



Global Transfer Pricing Guide



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Foreword

This guide has been developed to provide an easy reference for finance and tax specialists within multi-national companies or those considering cross-border ventures. It presents the relevant rules and legislation in each country including pricing methods, documentation requirements and penalties. We hope you find this a useful and easy to use guide to what is an increasingly complex area of tax legislation.

The contents of this guide have been carefully compiled by the individual member firms of UHY, an international association of independent accounting and consulting firms. The tax partners and staff of UHY member firms throughout the world combine knowledge with regional, national and international skill sets to help our clients achieve further business success. These details are intended for general guidance only. Each individual country's tax rules are continually changing therefore it is not possible to provide definitive guidance on which to base specific action here. When more information is required on a country, reference should be made to the laws, regulations and tax treaties of the specific country.

UHY works closely with clients to:

- Ensure selected transfer pricing methods comply with the requirements of the jurisdictions concerned
- Provide the best overall results for the business by reducing the potential for double tax and minimising the worldwide tax burden
- Meet all documentation and reporting requirements
- Assist with any Tax Authority audits
- Make appropriate applications for advance pricing agreements (APAs).

UHY continues to monitor changes in national tax regimes; to discuss the implications of transfer pricing on your business please contact any one of our national tax specialists who will help you with any queries you may have regarding a tax jurisdiction.

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The tax rates and rules indicated in this guide are those in effect at October 2006. Every effort has been made to ensure the facts in this booklet are correct at the time of going to press. However no responsibility can be accepted for loss occasioned to any person acting or refraining from acting as a result of any material in this publication.



Argentina

<p>Tax law:</p> <p>Argentine Internal Revenue Service (AFIP) Income Tax Act (ITA), Sections 8, 14, 15, 15.1, 129 & 13.</p>	<p>Types of documentation required:</p> <p>Taxpayers are required to submit to AFIP:</p> <p>Transactions with related, deemed related and tax haven parties: a transfer pricing report including certain data from a transfer pricing study signed by an independent CPA; financial statements; annual form 743 return; semi annual form 742 return (first 6 months of fiscal year).</p> <p>Unrelated parties commodities imports and exports transactions with international price available from transparent markets: semi annual form 741 return.</p> <p>Unrelated parties imports and exports transactions (except commodities with international price available from transparent markets) in excess of AR\$ 1 million: annual form 867 return.</p> <p>Representatives of foreign parties that entered into transactions with Argentine residents: tri-annual form 886 return.</p> <p>Service providers of transactions entered into between representatives of foreign parties and Argentine residents: tri-annual form 887 return.</p> <p>Taxpayers are required to maintain as supporting documentation: annual transfer pricing study for transactions with related, deemed related and tax haven parties; and documentation and paperwork of tangible goods, imports and exports between independent parties.</p>
<p>Regulations & rulings:</p> <p>ITA Regs., Sections 10, 11 & 19 to 21.11.</p> <p>AFIP Reg. No. 1122 (t.o. 2005, as amended).</p>	<p>Deadline to prepare and submit documentation:</p> <p>Transfer pricing study, transfer pricing report, annual form 743 and financial statements: 8th month as from fiscal year end.</p> <p>Semi-annual form 742: 5th month as from second quarter end.</p> <p>Semi-annual form 741: 5th month as from second and fourth quarter end.</p> <p>Annual form 867: 7th month after fiscal year end.</p> <p>Tri-annual forms 886 and 887: next month following end of each 4 month period.</p>
<p>Interpretation of arm's length principle:</p> <p>Generally follows OECD Guidelines with certain domestic departures.</p>	<p>Return disclosure related party disclosure:</p> <p>The arm's length test is mandatory for cross-border related party transactions, including common control or management situations, certain intermediaries (in commodities exports transactions), functionally related parties (e.g. main creditors or debtors) and tax haven entities.</p>
<p>Pricing methods priorities:</p> <p>International price (in transparent markets) is regarded as the best method for tangible goods imports and exports of commodities, or most appropriate method between comparable uncontrolled price, resale price, cost plus, profit split, transactional net margin method, transaction or spot price at load date (for commodities exports using certain intermediaries) and other methods (not specified).</p>	<p>Statute of limitations:</p> <p>5 years as from January 1st after the transfer pricing return deadline for registered taxpayers and 10 years for unregistered taxpayers.</p> <p>Transfer pricing documentation must be kept 5 years on top of the statute of limitation.</p>

Transfer pricing penalties:

Late filing of transfer pricing returns (independent parties tangible goods imports and exports): AR\$ 9000.

Late filing of other transfer pricing returns: AR\$ 20,000.

Non-compliance with formal duties of furnishing information requested by AFIP or failure to keep supporting documentation and evidence, and failure to file transfer pricing returns upon request: up to AR\$ 45,000.

Not filing transfer pricing return after 3 requests: AR\$ 90,000 to 450,000 (if income is higher than AR\$ 10 million).

Unpaid amounts as a result of international transactions: 100% to 400%.

Fraudulently unpaid amounts: 2 to 10 times.

Criminal tax law: imprisonment for 2 to 6 years (tax balance in excess of AR\$ 100,000 for tax and fiscal year) and for 3 ½ to 9 years (tax balance in excess of AR\$ 1 million).

Regular interest on unpaid tax balances.

Reduction in penalties:

Voluntary amendment of transfer pricing return before special notice (vista) from AFIP, reduction to 1/3 of the minimum fine (for underpayment and fraud).

Amendment of transfer pricing return within 15 days of receiving notice, reduction to 2/3 of the minimum fine (not for backsliders). If backsliders pay the amounts to AFIP, penalties are set at the minimum amount.

No penalties apply if taxes due do not exceed AR\$ 1,000 and are paid voluntarily or within 15 days from special notice.

Documentation requirements:

Taxpayers are required to comply with certain documentation and information requirements to evidence that prices, considerations and profit margins meet the arm's length standard.

Advance pricing agreements (APA):

APAs are not specifically addressed but binding rulings are available in non-double tax treaty contexts.

Mutual Agreement Procedures are available in double tax treaties contexts.

Burden of proof:

Transfer pricing assessment will be deemed correct and valid if made to taxpayers that fail to file transfer pricing returns upon AFIP request. Taxpayers will have a rebuttal right but it will have to be supported with actual documentation, not grounded in general statements or based on general facts.

Principal differences with OECD guidelines:

Local taxpayer must be the tested party. Commodities exports using certain intermediaries must be marked to market as of the date of load (i.e., forwards and futures are disregarded unless price is higher than spot price at load date).

Cross-border independent parties transactions must be benchmarked under certain circumstances.

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Australia

Tax law: Income Tax Assessment Act 1936 – Division 13. Specific Double Tax Agreements may also be relevant.	Types of documentation required: No specific requirements exist.
Regulations & rulings: The Australian Taxation Office (ATO) has issued a number of public rulings on transfer pricing issues. Please see www.ato.gov.au	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Dealt with in ATO rulings, particularly Taxation Rulings TR94/14, TR97/20 and TR98/11.	Return disclosure related party disclosure: International related party dealings are disclosed by all taxpayers on a schedule to the income tax return.
Pricing methods priorities: No prescribed priorities. ATO preferred approach is to first apply "traditional" transactional methods (comparable uncontrolled price method, resale price method, cost plus method), and if these are not acceptable, "profit methods" (profit split method or the transactional net margin method) can be used.	Statute of limitations: Generally 4 years from date of assessment. No time limit in cases of fraud or evasion.
Transfer pricing penalties: Base penalty is 25% of tax avoided, or 50% where the dominant purpose is tax avoidance. Can be increased for repeat offenders or hindering the ATO.	Advance pricing agreements (APA): APA can be made with the ATO and bilaterally with foreign tax authorities. APAs cannot be retrospective. Valid for a period of 3-5 years, with an option to extend.
Reduction in penalties: Penalties may be reduced to 10%, or 25% respectively, where the taxpayer has a reasonably arguable position.	Burden of proof: The taxpayer must establish that dealings with related parties are on an arm's length basis.
Documentation requirements: No statutory requirement for documentation, however a well documented transfer pricing review may establish a reasonably arguable position.	Principal differences with OECD guidelines: No significant differences.

