

Egypt

Transfer Pricing Country Profile

June 2022

		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	Article 30 of Income Tax Law No. 91 of 2005 Articles 38, 39 & 40 of the Executive Regulations attached to the mentioned Law
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The Egyptian Tax Administration (ETA) relies on the OECD guidelines as a reference to issue the Egyptian Transfer Pricing Guidelines as a guide to the application of Article 30 of the Income Tax Law No. 91 of 2005.	
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 Article 1 of the Executive Regulations of the Unified Tax Procedure Law No. 206 of the 2020 amended by Law No. 211 of 2020 defines related party as follows: <u>Related party:</u> shall mean any person having a relationship with a taxpayer, and that relationship affects, directly or indirectly, either through management, control or ownership, the determination of the tax base. Generally, the two persons shall be deemed to be related parties if the relationship between them allows for one party or both parties to make dispositions according to the directions, requests, proposals, or will of the other party or a third party; <u>The following persons shall be treated as related parties:</u> <ol style="list-style-type: none"> 1. The husband, wife, ascendants and descendants, or inter se; 2. Partnerships, general partners and limited partners therein; 	Article 1 of the Executive Regulations of the Unified Tax Procedure Law No 206 of 2020 issued by Ministerial Decree No. 286 of 2021

		<p>3. Associations of capital and the person who owns, directly or indirectly at least 50% of the voting rights or management of the corporation or the dividends or capital rights; and</p> <p>4. Any two or more companies in which another person owns or acquired at least 50% of the voting rights or management of the two companies, or of their dividends or capital rights.</p> <p>When applying items 2, 3, or 4 of the preceding paragraph, the ownership or acquisition assigned to a person by a related party may not be assigned to another related party.</p> <p>Two persons shall not be deemed related parties merely on the ground that one of them is considered an employee or a client of the other person or both persons are considered an employee or a client of a third party, unless such relation affects, directly or indirectly, the determination of the tax base.</p>													
Transfer Pricing Methods															
4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</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"> <thead> <tr> <th>CUP</th><th>Resale Price</th><th>Cost Plus</th><th>TNMM</th><th>Profit Split</th><th>Other (If so, please describe)</th></tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> </tbody> </table> <p>The five methods are listed in the Executive Regulations of the Income Tax Law No. 91 of 2005 and the Transfer Pricing Guidelines (A guide to the application of Article 30 of the Income Tax Law No. 91 of 2005).</p> <p>The Global Formulary Apportionment Method is stated as an alternative to the arm's length principle as a means of determining the proper level of profits across national taxing jurisdictions.</p>	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"/>	<p>Article 39 of the Executive Regulations of the Income Tax Law No. 91 of 2005</p> <p>“Chapter 4: Pricing Methods” of Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018</p>
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"/>										

5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>)	Section 2.3.2 of the Egyptian Transfer Pricing Guidelines
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	Section 4.4.1 of the Egyptian Transfer Pricing Guidelines
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The OECD TP Guidelines has been used as a reference to issue the Egyptian Transfer Pricing Guidelines.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No As stated in the Egyptian Transfer Pricing Guidelines, “ <i>if the tested party for which comparables are being searched is an Egyptian entity, it is recommended that Egyptian comparables are first searched for. When data on Egyptian comparables is not available, regional (i.e. Middle Eastern and African) comparables may be searched for instead. When Middle Eastern and African comparables cannot be located, global comparables may then be searched for. When data on Egyptian comparables is not available, regional (i.e. Middle Eastern and African) comparables may be searched for instead. When Middle Eastern and African comparables cannot be located, global comparables may then be searched for.</i> ”	Section 5.7.3.1 of the Egyptian Transfer Pricing Guidelines

9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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	“Chapter 2: Practical Application of the Arm’s Length Principle” of Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	“Chapter 4: Pricing Methods” of Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018
		The Egyptian TPG follows the OECD TPG with respect to the comparability adjustments.	
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	“Chapter 2: Practical Application of the Arm’s Length Principle” and “Chapter 3: Comparability Analysis” of Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018
		The Egyptian TPG contain limited guidance regarding intangibles. It is highlighted that in the case of intangible property, it is important to examine the form of transaction (e.g. licensing or sale), type of intangible (patent, trademark, or know-how), duration and degree of protection, and the anticipated benefits from the use of the property. Furthermore, it is stated in the Egyptian TPG that the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles.	
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	
		There is no special measure or provision for HTVI, but it is stated in the Egyptian TPG that the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles.	

