

Peru

Transfer Pricing Country Profile

Updated August 2017

	SUMMARY	REFERENCE
The Arm's Length Principle		
1	<p>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Article 32-A(4) of the Income Tax Law establishes that market value, for transactions between related parties or made from, to or through countries or territories with low or zero taxation, shall be the prices and amount that would have been agreed with or between independent parties in comparable transactions, under the same or similar conditions.</p>	<p>Income Tax Law, Chapter 5, Article 32°, numeral 4.</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>According to Article 32-A, subsection h) of the Income Tax Law, OECD Transfer Pricing Guidelines (TPG) are used as source of interpretation, as long as they do not oppose to the provisions approved by that law.</p>	<p>Income Tax Law, Chapter 5, Article 32-A, subsection h)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>
3	<p>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.</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Article 32-A, subsection b) of the Income Tax Law establishes that it is considered that two or more persons, companies or entities are related parties when one of them participates directly or indirectly in the management, control or capital of the other; or when the same person or group of persons participate directly or indirectly in the management, control or capital of several persons, companies or entities. Also there is relation when the transaction is carried out using interposed persons whose purpose is to cover up a transaction between related parties.</p> <p>Article 24° of the Supreme Decree N° 122-94-EF provides the situations that determine that two or more persons, companies or entities are related parties, according to the following:</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection b)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p> <p>Supreme Decree N° 122-94-EF, Chapter 6, Article 24.</p> <p>http://www.sunat.gob.pe/legislacion/renta/regla/cap6.htm</p>

	<ol style="list-style-type: none"> 1. A natural or legal person owns more than thirty percent (30%) of the capital of another legal person, directly or through a third party. 2. More than thirty percent (30%) of the capital of two (2) or more legal persons belongs to the same natural or legal person, directly or through a third party. 3. In any of the previous situations, when the indicated percentage of company's capital belongs to spouses or to natural persons related to the second degree of consanguinity or affinity. 4. The capital of two (2) or more legal persons belongs, in more than thirty percent (30%), to common partners. 5. Legal persons or entities have one or more directors, managers, administrators or other common managers with decision-making power in the financial, operational and /or commercial agreements to be adopted. 6. Two or more natural or legal persons consolidate Financial Statements. 7. There is a business collaboration contract with separate accounting, in which case the contract will be considered related to those contracting parties that participate, directly or through a third party, in more than thirty percent (30%) in the contract equity or when any of the contracting parties have decision-making power in the financial, commercial or operational agreements adopted for the development of the contract, in which case the contracting party exercising the decision-making power is considered related to the contract. 8. In the case of a business collaboration contract without separate accounting, the relation between each of the parties and their counterpart involved in the contract must be verified individually, applying one of the relation criteria established in this article. The counterpart is the natural or legal person with whom the parties celebrate some transaction in order to reach the object of the contract. 9. There is a partnership agreement, in which one of the partners, directly or indirectly, participates in more than thirty percent (30%) in the profits or benefits of one or more businesses of the partner, in which case it considers that there is a relation between the partner and each one of its associates. A relation it will also be considered when one of the partners has decision-making power in the financial, commercial or operational aspects of one or more of the business of the partner. 10. A non-resident company has one or more permanent establishments in the country, in which case there will be a relation between the non-resident company and each of its permanent establishments and between all of them. 	
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	<p>11. A company resident in Peruvian territory has one or more permanent establishments in other country, in which case there will be a relation between the resident company and each of its permanent establishments.</p> <p>12. A natural or legal person exercises a dominant influence over the decisions of the management bodies of one or more legal persons or entities. In such a situation, the legal persons or entities influenced shall be considered related to each other and to the natural or legal person exercising that influence.</p> <p>It is understood that a natural or legal person exercises a dominant influence when, in the adoption of the agreement, exercises or controls the absolute majority of votes for decision-making in the management bodies of the legal person or entity.</p> <p>In the case of decisions related to the matters mentioned in article 126° of the General Companies Law, there will be a dominant influence of the natural or legal person who, participating in the adoption of the agreement, by itself or with the intervention of third party votes, has at the of vote the highest number of shares subscribed with voting rights, provided that it has at least ten percent (10%) of the shares subscribed with voting rights</p> <p>The treatment of related parties will also be granted when a person, company or entity resident in Peruvian territory carries out, in the previous taxable year, eighty percent (80%) or more of its sales of goods, services or another type of transactions, with a person, company or entity, resident, or with resident persons, companies or entities related to each other, provided that such transactions in turn, represent at least thirty percent (30%) of purchases or acquisitions of the other party in the same period. For companies that have activities for periods greater than three taxable years, such percentages shall be calculated taking into account the average percentage of sales or purchases, as the case may be, made in the three previous taxable years. The provisions of this paragraph shall not apply to the transactions carried out by the companies who conduct the Government Business Activity, in which the government participation is greater than fifty percent (50%) of the capital.</p> <p>The relation, according to this article terms, shall also works when the transaction is carried out using interposed persons or entities, domiciled or not in the country for the purpose of cover up a transaction between related parties. (...).”</p>	
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Transfer Pricing Methods