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Austria

Tax law: Austrian Income Tax Law (§6). Austrian Corporation Tax Law (§8).	Types of documentation required: As it is common between third parties a prior written contract is necessary.
Regulations & rulings: OECD guidelines.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: See Tax law above and double tax conventions.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: The comparable uncontrolled price method (CUP) is the primary method. Resale price and cost plus methods if CUP is not applicable.	Statute of limitations: Generally 5 years, in special cases more than 5 years.
Transfer pricing penalties: No specific regulations. Tax audit adjustments may be carried out because of a discrepancy from arm's length principle. A penalty is only possible if there is proof of fraudulent intent.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Austrian Tax Authorities and multilaterally between Tax Authorities of several countries. APA are not made retrospectively.
Reduction in penalties: Not applicable.	Burden of proof: Austrian Tax Authorities have to prove the use of non-market values but the company has to co-operate with the Tax Authorities.
Documentation requirements: The Austrian tax law requires documentation. Austrian entrepreneurs have the obligation to co-operate with the tax offices in several foreign affairs.	Principal differences with OECD guidelines: There are no principal differences with OECD Guidelines.

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Belgium

<p>Tax law:</p> <p>Article 185 §2 of Tax law introduces arm's length principle, which is equivalent to OECD Model treaty.</p> <p>Income Tax Code, articles 26, 49, 54, 55, 79, 185§2, 207, 344 & 345. The Law 21st of June 2004 amended these articles and introduced an anticipated decision system (circular dated 4th of July 2006 with explanation).</p>	<p>Types of documentation required:</p> <p>The 1999 Circular Letter recommended at least following documentation: activities of the group, identification of intercompany transactions, functional analysis, transfer pricing methods, and economic analysis.</p> <p>The same documentation should be sent for an "anticipated decision".</p>
<p>Regulations & rulings:</p> <p>Administrative guidelines on transfer pricing 1999, 2000, 2003, 2004.</p> <p>APAs have replaced traditional safe harbour regimes.</p>	<p>Deadline to prepare and submit documentation:</p> <p>No deadline for preparation.</p>
<p>Interpretation of arm's length principle:</p> <p>Related party legislation (see Tax law above).</p>	<p>Return disclosure related party disclosure:</p> <p>No specific disclosure requirements exist for filling the tax return.</p>
<p>Pricing methods priorities:</p> <p>Taxpayers are free to choose any OECD transfer pricing methods as long as the method chosen results in arm's length pricing for the transaction and reasons for the decision are provided.</p>	<p>Statute of limitations:</p> <p>3 years starting from the closing of the accounting year.</p> <p>In case of fraud the Tax Authorities have the right to adjust the income during a five-year period.</p>
<p>Transfer pricing penalties:</p> <p>The penalties that apply to transfer pricing adjustments can vary from 0% up to 200% of the additional tax depending on the degree of intent to avoid tax or of negligence of the company. Interest for late payment is due on additional tax assessments.</p>	<p>Advance pricing agreements (APA):</p> <p>Rulings are published anonymously. Service for advanced decisions is an autonomous department, which is led by a committee of four, who, if necessary, is able to rule downward profit adjustments.</p>
<p>Reduction in penalties:</p> <p>If the taxpayer can prove his intention of establishing transfer prices in accordance with the arm's length principle, penalties can be reduced or eliminated.</p>	<p>Burden of proof:</p>
<p>Documentation requirements:</p> <p>No statutory requirement, although the 1999 Circular letter states that documentation should demonstrate that the taxpayer's pricing complies with the arm's length principle to avoid an in-depth transfer pricing audit.</p>	<p>Principal differences with OECD guidelines:</p> <p>Almost all OECD Guidelines are followed (arm's length principle, transfer pricing methods).</p>

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Brazil

Tax law: Secretaria da Receita Federal (SRF): Law 9430/96, Articles 18 to 24 and 28.	Types of documentation required: The annual tax return (DIPJ) including all foreign transactions and import and export forms (Forms 38A, 38B, 39, 40, 41 and 42).
Regulations & rulings: Normative Instructions 243/02 and 382/03.	Deadline to prepare and submit documentation: Documentation must be prepared by the end of December and must be submitted with the annual income tax return (DIPJ).
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: Parties and transactions involved must be disclosed in the annual tax return.
Pricing methods priorities: The SRF accepts comparable uncontrolled price method, resale price and cost plus methods. The SRF prefer the method that yields lowest taxable income.	Statute of limitations: The statute of limitations is five years.
Transfer pricing penalties: General penalties for underpayment would be applied.	Advance pricing agreements (APA): APAs are not available at this time.
Reduction in penalties: Penalties could be reduced by half if settled within 30 days.	Burden of proof:
Documentation requirements: Contemporaneous documentation is required by the SRF.	Principal differences with OECD guidelines:

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Canada

Tax law: Income Tax Act (Canada) Section 247.	Types of documentation required: Complete and accurate description of: property or services transferred; terms and conditions; identity of participants and relationships; functions performed, property used, risks assumed; analysis to determine the transfer pricing method used; factors that influenced the determination of transfer prices; and overview of business.
Regulations & rulings: Information Circular IC 87-2R – International Transfer Pricing.	Deadline to prepare and submit documentation: The documentation must be prepared by the filing due date of the taxpayer's tax return. The taxpayer must submit the documentation within 3 months of a request by the Canada Revenue Agency.
Interpretation of arm's length principle: Section 251 of the Act – definition of arm's length.	Return disclosure related party disclosure: Form T106 is required in most cases.
Pricing methods priorities: No statutory requirement, however the preferred method is the comparable uncontrolled price method. Other methods in priority are: the resale price method, cost plus method, profit split method, and transactional net margin method.	Statute of limitations: Generally 4 years from the date of notice of assessment for a particular year, unless there is fraud or misrepresentation, in which case there is no time limit.
Transfer pricing penalties: Penalty is 10% of the amount by which the transfer pricing adjustments exceed the lesser of (i) 10% of gross revenue and (ii) \$5 million.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Canada Revenue Agency.
Reduction in penalties: Penalties may be reduced where reasonable efforts were made to determine and use arm's length transfer prices.	Burden of proof: The taxpayer has the burden of proof.
Documentation requirements: Taxpayers are required to contemporaneously document their methodology of determining their transfer pricing method, as well as transfer pricing transaction details.	Principal differences with OECD guidelines: Almost all OECD Guidelines are followed.

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Channel Islands

Tax law: Income Tax (Guernsey) Law, 1975.	Types of documentation required: Not applicable.
Regulations & rulings: (67) General provision against legal avoidance - where the Administrator is of an opinion that the main purpose, or one of the main purposes, of a transaction is the avoidance or reduction of the liability of any person to tax under this Law, he may, in his discretion, direct that such adjustments be made as respects the liability of that person to tax as may in his opinion be appropriate to counteract the avoidance or reduction of liability which would otherwise be effected by such transaction.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Not applicable.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: Not applicable.	Statute of limitations: Not applicable.
Transfer pricing penalties: Not applicable.	Advance pricing agreements (APA): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Not applicable.
Documentation requirements: Not applicable.	Principal differences with OECD guidelines: Not applicable.

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Chile

Tax law: Internal Taxes Service and Customs Service.	Types of documentation required: Countable books, documents of sales and purchases, contracts.
Regulations & rulings: Revenue Tax Law D.L. N° 824. Tax law to Sales and Services D.L. N°825. Tributary Code D.L. N ° 830 and Customs duty.	Deadline to prepare and submit documentation: The Fiscal Authority grants the term according to the case magnitude.
Interpretation of arm's length principle: The indicated legislation and regulations dictated by the Fiscal Authority (Circular letters, Resolutions).	Return disclosure related party disclosure: There is no obligation to reveal information to related parties – only to the Fiscal Administration when requested.
Pricing methods priorities: Sales values, an appraisalment of the market value or the global presumed profit (utility) of the business.	Statute of limitations: Six years.
Transfer pricing penalties: Determined by means of a fiscal inspection and for computational means. Fines and interests and/or corporal sanction are applied if there is a crime.	Advance pricing agreements (APA): The Fiscal Authority only can conduct an appraisalment if it discovers that the values are lower than those of market.
Reduction in penalties: It depends on the conduct and gravity of the committed act.	Burden of proof: If the Fiscal Authority contests the market values, the counterpart is obliged to demonstrate the opposite with its documentation and any other legal proof.
Documentation requirements: There is a legal obligation to preserve countable records and all the supporting documentation for six years to demonstrate the truth about operations when the Discal Authority need it.	Principal differences with OECD guidelines: These procedures are not legally obligatory in Chile. The government might adopt them voluntarily if they are deemed suitable.

