

Croatia

Transfer Pricing Country Profile

Updated October 2017

		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	Profit Tax Act, Article 13 Profit Tax Ordinance, Article 40 www.porezna-uprava.hr
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	Even if there is no direct reference in Croatian legislation (in Profit Tax Act and Profit Tax Ordinance) in practice the Croatian Tax Administration uses the OECD Transfer Pricing Guidelines.	
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 According to Profit Tax Act, Article 13 Paragraf 2: "Persons shall be associated if one of them participates, directly or indirectly, in the management, control or capital of the other person, or if the same persons participate, directly or indirectly, in the company's management, control or capital." The General Tax Act in Article 46 defines related entities as companies that can stand in mutual relationship as: <ol style="list-style-type: none"> 1. a company that has majority shareholding or majority decision-making power in another company 2. dependent and mothers company 3. consortium 4. associated companies that are related so that each company has more than a quarter of shares in another company 	Profit Tax Act, Article 13 Paragraf 2 http://www.porezna-uprava.hr/en_propisi_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pog2077 General Tax Act, Article 46 http://www.porezna-uprava.hr/en_propisi_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro136

		5. companies related with entrepreneurial contracts, such as: contracts for the conduct of business, profit transfer contracts and other entrepreneurial contracts registered into the court register.	
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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" 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><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 type="checkbox"/></td> </tr> </tbody> </table> <p>According to Profit Tax Act, Article 13, the following methods can be used:</p> <ul style="list-style-type: none"> - Comparable uncontrolled price method - Resale price method - Cost plus method - Profit split method - Transactional net margin method 	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>Profit Tax Act, Article 13</p> <p>http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.propisi_intranet/propisi.aspx?id=pog2077</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>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input checked="" type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (if so, please explain)</p> <p>According to Article 40 of the Profit Tax Ordinance, when selecting the method for determining transfer pricing, it is necessary to determine the method that is most appropriate for a given case. In this process it should be taken into account the advantages and disadvantages of the prescribed methods, the appropriateness of the method to the nature of the controlled transaction as determined by functional analysis, the availability of reliable information required for the application of the selected method and the degree of comparability of controlled and uncontrolled transactions, including the reliability of comparability adjustments that may be required for the elimination of their mutual material differences.</p> <p>Furthermore, it is stipulated that classical transaction methods (comparable</p>	<p>Profit Tax Ordinance, Article 40</p> <p>www.porezna-uprava.hr</p>
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		uncontrolled price method, resale price method, cost plus method) can more directly determine whether the terms of trade and financial relationships of related parties are in line with the arm`s length principle. Taking into account the above criteria, where the classical transaction method and the transaction gain method (profit split method and transactional net margin method) can be applied with the same reliability, the advantage is given to the classical transaction method, that is, when it is possible to use the Comparable uncontrolled price method and some other method for determining transfer pricing, it is preferable to use the Comparable uncontrolled price method, with the emphasis being placed on finding the method that is most appropriate for a given case.	
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input 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 checked="" type="checkbox"/> Other (<i>if so, please explain</i>)	
		Currently Croatia has no specific guidance on commodity transactions.	
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	
		This is not prescribed by law.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		If available domestic comparables are used, otherwise Croatia uses foreign comparables. This is not prescribed by law.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Croatia uses publicly available databases.	

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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		This is not prescribed by law. Croatian Tax Administration uses statistical tools such as the interquartile range.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		This is not prescribed by law, but in practice Croatian Tax Administration follows the TP Guidelines.	
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	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		This is not prescribed by law, but in practice Croatian Tax Administration follows the OECD TP Guidelines and OECD recommendation about intra-group services.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Cost Contribution Agreements			
18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Transfer Pricing Documentation			
19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <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 type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): 	<p>Profit Tax Act, Article 13</p> <p>http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pog2077</p> <p>Profit Tax Ordinance, Article 40</p> <p>www.porezna-uprava.hr</p>
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>According to the Profit Tax Act and the related ordinance, the business relations between related entities will only be recognised if a taxpayer has and provides (at the request of tax authority) the following information:</p> <ul style="list-style-type: none"> - Information about the group, the position of the taxpayer in the group and the analysis of related transactions, i.e. general information about the group and specific information about the taxpayer; - Identification of the method selected, description of information reviewed, the methods and analyses used to determine the arm's-length price and the rationale for selecting the specific method; - Documentation about the assumptions and valuations made in the course of determining the arm's-length price (which would underline benchmark analysis, functional analysis and risk analysis), - Documentation about all calculations made in the course of the application of the selected method in relation to the taxpayer and any comparables used 	<p>Profit Tax Act, Article 13</p> <p>http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pog2077</p> <p>Profit Tax Ordinance, Article 40</p> <p>www.porezna-uprava.hr</p>

		<p>in the analysis;</p> <ul style="list-style-type: none"> - Updated documentation that relies on a prior-year analysis containing adjustments because of material changes in relevant facts and circumstances. 	
21	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>According to the Article 192 of the General Tax Act, a fine in the amount between HRK 20,000.00 and 500,000.00 shall be imposed on a legal person if:</p> <ul style="list-style-type: none"> - they do not keep financial and others records for the purpose of taxation in accordance with tax regulations applied in the Republic of Croatia - the accounting entries and other information in their financial records are not done completely or correctly or timely or properly - financial and other records and accounting documents are not kept within legally prescribed deadlines - they do not present financial and other records, business documentation and other documents upon request of the tax authority . 	<p>Article 192 of the General Tax Act</p> <p>http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro136</p>
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>		
Administrative Approaches to Avoiding and Resolving Disputes			
23	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<p>Please check those that apply:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>): 	<p>Article 10 of the General Tax Act</p> <p>http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro136</p> <p>Article 6 – 16 of the General Tax Ordinance</p> <p>https://www.porezna-uprava.hr/hr_propisi/layouts/in2.vuk.sp.pr opisi.intranet/propisi.aspx?id=pro1669</p> <p>Article 14a of the Profit Tax Act</p>

			http://www.porezna-uprava.hr/en_propisi/layouts/in2.vuk.sp.pr/opisi.intranet/propisi.aspx#id=pro133 APA Ordinance https://www.porezna-uprava.hr/hr_propisi/layouts/in2.vuk.sp.pr/opisi.intranet/propisi.aspx#id=pro1721
Safe Harbours and Other Simplification Measures			
24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	No	
Other Legislative Aspects or Administrative Procedures			
26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The adjustments can be made at any point, up to the deadline for submission of the tax return. After that filing date a taxpayer may submit, within the period of 3 years, an amended tax return for the relevant fiscal period, in which can be incorporated a change to any transfer pricing adjustment.	
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Relevant Information			
28	Other legislative aspects or administrative procedures regarding transfer pricing	Currently, there is no special tax audit procedure for transfer pricing that differs from the regular tax audit procedure. Tax Administration has published Manual for transfer pricing audit in 2013, that follows OECD Transfer pricing guidelines in those situations. It must be updated according to 2016 OECD Transfer pricing guidelines.	

29	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>)	Croatian Tax Administration will harmonize in recent period the Profit Tax Act and Profit Tax Act Ordinance and Manual for transfer pricing audit with 2016 OECD Transfer pricing guidelines.	
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