraine No. 1221</a> dated 09.12.2020 “On approval of the List of Commodities”</p> <p><a href="#">The recommended (non-exhaustive) list of sources of information for obtaining commodity quoted prices</a> is published on the official website of the State Tax Service of Ukraine</p> |
|  | <p>The Tax Code of Ukraine mandates the use of comparable uncontrolled price (CUP) method for commodity transactions.</p> <p>The concept of commodity transactions covers controlled transactions with commodities included to the List, which is settled by the Resolution of the Cabinet of Ministers of Ukraine.</p> <p>The taxpayer may use the recommended (non-exhaustive) List of sources of information for obtaining commodity quoted prices to analyse the compliance of the commodity transactions with the arm's length principle. The List of sources of information is published on the official website of the State Tax Service of Ukraine.</p> <p>In case of controlled commodity transactions the taxpayer shall apply the provisions of the procedure for determining the compliance of the terms of a controlled commodity transaction with the arm's length principle, which is settled by the Order of the Ministry of Finance of Ukraine.</p> | <p>The procedure for determining the compliance of the terms of a controlled commodity transaction with the arm's length principle is settled by the <a href="#">Order of the Ministry of Finance of Ukraine No. 19 dated 18.01.2022</a>.</p>   |

## Comparability Analysis

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| 7 | <p><b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b></p> | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>  | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.2, sub-clause 39.2.2</p>                      |
|   |  | <p>The Tax Code of Ukraine contains the provisions on comparability analysis, which largely follow the guidance of the OECD TPG.</p>   | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.2</p>                      |
| 8 | <p><b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b></p>                                | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>  | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.2, sub-clause 39.2.2, sub-clause 39.2.2.2</p> |
|   |  | <p>Due to the lack or insufficiency of information on uncontrolled transactions, the financial information of legal entities engaged in activities comparable to the controlled transaction may be used for the determination of profitability indicators in case that such legal entities do not perform transactions with related parties.</p> |  |

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|    |  | Preference for domestic comparables follows from the Tax Code provisions on comparability. Taxpayers need to prove that foreign comparables are more reliable than local comparables.  |   |
| 9  | <b>Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?</b>  | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No   | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.5, sub-clause 39.5.3, sub-clause 39.5.3.3   |
|    |  | <p>According to the provisions of the Tax Code of Ukraine, the tax authority has no right to use information that is not publicly available (in particular, information with limited access or information which is available only to public authorities).</p> <p>The abovementioned does not apply to information obtained by tax authorities during the audit on the taxpayer's compliance with the arm's length principle according to the sub-clause 39.5.2.13 of the Tax Code of Ukraine.</p> |   |
| 10 | <b>Does your domestic transfer pricing framework allow or require the use of an arm's length range and/or statistical measure (e.g. the interquartile range or other percentiles) for determining arm's length remuneration?</b> | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No   | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.2, sub-clause 39.3.2.2   |
|    |  | <p>The Tax Code of Ukraine mandates the use of price (profitability) range (interquartile range) to define the compliance of the controlled transactions with the arm's length principle.</p> <p>The procedure of the arm's length principle determination is settled by the Resolution of the Cabinet of Ministers of Ukraine.</p>  | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.2, sub-clause 39.3.2.3   |
|    |  |  | <p>The procedure of the arm's length principle determination is settled by the <a href="#">Resolution of the Cabinet of Ministers of Ukraine No 381</a> dated 04.06.2015 «On approval of the Procedure for calculating the price (profitability) range and the median of such range for transfer pricing purposes».</p> |
| 11 | <b>Are comparability adjustments required under your domestic transfer pricing framework?</b>  | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No   | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.2, sub-clause 39.2.2, sub-clause 39.2.2.1   |
|    |  | <p>According to the provisions of the Tax Code of Ukraine, the controlled transactions are recognized as comparable to the uncontrolled transactions in case of absence of significant differences between them. Such differences may be mitigated with adjustments in order to avoid the impact of such differences on comparability.</p>   |   |

## Intangible Property

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| 12 | <p><b>Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?</b></p>              | <p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VI of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p> | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.3, sub-clause 39.3.10</p>  |
| 13 | <p><b>Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?</b></p> | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>   | <p><a href="#">Tax Code of Ukraine</a> Article 140, clause 140.5, sub-clause 140.5.6</p> <p><a href="#">Tax Code of Ukraine</a> Article 140, clause 140.5, sub-clause 140.5.7</p> |

## Hard-to-Value Intangibles<sup>3</sup>

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| 14 | <p><b>Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?<sup>4</sup></b></p> | <p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p> |  |
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<sup>3</sup> Please note that questions in this section are imported from the HTVI questionnaire and integrated into this TPCP to centralise all jurisdiction-related transfer pricing information.