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China

<p>Tax law:</p> <p>The State Council: Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises 1991, Article 13, and the Law Concerning the Administration of Tax Collection Article 24.</p>	<p>Types of documentation required:</p> <p>Annual report of business transactions with related parties by foreign-invested enterprises and foreign enterprises.</p> <p>Special rules apply to adjustments and notifications made by the Chinese Tax Authorities.</p> <p>Annual tax returns in written form.</p>
<p>Regulations & rulings:</p> <p>Detailed Rules for Implementation of the Income Tax Law for FIEs and FEs 1991, Article 52-58.</p> <p>Guoshuifa [1998] No. 59, Guoshuifa [2004] No. 143 Amendment.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Generally within a taxable year.</p> <p>Under local tax authorities' inspection, enterprises should provide relevant information within 60 days.</p>
<p>Interpretation of arm's length principle:</p> <p>Associated enterprises legislation (see Tax law above)</p>	<p>Return disclosure related party disclosure:</p> <p>Only for companies quoted in Chinese exchanges.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price method, resale price method and cost-plus method are the first three methods applicable. If they are inappropriate, other reasonable methods such as the profit comparison method, profit-split method and net profit method can be used.</p>	<p>Statute of limitations:</p> <p>Generally within 3 years beginning from the following tax year, no more than 10 years.</p>
<p>Transfer pricing penalties:</p> <p>The Chinese Tax Authority can make adjustments due to a taxpayer providing false information or being unwilling to provide required information on related-party transactions. The provisions should be followed when the adjustments have to do with tax treaties.</p>	<p>Advance pricing agreements (APA):</p> <p>Advanced pricing agreement is regulated by the Chinese Tax Authorities for related-party transactions. For detailed procedure see Guoshuifa [2004] No. 118 (Trial).</p>
<p>Reduction in penalties:</p> <p>No applicable.</p>	<p>Burden of proof:</p> <p>Taxpayers must provide proper documentation and support for transfer pricing policies.</p>
<p>Documentation requirements:</p> <p>No mandatory requirements.</p>	<p>Principal differences with OECD guidelines:</p> <p>Revised OECD Transfer Pricing Guidelines are followed but only those enumerating pricing methods.</p>

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China-Hong Kong

<p>Tax law:</p> <p>The Hong Kong Inland Revenue Ordinance (HKIRO) is the major tax law which governs direct taxation of income in Hong Kong.</p>	<p>Types of documentation required:</p> <p>No specific transfer pricing documentation requirement under the HKIRO.</p>
<p>Regulations & rulings:</p> <p>There are two general anti-avoidance provisions under the HKIRO which deal with tax avoidance issues. The HKIRO does not contain any specific transfer pricing provisions.</p> <p>The Hong Kong Inland Revenue Department (HKIRD) may also address transfer pricing issues when HKIRD officers examine the taxpayer's books and records during their field audits and investigation, when references are made to OECD and other guidelines.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Not applicable.</p>
<p>Interpretation of arm's length principle:</p> <p>Section 20(2) of the HKIRO addresses the situation when business is done between a taxpayer and a closely connected non-resident person and the business is arranged such that it produces to the taxpayer either no profits which arise in Hong Kong, or less than the ordinary profits which might be expected to arise in or derive from Hong Kong. In the above situation, the non-resident person shall be deemed to be carried on in Hong Kong, and that the profits of the non-resident person shall be assessed in the name of the Hong Kong taxpayer as if the Hong Kong taxpayer were the agent of the non-resident person.</p>	<p>Return disclosure related party disclosure:</p> <p>No specific return of related party disclosure for transfer pricing. However, all persons should report the transaction with non-resident or closely connected non-resident in Profits Tax Return (B.I.R. 51/52) under Section 51 and 52 of the HKIRO.</p>
<p>Pricing methods priorities:</p> <p>No specific transfer pricing methods. In general, the HKIRD will review the pricing policy case by case, e.g. the contractual terms, the characteristics of the goods and services, the economic situations, the business functions carried out, risks borne and the business strategy.</p>	<p>Statute of limitations:</p> <p>6 years or 10 years in case of criminality.</p>
<p>Transfer pricing penalties:</p> <p>No specific penalties for transfer pricing. Generally, penalties may be imposed on a taxpayer who participates in a blatant or over-aggressive tax avoidance scheme, in breach of section 80 or 82A or providing incorrect or misleading information.</p>	<p>Advance pricing agreements (APA):</p> <p>No specific APA for transfer pricing. Advance rulings can be obtained from the HKIRD for the seriously contemplated transaction. Generally, the advance ruling is valid for the period to which the particular arrangement relates, usually not valid for more than two years of assessment from the year of issue of the ruling.</p> <p>Hong Kong does not have double taxation agreements or tax treaties with other countries except Mainland China, the Czech Republic, Italy, Macao SAR, the Netherlands and Vietnam. This restricts the application of bilateral APA.</p>
<p>Reduction in penalties:</p> <p>Not applicable.</p>	<p>Burden of proof:</p> <p>Burden of proof lies on the shoulders of the taxpayer in cases of suspected tax avoidance (including transfer pricing).</p>

Documentation requirements:

No specific documentation required for transfer pricing. In general, a taxpayer must keep business records as required by the HKIRO.

Principal differences with OECD guidelines:

No official transfer pricing guidelines, and OECD Guidelines are used for reference only.

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Czech Republic

Tax law: Income Tax Act No. 586/1992 Coll. Articles 23/7, 22/1/g/3, 23/11, 37 and 38nc. Administration of Taxes Act No. 337/1992 Coll. Article 34b.	Types of documentation required: Although no written contracts are obligatory, the Finance Authority usually asks for written contracts on management, marketing and other services.
Regulations & rulings: Directions of Finance Ministry No. D-258, D-292, D-293. Transfer pricing principles by OECD.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: The Financial Authority has the right to ask all subjects under Czech law to provide all facts important for tax duty (for example facts about related parties).
Pricing methods priorities: Comparable uncontrolled price method (CUP) is the primary method applicable. Though all other OECD methods (comparable price method, resale price method, profit sharing method and transactional net margin method) can be used if it is possible for the business activity.	Statute of limitations: For all tax periods open for tax audit; usually 4 years but in case of tax losses it can be up to 10 years.
Transfer pricing penalties: According to Article 23/7 of the Income Tax Act if the transfer price is different from market price, the Finance Authority can adjust the tax base, adjust (increase) income tax and assess penalty.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be arranged with the Czech Tax Authorities and bilaterally between countries. Validity of 3 years. APAs are not made retrospectively. For detailed procedure see Tax law.
Reduction in penalties: Not applicable.	Burden of proof: The primary company must prove that there is no difference between transfer prices and market value.
Documentation requirements: No statutory requirement, although documentation will be needed for negotiation in case of a tax inspection.	Principal differences with OECD guidelines: All OECD Guidelines are followed.

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Denmark

Tax law: Tax law regarding assessments § 2, law 2005-09-20 nr. 887. Tax law regarding control by the authorities § 3B, lov 2005-11-24 nr. 1126.	Types of documentation required: Regulation 2006-01-24 nr. 42. Documentation must be prepared according to specific rules.
Regulations & rulings: See tax law above and Regulation 2006-01-24 nr. 42.	Deadline to prepare and submit documentation: It must be prepared if there are transactions with related parties. There are exceptions related to small companies.
Interpretation of arm's length principle: Related party legislation (see tax law above).	Return disclosure related party disclosure: Part of tax return.
Pricing methods priorities: OECD Guidelines.	Statute of limitations: At least 3 years from last filling deadline.
Transfer pricing penalties: No specific provisions. Tax audit adjustment may be carried out during a tax inspection due to the use of non market values. These adjustments may only carry a penalty if there is proof of fraudulent intent. For the years commencing on or after 2 nd April 2006, fines have been introduced in cases of lacking or insufficient transfer pricing documentation.	Advance pricing agreements (APA): APAs can be made with the Danish Tax Authorities.
Reduction in penalties: Not applicable.	Burden of proof: The company.
Documentation requirements: Regulation 2006-01-24 nr. 42. Documentation must be prepared according to specific rules.	Principal differences with OECD guidelines: Almost all OECD Guidelines adopted.

