MALTA

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?**	Malta does not have any detailed transfer pricing regulations. Consequently, there are no detailed rules in respect of the HTVI approach from a transfer pricing perspective. Malta follows the arm's length principle in tax matters. The Maltese Income Tax Act includes a general anti-abuse provision that, inter alia, empowers the Maltese Tax Authorities to disregard any scheme that reduces the amount of tax payable by any person, is artificial or fictitious, or is in fact not given effect to.
2	**If your country applies the HTVI approach, what are the conditions for the application of the HTVI approach?**	Please refer to the answer to question 1.
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)?**	Please refer to the answer to question 1.
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?**	The statute of limitations applicable to transactions falling within the scope of the HTVI approach is the same as that applicable to other transactions. The Maltese Tax Authorities may send a notification of enquiry to trigger an investigation within six years of the financial year to which the transaction refers.
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?**	There are no exclusions that specifically target HTVI transactions.

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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)?**	Please refer to the answer to question 1.
7	**Is it possible for your tax administration to make adjustments under the HTVI approach in open years for closed years?**	Please refer to the answer to question 1. Furthermore, please note that the Maltese tax legislation takes a year-by-year approach; that is to say, transactions are reported in the year to which they refer. Generally, unless required by international convention, adjustments cannot be made in open years for closed years.
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?**	This may be allowed to give effect to Malta's obligations under certain double taxation conventions that may require implementation notwithstanding any time limits in the national laws.
9	**Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?**	Please refer to the answer to question 1.

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