<sup>4</sup> In the case of jurisdictions that do not apply the HTVI approach (i.e. they responded “no” to question 14), it is not necessary to respond to the remaining questions in the HTVI section and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

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| 18 | <p><b>Can taxpayers request a bilateral or multilateral advance pricing agreement (“APA”) for transactions falling within the scope of the HTVI approach under your domestic transfer pricing framework?</b></p> | <p><input checked="" type="checkbox"/> Yes<br/> <input type="checkbox"/> No</p> <p>The Tax Code of Ukraine provides an opportunity for large taxpayer* to apply for unilateral, bilateral or multilateral advance pricing agreements for controlled transactions.</p> | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.6</p> |
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| 19 | <p><b>What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?</b></p> | <p>Specialists of the State Tax Service of Ukraine receive specialized trainings regarding the international taxation and transfer pricing issues.</p> |  |
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### Intra-group Services

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| 23 | <p><b>Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?</b></p> | <p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VII of the TPG?<br/> <input type="checkbox"/> Yes<br/> <input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p> <p>Ukrainian domestic legislation does not contain specific guidance or special measures regarding intra-group services transactions and tend to rely on the OECD TPG.</p> <p>Sub-clause 39.4.7 of the Tax Code of Ukraine contains the requirements for Master File, including an obligation to provide a list and brief description of important service arrangements between members of the MNE group, other than research and development (R&amp;D) services, including a description of the capabilities of the</p> |  |
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|                               |   | principal locations providing important services and transfer pricing policies for allocation services costs and determining prices to be paid for intra-group services.  |   |
| 24                            | <b>Does your domestic transfer pricing framework provide for or allow the application of a simplified approach for low value-adding intra-group services?</b> | <p><input type="checkbox"/> Yes. If so, does it follow (largely follow) the low value-adding services approach in Chapter VII?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p>                         |   |
|                               |   | Ukrainian domestic legislation does not contain specific provisions on simplified approach for low value-adding intra-group services and tend to rely on the OECD TPG.  |   |
| <b>Financial Transactions</b> |   |   |   |
| 26                            | <b>Does your domestic transfer pricing framework provide guidance specific to financial transactions?</b>   | <p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter X of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p> |   |
|                               |   | Ukrainian domestic legislation does not contain specific guidance or special measures regarding financial transactions and tend to rely on the OECD TPG.  |   |
| 27                            | <b>Are there any other rules outside your transfer pricing framework that are</b>   | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No  | <a href="#">Tax Code of Ukraine</a> Article 140, clause 140.2 |

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|                                       | <p><b>relevant for the tax treatment of financial transactions? (e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</b></p> <p>The Tax Code of Ukraine contains provisions on thin capitalization rules. Under the thin capitalization rules, expenses of resident entities in the current tax period include the amount of interest paid on loans, which does not exceed 30% of profits, and expenses on repayment of interests. It should be noted that for the purposes of thin capitalization rules application the amount of taxpayer's liabilities with a non-resident shall exceed the equity ratio by more than 3.5 times.</p> <p>However, if the amount of interest expenses within a controlled transaction exceeds the amount determined in accordance with the arm's length principle, then thin capitalization rules will apply only to the amount of interest that corresponds with the arm's length principle.</p> |  |
| <b>Cost Contribution Arrangements</b> |   |  |
| 28                                    | <p><b>Does your jurisdiction allow cost contribution arrangements?</b></p> <p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VIII of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p> <p>Ukrainian domestic legislation does not contain specific guidance or special measures regarding cost contribution agreements and tend to rely on the OECD TPG.</p> <p>Sub-clause 39.4.7 of the Tax Code of Ukraine contains the requirements for Master File, including a list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements.</p>   |  |