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France

<p>Tax law:</p> <p>Article 57 of the French code général des impôts for international transfers of profits (tax audit procedure: Article L13B of the French Livre des procédures fiscales); Abnormal act of management theory also applicable.</p>	<p>Types of documentation required:</p> <p>Pursuant to Article L13B, the Tax Authorities may request to be provided with all documents and information regarding (i) the nature of the relations between the taxpayer and another related company, (ii) the pricing method(s) used, (iii) the activities carried out by related parties and (iv) the tax treatment applied by the taxpayer's foreign subsidiaries or branches.</p>
<p>Regulations & rulings:</p> <p>Administrative doctrine 4 A-1213 & 1214 dated 9 March 2001.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Two months from the date or receipt of the above-referred request from the Tax Authorities; one-month extension may (or not) be granted upon the taxpayer's request.</p>
<p>Interpretation of arm's length principle:</p> <p>International group companies must fix the price of their internal transactions as unrelated parties would do for identical transactions; this principle also applies to domestic group companies.</p>	<p>Return disclosure related party disclosure:</p>
<p>Pricing methods priorities:</p> <p>Article 57 provides that, in the absence of precise elements to assess tax, the tax basis may be determined by comparison with the one of similar businesses "operating normally".</p> <p>In practice, traditional OECD methods are applied, such as uncontrolled price, resale minus and cost plus; profit split, net margin or other fixed or global methods are rarely used.</p>	<p>Statute of limitations:</p> <p>Generally 31 December of the 3rd year following the current financial year.</p>
<p>Transfer pricing penalties:</p> <p>No specific penalty, except if the company's reply to formal request of information by the Tax Authorities is either nil or insufficient, in which case a 10,000 € penalty per year is applicable.</p> <p>Ordinary penalties include: in all cases, late-payment interest of 0.4% per month and 40% penalties in case of bad or 80% penalties in case of fraudulent operation.</p>	<p>Advance pricing agreements (APA):</p> <p>Regulations 4 A-8-99 dated 7 September 1999 provide for possible bilateral APAs involving Tax Authorities of two countries, not retroactive, but renewable; duration between 3 and 5 years.</p> <p>Article 20 of the law of 30 December 2004 and Regulations 4 A-11-05 dated 24 June 2005 provide for possible unilateral APAs involving only the French Tax Authorities; procedure, duration, renewal same as under Regulations 4 A-8-99</p>
<p>Reduction in penalties:</p> <p>Late-payment interest is generally not negotiable. Companies may ask for a total or partial waiver of other penalties; the Tax Authorities' decision is discretionary.</p>	<p>Burden of proof:</p> <p>French Tax Authorities must prove that the parties are related (except if the foreign party is located in a tax haven or if the abnormal act of management theory is applied), and the transactions between the parties provide for an "advantage" to the foreign/other party; the party subject to tax audit may oppose the tax reassessment in evidencing that such an "advantage" provided to the foreign/other party is justified by operating needs.</p>
<p>Documentation requirements:</p> <p>No statutory requirement, although all transactions should be documented (including legal, accounting and business papers) for justification purposes in case of a tax audit.</p>	<p>Principal differences with OECD guidelines:</p> <p>French practice follows OECD guidelines, except for certain methods rarely used in practice (see above).</p>

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Germany

Tax law: Art. 1 International Relation Tax Act of 08-09-1972.	Types of documentation required: All price- or cost-sharing-arrangements and related back-up documentation.
Regulations & rulings: TZ 1 AEstG and Regulations from German Federal Ministry of Finance (FMF): of 02-23-1983, 12-30-1994, 07-31-1995, 12-24-1999, 12-30-1999, 11-09-2001, 11-13-2003, 04-12-2005, 04-29-2005.	Deadline to prepare and submit documentation: 60 days after request.
Interpretation of arm's length principle: Related party legislation (see Tax law above) and High Court decisions.	Return disclosure related party disclosure: Associated companies or persons must be disclosed.
Pricing methods priorities: In principle no priorities, but the following order is standard practice: resale price method (RPM), comparable uncontrolled price method (CUP), cost plus method. Profit split method is not yet applicable.	Statute of limitations: 4 years deadline from last filing, 10 years in case of fraudulent intent.
Transfer pricing penalties: The Tax Authorities can alter the prices of market values or estimate high penalties in cases of failure to supply documentation.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be concluded with the FMF with the consent of the Tax Authority of the affected Bundesland.
Reduction in penalties: Only in cases of successful remedy.	Burden of proof: German Tax Authorities have to prove the wrongness of price-agreements however strict duties of co-operation are applicable.
Documentation requirements: Art. 90 Abs. 2 + 3, Art. 162 Abs. 3 + 4 AO (fiscal code): strict duties of documentation, FMF-Regulations of 11-13-2003, 04-12-2005.	Principal differences with OECD guidelines: OECD Guidelines are followed, except the methods of profit split and of transactional net margin.

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Hungary

Tax law: Hungarian Corporate Income Tax Law: 1996. LXXXI. Article 18.	Types of documentation required: Transfer price study or simplified transfer price study for business transactions under HUF 50 million.
Regulations & rulings: Finance Ministry Decree 18/2003.	Deadline to prepare and submit documentation: May 31st following current year (or 150th day following end of fiscal year).
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: Only when requested by the Tax Office.
Pricing methods priorities: Methods are comparable uncontrolled price method, resale price method and cost plus method, with the Tax Law stating no priorities. Other methods may be used if the above are not applicable.	Statute of limitations: 5 years following the last day of the year in which the corporate income tax return was filed.
Transfer pricing penalties: Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may carry a penalty of up to 50% of tax deficit plus late payment charges.	Advance pricing agreements (APA): As of January 2007, a formal APA regime will be introduced in Hungary.
Reduction in penalties: A reduction may be requested at the Tax Office with considerations of fairness.	Burden of proof: If a study was prepared the Tax Office must prove that any modifications are justified.
Documentation requirements: A transfer price study must be prepared (not necessary for small-medium size enterprises) detailing all factors considered in transfer price calculations.	Principal differences with OECD guidelines: Hungarian regulations were prepared based on OECD Guidelines. All noted methods are applicable.

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India

Tax law: Income Tax Act, 1961, Sections 92 to 92 F.	Types of documentation required: The information and documentation can be classified as general information, transaction specific and supporting documentation.
Regulations & rulings: Rules 10A to 10E of the Income Tax Rules and clarificatory circulars thereunder.	Deadline to prepare and submit documentation: The report of a Chartered Accountant in specified form certifying the arm's length price. The report is required to be filed with the Return of Income at specified due dates applicable to the assessee.
Interpretation of arm's length principle: Applies to all international transactions between associated enterprises.	Return disclosure related party disclosure: All tax assessments.
Pricing methods priorities: Arm's length price may be determined by any of the following methods: comparable uncontrolled price; resale price; cost plus; profit split; transactional net margin. Though no priorities are laid down, the circumstances under which the above methods may be applied is indicated.	Statute of limitations: 3 years from last filing deadline. However, returns of the past six years can be reopened under certain circumstances.
Transfer pricing penalties: Penalties are laid down for: penalty consequent to re-determination of arm's length price; failure to keep and maintain information and documents; failure to furnish the report from an accountant; failure to furnish information or documents to the Tax Authorities.	Advance pricing agreements (APA): The law does not recognise the concept of advance pricing agreements. However, issues can be decided under the provisions of advance rulings if necessary conditions are satisfied. In treaty cases, the issues can be taken under mutual agreement procedure.
Reduction in penalties: No penalty may be imposed if the assessee proves that there was reasonable cause for the failure. However, in case of penalty consequent to re-determination by the Tax Authorities of arm's length price, the assessee has to prove to the satisfaction of the Tax Authorities that the transaction value was computed in accordance with the provisions of the law and in the manner provided thereunder in 'good faith' and with 'due diligence'.	Burden of proof: In case of penalty proceedings the burden of proof is on the assessee.
Documentation requirements: Documentation prescribed by law. Extensive documentation required where the aggregate of international transactions with associated enterprises exceed Indian Rupees 10 million.	Principal differences with OECD guidelines: The Transfer Pricing Regulations are largely based on the OECD Guidelines.

