

Colombia

Transfer Pricing Country Profile¹

May 2025

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic transfer pricing framework ² make reference to the arm's length principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Colombian Tax Code Article 260-2 Arm's Length Principle definition.
2	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)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Ruling C-690 of 12 August 2003 issued by the Constitutional Court (<i>Corte Constitucional</i> , in Spanish) Colombian domestic legislation does not refer directly to the use of the OECD Transfer Pricing Guidelines. Nevertheless, it is important to note that the Constitutional Court (<i>Corte Constitucional</i> , in Spanish), in its ruling C-690 from 2003, concluded that it is important to consider the guidance of the OECD Transfer Pricing Guidelines in a field as technical as transfer pricing. According to the ruling, for the application of the arm's length principle "the OECD Transfer Pricing Guidelines constitute a valuable tool in a changing and complex issue as transfer pricing is". Therefore, the use of the OECD Transfer Pricing Guidelines is permitted as an interpretation tool and does not limit the faculty the tax administration has to use them as a technical supporting tool.

¹ 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.

² 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.

3	<p>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.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 260-1 of the Colombian Tax Code (CTC) states that for income tax purposes, a connection will be considered to exist when a taxpayer is in one or more of the following cases:</p> <p>“(...)</p> <p><i>1. Subordination</i></p> <p><i>a) An enterprise will be deemed subordinate or controlled when its decision-taking power is subject to the will of other persons or entities that are the parent or controlling company. Such control may be exercised either directly, case in which it will be referred to as an affiliate, or indirectly through the subordinates of the parent company, case in which it will be called a subsidiary.</i></p> <p><i>b) An entity will be subordinate when it falls in one or more of the following cases:</i></p> <ul style="list-style-type: none"> <i>i. When more than 50% of its capital belongs to the parent company, either directly or through or with the participation of its subordinates, or their subordinates. To this end, shares with a preferential dividend and without voting rights will not be calculated.</i> <i>ii. When the parent company and the subordinates have the right, either jointly or separately, to issue constituting votes representing the minimum majority required for decision-making at the shareholders meeting or general assembly, or they have the required number of votes to elect the majority of members of the governing board, should there be one.</i> <i>iii. When the parent company, either directly or through or with the subordinates, by virtue of an act or business with the controlled entity or with its partners, exercises a dominant influence in the decisions taken by the entity's governing bodies.</i> <i>iv. Subordination will also exist in the case where one or more persons or entities or non-corporate organisations exercise control, pursuant to the contents of this article. Such control may be exercised either directly or through enterprises in which they hold more than fifty percent (50%) of capital or represent the minimum majority required for decision-making or exercise a controlling influence on the entity's management or decision-making.</i> 	<p>Colombian Tax Code Article 260-1</p>
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	<p>v. Subordination will also exist when one or more persons, or entities or non-corporate organisations, whether jointly or separately, have the right to perceive fifty percent of the subordinate company's profits.</p> <p>2. Branches, with regards to their main offices/parent companies.</p> <p>3. Agencies, with regards to the entities to which they belong.</p> <p>4. Permanent Establishments, with regards to the company for which they perform all or part of the activity.</p> <p>5. Other cases of Economic connection:</p> <ul style="list-style-type: none"> a) When the transaction takes place between two subordinates of a single parent company. b) When the transaction takes place between two subordinates that directly or indirectly belong to the same person or enterprises or non-corporate organisations. <p>With regards to this criterion, Decree 1625 clarifies that a connection shall be deemed to exist when the transaction takes place between two subsidiaries that directly or indirectly belong in more than fifty percent (50%) to the same person, entity or non-corporate entity.</p> <ul style="list-style-type: none"> a) When the transaction is undertaken between two entities in which a single person directly or indirectly participates in the management, control or capital of both. A person may directly or indirectly participate in the management, control or capital of another when i) it directly or indirectly holds more than 50% of that entity's capital or, ii) has the capacity to control the entity's business decisions. b) When the transaction takes place between two companies whose capital belongs, directly or indirectly, in more than fifty percent (50%) to persons related by marriage, or by kinship up to the second degree of consanguinity or affinity, or kinship by adoption (first degree relationship). c) When the transaction is performed between related parties through unrelated third parties. d) When more than 50% of gross revenues come, individually or jointly, from partners or shareholders, co-participants, associates, subscribers or the like. e) When there are consortiums, joint ventures, temporary business association, other associative methods on that do not give rise to entities and other business collaboration contracts. 	
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Transfer Pricing Methods