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Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?

Yes

No

If affirmative, please check those provided for in your legislation:

CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

According to Article 32-A, subsection e), the prices of transactions subject to the scope of this article shall be determined in accordance with the internationally accepted methods establishes in this law, for which purpose it should be considered to be the most appropriate to reflect the economic reality of the transaction.

(1) Comparable uncontrolled price method (CUP)

Consist in determining the market value of goods and services between related parties considering the price or the amount of the consideration that had been agreed with or between independent parties in comparable transactions.

(2) Resale price method

Consists in determining the market value of acquisition of goods and services which a buyer incurs with regard to its related party, which then are resold to an unrelated party, multiplying the resale price established by the buyer by the result that comes of decreasing the gross profit margin usually obtained by the aforementioned buyer in comparable transactions with unrelated parties or in the margin that is usually obtained in comparable transactions between unrelated third parties.

(3) Cost plus method

Consists in determining the market value of goods and services that a supplier transfers to its related party, multiplying the cost incurred by such supplier, by the result that comes from adding to the unit the margin of added cost that usually obtains that supplier in transactions comparable with independent parties or in the margin that is usually obtained in comparable transactions between independent third parties.

Income Tax Law, Chapter 5, Article 32°-A, subsection e)

<http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf>

		<p>(4) Profit method</p> <p>Consists in determining the market value of goods and services through the distribution of the global profits, which comes from the sum of partial profits obtained in each of the transactions between related parties, in the proportion that would have been distributed with or between unrelated parties, taking into account, among others, the sales, expenses, costs, risks assumed, assets involved and the functions performed by the related parties.</p> <p>(5) Residual Profit Split Method</p> <p>It consists in determining the market value of goods and services according to Article 32-A, subsection e(4), but distributing the overall profit as follows:</p> <ul style="list-style-type: none"> i. The minimum profit corresponding to each related party shall be determined by applying any of the methods mentioned in this article, without taking into account the use of significant intangibles. ii. The residual profit will be determined by decreasing the minimum profit of the overall profit. The residual profit will be distributed among the related parties, taking into account, among other elements, the significant intangibles used by each of them, in the proportion that would have been distributed with or between unrelated parties. <p>(6) Transactional Net Margin Method (TNMM).</p> <p>Consists in determining the profit of unrelated parties in comparable transactions, taking into account profitability factors based on variables such as assets, sales, expenses, costs, cash flows, among others.</p> <p>Exceptionally if none of the referred methods can be applied due to special characteristics or nature, other reasonable methods will be allowed. Legislative Decree N° 1312, published on December 31st, 2016 introduced the possibility of applying other methods.</p>	
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) <p>According to the Income Tax Law, the prices of the transactions subject to the scope of the application of transfer pricing are determined in accordance with</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection e)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p> <p>Supreme Decree N° 122-94-EF Chapter 19, Article 113°</p>