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Indonesia

<p>Tax law:</p> <p>Indonesia; Income Tax Law No.10/1994 Article 18 paragraph (2) & (3) and VAT Law No.11/1994 Article 2 paragraph (1) & (2).</p> <p>(The Tax Laws above are the amendment of the 1984 Tax Laws).</p>	<p>Types of documentation required:</p> <p>Application on reduction of penalties on Tax Underpayment Assessment Letter or on the Tax Collection Notice attached with its assessment letter.</p>
<p>Regulations & rulings:</p> <p>DGT Circular Letter No. SE-04/PJ.7/1993 dated 9 March 1993. A new Income Tax Law implemented on January 2001 contains transfer pricing provisions in Article 18 but regulations have not yet been issued.</p>	<p>Deadline to prepare and submit documentation:</p> <p>3 months after the relevant tax assessment letter or its tax collection notice.</p>
<p>Interpretation of arm's length principle:</p> <p>Related Party legislation (see Tax law above).</p>	<p>Return disclosure related party disclosure:</p> <p>Applied for the companies quoted in Indonesia Domestic Rupiah (IDR) and US Dollar as required in the related Corporate Income Tax Return.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP, cost plus and sale minus or resale price methods. If the above cannot be determined, comparable profit method or ROI on similar business method must be applied.</p>	<p>Statute of limitations:</p> <p>5 years as stipulated and according to the regulation on carried forward losses.</p>
<p>Transfer pricing penalties:</p> <p>No specific provisions. Tax audit adjustments may be carried out during a Tax audit/investigation due to the use of non market values. These adjustments may only carry a penalty if there is tax underpayment on the tax audit adjustment.</p>	<p>Advance pricing agreements (APA):</p> <p>Advanced pricing agreements (APAs) can be made with the Indonesia Tax Authorities with the validity of 2 years. APAs are not made retrospectively.</p>
<p>Reduction in penalties:</p> <p>Taxpayers could apply for a reduction as per Article 36, paragraph (1) of General Provision of Tax Law 1994.</p>	<p>Burden of proof:</p> <p>Indonesia Tax Authorities must prove the use of non market values.</p>
<p>Documentation requirements:</p> <p>The taxpayer has to submit the penalty reduction application on its tax underpayment to the relevant tax office.</p>	<p>Principal differences with OECD guidelines:</p> <p>Indonesia Tax Authorities must prove the use of non market values.</p>

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Ireland

Tax law: Sections 234, 453, 547 and 1036 of the Taxes Consolidation Act 1997.	Types of documentation required: Not applicable.
Regulations & rulings: Regulations apply generally only to companies taxed at the rate of 10%.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: There are no specific requirements.
Pricing methods priorities: There are no special pricing methods. An arm's length and open market are applied to connected parties. The market value applies to transactions for capital gains tax purposes.	Statute of limitations: There is no specific statute of limitation. According to corporate tax legislation: 4 years unless in case of fraud or neglect, where an assessment may be made any time.
Transfer pricing penalties: No specific provisions.	Advance pricing agreements (APA): There is no formal bilateral APA program, although the Irish Tax Authorities admit bilateral APAS.
Reduction in penalties: Not applicable.	Burden of proof:
Documentation requirements: No specific requirements, although a formal legal agreement is recommended.	Principal differences with OECD guidelines:

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Israel

Tax law: Income Tax Law, artical 85a.	Types of documentation required: Transfer price study, detailed agreement (not yet approved).
Regulations & rulings: There are proposed regulations which are not yet approved.	Deadline to prepare and submit documentation: Within 60 days after a request by the Tax Authorities.
Interpretation of arm's length principle: The principle of market value.	Return disclosure related party disclosure: Related party disclosure is required.
Pricing methods priorities: Market price between non-related parties.	Statute of limitations: No specific provision.
Transfer pricing penalties: No specific provision. Tax audit adjustments may be carried out during a tax assessment.	Advance pricing agreements (APA): Advanced pricing agreements can be made with the Israeli tax authorities (ITA).
Reduction in penalties: No specific provision.	Burden of proof: After delivering the documentation, the burden of proof passes to the ITA.
Documentation requirements: All documentation related to the transaction and the pricing methodology.	Principal differences with OECD guidelines: No differences.

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Italy

Tax law: Presidential Decree no. 917/1986 – Art. 109 and Art. 110.	Types of documentation required: A written contract; cost at arm's length; evidence that the service or the supply has been actually rendered; benefit to the subsidiary.
Regulations & rulings: Ministerial Circular no. 32/9/2267/1980. Ministerial Circular no. 42/12/1587/1981. Art. 8 Legislative Decree no. 269/2003. Provision 23rd July 2004.	Deadline to prepare and submit documentation: Documentation should be available for any tax inspection.
Interpretation of arm's length principle: Art. 9 Presidential Decree no. 917/1986.	Return disclosure related party disclosure: Transactions with black list countries to be disclosed in the Income Tax Return.
Pricing methods priorities: Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP, resale price and cost plus methods. If the above cannot be determined, profit split method, comparable profit method, invested capital profit method or gross profit margin method can be applied.	Statute of limitations: December 31 of the 4th year after the date when the return is filed.
Transfer pricing penalties: Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. In general, penalties from 100 to 200% of unpaid taxes are applicable.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Italian Tax Authorities only by the companies carrying out an international activity on a specific matter (normal value, royalties, dividends, interests, other income components, intercompany charges, etc). Valid for 3 financial years.
Reduction in penalties: Available if the assessment is totally or partially (within certain limits) accepted.	Burden of proof: Italian Tax Authorities must prove the use of non market values.
Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection.	Principal differences with OECD guidelines: Almost all OECD Guidelines are followed.

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Kenya

Tax law: Kenyan Laws CAP 470.	Types of documentation required: The transactions subject to adjustment of prices under these Rules shall include: sale or purchase of goods; sale, purchase or lease of tangible assets; transfer, purchase or use of intangible assets; provision of services; lending or borrowing of money; any other transactions which may effect the profit or loss of the enterprise involved.
Regulations & rulings: None.	Deadline to prepare and submit documentation: None.
Interpretation of arm's length principle: Introduced 1 July 2006.	Return disclosure related party disclosure: Only required in the financial statements.
Pricing methods priorities: Comparable uncontrolled price method, resale price method, cost plus method and transactional net margin method.	Statute of limitations: None.
Transfer pricing penalties: The current provisions of the Income Tax Act relating to fraud, failure to furnish returns and underpayment of tax are applicable with respect to transfer pricing.	Advance pricing agreements (APA): None.
Reduction in penalties: None.	Burden of proof: Kenya Revenue Authority.
Documentation requirements: Documents are required to be available for inspection for at least 8 years.	Principal differences with OECD guidelines: None.

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Korea

Tax law: Law for Co-ordination of International Tax Affairs.	Types of documentation required: Required as part of the annual tax return: transfer pricing method selected and the reason for the selection, schedule of related party transactions by related party, type of transaction, and amount of transaction, condensed profit and loss of overseas parties.
Regulations & rulings: Presidential Enforcement Decree, Ministerial Enforcement Ordinance, Notice of NTS.	Deadline to prepare and submit documentation: Within three months of the end of each fiscal year as part of the annual tax return.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: There are no specific requirements.
Pricing methods priorities: Comparable uncontrolled price method, resale price, cost plus, profit split, transactional net margin method and other reasonable methods are accepted by the National Tax Service.	Statute of limitations: 5 years.
Transfer pricing penalties: 10% - 30% penalty for underreported taxable income.	Advance pricing agreements (APA): Unilateral and bilateral agreements are available under the LCITA and Presidential Enforcement Decree.
Reduction in penalties: Not applicable.	Burden of proof:
Documentation requirements: No specific requirements.	Principal differences with OECD guidelines: Almost all OECD Guidelines are followed but according to the LCITA, comparable uncontrolled price method, resale price and cost plus have priority over profit split, transactional net margin, and other reasonable methods.