<p>4</p>	<p>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</p> <p><input checked="" type="checkbox"/> Yes <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 type="checkbox"/></td></tr> </tbody> </table> <p>Colombia follows the five transfer pricing methods, as contained in the OECD Transfer Pricing Guidelines. Article 260-3 of the CTC prescribes and defines the five transfer pricing methods.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Colombian Tax Code Article 260-3</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 type="checkbox"/>									
<p>5</p>	<p>Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?</p> <p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>Colombia does not have a hierarchy among the transfer pricing methods. Article 260-3 of the CTC states the method to be applied shall be the one that is the most appropriate one, considering the following criteria:</p> <ol style="list-style-type: none"> a. Facts and circumstances of the controlled transactions, based on a detailed functional analysis; b. Availability of reliable information, particularly of transactions between independent parties, required for the application of the transfer pricing method; c. Degree of comparability between controlled and independent transactions; and, d. Reliability of comparability adjustments that may be necessary to eliminate material differences between controlled and independent transactions. 	<p>Colombian Tax Code Article 260-3</p>												

6	<p>Does your domestic transfer pricing framework contain specific guidance on commodity transactions?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input 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>Colombia implemented the results of BEPS Action 10 in relation to transactions involving commodities by introducing into its primary law a specific rule to establish the Arm's Length Price in commodity transactions.</p> <p>Article 260-3 of the Colombian Tax Code establishes that the CUP method will be the most appropriate method to determine the ALP for commodity transactions. Only in exceptionally cases it will be able to use another method.</p> <p>Commodity will be understood to encompass physical products for which a quoted price is used as a reference by independent parties in the industry to set prices in uncontrolled transactions.</p> <p>The term "quoted price" refers to the price of the commodity in the relevant period obtained in an international or domestic commodity exchange market. In this context, a quoted price also includes prices obtained from recognised and transparent price reporting or statistical agencies, or from governmental price-setting agencies, where such indexes are used as a reference by unrelated parties to determine prices in transactions between them.</p> <p>For the purposes of the analysis, the arm's length price for commodity transactions can be determined by reference to comparable transactions between independent traders or by reference to quoted prices.</p> <p>Where there are differences between the conditions of the commodity transaction analysed and the transactions between the independent parties or the conditions under which the commodity price is determined that substantially affect the price, reasonable comparability adjustments shall be made to ensure that the economically relevant characteristics of the transactions are comparable.</p> <p>A particularly relevant factor for commodity transactions determined by reference to the quoted price is the specific date or time period selected by the parties to determine the price for commodity transactions. This pricing date or period agreed must be demonstrated by reliable documents (e.g. contracts, offers and acceptances or other documents that establish the terms of the agreement and that can constitute a reliable proof), whose terms are consistent with the actual conduct of the parties</p>	<p>Colombian Tax Code Article 260-3</p>
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	<p>or with which independent parties would have agreed in comparable circumstances taking into account the practice of the industry.</p> <p>Furthermore, these agreements must be registered in the terms and conditions established by the national Government.</p> <p>In case the taxpayer does not provide reliable evidence or if the pricing date agreed is inconsistent and if the Tax Administration cannot otherwise determine the pricing date, the Tax Administration may deem the pricing date for the commodity transaction on the basis of the evidence available to the Tax Administration; this may be the date of shipment as evidenced by the bill of lading or equivalent document depending on the means of transport.</p> <p>Only in exceptional cases taxpayer may use another TP method to analyze commodity transactions, as long as the economic, financial and technical reasons which are relevant and reasonable for the purposes of the analysis are included in the documentation and that they are duly justified and can be demonstrated to the tax authorities.</p>	
Comparability Analysis		
7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 260-4 of the Colombian Tax Code specifies the comparability criteria in transactions between related and independent parties. The definition of comparability for Colombian purposes is aligned with that of the OECD Transfer Pricing Guidelines. Article 260-4 states: <i>“for transfer pricing purposes, two transactions are comparable when there are no significant differences between them that can materially affect the conditions analysed using the appropriate transfer pricing methodology. Those transactions are also comparable in case those differences may be eliminated by means of the application of sufficiently reliable adjustments to eliminate the effects of these differences in the comparison”</i>.</p> <p>In addition, this Article specifies the comparability criteria to be considered to identify appropriate comparables, depending on the transfer pricing method selected for the analysis.</p> <p>Article 260-4 of the CTC specifies the five comparability factors to consider when comparing transactions between related and unrelated parties. Those five comparability factors are aligned with those of the OECD Guidelines. Depending on the appropriate transfer pricing method selected, the five comparability factors</p>	<p>Colombian Tax Code Article 260-4</p>