## Transfer Pricing Documentation

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| 29 | <p><b>Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?</b></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> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input checked="" type="checkbox"/> Other (specify):</li> </ul> <p>According to the provisions of the Tax Code of Ukraine, taxpayers, which carried out controlled transactions in the reporting year, are required to file a Report on controlled transactions and a Notification on participation in the International group of companies (only for MNE participants) by October 1 of the year following the reporting year.</p> <p>A Report on controlled transactions and a Notification on participation in the International group of companies are filed to the Central executive body that ensures the implementation of state tax policy by electronic means in electronic form in compliance with the requirements of the Laws of Ukraine “On Electronic Documents and Electronic Document Management” and “On Electronic Trust Services”.</p> <p>The requirements for a local transfer pricing documentation are presented in sub-clause 39.4.6 of clause 39.4 of Article 39 of the Tax Code of Ukraine.</p> | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.4</p> |
| 30 | <p><b>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</b></p> <p><u>Transfer pricing documentation</u></p> <p>At the request of the Central executive body that ensures the implementation of state tax policy, taxpayers shall submit transfer pricing documentation for controlled transactions specified in the request within 30 calendar days from the request receipt date.</p> <p>Transfer pricing documentation is submitted by the taxpayer to the controlling authority specified in the request.</p>  | <p><a href="#">Tax Code of Ukraine</a> Article 39, clause 39.4</p> |

The request shall be sent no earlier than October 1 of the year following the calendar year in which such controlled transaction (transactions) was performed.

Master file

The Central executive body that ensures the implementation of state tax policy has the right to send a request with requirement to provide Global documentation on transfer pricing (Master file) to the taxpayer that is part of the International group of companies, if the total consolidated income of the International group of companies for the financial year, preceding the reporting year, calculated in accordance with the accounting standards applied by the parent company of the International group of companies, is equal to or exceeds the equivalent of EUR 50 million.

The request for submission of Global documentation (Master file) could be sent no earlier than twelve months and no later than thirty-six months from the end of the financial year, that is established by the International group of companies to which such taxpayer belongs, and in the absence of information regarding financial year, that is established by the International group companies, – no earlier than twelve months and no later than thirty-six months after the end of the reporting year.

Global transfer pricing documentation (Master file) must be submitted by the taxpayer to the Central executive body that ensures implementation of state tax policy, within 90 calendar days from the date of request receipt.

Country-by-Country Reporting

Taxpayer – a resident of Ukraine, which belongs to the International group of companies, in the cases specified in this sub-clause, is obliged to file to the Central executive body, that ensures implementing of state tax policy, a Country-by-Country Report of the International group of companies in electronic form in compliance with the requirements of the Laws of Ukraine «On Electronic Documents and Electronic Document Management» and «On Electronic Trust Services».

A Country-by-Country Report of the International group of companies is filed if the total consolidated income of the International group of companies, which includes the taxpayer, for the financial year preceding the reporting year, calculated in accordance with accounting standards applied by the parent company of the International group (and in the absence of information – in accordance with international accounting standards), exceeds the equivalent of 750 million and if one of the following circumstances exists:

the taxpayer is the parent company of the International group of companies;

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|    | <p>the parent company of the International group of companies authorizes the taxpayer – a resident of Ukraine to file a Country-by-Country Report to the controlling authority;</p> <p>in accordance with the law of the location of the parent company of the International group of companies the filing of a Report from such an International group of companies is not required, and the parent company of such group does not authorize another participant of the International group to file a Report in another foreign jurisdiction, where such filing is required;</p> <p>an international agreement that provides for the exchange of tax information is signed between Ukraine and the relevant foreign jurisdiction of location of the parent company of the International group of companies or [of location of] another member of this group, authorized by the parent company of such group to file a Country-by-Country Report, but the procedure on exchange of Country-by-Country Reports did not yet come into force or there are facts of systemic noncompliance with this procedure. The Central executive body that ensures implementation of state tax policy, shall publish the list of such foreign jurisdictions on its official web portal no later than 60 calendar days before the deadline for filing of a Report on controlled transactions for the relevant reporting year.</p> <p>A Country-by-Country Report of the International group of companies is prepared for the financial year determined by the parent company of the International group of companies, which may not coincide with the calendar year, and is filed within twelve months after the end of such financial year (within twelve months after the end of the calendar year – in the absence of information on the financial year determined by the parent company of the International group of companies).</p> |  |
| 31 | <p><b>Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p>  | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The Tax Code of Ukraine stipulates several types of transfer pricing penalties, in particular penalties in case of failure of filing, incomplete filing, inaccurate filing and late filing of TP reports and documentation.</p> |
| 32 | <p><b>Does your domestic transfer pricing framework provide for exemption</b></p>   | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>  |