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Lebanon

<p>Tax law:</p> <p>Lebanese Department of Income Tax (DIT).</p> <p>Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments - Article 15).</p>	<p>Types of documentation required:</p> <p>The deduction of management support provided by a non-Lebanese related party (non-resident related party) to a Lebanese entity would require certain written documentation. This documentation should be made available by the Lebanese taxpayer at any time to the inspectors of the Department of Income Tax (DIT).</p> <p>The Lebanese laws set maximum limits for support expenses provided by non-resident related party to be allowed as a tax deductible expense.</p>
<p>Regulations & rulings:</p> <p>Lebanese Corporate Tax Law (Law #144 dated 1959 and its amendments - Article 15).</p>	<p>Deadline to prepare and submit documentation:</p> <p>Not applicable.</p>
<p>Interpretation of arm's length principle:</p> <p>Related party legislation (Article 15 of Law #144).</p>	<p>Return disclosure related party disclosure:</p> <p>According to the Lebanese Code of Commerce (Article 158), the statutory auditors (in conjunction with their audit) are required to prepare an annual special report on related party transactions. These transactions should be approved by the general assembly.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price is the primary applicable method. Alternative methods are resale price and cost plus methods.</p>	<p>Statute of limitations:</p> <p>4 years from last filing deadline.</p>
<p>Transfer pricing penalties:</p> <p>No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments (in case of understatement of taxable profits) will carry a penalty of 12% per month applied on the adjustment, starting the month of June following the year filed.</p>	<p>Advance pricing agreements (APA):</p> <p>Not applicable.</p>
<p>Reduction in penalties:</p> <p>Not applicable.</p>	<p>Burden of proof:</p> <p>The Lebanese Tax Authorities (DIT) must prove the use of non market values.</p>
<p>Documentation requirements:</p> <p>No statutory requirements. However, documentation will be needed for defence in case of tax inspection. Special rules apply to management support expenses.</p>	<p>Principal differences with OECD guidelines:</p> <p>Almost all OECD guidelines are followed, despite the fact that Lebanese Tax Laws do not cover in detail the transfer pricing transactions.</p>

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Lithuania

Tax law: Lithuanian Profit Tax Law 2001-12-20 No. IX-675, Article 40.	Types of documentation required:
Regulations & rulings: Government Act 2003-12-09 No. 1575.	Deadline to prepare and submit documentation:
Interpretation of arm's length principle: Rules of qualification of income and expenses.	Return disclosure related party disclosure:
Pricing methods priorities:	Statute of limitations:
Transfer pricing penalties:	Advance pricing agreements (APA): Lithuanian Tax Administration Law 2004-04-13 No. IX-2112, Article 68. The taxpayer and tax administrator can calculate or recalculate tax for not more than the current calendar year plus the past five calendar years, calculated from 1st January back from the year when the tax is started to calculate or recalculate.
Reduction in penalties: Lithuanian Tax Administration law 2004-04-13 No. IX-2122, Article 141.	Burden of proof:
Documentation requirements:	Principal differences with OECD guidelines:

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Luxembourg

Tax law: Luxembourg Tax Administration Law 04.12.1967 amended EU Directive 69/335.	Types of documentation required: No specific types of documentation required. It is recommended to have a written transfer pricing contract, including a comprehensive reference to current market conditions.
Regulations & rulings: Income Tax law article 56 and article 164 (3). The arm's length standard is generally applicable; the law does not contain any specific guidelines or regulations. The Tax Administration has not issued any specific guidelines or regulations.	Deadline to prepare and submit documentation: No specific requirements.
Interpretation of arm's length principle: OECD Transfer Pricing Guidelines.	Return disclosure related party disclosure: Detailed information on related parties involved in related party transactions should be attached to the tax return.
Pricing methods priorities: No specific pricing methods mentioned in the tax law. All methods based on OECD recommendation are acceptable.	Statute of limitations: No specific limitation. In case of new elements 5 years from initial assessment.
Transfer pricing penalties: No specific penalties for transfer pricing. Adjustments may apply to taxable income if Tax Authorities disagree with transfer price.	Advance pricing agreements (APA): No specific rules. The Tax Authorities may express an opinion on transfer prices used.
Reduction in penalties: No specific provisions.	Burden of proof: Luxembourg Tax Authorities must prove the use of non market values.
Documentation requirements: No specific documentation required, but it is recommended to keep justifications for each transaction.	Principal differences with OECD guidelines: Generally the Tax Authorities follow OECD Transfer Pricing Guidelines.

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Malaysia

Tax law: Section 140 of Income Tax Act, 1967.	Types of documentation required: Contracts, correspondence.
Regulations & rulings: Guidelines issued by IRB.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: OECD model.	Return disclosure related party disclosure: Related companies transaction must be disclosed.
Pricing methods priorities: Comparable uncontrolled price method (CUP), cost plus method, resale method.	Statute of limitations: 6 years if there is no fraudulent intent, otherwise no limitation.
Transfer pricing penalties: No specific provisions. Penalties will be imposed based on fraudulent intent.	Advance pricing agreements (APA): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Malaysian Tax Authorities have the burden of proof.
Documentation requirements: No specific provisions. However, documentation will be in your favour.	Principal differences with OECD guidelines: Adopted all OECD Guidelines.

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Malta

Tax law: No specific reference to transfer pricing in Maltese Companies Act and Tax Legislation.	Types of documentation required: Normal hard copies of fiscal documents are required to support all transactions e.g. invoices, credit notes, etc.
Regulations & rulings: No specific reference to transfer pricing in Maltese Companies Act and Tax Legislation.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: No specific reference to transfer pricing in Maltese Companies Act and Tax Legislation.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: All methods are allowed as no specific reference to transfer pricing in Maltese Legislation.	Statute of limitations: Not applicable.
Transfer pricing penalties: Not applicable.	Advance pricing agreements (APA): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Not applicable.
Documentation requirements: Normal hard copies of fiscal documents are required to support all transactions e.g. invoices, credit notes, etc.	Principal differences with OECD guidelines: Not applicable.

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Mauritius

Tax law: Mauritius Income Tax Act 1995.	Types of documentation required: Not applicable.
Regulations & rulings: There is no transfer pricing legislation in Mauritius.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: In the case of a business controlled by a non-resident or carried on by a non-resident company, Section 75 of the Income Tax Act contains a general provision whereby the Commissioner of Income Tax may determine the net income of the business, if he is not satisfied that transactions were carried out on an arm's length basis.	Return disclosure related party disclosure: Disclosures required in financial statements in accordance with International Accounting Standards.
Pricing methods priorities: Not applicable.	Statute of limitations: 4 years from last filing deadline.
Transfer pricing penalties: Not applicable.	Advance pricing agreements (APA): There is no transfer pricing legislation in Mauritius.
Reduction in penalties: Not applicable.	Burden of proof: Not applicable.
Documentation requirements: Documentation will be needed to support arm's length arrangements, in the case of a tax investigation.	Principal differences with OECD guidelines: There is no transfer pricing legislation in Mauritius.