	<p>in Article 260-4 are used to determine if transactions are comparable or if there are significant differences.</p> <p>The comparability factors are the following ones:</p> <ol style="list-style-type: none"> 1. The characteristics of transactions, including: <ol style="list-style-type: none"> a) In the case of financing transactions, elements such as the principal, term, credit rating, guarantee, debtor's creditworthiness and interest rate. Interest payments, regardless of the interest rate agreed, will not be deductible unless the aforementioned comparability elements are met and satisfied, because if the terms and conditions of the financing transactions are such that they fall outside of or do not concur with those of market practices, those transactions will not be considered loans or interest, but rather as capital contributions and they will be treated as dividends. b) In the case of provision of services, elements such as the nature of the service and know-how, or technical knowledge; c) In the event of granting the right to use or dispose of tangible assets, elements such as the physical characteristics, quality, reliability, availability of the asset and volume of supply; d) In the event of transferring an intangible asset or granting the right to exploit it, elements such as the type of asset (patent, trademark, trade name or know-how), the duration and degree of protection and the profits expected to be obtained from its use thereof. e) In the sale of shares, for comparability purposes the current value of profits or projected cash flows or the stock market price of the corresponding issuer on the last day of the disposal must be taken into consideration. 2. The economic activities or functions, including the assets used and risks assumed in transactions, of each of the parties involved in the transaction. 3. The contractual terms of the parties in relation to the economic reality of the transaction. 4. The economic or market circumstances, such as geographic location, market size, market level (wholesale or retail), level of competition in the market, competitive position of buyers and sellers, available of substitute goods and services, the levels of supply and demand in the market, consumers' purchasing power, governmental regulations, production costs, transport costs and the date and time of the transaction. 5. Business strategies, including those concerning penetration, permanence and expansion of the market. 	
8	<input type="checkbox"/> Yes	Documentation related to comparables:

	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input checked="" type="checkbox"/> No</p> <p>In relation to comparables, Colombian domestic legislation provides that the documentation and information related to each type of comparable operation or company must have the level of detail required to demonstrate the application of comparability criteria, for which the following must be done:</p> <ul style="list-style-type: none"> i) Identify each of the selected comparables, ii) The methodology used for their selection, iii) The sources of information from which these comparables were obtained, iv) The date of consultation of these sources of information, v) As well as the list of comparables that were rejected, indicating the reasons that were taken into consideration for this. <p>It does not include considerations as to whether local or foreign comparables are preferable.</p>	<p>Num.4 of Article 1.2.2.2.1.5 of Decree 1625 of 2016</p>
9	<p>Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>The Colombian transfer pricing framework does not include this provision.</p>	
10	<p>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?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>According to Article 260-3 of the Colombian Tax Code, an arm's length range may be obtained whenever taxpayers identify two or more comparable transactions, which are equally comparable to the transaction carried out between related parties. The arm's length range is a range of prices or profit level indicators, which may be adjustable by means of statistical tools, particularly the interquartile range when considered appropriate.</p>	<p>Colombian Tax Code Article 260-3</p>

11	<p>Are comparability adjustments required under your domestic transfer pricing framework?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Article 260-4 of the Colombian Tax Code provides that “<i>two transactions are comparable when there are no significant differences between them that can materially affect the conditions analysed using the appropriate transfer pricing methodology. Those transactions are also comparable in case those differences may be eliminated by means of the application of sufficiently reliable adjustments to eliminate the effects of these differences in the comparison</i>”.</p>	<p>Colombian Tax Code Article 260-4</p>
Intangible Property			
12	<p>Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VI of the TPG? <input type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input checked="" type="checkbox"/> No</p> <p>Colombian domestic legislation does not contain specific guidance for transactions involving intangibles. For such transactions the general TP rules, contained in articles 260-1 to 260-11 of the CTC, applies. Moreover, as aforementioned the guidance provided in the TPG could be also applicable in a way that best secure consistency with the TPG.</p> <p>Colombian regulation on documentation includes a definition of “intangible” according to BEPS Action 8: “<i>something which is not a physical asset or a financial asset, which is capable of being owned or controlled for use in commercial activities, and whose use or transfer would be compensated had it occurred in a transaction between independent parties in comparable circumstances.</i>”</p> <p>Additionally, the regulation requires taxpayers carrying out transactions involving intangibles to include in their transfer pricing documentation “<i>a brief description of the main contractual terms indicating object, rights and obligations, term, geographical zone, exclusivity, among other, as well as the country or place where the related party with which transactions are being carried out has its intangibles. Additionally, a brief description of the conduct or practices being performed in the transactions regarding such intangibles</i>”.</p>	<p>Documentation related to intangibles: Num.1 of Article 1.2.2.2.1.5 of Decree 1625 of 2016</p>

		<p>Taxpayers will also have to “<i>describe the strategy of the group to which they belong, or the related parties abroad, in free trade zones or persons, enterprises, entities or companies located in low tax jurisdictions with which transactions were carried out, with regards to the development, enhancement, maintenance, protection and use of the intangibles</i>”.</p> <p>Finally, if during the taxable year Colombian taxpayers participated in transactions involving the transfer of intangibles, they will have to indicate the compensations made directly or indirectly by the parties involved in the transfer.</p>	
13	Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>According to Article 120 of the Colombian Tax Code (rule outside transfer pricing rules), regarding royalty payments for intangibles, establishes: “<i>The deduction will not be accepted for the payment of royalties to related parties abroad or free trade zones, when they correspond to the exploitation of an intangible formed in the national territory.</i></p> <p><i>Royalty payments made during the taxable year or period, when said royalties are associated with the acquisition of finished products, will not be deductible.</i>”</p>	Colombian Tax Code Article 120
Hard-to-Value Intangibles			
14	Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?³	<input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG? <input type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input checked="" type="checkbox"/> No	

³ 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.

Intra-group Services

<p>23</p>	<p>Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?</p> <p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VII of the TPG?</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Yes</p> <p style="margin-left: 20px;"><input type="checkbox"/> No (please provide further explanations below)</p> <p style="margin-left: 20px;"><input type="checkbox"/> No</p> <hr/> <p>Article 260-3 of the Colombian Tax Code states that “<i>the taxpayer must demonstrate the actual provision of the service and that the amount received or paid for such service complies with the arm's length principle</i>”.</p> <p>The goal of this provision is to require taxpayers to provide supporting evidence related to i) those services, ii) their actual provision of the services and iii) their market values, in order to deduct those payments in their income tax return.</p> <p>For the above, article 1.2.2.2.4.2. Intragroup services of Decree 1625 of 2016, expressly provides what the taxpayer must present in its local file to demonstrate the actual provision of the service and that the value paid or caused by said service complies with the Arm's Length Principle:</p> <ol style="list-style-type: none"> 1. Detail in the Local File how or in what way the service activity performed represents an economic or commercial benefit for the recipient. 2. Specify in the Local File whether the amount of the compensation for each of the intragroup transactions carried out complies with the Arm's Length Principle. 3. In the event that the remuneration for the services provided between related parties has been included in the price of other transactions, it must be demonstrated that no additional cost or expense was charged for such services. 4. If a specific amount for the use and subsequent billing of services has been agreed upon within the terms of the provision of services, the effective use of these services must be documented. 	<p><u>Colombian Tax Code</u> Paragraph 2, Article 260-3</p> <p>Documentation related to intra-group services: Article 1.2.2.2.4.2. of <u>Decree 1625 of 2016</u></p>
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24	<p>Does your domestic transfer pricing framework provide for or allow the application of a simplified approach for low value-adding intra-group services?</p>	<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>	
25	<p>Are there any other rules outside your transfer pricing framework for pricing intragroup services?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Financial Transactions

26	<p>Does your domestic transfer pricing framework provide guidance specific to financial transactions?</p>	<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</p> <p><input checked="" type="checkbox"/> No</p> <p>Colombia achieved greater alignment and compliance with OECD guidelines, including paragraph a) of numeral 1 of article 260-4 of the Colombian Tax Code (CTC) which states that:</p> <p><i>“a) In the case of financing transactions, elements such as the amount of capital, term, credit rating, guarantee, debtor's creditworthiness and interest rate. Interest payments, regardless of the interest rate agreed, will not be deductible unless the aforementioned comparability elements are met and satisfied. If the terms and conditions of the financing transactions are such that they fall outside of or do not concur with those of market practices, those transactions will not be considered loans or interest, but rather as capital contributions and they will be treated as dividends.”</i></p> <p>In this regard, it is important to mention that the aforementioned rule is regulated by Decree 1625 of 2016, as follows:</p>	<p>Colombian Tax Code Num.1 Article 260-4</p> <p>Documentation related to financial transactions: Article 1.2.2.1.3 of Decree 1625 of 2016</p>
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		<p><i>“Article 1.2.2.1.3. Financing Transactions. Notwithstanding the provisions of Article 118-1 of the Tax Code and the other requirements and conditions set forth in the same Code for the deduction of interest expenses, the interest payments will not be deductible if made to related parties abroad, to related parties located in tax free zones, and / or to persons, corporations, entities or companies located, resident or domiciled in non-cooperating jurisdictions with low or no taxation or preferential tax regimes, <u>with respect to which do not meet the criteria for comparability referred to in paragraph a) of numeral 1 of article 260-4 of the same Code. Consequently, these transactions</u> will not be considered as loans or interest, but as capital contributions and will be treated as dividends.</i></p>	
27	<p>Are there any other rules outside your transfer pricing framework that are 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)</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>Article 118-1 of the Tax Code. Thin Capitalization rules:</i></p> <p>This rule contained in Article 118-1 of the Colombian Tax Code, provides that interest on debts during the respective taxable period are deductible. Nevertheless, when such debts are contracted, directly or indirectly, in favour of national or foreign related parties, the taxpayers may only deduct the interest generated on the debts in which the total average amount thereof, during the corresponding taxable year, does not exceed the result of multiplying by two (2) the taxpayer's net equity determined as of December 31 of the immediately prior taxable year.</p> <p>Pursuant to the provisions of the preceding paragraph, the proportion of the interest that exceeds the limit referred to in this article shall not be deductible.</p>	<p>Colombian Tax Code Article 118-1</p>
Cost Contribution Arrangements			
28	<p>Does your jurisdiction allow cost contribution arrangements?</p>	<p><input checked="" 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 checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> No</p>	<p>Colombian Tax Code Paragraph 2, Article 260-3</p> <p>Article 1.2.2.2.4.3 of Decree 1625 of 2016</p>

		<p>In Colombia cost contribution arrangements (“CCA”) must comply with the arm’s length principle. Article 260-3 of the CTC specifies that in the case of intragroup services or CCA between related parties, “<i>taxpayers must demonstrate the actual provision of the service and that the amount charged or paid for such service is in compliance with the arm’s length principle</i>”. Article 1.2.2.2.4.3 of Decree 1625 of 2016 further elaborates that contributions made by each participant must be adjusted to those that an independent party would accept in comparable situations, considering the effective benefits on goods or services resulting from the CCA, and the real possibility to exploit or utilize, directly or indirectly, the assigned right.</p>	
Transfer Pricing Documentation			
29	<p>Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): 	<p>Colombian Tax Code Articles 260-5 and 260-9 Articles 1.2.2.2.1.1 to 1.2.2.2.3.7. of Decree 1625 of 2016 (contents of transfer pricing documentation)</p>
30	<p>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</p>	<ul style="list-style-type: none"> - The relevant requirements related to filing the Local File are: <p>Taxpayers that carry out transactions with related parties in accordance with related parties, as well as taxpayers that carry out transactions with parties, whether related or not, located in low tax jurisdictions, must comply with the preparation and filing of transfer pricing documentation and information returns, subject to thresholds determined in articles 260-5 (transfer pricing documentation) and 260-9 (transfer pricing information return) of the Colombian Tax Code.</p>	<p>Colombian Tax Code Articles 260-5 and 260-9 Articles 1.2.2.2.1.1 to 1.2.2.2.3.7. of Decree 1625 of 2016 (contents of transfer pricing documentation)</p>