14	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 56 of Law 91 of year 2005 states that amounts paid to non-residents in Egypt by owners of individual establishments, corporate bodies resident in Egypt and by non-residents entities having permanent establishments in Egypt shall be taxable at a rate of 20% without deducting any costs from them. These amounts include yields and interests, royalties, charges for services, etc.</p>	<p>Article 56 of the Income Tax Law No. 91 of 2005</p>
<p align="center">Intra-Group Services</p>			
15	<p>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>It is stated in the Egyptian TPG that the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles.</p>	
16	<p>Do you have any simplified approach for low value-adding intra-group services?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>It is stated in the Egyptian TPG that the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles.</p>	
17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 56 of Law 91 of year 2005 states that amounts paid to non-residents in Egypt by owners of individual establishments, corporate bodies resident in Egypt and by non-residents entities having permanent establishments in Egypt shall be taxable at a rate of 20% without deducting any costs from them. These amounts include yields and interests, royalties, charges for services, etc.</p>	<p>Article 56 of the Income Tax Law No. 91 of 2005</p>
<p align="center">Financial Transactions</p>			
18		<p><input type="checkbox"/> Yes</p>	

	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input checked="" type="checkbox"/> No It is stated in the Egyptian TPG that the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles.	
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions? <i>(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)</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Article 24 Income Tax Law No. 91 of 2005 states that: The following shall not be regarded as deductible costs & expenses: <ul style="list-style-type: none"> ▪ Reserves and provisions of whatever kind. ▪ Financial penalties imposed on the taxpayer as a result of committing criminal violation either by himself or by any of his employees. ▪ Income tax due according to this Law. ▪ Interest paid on loans exceeding double of credit and discount rate declared by Central Bank of Egypt at the beginning of calendar year ending taxation period. ▪ Interests on loans and debts of whatever kind paid to corporate bodies who are not subject to tax or exempted from them. Article 52 paragraph 1 of Income Tax Law No. 91 of 2005 states that: The following shall not be considered as deductible costs: <ul style="list-style-type: none"> ▪ Debt interests paid by corporate bodies on loans and advances obtained for amounts exceeding quadruple of the average of the equity as per the financial statements prepared according to the Egyptian accounting standards. This provision shall not apply to the banks and insurance companies or companies practicing financing activity that are established by virtue of ministerial decree. Article 56 of Law 91 of year 2005 states that amounts paid to non-residents in Egypt by owners of individual establishments, corporate bodies resident in Egypt and by non-residents entities having permanent establishments in Egypt shall be taxable at a rate of 20% without deducting any costs from them. These amounts include yields and interests, royalties, charges for services, etc.	Articles 24, 52 and 56 of the Income Tax Law No. 91 of 2005
Cost Contribution Agreements			
20		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018

	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p>It was stated in the Egyptian Transfer Pricing Guidelines that the arm's length principle to transactions involving intangible property, controlled services and Cost Contribution Arrangements (CCAs) will be addressed in separate Guidelines to provide the in-depth practical guidance required by taxpayers for an appropriate application of the principles. Thus, it is planned to have guidelines for the cost contribution agreements. Moreover, analysis of cost contribution agreements is included in the Advance Pricing Agreements.</p>	
<p>Transfer Pricing Documentation</p>			
21	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</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> <p><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input checked="" type="checkbox"/> Other (specify): Specific fields in the Income Tax Return</p> <p>There is no specific tax return form for transfer pricing. However, there is a table (507/508) in the Income Tax Return that has to be completed specifying the following information:</p> <ol style="list-style-type: none"> 1. Name of related party; 2. Nature of the relationship; 3. Type of transaction; 4. Value of transaction (Current year and previous year); 5. Transfer Pricing Method; 6. Country of origin; and 7. Country of the Supplier/Service provider. 	<p>Articles 12 and 13 of the Unified Tax Procedure Law No. 206 of 2020</p> <p>“Chapter Five: Documentation and Other Practical Considerations” of Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018</p>