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Mexico

Tax law: General Law for Income Tax (Ley General del Impuesto sobre la Renta) Articles 215, 216.	Types of documentation required: All related parties transactions, revenues and deductions, and informative declaration with related parties.
Regulations & rulings: Income Tax Law Article 215 and 216, formerly 64-A.	Deadline to prepare and submit documentation: Must be disclosed by the auditors in the annual tax report (Dictamen Fiscal).
Interpretation of arm's length principle: The principle of full competence is mentioned in Article 215 of the above law.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: Uncontrolled comparable prices, resale price, added cost, profit sharing, residual profit sharing, revenue profit transactions limits.	Statute of limitations: Not applicable.
Transfer pricing penalties: If the Fiscal Authorities determine the omission of tax after the transfer pricing study, then the penalties are: the omitted tax and its actualisation; surcharges - a fine from 70% to 100% of the omitted tax.	Advance pricing agreements (APA):
Reduction in penalties: If the taxpayers have proof of a transfer pricing study then they get a reduction of 35% to 50% of the omitted tax.	Burden of proof: The Fiscal Authorities must prove the use of non market values that are against the principle of full competence.
Documentation requirements: Transactions declaration with related parties and must be supported in case of any Fiscal Authority revision.	Principal differences with OECD guidelines: All OECD Guidelines are followed and are contemplated in the Mexican Tax Regulations.

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Netherlands

Tax law: Dutch Corporation Tax Law 1969, Article 8b.	Types of documentation required: Not further specified. Appropriate support can be based on: functional analysis/fact finding; contracts; market policy/strategy.
Regulations & rulings: Decree 2001/295M.	Deadline to prepare and submit documentation: Sufficient documentation must be available, preferably before transactions start (see Burden of proof).
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: Every person liable for corporation income tax.
Pricing methods priorities: Traditional transaction methods: comparable uncontrolled price method (CUP), resale price (distributors), cost plus (manufacturers), other (transactional profit) methods: profit split, transactional net margin (TNMM, or CPM in US).	Statute of limitations: 5 years after the filing deadline.
Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Dutch Tax Authorities. APAs can be made for the future and retrospectively. Also available are Advanced Tax Rulings (ATR) i.e. an agreement on the characterisation of international corporate structures. Standard rulings have been developed for: holding-activities; finance-activities; license-activities; financing permanent establishments.
Reduction in penalties: Not applicable.	Burden of proof: If there is no documentation the Tax Authorities can reject the transfer prices (reversed onus of proof).
Documentation requirements: The documentation requirement is part of the administration. Appropriate support is required.	Principal differences with OECD guidelines: None.

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New Zealand

<p>Tax law:</p> <p>Income Tax Act 2004. Sections GD13, GC1 and FB2.</p>	<p>Types of documentation required:</p> <p>The Inland Revenue Department expects to see: detailed discussion of facts, analysis of functions, risks and assets especially intangibles; industry analysis; consideration of associated party transactions; efforts made to find internal comparables; description of process of selecting best transfer pricing method; details of comparables search undertaken; why companies selected are comparables; unadjusted income statement for each comparable with adjustments explained; cross-check using at least a second profit level indicator; conclusions and copies of all inter-company agreements as well as local and global corporate structures. Details of any special circumstances.</p>
<p>Regulations & rulings:</p> <p>The Inland Revenue has issued guidelines to be read in conjunction with the legislation. The Inland Revenue Department considers that the guidelines supplement rather than replace the OECD guidelines. Refer also to the Australian transfer pricing rulings and the United States' 482 transfer pricing regulations. See Tax Information Bulletin Vol 12, No 10, October 2000, Appendix.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Document when the transaction occurs or at least by the time the relevant tax return is filed. No documentation needs to be filed with the tax return but must be at hand in case of a tax audit.</p>
<p>Interpretation of arm's length principle:</p> <p>Standard adopted by OECD and New Zealand legislation for regulating cross-border associated party transactions by members of multinational enterprises (MNEs).</p>	<p>Return disclosure related party disclosure:</p> <p>Disclosure 32: Payments to non-resident, and Disclosure 36: Is the company controlled or owned by non-residents? Note: related party transactions need to be disclosed in the financial statements.</p>
<p>Pricing methods priorities:</p> <p>Taxpayers are required to use at least one of the five methods prescribed in the legislation. These include transactional based methods (uncomparable uncontrolled price, resale price, cost plus) and profit based methods (profit split and comparable profits).</p>	<p>Statute of limitations:</p> <p>Records must be retained for seven years extended to ten years if the Inland Revenue advises of an audit. The Inland Revenue may not amend an assessment four years after the end of a year in which the return was filed. No limitation if the Commissioner considers the tax return to be fraudulent or wilfully misleading.</p>
<p>Transfer pricing penalties:</p> <p>Lack of reasonable care or unacceptable tax position – 20%. Gross carelessness – 40%. Abusive tax position – 100%, Evasion – 150%.</p>	<p>Advance pricing agreements (APA):</p>
<p>Reduction in penalties:</p> <p>Each penalty can be reduced by 75% (e.g. 20% reduced to 5%) if disclosure is made before notification by the Commissioner of an audit. Each penalty can be reduced by 40% (e.g. 20% reduced to 12%) if disclosure is made after notification by Commissioner of an audit.</p>	<p>Burden of proof:</p>
<p>Documentation requirements:</p>	<p>Principal differences with OECD guidelines:</p>

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Norway

<p>Tax law:</p> <p>There is general reference made to arm's length principles in Paragraph 13-1 of the General Taxation Act.</p>	<p>Types of documentation required:</p> <p>There are specific formulas required for shipping companies.</p>
<p>Regulations & rulings:</p> <p>There are no regulations specific to transfer pricing, but Supreme Court decisions and letters from the Minister of Finance generally support the OECD Transfer Pricing Guidelines.</p>	<p>Deadline to prepare and submit documentation:</p> <p>There are no formal requirements to have documentation prepared. However, contemporaneous documentation will strongly improve the case of the taxpayers, and will shift the burden of proof to the Tax Authorities. The Tax Authorities may, according to § 4-8 of the Tax Assessment Act, ask the taxpayer to present documentation which supports the contention that their transfer prices are at arm's length. The information the Tax Authorities request is usually in line with the OECD Transfer Pricing Guidelines. The deadline for submitting such documentation is normally three to four weeks upon request. It is possible to apply for an extended deadline.</p>
<p>Interpretation of arm's length principle:</p> <p>See above.</p>	<p>Return disclosure related party disclosure:</p> <p>There are separate disclosure requirements in the shipping industry. The required information is to be filed together with the tax return.</p>
<p>Pricing methods priorities:</p> <p>The Norwegian Tax Authorities adhere to OECD Transfer Pricing Guidelines. There is no specified priority; however, the transactional pricing methods seem to be preferred in practice. The profit methods are in general not accepted without proper documentation, which clarifies why the transaction based methods are not applicable.</p>	<p>Statute of limitations:</p> <p>The normal statute of limitations is two years. However, if information in a tax return is deemed insufficient or incorrect, then the statute of limitations can reach as far back as 10 years from the end of the assessment year.</p>
<p>Transfer pricing penalties:</p> <p>Transfer pricing penalties (surtax) range from 15% to 45% penalty based on tax adjustments. In case of gross negligence, a surtax of up to 60% may be levied. However, the normal surtax rate is 30%. Additionally, a non-deductible interest (7%) will apply per year.</p>	<p>Advance pricing agreements (APA):</p> <p>APA are currently unavailable.</p>
<p>Reduction in penalties:</p> <p>A 30% penalty is normal. However, the penalty may be reduced or even eliminated if proper documentation has been prepared in advance.</p>	<p>Burden of proof:</p> <p>Taxpayer.</p>
<p>Documentation requirements:</p> <p>There are currently no formal documentation requirements. However, the reference to OECD Transfer Pricing Guidelines is strong and is in fact assessed as a documentation requirement.</p>	<p>Principal differences with OECD guidelines:</p> <p>See above.</p>

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Peru

Tax law: SUNAT - Supervision of Tributary Administration.	Types of documentation required:
Regulations & rulings: Tax Law of Revenue Article 32.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure:
Pricing methods priorities: Comparable uncontrolled price method (CUP), resale price method, cost plus method, profit split method, residual profit split method, transactional net margin method.	Statute of limitations:
Transfer pricing penalties: Penalties exist where the study of transfer pricing is not carried out or some transactions between linked firms are not included.	Advance pricing agreements (APA): APAs are available.
Reduction in penalties: Not applicable.	Burden of proof: Peruvian Tax Authorities must prove the use of non market values.
Documentation requirements: No statutory requirements, although documentation will be needed for defence in case of a tax inspection.	Principal differences with OECD guidelines:

