

Slovenia

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 <p>The arm's length principle is incorporated in the Corporate Income Tax Act, Article 16. Further implementation of OECD Transfer Pricing Guidelines (TPG) is to be found in the Rules on Transfer Prices (e.g. how to determine the arm's length principle, comparability analysis, the methods used).</p>	<p>The Corporate Income Tax Act and the Rules on Transfer Prices are to be found on the website of the Ministry of Finance:</p> <p>http://www.mf.gov.si/si/delovna_podrocja/davki_in_carine/sprejeti_predpi_si/neposredni_davki/zakon_o_davku_od_dohodkov_pravnih_oseb/</p>
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>The OECD Transfer Pricing Guidelines is used by the taxpayer and by the tax administration as a practical tool to determine the arm's length remuneration besides taking into account the relevant law in the field of transfer pricing that is the Corporate Income Tax Act and the Rules on Transfer Prices.</p> <p>The OECD Transfer Pricing Guidelines (2010) are also translated into Slovene language and published on the website of the Ministry of Finance and Financial Administration.</p>	<p>Link:</p> <p>http://www.mf.gov.si/si/delovna_podrocja/davki_in_carine/transferne_cene/</p> <p>http://www.fu.gov.si/davki_in_druge_dajatve/podrocja/mednarodno_obdobje/#c100</p>
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	<p>Corporate Income Tax Act in Article 16(1)</p>

	<p>The definition of an associated enterprise is provided for in the Corporate Income Tax Act in Article 16(1). An associated enterprise shall be a taxpayer – resident or non-resident and a foreign legal entity or a foreign person without legal personality who is not a taxpayer (hereinafter: foreign person), when:</p> <ol style="list-style-type: none"> 1. The taxpayer directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of a foreign person, or controls the foreign person on the basis of a contract or the transaction conditions differ from the conditions that have been or would be reached between non-associated enterprises in equal or comparable circumstances; or 2. The foreign person directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer, or controls the taxpayer on the basis of a contract or the transaction conditions differ from the conditions that have been or would be reached between non-associated enterprises in equal or comparable circumstances; or 3. The same person at the same time directly or indirectly holds at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and the foreign person or of two taxpayers, or controls the them on the basis of a contract or the transaction conditions differ from the conditions that have been or would be reached between non-associated enterprises in equal or comparable circumstances; or 4. The same individuals or their family members directly or indirectly hold at least 25% of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and foreign person or of two residents or control them on the basis of a contract, or the transaction conditions differ from the conditions that have been or would be reached between non-associated enterprises in equal or comparable circumstances. 	
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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; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">CUP</th> <th style="width: 15%;">Resale Price</th> <th style="width: 15%;">Cost Plus</th> <th style="width: 15%;">TNMM</th> <th style="width: 15%;">Profit Split</th> <th style="width: 20%;">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>The transfer pricing methods to be used in respect of transactions between related parties are determined in the Corporate Income Tax Act in Article 16(5) and further explained in the Rules on Transfer Prices (Section 1, Articles 1a to 6). The combination of methods is also permitted.</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>Corporate Income Tax Act in Article 16(5)</p> <p>Rules on Transfer Prices in Section 1, Articles 1a to 6:</p> <p>Link to the Rules on Transfer Prices: http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/Davki_in_carine/Sprejeti_predpisi/Zakon_o_davku_od_dohodkov_pravnih_oseb/Pravilnik_transferne_cene-NPB1.pdf</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 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>The application of transfer pricing methods is provided for in the Rules on transfer prices in Section 1, Article 1a.</p>	<p>Rules on transfer prices in Section 1, Article 1a</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 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 (if so, please explain)</p> <p><input type="checkbox"/> Other (if so, please explain)</p>													

		The Rules on Transfer Prices give a general outline on the use of the CUP method and do not contain specific guidance on commodity transactions. In determining the arm's length price in specific case involving commodities besides the use of the general rules contained in the Rules on transfer prices, the TPG is used.	
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	Rules on Transfer Prices in Sections 1 to 5, Articles 1a to 21
		The Rules on Transfer Prices in Sections 1 to 5, Articles 1a to 21, give a general outline of the guidance on comparability analysis. In particular Sections 1 to 5 contain general rules on performing comparability analysis including rules regarding assets used, risk assumed and functions performed, rules regarding comparability factors, use of multiple data, use of ranges, selection of methods and methods used to determine the arm's length price.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		If domestic comparables are available then there is a preference to use them. However, due to the small size of the Slovenian market domestic comparables are very rarely available.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rules on Transfer Prices in Section 5, Article 21

		Rules on Transfer Prices in Section 5, Article 21 provide for the use of the arm's length range in determining the arm's length remuneration. In general the rule states that if there are highly reliable figures in a range the arm's length price is determined by the figure in the range that best reflects the facts and circumstances of the transaction. However, if the figures in a range are not reliable the interquartile range median is used for determining the arm's length price.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rules on Transfer Prices in Section 2, Article 9
		Rules on Transfer Prices in Section 2, Article 9 provide for general rules regarding comparability analyses. In general comparability adjustments are required if differences materially affect the comparison or to increase the reliability of the results.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rules on Transfer Prices in Section 6a, Article 22a
		Rules on Transfer Prices in Section 6a, Article 22a provide for general guidance relating to intangibles in controlled transactions.	
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	
		The domestic legislation does not provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI).	

