CZECH REPUBLIC

Questionnaire on the Implementation of the HTVI Approach

	QUESTION	RESPONSE
1	**Has your country adopted the hard-to-value intangibles ("HTVI") approach as defined in Chapter VI of the TPG? If so, under what legal basis?**	The Czech Income Tax Act establishes in Section 23 (7) the arm's length principle. Under this provision, all OECD documents which are published and which are agreed by OECD countries are directly applicable in Czech national legislation. Therefore, there is no need to pass domestic legislation to implement all or part of the OECD Transfer Pricing Guidelines.
2	**If your country applies the HTVI approach, what are the conditions for the application of the HTVI approach?**	The conditions for the application of the HTVI approach are the same as those contained in the the OECD Transfer Pricing Guidelines applicable to other controlled transactions.
3	**Are transactions falling within the scope of the HTVI approach subject to a transfer pricing analysis differing from the one established in Chapter I and VI, or to other compliance requirements specifically applicable to transfer prices (e.g. domestic anti-abuse rules)?**	No, generally the analysis is the same.
4	**What is the statute of limitations applicable to transactions falling within the scope of the HTVI approach in your legislation? Does this statute of limitations differ from those applicable to other transactions?**	See the answer to question no. 3.
5	**Can taxpayers request a bilateral or multilateral advance pricing agreement ("APA") for transactions falling within the scope of the HTVI approach under your legislation?**	Generally, taxpayers can request an APA or a bilateral APA. The Czech Income Tax Act contains the article 38nc which allows the taxpayer to request a preliminary assessment of transfer pricing on any transaction.
6	**What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?**	Tax administrators receive specialized training and meetings of methodologists of international taxation are regularly organised.

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7	**Is it possible for your tax administration to make adjustments under the HTVI approach in open years for closed years?**	Generally the adjustments can be made only within time-limit of three years for tax assessment. There is also a statute of limitations of ten years for adjustments, but it can only be applied in the specific cases defined by article 148 of the Czech Tax Code).
8	**Does your domestic legislation or administrative practice allow the tax administration to make corresponding adjustments under the HTVI approach in open years for closed years?**	See the answer to question no. 7. However, the statute of limitations applicable can be overridden by the Arbitration Convention and some of double tax treaties.
9	**Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?**	There is currently no experience in dealing with transactions that would fall under the scope of the HTVI approach. However, it may be possible to make several adjustments for a single HTVI transaction if the reference to "several adjustments" refers to situations when a single HTVI transaction is divided into several separate transactions.

For further information, please see http://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm