

# Colombia

## Transfer Pricing Country Profile

July 2021

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<a href="#">Colombian Tax Code</a> Article 260-2 Arm's Length Principle definition.
2	<b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b>	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 (Corte Constitucional, 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.	<a href="#">Ruling C-690 of 12 August 2003</a> issued by the Constitutional Court ( <i>Corte Constitucional</i> , in Spanish)
3	<b>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.</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  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:  "(...) 1. <i>Subordination</i>  a) <i>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</i>	<a href="#">Colombian Tax Code</a> Article 260-1

		<p><i>subordinates of the parent company, case in which it will be called a subsidiary.</i></p> <p>b) <i>An entity will be subordinate when it falls in one or more of the following cases:</i></p> <ol style="list-style-type: none"> <li>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></li> <li>ii. <i>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></li> <li>iii. <i>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></li> <li>iv. <i>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></li> <li>v. <i>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.</i></li> </ol> <ol style="list-style-type: none"> <li>2. <i>Branches, with regards to their main offices/parent companies.</i></li> <li>3. <i>Agencies, with regards to the entities to which they belong.</i></li> <li>4. <i>Permanent Establishments, with regards to the company for which they perform all or part of the activity.</i></li> <li>5. <i>Other cases of Economic connection:</i> <ol style="list-style-type: none"> <li>a) <i>When the transaction takes place between two subordinates of a single parent company.</i></li> <li>b) <i>When the transaction takes place between two subordinates that directly or indirectly belong to the same person or enterprises or non-corporate organisations.</i></li> <li>c) <i>With regards to this criterion, Decree 3030 clarifies that a connection shall be deemed to exist when the transaction takes place between two</i></li> </ol> </li> </ol>	
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		<p>subsidiaries that directly or indirectly belong in more than fifty percent (50%) to the same person, entity or non-corporate entity.</p> <p>d) 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.</p> <p>e) 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).</p> <p>f) When the transaction is performed between related parties through unrelated third parties.</p> <p>g) When more than 50% of gross revenues come, individually or jointly, from partners or shareholders, co-participants, associates, subscribers or the like.</p> <p>h) 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.”</p>	
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## Transfer Pricing Methods

4	<p><b>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center;"> <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 style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><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 (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 type="checkbox"/>	<p><a href="#">Colombian Tax Code</a> Article 260-3</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 type="checkbox"/>										
5	<p><b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b></p>	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p>	<p><a href="#">Colombian Tax Code</a> Article 260-3</p>												

		<p><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 that the method to be applied shall be the one that is the most appropriate, considering the following criteria:</p> <ol style="list-style-type: none"> <li>a. Facts and circumstances of the controlled transactions, based on a detailed functional analysis;</li> <li>b. Availability of reliable information, particularly of transactions between independent parties, required for the application of the transfer pricing method;</li> <li>c. Degree of comparability between controlled and independent transactions; and,</li> <li>d. Reliability of comparability adjustments that may be necessary to eliminate material differences between controlled and independent transactions.</li> </ol>	
6	<p><b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b></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 legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</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 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><a href="#">Colombian Tax Code</a> Article 260-3</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 controlled commodity transaction and the transactions between 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 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>	
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<b>Comparability Analysis</b>			
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7	<p><b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></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 is aligned with the OECD Transfer Pricing Guidelines. Article 260-4 states: <i>“for transfer pricing purposes, two transactions are comparable when</i></p>	<p><a href="#">Colombian Tax Code</a> Article 260-4</p>
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*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”.*

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.

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 in Article 260-4 are used to determine if transactions are comparable or if there are significant differences.

The comparability factors are the following ones:

1. The characteristics of transactions, including:
  - 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. 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.

		<p>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.</p> <p>5. Business strategies, including those concerning penetration, permanence and expansion of the market.</p>	
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9	<b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	<b>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <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>	<a href="#">Colombian Tax Code</a> Article 260-3
11	<b>Are comparability adjustments required under your domestic legislation or regulations?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <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>	<a href="#">Colombian Tax Code</a> Article 260-4

## Intangible Property

12	<p><b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p>	<p>Documentation related to intangibles: Num.1 of Article 1.2.2.2.1.5 of <a href="#">Decree 1625 of 2016</a></p>
		<p>Colombia domestic secondary legislation contains specific guidance for transactions involving intangibles. Additionally, for such transactions the general TP rules, contained in articles 260-1 to 260-11 of the CTC, also apply. Moreover, as aforementioned the guidance provided in the TPG could also applicable in a way that best secure consistency with the TPG.</p> <p>Colombian regulation on documentation includes a definition of “<i>intangible</i>” 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>” 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>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 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	<p><b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?</b></p>	<p><input type="checkbox"/> <b>Yes</b></p> <p><input checked="" type="checkbox"/> <b>No</b></p>	



14	<p><b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b></p> <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>	<p><a href="#">Colombian Tax Code</a> Article 120</p>
<b>Intra-group Services</b>			
15	<p><b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b></p> <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>This provision requires taxpayers to provide supporting evidence related to: i) those services, ii) their actual provision and iii) their market values, in order to deduct those payments in their income tax return.</p>	<p><a href="#">Colombian Tax Code</a> Paragraph 2, Article 260-3</p>
16	<p><b>Do you have any simplified approach for low value-adding intra-group services?</b></p>	<p><input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b></p>	
17	<p><b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b></p>	<p><input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b></p>	

## Financial transactions

18	<p><b>[NEW]</b> Does your domestic legislation or regulations provide guidance specific to financial transactions?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><a href="#">Colombian Tax Code</a>, Article 260-4 Article 1.2.2.1.3 of <a href="#">Decree 1625 of 2016</a></p>
			<p>Article 260-4 of the CTC specifies that in case of financial transactions between related parties, to determine if the transactions are comparable or if there are significant differences, the following attributes must be taken into account: “elements such as the principal amount, the term, the risk rating, the guarantee, the debtor's solvency and the interest rate”. Additionally, the law establishes that interest payments in respect of which the comparability criteria are not met and regardless of the agreed interest rate, will not be deductible. Accordingly, the portion of the transaction that not comply will not be considered as loans or interests, but as capital contributions and will be treated as dividends.</p> <p>The regulation of this this provision is established in Article 1.2.2.1.3 of Decree 1625 of 2016.</p>
19	<p><b>[NEW]</b> Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><a href="#">Colombian Tax Code</a>, Article 118-1</p>
			<p>Thin capitalization rule was first introduced in the CTC by Law 1607 of 2012. This rule was modified in 2016 by Law 1819.</p> <p>Accordingly, 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>

## Cost Contribution Agreements

20	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><a href="#">Colombian Tax Code</a> Paragraph 2, Article 260-3 Article 1.2.2.2.4.3 of <a href="#">Decree 1625</a></p>
			<p>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, “taxpayers must demonstrate the actual provision</p>

		<p>of the service and that the amount charged or paid for such service is in compliance with the arm's length principle". 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			
21	<p><b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></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  <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>	
22	<p><b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b></p>	<p>The Law 1819 of 2016 introduced the three-tiered standardised approach to transfer pricing documentation developed under BEPS Action 13 Report (Local File, Master File and CBC report) into article 260-5 of the CTC. The contents of these files was regulated by Decree 1625 Articles 1.2.2.2.1.1. to 1.2.2.2.3.7.</p> <p>The relevant requirements related to filing the Local File are:</p> <p>Taxpayers that carry out transactions with related parties, and 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 subject to thresholds determined in articles 260-5 (transfer pricing documentation) of the Colombian Tax Code.</p> <p>The local file of the transfer pricing documentation must include the following:</p> <ol style="list-style-type: none"> <li>1. Executive Summary</li> <li>2. Functional Analysis</li> <li>3. Industry Analysis</li> <li>4. Economic Analysis</li> </ol>	<p><a href="#">Colombian Tax Code</a> Articles 260-1, 260-5  Articles 1.2.2.2.1.1 to 1.2.2.2.3.7. of <a href="#">Decree 1625</a> (contents of transfer pricing documentation)</p>

		<p>Articles 1.2.2.2.1 to 1.2.2.2.6 of Decree 1625 of 2016 include the content of the Master File in accordance with Annex I to Chapter V of the TPG – Transfer Pricing Documentation - Master File.</p> <p>The timing for submission is established annually by the government. The Local File must be filed in Spanish and the Master File could be filed in Spanish or English.</p> <p>Article 260-5 No. 2 Colombian Tax Code states that as from fiscal year of assessment 2016, UPE must file a Country by Country report. The requirement to file a CbC report apply only to MNE Groups with consolidated group revenue of 81 000 000 Tax Units (approximately EUR 750 000 000).</p> <p>Article 1.2.2.2.3.4 of Decree 1625 of 2016 included the Notification in accordance with the provisions of the Annex IV to Chapter V of the TPG - Country-by-Country Reporting Implementation Package.</p>	
23	<p><b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 260-11 of the Colombian Tax Code establishes a gradual transfer pricing penalty regime in which taxpayers will face different penalty amounts depending on the infraction. Penalties are to be imposed in cases of extemporaneous filings (days or months), errors, omissions and not filing.</p>	<p><a href="#">Colombian Tax Code</a> Article 260-11</p>
24	<p><b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b></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 926 000); or (b) gross revenues of respective year equal at least 61 000 TU (EUR 565 000).</p> <p>Taxpayers will need to prepare and submit the Local and Master files for transactions carried out with related parties, when their annual cumulative amount exceeds the equivalent of forty-five thousand (45 000) Tax Units (approximately EUR 417 000) for the reporting fiscal year.</p> <p>The Local and Master Files must be prepared and submitted when the taxpayers carry out transaction with companies located, resident or domiciled in non-cooperating jurisdictions with low or no taxation or preferential tax regimes, and their annual cumulative amount exceeds the equivalent to ten thousand (10 000) Tax Units (approximately EUR 93 000) for the reporting fiscal year. Otherwise, no exemption applies.</p>	<p><a href="#">Colombian Tax Code</a> Articles 260-5</p> <p>Articles 1.2.2.1.2 of <a href="#">Decree 1625</a></p>

## Administrative Approaches to Avoiding and Resolving Disputes

25	<p><b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b></p>	<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: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" 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><a href="#">Colombian Tax Code</a> Article 260-10</p> <p>Relevant information regarding the general APA process, that includes the three types of agreements cover by law can be review in the following links:</p> <p><a href="#">Guideline on Advance Pricing Agreements:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">English version</a></li> <li>• <a href="#">Spanish version</a></li> </ul> <p><a href="#">Resolution 000085 of 2020</a> - MAP procedure:</p> <p><a href="#">Colombia MAP Profile</a></p>
		<p>Colombia has an APA programme consistent with article 260-10 of the Colombian Tax Code regulated by articles 1.2.2.4.1 to 1.2.2.4.10 of Decree 1625 of 2016, which takes into account unilateral, bilateral and multilateral APA.</p> <p>The maximum period covered by an APA 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 Colombian Tax Code.</p> <p>Colombian legislation permits a roll-back for the prior year or the signature of the agreement.</p> <p>In August 21<sup>st</sup> of 2020 DIAN issued Resolution 000085 of 2020 to regulate MAP requests and its procedure. This information has been included in the MAP profile.</p>	

## Safe Harbours and Other Simplification Measures

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

	questionnaire? If so, please provide a brief explanation.		
<b>Other Legislative Aspects or Administrative Procedures</b>			
28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Taxpayers may make year-end fiscal adjustments in order to comply with the ALP. They have to inform in the TP Return the amount of the adjustment made in their Income Tax Return.	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Attribution of Profits to Permanent Establishments</b>			
30	<b>[NEW]</b> Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> United Arab Emirates, Japan, Italy and The United Kingdom. <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> For the cases that involve old treaties that do not contain the new version of Article 7 of the OECD, the attribution of profits to a PE is calculated considering the PE as if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment (following the OECD 2008 model which is the approach adopted by most of the old treaties). The implementation of this approach is carried under a functional analysis considering the assets used, the risks assumed and the functions performed by the PE.	<a href="#">Colombian Tax Treaties</a>
		<input checked="" type="checkbox"/> No <i>In how many tax treaties?</i> Spain, Chile, Switzerland, México, Korea, India, Portugal, Canada, Check Republic, France, Andean Community Decision (Covering Bolivia, Ecuador and Perú).	

31	<b>[NEW] Does your jurisdiction follow also another approach?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  Following article 7(3) of the UN Model, the Mexico Treaty contains a provision in its Protocol that disallows the deductibility of certain payments (such as royalties) made by the PE to the head office of the enterprise or any of its other offices.  However, domestic law in force does not provide these limitations for the deductibility of such type payments. Therefore, this approach would be inapplicable in practice as the treaty itself cannot create additional taxable events nor create disadvantageous situations for the taxpayers.	<a href="#">Colombian Tax Treaties</a>
<b>Other Relevant Information</b>			
32	<b>Other legislative aspects or administrative procedures regarding transfer pricing</b>	N/A	
33	<b>Other relevant information</b> (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://oe.cd/transfer-pricing-country-profiles>