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| <p><b>from transfer pricing documentation obligations?</b></p> | <p><b><u>Transfer pricing documentation</u></b></p> <p>TPD is prepared for the controlled transactions carried out during the tax (reporting) year.</p> <p>Business transactions prescribed by sub-clauses 39.2.1.1 (except for transactions carried out between a non-resident and its permanent establishment in Ukraine) and 39.2.1.5 shall be recognized as controlled if the following conditions are simultaneously met:</p> <p>the annual income of the taxpayer from any activity, determined by accounting rules, exceeds UAH 150 million (net of indirect taxes) for the relevant tax (reporting) year;</p> <p>the volume of such business transactions of the taxpayer with each counterparty, determined according to the accounting rules, exceeds UAH 10 million (net of indirect taxes) for the relevant tax (reporting) year.</p> <p>Business transactions between a non-resident and its permanent establishment in Ukraine are recognized as controlled if the volume of such business transactions, determined by accounting rules, exceeds UAH 10 million (net of indirect taxes) for the relevant tax (reporting) year.</p> <p>If these conditions are not met, the taxpayer is not obliged to prepare TPD.</p> <p><b><u>Master file</u></b></p> <p>The Central executive body that ensures the implementation of state tax policy has the right to send a request with requirement to provide Global documentation on transfer pricing (Master file) to the taxpayer that is part of the International group of companies, if the total consolidated income of the International group of companies for the financial year, preceding the reporting year, calculated in accordance with the accounting standards applied by the parent company of the International group of companies, is equal to or exceeds the equivalent of EUR 50 million.</p> <p>If this condition is not met, the taxpayer is not obliged to submit a Master file.</p> <p><b><u>Country-by-Country Reporting</u></b></p> <p>A Country-by-Country Report of the International group of companies is filed if the total consolidated revenue of the International group of companies, which includes the taxpayer, for the financial year preceding the reporting year, calculated in accordance with accounting standards applied by the parent company of the International group (and in the absence of information – in accordance with</p> | <p><a href="#"><b>Tax Code of Ukraine</b></a> Article 39, clause 39.4, sub-clauses 39.4.3-39.4.6</p> <p><a href="#"><b>Tax Code of Ukraine</b></a> Article 39, clause 39.4, sub-clause 39.4.7</p> <p><a href="#"><b>Tax Code of Ukraine</b></a> Article 39, clause 39.4, sub-clauses 39.4.10-39.4.10<sup>2</sup></p> |
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|   | <p>international accounting standards), is equal to or exceeds the equivalent of EUR 750 million.</p> <p>If this condition is not met, the taxpayer is not obliged to submit Country-by-Country Report.</p>  |   |
| <b>Administrative Approaches to Avoiding and Resolving Disputes</b> |  |   |
| 33  | <p><b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b></p> <p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement or cooperative compliance programmes</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Unilateral APAs</li> <li><input checked="" type="checkbox"/> Bilateral APAs</li> <li><input checked="" type="checkbox"/> Multilateral APAs</li> </ul> <p><input type="checkbox"/> International Compliance Assurance Programme (ICAP)</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><u><a href="#">Advance Pricing Agreements (APA)</a></u></p> <p>The large taxpayer* has an opportunity to apply for Advanced Pricing Agreement procedure. Unilateral, Bilateral and Multilateral APAs can be concluded.</p> <p>The general provisions on APA procedure are presented in clause 39.6 of Article 39 of the Tax Code of Ukraine.</p> <p>The specific provisions and peculiarities of APA procedure are prescribed by the Resolution of the Cabinet of Ministers of Ukraine No. 1114 dated 28.10.2021 “On approval of the Advanced Pricing Agreement procedure in controlled transactions, as a result of which agreements of unilateral, bilateral and multilateral nature are concluded for the purposes of transfer pricing”.</p> <p>Advanced Pricing Agreement is valid for 5 years and can be prolonged for additional 5 years due to Application of the taxpayer.</p> | <p><u><a href="#">Tax Code of Ukraine</a></u> Article 39, clause 39.6</p> <p><u><a href="#">Resolution of the Cabinet of Ministers of Ukraine No. 1114</a></u> dated 28.10.2021 “On approval of the Advanced Pricing Agreement procedure in controlled transactions, as a result of which agreements of unilateral, bilateral and multilateral nature are concluded for the purposes of transfer pricing”</p> <p><u><a href="#">Tax Code of Ukraine</a></u> Article 108<sup>1</sup></p> <p><u><a href="#">Order of the Ministry of Finance of Ukraine No. 820</a></u> dated 30.12.2020 “On approval of the application procedure for MAP and the requirements for such application”</p> <p><u><a href="#">Ukraine’s MAP Profile</a></u></p> |