	<p>The local file of the transfer pricing documentation must include the following:</p> <ol style="list-style-type: none"> 1. Executive Summary 2. Functional Analysis 3. Industry Analysis 4. Economic Analysis <p>The timing for submission is established annually by the government and it must be filed in Spanish.</p> <p>Colombia implemented the three-tiered standardised approach to transfer pricing documentation developed under BEPS Action 13 work. The contents of the Master File and the CBCR was regulated by Decree 1625 Articles 1.2.2.2.1. to 1.2.2.3.7.</p> <p>- The Master File must be prepared and present by those taxpayers that are part of multinational groups and meet the thresholds indicated for the Local File.</p> <p>The timing for submission of the report is established annually by the government and may be provided in English.</p> <p>- For the purposes of determining who is required to submit CbC Reporting, Colombia's primary and secondary legislation provide that an MNE group is required to submit CbC Reporting if it meets the following conditions: 1) the Ultimate Parent Entity of the MNE group is resident in Colombia, 2) the entity holds subsidiaries, branches or permanent establishments resident or domiciled abroad, 3) the entity is not a subsidiary of another company resident abroad, 4) the entity has the obligation to prepare, provide and disclose consolidated financial statements and 5) the consolidated group revenues in the preceding financial year is at least 81 million Tax Value Unit (UVT).</p> <p>Colombia has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to all Constituent Entities in Colombia. There are also penalties in place in relation to the filing of a CbC report for failure: (i) to file a CbC report, (ii) to correctly file a CbC report and (iii) to submit it on time.</p> <p>The CbC report must be filed within 12 months of the last day of the fiscal year of the MNE Group. The timing for submission is established annually by the government.</p>	
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31	<p>Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Colombian Tax Code Article 260-11</p>
32	<p>Does your domestic transfer pricing framework provide for exemption from transfer pricing documentation obligations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>According to Article 260-5 of the Colombian Tax Code, taxpayers do not need to comply with the transfer pricing documentation requirements unless either: (a) gross equity on the last day of the fiscal year or period equals at least 100 000 Taxable Units (approximately EUR 1.090.000, US\$ 1.130.000); or (b) gross revenues of respective year equal at least 61 000 TU (EUR 665.000, US\$ 689.000); and (c) transactions are carried out with related parties.</p> <p>Additionally, to the compliance of the said threshold, according to article 1.2.2.1.2 of Decree 1625, there will be need to prepare and submit the Local and Master File for transactions carried out with related parties, when their annual cumulative amount exceeds the equivalent to forty-five thousand (45,000) Tax Value Units (approximately EUR 491.000) for the reporting fiscal year.</p> <p>If the transaction is carried out with companies located, residing or domiciled in non-cooperating jurisdictions with low or no taxation or preferential tax regimes, there will be need to prepare and submit the Local and Master File, when their annual cumulative amount exceeds the equivalent to ten thousand (10,000) Tax Value Units (approximately EUR 109.000) for the reporting fiscal year.</p> <p>In the case of the Country-by-Country report there will be need to prepare and submit it if the multinational group has obtained consolidated revenues for accounting purposes equal to or greater than eighty-one million (81,000,000) Unit of Tax Value-UVTs (approximately EUR 750.000.000) in the immediately preceding taxable period.</p>	<p>Colombian Tax Code Articles 260-5 and 260-9</p> <p>Articles 1.2.2.1.2 and 1.2.2.2.3.2. of Decree 1625 of 2016</p>

Administrative Approaches to Avoiding and Resolving Disputes

<p>33</p>	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p> <p>Please check those that apply:</p> <p class="list-item-l1"><input type="checkbox"/> Rulings</p> <p class="list-item-l1"><input type="checkbox"/> Enhanced engagement or cooperative compliance programmes</p> <p class="list-item-l1"><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p class="list-item-l2"><input checked="" type="checkbox"/> Unilateral APAs</p> <p class="list-item-l2"><input checked="" type="checkbox"/> Bilateral APAs</p> <p class="list-item-l2"><input checked="" type="checkbox"/> Multilateral APAs</p> <p class="list-item-l1"><input type="checkbox"/> International Compliance Assurance Programme (ICAP)</p> <p class="list-item-l1"><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p class="list-item-l1"><input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Colombian Tax Code Articles 260-10 and 869-3 ET</p> <p>Guideline on Advance Pricing Agreements (APA):</p> <ul style="list-style-type: none"> • English version • Spanish version <p>Resolution 000085 of 2020 - MAP procedure</p> <p>Colombia MAP Profile</p>
	<p>APA: Pursuant to article 260-10 of the Colombian Tax Code (CTC) and articles 1.2.2.4.1 to 1.2.2.4.10 of the Decree 1625 of 2016, the Colombian Tax Administration has the legal authority to conclude unilateral, bilateral and multilateral APAs.</p> <p>The maximum covered period for advance pricing agreements is 5 years; APAs may cover the taxable year in which the agreement is concluded, the prior year (commonly referred to as “rollback” years), and up to the three following years, according to article 260-10 of the CTC.</p> <p>Information on guidelines related to the APA program are publicly available in the webpage of the Colombian Tax Administration.</p> <p>MAP: Introduction of Article 869-3 to the Colombian Tax Code in December 2019 that provides that:</p> <ul style="list-style-type: none"> - Taxpayers may request for MAP in writing by filing before the DIAN - DIAN is the competent authority for MAP that regulates the procedural aspects of MAP as well - MAP agreements would have the same legal nature and effects as a judicial decision and may be implemented notwithstanding domestic time-limits - Suspension of tax collection would be allowed from the filing of a MAP request. 	

