

OECD/G20 Base Erosion and Profit Shifting Project

Reader's Guide for Pillar One - Amount B

Inclusive Framework on BEPS



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Reader's guide

This report provides an optional simplified and streamlined approach to apply the arm's length principle to baseline marketing and distribution activities. The guidance in this report has been published in the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (TPG) as an annex to Chapter IV.

Tax jurisdictions covered by the report:

This report comes following the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (Inclusive Framework) October 2021 statement,¹ designating Amount B as a component of the Pillar One package. The Inclusive Framework comprises over 140 countries and jurisdictions participating on equal footing with OECD countries to tackle tax avoidance and to strengthen and harmonize international tax standards.

Following the publication of this report, jurisdictions can choose to apply Amount B to eligible baseline distributors for fiscal years starting in January 2025, noting that the report may impact jurisdictions which are not members of the Inclusive Framework but have implemented the OECD TPG within their domestic legislation.

Process:

This report presents the joint efforts of Working Party 6 (WP6) and the FTA MAP Forum, who were mandated by the Inclusive Framework to undertake the technical design of Amount B. Additionally, two public consultations were held in December 2022 and July 2023 to gather feedback from public stakeholders. Over 600 pages of submissions were received from the business and academic community.

Structure:

This report is broken down into the following subsections:

Glossary

This section defines some key terms used throughout the guidance.

¹ <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf>.

Section 1

The section explains why baseline distribution can give rise to excessive transfer pricing disputes and describes how the simplified and streamlined approach draws from existing principles in the TPG.

Section 2

Here, the guidance describes the practical application of the simplified and streamlined approach. Starting January 2025, jurisdictions that opt-into the simplified and streamlined approach have two options for implementation. Under the first approach, jurisdictions can permit resident distributors to apply the simplified and streamlined approach as a safe harbour when the scoping criteria are met. Under the second, jurisdictions can permit resident distributors to apply the simplified and streamlined approach as a safe harbour and tax administrations to assert the simplified and streamlined approach.

Section 3

Only certain distributors that perform “baseline marketing and distribution activities” are eligible for the simplified and streamlined approach. Here, the guidance defines what this means and provides a few examples. Additionally, this section describes the circumstances under which a distributor is allowed to perform certain non-distribution activities, like manufacturing. It also sets out the activities that may exclude a distributor from the scope of the simplified and streamlined approach, such as the distribution of commodities.

Section 4

The new annex to the TPG describes the method to find the appropriate price for in-scope transactions. Here, the guidance explains that the Transactional Net Margin Method (TNMM) forms the basis for the simplified and streamlined approach’s pricing mechanism.

However, the guidance provides for an exception where the application of the comparable uncontrolled price (CUP) method using internal comparables could be more appropriate to price in-scope transactions. That means that an in-scope transaction could be reliably priced using a CUP where the comparables and the relevant information are readily available to tax administrations and taxpayers.

Section 5

This section provides a step-by-step guidance on how to price eligible distributors’ transactions under the simplified and streamlined approach. The pricing matrix takes into account the distributor’s industry, operating expenses and operating assets levels. The pricing solution also contains a crosscheck mechanism to operate as a guardrail to ensure the accuracy of the pricing returns. Subsequently, a data availability mechanism is included for qualifying jurisdictions where there is no or insufficient data in the dataset for a particular distributor residing in that jurisdiction. A specific formula will need be applied to these transactions. Finally, to ease and simplify compliance burdens, the analysis supporting the simplified and streamlined approach will be updated every five years, save for significant market changes, while financial data will be reviewed annually and updated where necessary.

Section 6

This section sets out the documentation requirements for taxpayers seeking to demonstrate their eligibility for the simplified and streamlined approach.

Section 7

This section addresses the scenario in which a business restructuring causes a distributor to fall in or out of scope.

Section 8

This section elaborates on the interactions between the simplified and streamlined approach and tax certainty. Where one of the jurisdictions involved in the procedure has not chosen to apply the approach, the competent authorities engaged in that procedure must justify their positions based only on the TPG, excluding the simplified and streamlined approach. On the contrary, if there is a competent authority agreement that calls for the application of the simplified and streamlined approach, or if all jurisdictions involved have chosen to apply it, then the competent authorities can rely on the approach.