22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>Articles 12 and 13 of the Unified Tax Procedure Law No. 206 of year 2020 states the following:</p> <p>Article 12: Any person that has commercial or financial transactions with related parties shall be required to file with the Authority the following documentation related to his commercial and financial transactions, so that the transfer pricing of these transactions can be assessed:</p> <ul style="list-style-type: none"> a) The master file: containing all necessary information about all members of the related party group; b) The local file: containing intercompany transactions of the local taxpayer and their relevant analysis; c) The country-by-country report (CbCR): containing information about the related party group, with respect to the global allocation of the group's income, taxes paid by the group, total employment, capital, retained earnings, and tangible assets of the group in each country. The report identifies the countries in which the group does business, and contains indicators of the location of economic activity within the related party group. <p>The Minister, or his delegate, may grant exemption from the requirement to file the country-by-country report, depending on the conditions of each company, and consistent with international practices.</p> <p>Article 13: The following are the filing deadlines for the documentation provided for in Article 12 herein:</p> <ul style="list-style-type: none"> a) The master file: should be filed by the date of filing the master file with the tax administration by the ultimate parent company of the related party group in its country of residence; b) The local file: should be filed within two months from the date of filing the annual tax return by the taxpayer in Egypt; c) The CBCR: should be filed within one year following the end of the tax year to which the tax audit and assessment relate. 	Articles 12 and 13 of the Unified Tax Procedure Law No. 206 of 2020
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<div data-bbox="667 1169 752 1257"> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </div> <p>Articles 13 of the Unified Tax Procedure Law No. 206 of year 2020 states that: Any person that has commercial or financial transactions with related parties, in the event of non-compliance with the obligation provided for in the first paragraph of Article 12 herein and the first paragraph of this Article, shall be required to pay</p>	Articles 13 of the Unified Tax Procedure Law No. 206 of 2020

		<p>the Authority an amount equal to:</p> <ul style="list-style-type: none"> – 1% of the value of the related party transactions which he failed to disclose in the relevant section included in the tax return form. – 3% of the value of the related party transactions, in the event that he failed to submit the local file. – 3% of the value of the related party transactions, in the event that he failed to submit the master file. – 2% of the value of the related party transactions, in the event that he failed to submit the CbCR. <p>The value of the aforementioned amount may not exceed 3% of the value of the related party transactions, in case of multiplicity of the said violations.</p> <p>Further, according to Article 12 any person that has commercial or financial transactions with related parties and does not file with the Authority the documentation related to his commercial and financial transactions (i.e. the master file, the local file and the CbCR), the Authority shall have the right to set out the pricing rules it deems appropriate, without prejudicing the company's right to challenge or oppose the Authority's decision, in accordance with the manner to be outlined in the Executive Regulations of the present Law.</p>	
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	<p>According to Article 12 of the Unified Tax Procedures Law 206 of 2020, all the Entities that are resident in Egypt are obligated to submit the local file to the Egyptian tax authority, except for the entities whose total volume of transactions with related parties during the taxable period does not exceed EGP 8 million (Approx EUR 415 169). There is no threshold for submitting the master file. Also, the free zone companies are exempted from submitting the local file and master file, but are obligated to submit a CbC report and the notification form according to the Unified Tax Procedure Law No. 206 of year 2020 and its Executive Regulation.</p> <p>Where the parent entity of the MNE Group is tax resident in Egypt, the parent entity is obliged to file a CbCR with ETA if the consolidated group revenue of the MNE Group is equal to or exceeding EGP 3 billion. However, where the parent entity of the MNE Group is tax resident in other jurisdictions, the threshold of EUR 750 million applies to MNE Groups in this case, according to the BEPS Action 13 standard. ETA can obtain the CbCR of such MNE Group through exchange of information mechanisms with other tax jurisdictions.</p>	Article 12 of the Unified Tax Procedures Law No. 206 of 2020