		<p>Colombia has issued guidance on the governance and administration of the mutual agreement procedure (“MAP”), initially through Resolution No. 000053 of 2019 in August 2019 and later, rectified and reissued as Resolution No. 000085 of 21 August 2020 (“MAP guidance”). This MAP guidance is (in Spanish)</p> <p><i>Whether this information has been provided in your MAP profile, please indicate.</i></p> <p>Yes, this information has been included in the MAP profile.</p>	
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Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities

34	<p>Does your domestic transfer pricing framework allow the application of the simplified and streamlined approach for baseline marketing and distribution activities in the relevant Annex of Chapter IV of the TPG⁴?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Other (please elaborate) <p>Currently, it is under consideration</p>	
37	<p>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?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Safe Harbours and Other Simplification Measures

39	<p>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)?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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⁴ 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.

Other Legislative Aspects or Administrative Procedures

40	<p>Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
41	<p>Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?</p>	<input type="checkbox"/> Yes. Year-end adjustments are required. <input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed. <input type="checkbox"/> No	<p>Taxpayers may make year-end fiscal adjustments to comply with the ALP. They must inform in the TP Return the amount of the adjustment made in their Income Tax Return.</p>
42	<p>Does your domestic transfer pricing framework provide for secondary adjustments?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

43	<p>Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?</p>	<input checked="" type="checkbox"/> Article 7 as it read before 2010. <ul style="list-style-type: none"> <input checked="" type="checkbox"/> If so, please indicate in how many treaties: Colombia has eleven (11) tax treaties that broadly follow Article 7 of the OECD Model Tax Convention before the 2010 version. <input checked="" type="checkbox"/> Article 7 as it reads after 2010. <ul style="list-style-type: none"> <input checked="" type="checkbox"/> If so, please indicate in how many treaties: Colombia has seven (7) tax treaties containing an Article 7 broadly in line with the OECD Model Tax Convention of 2010. 	Colombian Tax Treaties
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		<input checked="" type="checkbox"/> Other <p>Decision 578 of 2004 of the Andean Community is the legal framework for the avoidance of double taxation applicable to the member States of the Andean Community (Colombia, Perú, Bolivia and Ecuador). This Decision has a separate entity approach but does not follow Article 7 of the OECD Model Tax Convention.</p>	
44	For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please explain the approach used and which tax treaties are concerned) <p>The attribution of profits to a PE (for tax treaties containing Article 7 as it reads before 2010) is calculated considering the profits which the PE might be expected to make if it were a distinct and separate entity. In addition, the functions performed, the assets used, the personnel involved, and the risks undertaken by the permanent establishment, as well as by other parts of the enterprise of which the permanent establishment is part of, must be taken into account for the functional analysis and profit attribution.</p>	
45	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.	<input type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments <input checked="" type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments <input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules) <input type="checkbox"/> No <p>In accordance with the provisions of article 20-2 of the Tax Code, the profits and capital gains attributable to a permanent establishment in Colombia are those that the permanent establishment could have obtained, in accordance with the Arm's Length Principle.</p> <p>For these purposes, the functions performed, the assets used, the personnel involved, and the risks assumed by the company through the permanent establishment must be considered.</p>	<p>Colombian Tax Code Article 20-2 Attribution of profits to Permanent Establishment</p> <p>Articles 1.2.1.14.1 to 1.2.1.14.10 Decree 1625 of 2016</p>

Other Relevant Information			
46	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
47	Other relevant information (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>