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|  | <p>The Agreement may be extended for the entire reporting period in which it is concluded, and / or for the reporting periods preceding its entry into force (if such reporting periods aren't the object of arm's length tax audits).</p> <p>There are no special fees for Application of APA.</p> <p><b><u>Mutual Agreement Procedures (MAP)</u></b></p> <p>The taxpayer has an opportunity to apply for Mutual Agreement Procedure if the actions of one or both of the authorities led, or are likely to lead, to taxation that is inconsistent with the relevant Double Tax Treaties of Ukraine.</p> <p>Application for MAP should be submitted by the taxpayer to the competent authority of Ukraine due to the provisions of the relevant Double Tax Treaties of Ukraine.</p> <p>The requirements for MAP Application are defined by the Order of the Ministry of Finance of Ukraine No. 820 dated 30.12.2020 “On approval of the application procedure for MAP and the requirements for such application”.</p> <p>For further information on MAPs and APAs, please refer to <a href="#">Ukraine's MAP Profile</a>.</p> <p><i>*According to the provisions of sub-clause 14.1.24 of the Tax Code of Ukraine, the large taxpayer is a legal entity or permanent establishment of non-resident entity in Ukraine, whose income from all activities for the last consecutive tax (reporting) quarters exceeds the equivalent of EUR 50 million, determined by the weighted average official exchange rate of the National Bank of Ukraine for the same period, or the total amount of taxes paid to the State Budget of Ukraine for the same period exceeds the equivalent of EUR 1.5 million, determined by the weighted average official exchange rate of the National Bank of Ukraine for the same period.</i></p> |  |
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### Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities

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| 34 | <p><b>Does your domestic transfer pricing framework allow the application of the simplified and streamlined approach for baseline marketing and</b></p> | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No<br><input type="checkbox"/> Other (please elaborate) |  |
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|   | <b>distribution activities in the relevant Annex of Chapter IV of the TPG? <sup>5</sup></b>   |   |  |
| 37  | <b>Does your jurisdiction respect the outcome of the application of the simplified and streamlined approach by a covered jurisdiction in line with the Inclusive Framework political commitment?</b>                              | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No  |  |
| <b>Safe Harbours and Other Simplification Measures</b>        |   |   |  |
| 39  | <b>Does your jurisdiction provide for any safe harbours or other simplification measures in respect of certain industries, types of taxpayers, or types of transactions (not listed in other sections of this questionnaire)?</b> | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No  |  |
| <b>Other Legislative Aspects or Administrative Procedures</b> |   |   |  |
| 40  | <b>Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?</b>   | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No  | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.5, sub-clause 39.5.5<br><br>The Tax Code of Ukraine provides an opportunity for taxpayer to apply for corresponding adjustment on the basis of the results of tax liabilities adjustment of the other party to the controlled transaction and the provisions of the relevant Double Tax Treaty of Ukraine. |
| 41  | <b>Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?</b>   | <input type="checkbox"/> Yes. Year-end adjustments are required.<br><input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed.<br><input type="checkbox"/> No | <a href="#">Tax Code of Ukraine</a> Article 39, clause 39.5, sub-clause 39.5.4   |