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	
		No other rules outside the transfer pricing rules are used.	
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	Rules on transfer prices in Section 6, Article 22
		Rules on transfer prices in Section 6, Article 22 provide general guidance relating to intra-group service transactions.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is no special simplified approach/regime for low value-adding intra-group services currently in place. However, the tax auditors when requesting information regarding the transfer pricing documentation take into account the company size and the costs that might occur so to not over burden the taxpayer.	
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	
		No other rules outside the transfer pricing rules are used.	
Cost Contribution Agreements			
18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rules on transfer prices in Section 7, Article 23

		Rules on transfer prices in Section 7, Article 23 provide for general guidance on cost contribution agreements. The guidance is referring to the definition and the concept of a cost contribution agreement.	
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 checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): <p>The notion of Master File and Local File comprising the transfer pricing documentation has been implemented in the Slovene tax law in the year 2006. The Article 382 of the Tax Procedure Act provides in a generalized manner for a variety of different types of information that need to be included in the Master File and the Country – Specific documentation (Local file).</p> <p>The CbC Report was implemented in the Tax Procedure Act ((Articles 248b, 255i, 255j, 255k, 255l, and 397) in the year 2016. Technical details regarding the CbC Report followed in year 2017 in the Rules on the Implementation of the Tax Procedure Act (Section 6 Articles 86.c to 86 g. and Annex 21).</p> <p>In the tax return (e.g. Annex 16 of the Tax Return) certain information regarding controlled transactions need to be reported.</p>	<p>Article 382 of the Tax Procedure Act</p> <p>Tax Procedure Act (Articles 248b, 255i, 255j, 255k, 255l, and 397)</p> <p>Link: http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/Davki_in_carine/Sprejeti_predpisi/Zakon_o_dav%C4%8Dnem_postopku/2016-10-25-Jeadd445ad3ca39a52f1.pdf</p> <p>Rules on the Implementation of the Tax Procedure Act (Section 6 Articles 86.c to 86 g. and Annex 21)</p> <p>Link: https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1605/pravilnik-o-spremembah-in-dopolnitvah-pravilnika-o-izvajanju-zakona-o-davcnem-postopku</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>The Article 382 of the Tax Procedure Act provides for when the transfer pricing documentation has to be prepared (that is in advance of controlled transactions) and when the transfer pricing documentation has to be filed. Taxpayers make available (file) the documentation to the tax authority at request during the tax audit procedure. Taxpayers normally make the documentation available without a delay. However if taxpayers are unable to provide the documentation without a delay, the tax authority lays down a time limit for complying with this obligation. This time limit may not be less than 30 days and not more than 90 days with due regard to the volume and complexity of data.</p> <p>Additionally, the transfer pricing documentation may be prepared in a foreign language; however, if requested by the tax authority, a copy in Slovene language must be prepared. Transfer pricing documentation can be kept electronically.</p>	<p>Article 382 of the Tax Procedure Act</p> <p>Link: https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1605/pravilnik-o-spremembah-in-dopolnitvah-pravilnika-o-izvajanju-zakona-o-davcnem-postopku</p>
21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>No specific penalty regime for non-compliance in the field of transfer pricing applies. General penalties for non-compliance of tax obligations (e.g. assessment and payment of tax) are imposed.</p>	
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	N/A	

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 checked="" 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>	
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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 checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>In determining the thin capitalisation and interest rate in controlled transactions safe harbour can be used.</p> <p>Article 32 of the Corporate Income Tax Act determines the thin cap rule. In general the taxpayer's interest on loan is not recognized for tax purposes if the loan exceeds four times the amount of the capital of the taxpayer (the borrower), unless the taxpayer can demonstrate that he or she would have received such a loan from an independent (non-related person) lender. The rule is not applicable to banks and insurance companies.</p> <p>Article 19 of the Corporate Income Tax Act determines the tax recognition of the taxpayer's revenue or cost relating to the interest rate. The taxpayer can when determining the interest rate use the recognised interest rate (safe harbour). If an</p>	<p>Corporate Income Tax Act Article 19 and Article 32.</p> <p>The link to the Corporate Income Tax Act is found in Q1.</p> <p>The link to the Rules on the recognised rate of interest:</p> <p>http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/Davki_in_carine/Sprejeti_predpisi/Zakon_o_davku_od_dohodkov_pravnih_oseb/pravilnik_o_priznani_obrestni_meri-NPB.pdf</p>
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		<p>interest rate other than the recognised interest rate is used the taxpayer needs to demonstrate that such interest rate complies with the ALP.</p> <p>The methodology (calculation) of the recognized interest rate is further explained in the Rules on the recognised rate of interest where EURIBOR and LIBOR and certain mark ups (for maturity, the credit rating of the taxpayer etc.) are taken into account.</p>	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	No other simplification measures are used.	
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	
		Generally the taxpayer can adjust the transfer price in the tax return. However this adjustment can be made only upwards. Downward adjustments of the transfer price are dealt with within the mutual agreement procedure (MAP).	
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Articles 70 and 74 of Corporate Income Tax Act
		The transfer pricing adjustment is being treated as a hidden profit distribution and as such taxed with a 15% withholding tax (Articles 70 and 74 of Corporate Income Tax Act). In case of a Double Tax Convention a lower rate is applicable.	
Other Relevant Information			
28	Other legislative aspects or administrative procedures regarding transfer pricing		

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>)	New Rules on Transfer Prices will be prepared to encompass the recent developments in the field of transfer pricing.	
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