Administrative Approaches to Avoiding and Resolving Disputes

25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<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: 40px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 40px;"><input type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 40px;"><input type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018, Article 14 of the executive regulations of the UTP Law No. 206 of 2020</p> <p>“Chapter 2 of Part two: Applying for a Unilateral APA” of the Egyptian Transfer Pricing Guidelines, issued by Ministerial Decree No. 547 of 2018</p> <p>Egypt's OECD MAP Profile</p>
<p>The APA is allowed according the Egyptian TP Guidelines. The Egyptian TPG states that the pre-filing meeting request for a unilateral APA should be made at least six months prior to the first day of the proposed covered period. The unilateral APA process typically extends from 3 to 6 months. The APA is allowed under the Egyptian Transfer Pricing Guidelines, but up till now there is no APA in place.</p> <p>With regards to the MAP, Egypt is in the process of issuing the MAP guidelines.</p> <p>For further information, please refer to the OECD MAP Profile for Egypt.</p>			

Safe Harbours and Other Simplification Measures

26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Other Legislative Aspects or Administrative Procedures

28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 90 of the Income Tax Law No. 91 of 2005 and Article 43 of the UTP Law No. 206 of 2020
		It is stated in the Egyptian Income Tax Law and the Unified Tax Procedure Law that the administration may modify the assessment based on the data mentioned in the tax return and the documents and if the administration has documents establishing the non-conformity of the tax return to reality, it shall notify the taxpayer, perform an inspection, correct or amend the tax return and determine the taxable revenues.	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 90 of the Income Tax Law No. 91 of 2005 and Article 43 of the UTP Law No. 206 of 2020
		Please refer to the answer to Question 28 above.	

Attribution of Profits to Permanent Establishments

30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input type="checkbox"/> Yes <i>In how many tax treaties?</i> <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i>	Egyptian Tax Treaties
		<input checked="" type="checkbox"/> No	
31	[NEW] Does your jurisdiction follow also another approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>Provide description of the situations, when the other approach (es) applies and description of the key features of how the approach (es) applies.</i>	

		<p>The treaties do not include the new version of Article 7; based on the Articles stated in the 60 tax treaties (with reference to paragraph 3 of the UN Model Tax Convention), to determine the profits of a PE:</p> <ul style="list-style-type: none"> - There shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, and not allowed any paid by the permanent establishment to the head office of the enterprise or any of its other offices, like (royalties, fees or other similar payments in return for the use of patents or other rights, commission, for specific services performed or for management), except in the case of a banking enterprise (interest on moneys lent to the permanent establishment). - No account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged by the permanent establishment to the head office of the enterprise or any of its other offices like (royalties, fees or other similar payments in return for the use of patents or other rights, commission for specific services performed or for management), except in the case of a banking enterprise (interest on moneys lent to the head office of the enterprise or any of its other offices). 	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	<p>The Egyptian Transfer Pricing Guidelines stated that “<i>Although Egypt is not a member country of the Organisation for Economic Co-operation and Development (OECD), the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations - issued in July, 2017 (referred to in these Guidelines as the "OECD Transfer Pricing Guidelines") are acknowledged as an important guide followed by the OECD Member countries and many non-member countries, and accordingly have become a globally accepted transfer pricing standard. Therefore, ETA used the OECD Transfer Pricing Guidelines as a basic reference in preparing this circular, and hence the OECD Transfer Pricing Guidelines should be consulted for a more detailed discussion of the principles contained in this circular</i>”. Thus, Egyptian Transfer Pricing Guidelines should be updated to encounter the aspects of Actions 8-10 and the changes reflected in the OECD Transfer Pricing Guidelines that was issued in January 2022.</p>	

		Egypt is in the process of preparing a set of executive instructions to be issued in the form of ETA circular letter.	
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For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>