<sup>5</sup> In the case of jurisdictions that do not apply the simplified and streamlined approach (i.e. they responded “no” to question 34), it is not necessary to respond to questions 35, 36 and 38 and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

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|   |   | <p>According to the provisions of the Tax Code of Ukraine, if the taxpayer applies the conditions in the controlled transactions that do not comply with the arm's length principle and / or do not meet a sound business reason (business purpose), the taxpayer has the right to adjust the price of the controlled transaction and the amounts of tax liabilities provided that this does not lead to a reduction in the amount of tax payable to the budget, by doing the following:</p> <p>calculating the tax liabilities in accordance with:</p> <p>the maximum value of the arm's length price range (profitability), if the price / profit level indicator of the controlled transaction was higher than the maximum value of the arm's length price range (profitability); and / or</p> <p>the minimum value of the arm's length price range (profitability), if the price / profit level indicator of the controlled transaction was below the minimum value of the arm's length price range (profitability).</p> <p>Self-adjustment is an adjustment by the taxpayer of the price of a controlled transaction, as a result of which the calculated price corresponds to the arm's length principle, even if such price differs from the actual price, which was set during the controlled transaction.</p> <p>The amount of tax liability calculated as a result of self-adjustment shall be paid according to the terms specified in Article 57 of the Tax Code of Ukraine.</p> <p>The taxpayer does not have the right to perform self-adjustment of the price of controlled transactions and / or the amounts of tax liabilities during an audit on issues regarding the taxpayer's compliance with the arm's length principle on such transactions.</p> |   |
| 42  | <b>Does your domestic transfer pricing framework provide for secondary adjustments?</b> | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The concept of constructive (deemed) dividends is used for payment, income or compensation exceeding the amount calculated under the arm's length principle.</p>   | <p><a href="#">Tax Code of Ukraine</a> Article 14, clause 14.1, sub-clause 14.1.49</p> <p><a href="#">Tax Code of Ukraine</a> Article 141, clause 141.4, sub-clause 141.4.2</p> |
| <b>Attribution of Profits to Permanent Establishments</b> |   |   |   |
| 43  |   | <input type="checkbox"/> Article 7 as it read before 2010.  | <a href="#">Double Tax Treaties of Ukraine</a>  |

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|    | <p><b>Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?</b></p> <p><input type="checkbox"/> If so, please indicate in how many treaties:</p> <p><input type="checkbox"/> Article 7 as it reads after 2010.</p> <p><input type="checkbox"/> If so, please indicate in how many treaties:</p> <p><input checked="" type="checkbox"/> Other (please provide additional details)</p> <p>The majority of the Double Tax Treaties of Ukraine contains the PE provisions of the pre-2010 OECD approach.</p> <p>According to the provisions of the Tax Code of Ukraine, the profit of a permanent establishment shall be considered as the profit of an independent enterprise for taxation purposes. The profit of a permanent establishment shall comply with the arm's length principle.</p> <p>In general, the provisions of sub-clauses 14.1.193 and 141.4.7 of the Tax Code of Ukraine apply unless there is a relevant Double Tax Treaty with specific provisions.</p> | <p><a href="#">Tax Code of Ukraine</a> Article 14, clause 14.1, sub-clause 14.1.193</p> <p><a href="#">Tax Code of Ukraine</a> Article 141, clause 141.4, sub-clause 141.4.7</p> |
| 44 | <p><b>For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?</b></p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No (please explain the approach used and which tax treaties are concerned)</p>   | <p>Please see the comment above.</p>   |
| 45 | <p><b>Does your domestic transfer pricing framework contain specific guidance for the attribution of profits to permanent establishments of non-resident entities? If so, please provide a summary of the main features of this guidance.</b></p> <p><input type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules)</p> <p><input checked="" type="checkbox"/> No</p>   | <p>There is no specific guidance for the attribution of profits to permanent establishments of non-resident entities.</p>  |

| Other Relevant Information |   |     |  |
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| 46                         | <b>Other legislative aspects or administrative procedures regarding transfer pricing</b>  | N/A |  |
| 47                         | <b>Other relevant information</b> (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i> ) | N/A |  |

For more information, please visit: <https://www.oecd.org/en/topics/sub-issues/transfer-pricing/transfer-pricing-country-profiles.html>