		<p>the most appropriate method to reflect the economic reality of the transaction.</p> <p>Likewise, the regulation of the law mentioned above has provisions to establish the most appropriate transfer pricing method according to the certain criteria: i) Compatibility with the business or commercial structure of the company or entity,</p> <p>ii) Be provide with the best quality and quantity of information available for a proper application and justification,</p> <p>iii) The most appropriate degree of comparability between parties, transactions and functions, and</p> <p>iv) Require a lower level of adjustment in order to eliminate the differences between facts and comparable situations.</p>	<p>http://www.sunat.gob.pe/legislacion/renta/regla/ap19.htm</p>
6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input checked="" 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> <hr/> <p>According to the provision established in Legislative Decree N° 1312, published on December 31st, 2016 that modified article 32-A, subsection e)(1) of the Income Tax Law, in case of export or import of goods with public prices in internationals, whether local or destination, markets, including derivative financial instruments markets, that the market value will be determined on the basis of the list value.</p> <p>In order to establishes the market value it should be considered (i) the shipment date of the commodities exported; or (ii) the discharging date of the commodities imported.</p> <p>The regulation, which is pending approval, will establishes the appropriate application, as well as a list of commodities that will be covered by the new rule.</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection e)(from second to the fifth paragraph)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/apv.pdf</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 <input type="checkbox"/> No</p> <hr/> <p>Largely follows.</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection d) http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p> <p>Supreme Decree N° 122-94-EF Chapter 19, Articles 110°-115° http://www.sunat.gob.pe/legislacion/renta/regla/cap19.htm</p>
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>According to article 32-A, subsection d), when for the purpose of determining comparable transactions, local information is not available, taxpayers may use information from foreign companies and should make the necessary adjustments to reflect the markets differences.</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection d) (third paragraph). http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <hr/> <p>According to Article 62(18) of the Tax Code establishes that the taxpayer could have access to the information of the unrelated third parties used as comparable by SUNAT*, that information will not contain either the number of RUC** or the name of the taxpayer for tax confidentiality.</p> <p>* SUNAT: National Superintendence of Customs and Tax Administration of Peru. ** RUC: Taxpayer Identification Number in Peru.</p>	<p>Tax Code, Book II, Title II, Chapter 2, Article 62, numeral 18. http://www.sunat.gob.pe/legislacion/codigo/libro2/libro.pdf</p>
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>Article 114 of the Supreme Decree N° 122-94-EF establishes, in order to determine the price, amount paid or the profit margin that would have been</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection d) http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>

		<p>used between unrelated parties, in comparable transactions and resulting from the application of any of the methods indicated in the Income Tax Law, a price range, amount of consideration or profit margins where there are two or more comparable transactions.</p> <p>In order to determine this price range, the Interquartile method and the mediana calculation shall be used, in accordance with article 115 of the Supreme Decree N° 122-94-EF</p>	<p>Supreme Decree N° 122-94-EF Chapter 19, Articles 114° and 115°</p> <p>http://www.sunat.gob.pe/legislacion/renta/regla/ap19.htm</p>
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The domestic regulation consider that, in order to eliminate differences between the transactions that are compared or between the characteristics of the parties that perform them or the functions that they execute, it should be taken into consideration, among others, the following elements:</p> <ul style="list-style-type: none"> - Payment period - Negotiated amounts - Marketing and publicity - Cost of intermediation - Conditioning, freight and insurance - Physical nature and matter in the case of goods, services or rights 	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection d)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/apv.pdf</p> <p>Supreme Decree N° 122-94-EF Chapter 19, Articles 111°</p> <p>http://www.sunat.gob.pe/legislacion/renta/regla/ap19.htm</p>
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The income tax regulations establishes that in order to determine whether the transactions are comparable in accordance with what is established in the Income Tax Law, should be taken into account the nature of the transaction and the method to be applied, as well as the following elements or circumstances:</p> <p>1. The characteristics of the transactions:</p> <p>(...)</p> <p>d) In the case of definitive assignment or use of intangible assets, elements such as:</p>	<p>Supreme Decree N° 122-94-EF Chapter 19, Articles 110°, numeral 1, paragraph d.</p> <p>http://www.sunat.gob.pe/legislacion/renta/regla/ap19.htm</p>

		<p>(i) The contractual form of the transaction: License, franchise or permanent transfer.</p> <p>(ii) The intangible identification (intellectual property or industrial property rights) as well as the description of any method, program, procedure, system, study or other technology transfer.</p> <p>(ii) The contract duration.</p> <p>(iv) The degree of protection and benefits expected to be gained from its use (future earnings value).</p> <p>(v) How the benefits will be carried out.</p>	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>According to the Peruvian Income Tax Law and its regulation, deduction of price paid for limited-time intangibles (software, copyrights, patents, etc.) should be amortised over just one tax year or by the straight-line system for a ten-year term. In case of transfer through reorganization the right to deduct this type of assets is maintained. Unlimited time intangibles are not deductible in any case.</p>	<p>Income Tax Law, Chapter 6, Article 44°, subsection g)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capvi.pdf</p> <p>Income Tax Law, Chapter 8, Article 107°</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capxiii.pdf</p>
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The Legislative Decree N° 1312, published on December 31, 2016, introduced in the Income Tax Law establish that the taxpayer must comply with the benefit test and provide the requested documentation and information as necessary conditions for the deduction of the cost or expense, according to what is expressly indicated.</p> <p>It is understood that the benefit test is met when the service provides economic or commercial value for the recipient of the service, improving or maintaining its commercial position, which occurs if unrelated parties have satisfied the</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection i)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>

		<p>necessity of the service, executing it by itself or through a third party.</p> <p>The documentation and information provided must show the effective provision of the service, the nature of the service, the actual need for the service, the costs and expenses incurred by the service provider, as well as the reasonable allocation criteria. In case of change of allocation criteria, the taxpayer must justify the reason and/or need for such a change.</p> <p>The deduction of the cost or expense for the service received is determined on the basis of the sum of the costs and expenses incurred by the service provider as well as his profit margin.</p> <p>To this end, in the case of services with low added value, said margin can not exceed five percent (5%) of the costs and expenses incurred by the service provider</p> <p>Low value added services are considered to fulfill the following characteristics: (i) they are auxiliary or supportive; (ii) do not constitute main activities of the taxpayer or the multinational group, as appropriate; (iii) do not require the use of unique and valuable intangibles, nor do they lead to the creation of unique and valuable intangibles; and (iv) do not involve assuming or controlling a high or significant level of risk, nor do they generate a significant level of risk to the service provider.</p> <p>The regulation, which is pending approval, will provide examples of services that would likely meet the definition of low value-adding intra-group services.</p>	
16	<p>Do you have any simplified approach for low value-adding intra-group services?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	<p>However, the provision mentioned above has established that low value-adding intra-group services should not have a margin greater than 5% of costs and expenses incurred by the service provider.</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection i)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>
17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>According to Article 9, subsections i) and j), some assumptions of services rendered by non-resident subjects are considered to be Peruvian source income, such as technical assistance and digital services when these are provided from abroad for use in the country.</p> <p>Likewise, Article 21, subsection a) provides Back-to-Back rules for transactions involving loans between related parties of multinational</p>	<p>Income Tax Law, Chapter 2, Article 9, subsections i) and j)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capii.pdf</p> <p>Income Tax Law, Chapter 6, Article 37° subsection a)</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capvi.pdf</p>

		<p>enterprises, and thin capitalization rules when interests paid between related parties are not deductible if they exceed a maximum indebtedness threshold of 3 times the net worth.</p> <p>Also, the last paragraph of Article 41, establishes that in the case of imported goods, the commissions recognized to related entities that would have acted as intermediaries in the purchase transaction will not be admitted to the depreciable value, unless it is proved that the services were actually rendered and the commission do not to exceed that which would have been generally recognized as independent third parties to the purchaser.</p> <p>Lastly, Article 114(9) of the Income Tax Law establishes a controlled foreign companies regimen that covers the income results from certain transactions between related parties in the following events:</p> <p>a) Such income constitutes a deductible expense for the domiciled persons to determine their Tax in the country, and</p> <p>b) Such income does not constitute Peruvian source income, or is subject to the presumption provided for in article 48 of this law, or being entirely of Peruvian source are subject to a Tax rate less than thirty percent (30%).</p>	<p>Supreme Decree N° 122-94-EF Chapter 6, Article 21°, subsection a), numeral 6. http://www.sunat.gob.pe/legislacion/renta/regla/cap6.htm</p> <p>Income Tax Law, Chapter 7, Article 56° subsection j) http://www.sunat.gob.pe/legislacion/renta/ley/capvii.pdf</p> <p>Income Tax Law, Chapter 6, Article 41° http://www.sunat.gob.pe/legislacion/renta/ley/capvi.pdf</p> <p>Income Tax Law, Chapter XIV, Articles 111° to 116°-B. http://www.sunat.gob.pe/legislacion/renta/ley/capxiv.pdf</p>
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Cost Contribution Agreements

18	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
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Transfer Pricing Documentation

19	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input type="checkbox"/> Other (specify):</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection g).</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p>
20	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>The Legislative Decree 1312 published on December 31st, 2017, modified article 32-A (g) of Income Tax Law in order to adopt the three-tiered approach to transfer pricing documentation.</p> <p>Local File:</p> <p>Threshold: Accrued income exceeds the 2300 UIT (USD 2,875,000 approximately).</p> <p>Timing for submission: Yearly. The Local File first filing obligation will be required in 2017 and corresponds to exercise 2016</p> <p>Master File:</p> <p>Threshold: Accrued group income exceeds the 20000 UIT (USD 25,000,000 approximately)</p> <p>Timing for submission: Yearly. The Master File first and second filing obligation will be required in 2018 and corresponds to exercises 2016 and 2017.</p> <p>Country by Country Report:</p> <p>Threshold: It will be established by Supreme Decree, the draft is currently under development.</p> <p>Timing for submission: Yearly. The CbC Report first and second filing obligation will be required in 2018 and corresponds to exercises 2016 and</p>	<p>Income Tax Law, Chapter 5, Article 32°-A, subsection g).</p> <p>http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf</p> <p>Second final complementary provision of the Legislative Decree N° 1312</p> <p>http://busquedas.elperuano.com.pe/normaslegales/decreto-legislativo-que-modifica-la-ley-del-impuesto-a-la-re-decreto-legislativo-n-1312-1469407-1/</p>

		<p>2017.</p> <p>All informative affidavits and supporting information must be presented in Spanish language.</p> <p>Secondary law is in the final stages of drafting and it will provide further details about the informative affidavits.</p> <p>(*) UIT (Peruvian Tax Unit). For 2016 was equal to PEN 3950, and for 2017 is equal to PEN 4050 (USD 1250 approximately).</p>	
21	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>According to numerals 2, 4 and 8 of article 176 of the Peruvian Tax Code, it is a punishable offense:</p> <p>(2) Not to submit informative affidavit within the established deadlines.</p> <p>The penalty is a fine equivalent to 0.6% of net income, which can not be less than 10% of a UIT (USD 125 approximately) or more than 25 UIT (USD 31,250 approximately).</p> <p>(4) Submit the informative affidavit incompletely or with nonconforming information.</p> <p>The penalty is a fine equivalent to 30% of UIT (USD 375 approximately).</p> <p>(8) Failure to file the informative affidavit without taking under consideration the guidelines and terms establish by SUNAT.</p> <p>It is punishable with a fine equivalent to 30% of a UIT (USD 375 approximately).</p> <p>Furthermore, new penalties have been approved by virtue of Legislative Decree N° 1311, published on December 31, 2016 that modified numeral 27 of article 177 of the Tax Code.</p> <p>Failure to show or to file the documentation and information referred to in subsection g) of article 32-A of the Income Tax Law; which, among others, support the informative affidavits Local Report, Master Report and/or Country-by-Country Report, is a punishable offense with a fine equivalent to 0.6% of the net income, which cannot be less than 10% of a UIT or more than 25 UIT.</p>	<p>Tax Code, Book IV, Title I, Article 176° (numerals 2, 4 and 8), Article 177° (numeral 27)</p> <p>http://www.sunat.gob.pe/legislacion/codigo/libro4/libro.htm</p> <p>Tax Code, Table I</p> <p>http://www.sunat.gob.pe/legislacion/codigo/index.html#</p>

22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	According to the provisions given in the Article 32°-A, subsection g) of the Income Tax Law, the SUNAT may exclude taxpayers to the obligation to submit the informative affidavits Local Report, Master Report and/or Country-by-Country Report.	Income Tax Law, Chapter 5, Article 32°-A, subsection g). http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf
Administrative Approaches to Avoiding and Resolving Disputes			
23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 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 checked="" type="checkbox"/> Other (<i>please specify</i>):</p> <hr/> <p>The consultations binding, regulated in article 95-A of the Tax Code, in the event of a consultation on the transfer price law application, such response shall be binding on SUNAT.</p>	Income Tax Law, Chapter 5, Article 32°-A, subsection f). http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf Supreme Decree N° 122-94-EF Chapter 19, Articles 109° and 118° http://www.sunat.gob.pe/legislacion/renta/regla/cap19.htm Tax Code, Book II, Article 95 http://www.sunat.gob.pe/legislacion/codigo/libro2/libro.pdf
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?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	Income Tax Law, Chapter 6, Article 48° http://www.sunat.gob.pe/legislacion/renta/ley/capvi.pdf Income Tax Law, Chapter 7, Article 56° http://www.sunat.gob.pe/legislacion/renta/ley/capvii.pdf
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No Peruvian regulations do not require or allow (explicitly) year-end adjustments, however, the evaluation about transfer pricing is do considering fiscal year, so that taxpayers can make its internal pre-assessments and do the corresponding adjustments. Taxpayers also have the possibility of make adjustments after the close of the year, by tax income tax return through the additions by adjustments of transfer pricing, if so corresponding.	
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No According to Article 24, subsection g) of the Income Tax Law, if as a result of the adjustment from the application of the transfer pricing rules, the dividends referred to in article 24-A of the Peruvian Income Tax Law shall not be generated, except as provided for in subsection g) of that article, under which the mentioned adjustment will be considered as an indirect income provision taxed with the dividend tax. Dividend tax rate for 2017 is equivalent 5%.	Income Tax Law, Chapter 5, Article 32°-A, Article 24, subsection g). http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf Supreme Decree N° 122-94-EF Chapter 19, Article 109, subsection d) http://www.sunat.gob.pe/legislacion/renta/regla/cap19.htm
Other Relevant Information			
28	Other legislative aspects or administrative procedures regarding transfer pricing	According to the Article 32-A (1), the scope of application of Transfer Pricing includes the transactions made from, to or through countries or territories with low or zero taxation. The transfer pricing rules do not distinguish between domestic and foreign related parties.	Income Tax Law, Chapter 5, Article 32°-A, numeral 1 http://www.sunat.gob.pe/legislacion/renta/ley/capv.pdf
29	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)		