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Philippines

Tax law: National Internal Revenue Code (NIRC): Section 50.	Types of documentation required: See Documentation requirements.
Regulations & rulings: Revenue Audit Memorandum (RAMO) 1-98 Revenue Memorandum Order (RMO) 63-99 DRAFT Revenue Regulations ("Rev.Regs.") as of 24 February 2006.	Deadline to prepare and submit documentation: Once examined and required by the Tax Authorities.
Interpretation of arm's length principle: See Section 50 of NIRC and the above regulations and rulings.	Return disclosure related party disclosure: Related party transactions are required to be disclosed.
Pricing methods priorities: Traditional transaction method - comparable uncontrolled price method (CUP), resale price method (RPM), cost plus method (CPM) are preferred. If traditional transaction methods cannot apply, the "transactional profit methods"-profit split method and transactional net margin method, may be used.	Statute of limitations: 3 years from the date of filing deadline and 10 years from discovery of fraud in case of fraudulent or false return.
Transfer pricing penalties: No specific provision, the Bureau of Internal Revenue (BIR) after its audit investigation will determine the amount the taxpayer is liable as a result of illegal transfer pricing. General penalty provision under the Tax Code is either 25% or 50%. See Section 248 of NIRC.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) may cover all transfer pricing issues of the taxpayer, or limited to specified affiliates and intercompany transactions. Must be formally initiated by the taxpayer.
Reduction in penalties: Not applicable.	Burden of proof: Burden of proof rests upon the taxpayer to show that the determination of arm's length pricing is appropriate and in accordance with the arm's length principle.
Documentation requirements: Standard documentation requirements, viz: contracts; invoices; and agreements.	Principal differences with OECD guidelines: All OECD rules on transfer pricing were used as reference.

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Poland

<p>Tax law:</p> <p>Legal Entities Tax Act as of 15.02.1992, art.9a and 11. Tax Ordinance Act as of 29.08.1997 art.20a-20q.</p>	<p>Types of documentation required:</p> <p>Description of functions of parties of transaction, description of all expected costs and terms of payments, methods and way of profit calculation and determination of price, determination of economic strategy if it influences price, determination of other possible factors, in case of nonmaterial services - determination of expected profits.</p>
<p>Regulations & rulings:</p> <p>Ministry of Finance Regulation as of 10.10.1997. Ministry of Finance Regulation as of 31.05.2006.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Taxpayers must present such documentation within 7 days of the request of the Tax Authorities.</p>
<p>Interpretation of arm's length principle:</p> <p>Legal Entities Tax Act as of 15.02.1992, art. 11.</p> <p>If related parties conclude transactions on terms that differ from market practice and, as a consequence, the Polish entity discloses a lower taxable income than it would otherwise have disclosed, the taxable income of the entity will be adjusted in accordance with the arm's length principle.</p>	<p>Return disclosure related party disclosure:</p> <p>Information about related party transactions should be stated in notes to financial statement.</p> <p>Together with the annual tax return the taxpayer should submit special information to Tax Authorities when: total amount of transactions with foreign related parties exceeds EUR 300,000; or total amount of transaction exceeds EUR 5,000 if the foreign party also has a representative office or permanent establishment in Poland.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price method, resale price method, reasonable margin method (cost plus).</p> <p>If the use of these methods is not possible then the transactional profit method is used.</p>	<p>Statute of limitations:</p> <p>As for all taxes – 5 years after the year end in which obligation arose.</p>
<p>Transfer pricing penalties:</p> <p>There are no special penalties besides a higher tax rate. The difference between the profit declared by the taxpayer and the profit defined by the authorities may be subject to 50% taxation.</p>	<p>Advance pricing agreements (APA):</p> <p>Based on Tax Ordinance regulations it is possible to make agreements with the Tax Authorities.</p> <p>Validity – maximum 3 years.</p> <p>APA can not be made retrospectively.</p> <p>Details in above regulations.</p>
<p>Reduction in penalties:</p> <p>Not applicable.</p>	<p>Burden of proof:</p> <p>Tax Authorities must prove the use of non market values.</p>
<p>Documentation requirements:</p> <p>When the total amount arising from the contract or the amount due (and actually paid) in the tax year exceeds: EUR 100,00 – if the value of the transaction does not exceed 20% of the share capital defined in accordance with the regulations of thin capitalisation; or EUR 30,000 – within respect to services, sales or use of intangibles; or EUR 5,000 – in all other cases.</p>	<p>Principal differences with OECD guidelines:</p> <p>The Polish regulations are based on the OECD Transfer Pricing Guidelines.</p>

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Portugal

<p>Tax law:</p> <p>Article 58 of the Portuguese Corporate Income Tax Code.</p>	<p>Types of documentation required:</p> <p>Organisation structure; related parties status; description of the company's activity and of the related companies; description of transactions; amounts and conditions of the transactions; functional and technical analysis; description of the method used and the reason of its use; demonstration of prices' calculation; comparables (using databases, of which the Iberian SABI is the most recognised); intra-group contractual agreements and unrelated parties' ones.</p>
<p>Regulations & rulings:</p> <p>Administrative Decree 1446-C/2001 of 21st December 2001.</p>	<p>Deadline to prepare and submit documentation:</p> <p>When the fiscal year is equal to the calendar year the documentation must be prepared by the end of June of the year following the one it respects; the deadline for the preparation is the sixth month after the tax year end. Only taxpayers subject to tax inspection are obliged to submit the fiscal documentation.</p> <p>Auditors should include a reserve in the Legal Certification of Accounts in case of non-preparation of obligatory documentation.</p>
<p>Interpretation of arm's length principle:</p> <p>Related parties legislation and regulations (see above).</p>	<p>Return disclosure related party disclosure:</p> <p>The main disclosure requirements are contained in Annexes A and H of the Annual Declaration of Accounting and Fiscal Information. The deadline to submit the declaration is the sixth month after the tax year end.</p>
<p>Pricing methods priorities:</p> <p>The Portuguese Tax Authorities prefer the use of the traditional transaction-based methods (by decreasing order): comparable uncontrolled price method (CUP); resale price method; cost-plus method.</p> <p>The profit-based methods, although to be recognised, are of subsidiary use: profit split method; transactional net margin method; other methods.</p>	<p>Statute of limitations:</p> <p>Additional assessments are possible within the 4 years from the end of the assessment year. As for all the relevant accounting documentation, the transfer pricing documentation must be kept for 10 years.</p>
<p>Transfer pricing penalties:</p> <p>Transfer pricing adjustments carried out by the Tax Authorities as a consequence of a tax inspection are subject to the general tax penalty regime. Late payment interest penalty is 4% per year.</p>	<p>Advance pricing agreements (APA):</p> <p>The Portuguese transfer pricing law and regulations do not provide for APAs.</p>
<p>Reduction in penalties:</p> <p>The general tax penalty regime is applicable, and the voluntary payment of additional assessment can determine the reduction of fines.</p>	<p>Burden of proof:</p> <p>The Tax Authorities must prove the non use of the arm's length principle. Obviously the task will be more difficult when transfer pricing documentation exists and it includes a demonstration that the arm's length principle is fulfilled.</p>

Documentation requirements:

Taxpayers with an annual income that exceeds €3,000,000 in the previous year need to prepare a process of fiscal documentation, which must contain the master file and the country-specific documentation. The fiscal documentation must contain the description of the related parties, the scope of activity, detailed description of goods, rights and services involved, functional analysis, risk analysis, and conclusions.

Principal differences with OECD guidelines:

No significant differences.

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Russia

Tax law: The tax code of the Russian Federation 1998-2006.	Types of documentation required: The contract, waybills on shipments, estimates of the executed works, services and other documents.
Regulations & rulings: The civil code of the Russian Federation.	Deadline to prepare and submit documentation: It is not certain, though for certain kinds of the documents it should be certain in the contract.
Interpretation of arm's length principle: The civil code of the Russian Federation.	Return disclosure related party disclosure: In financial reports of joint-stock companies.
Pricing methods priorities: <p>The specified price of the goods, works or the services is accepted by the parties of the transaction. Until otherwise is proved, it is supposed that these prices correspond to a level of market prices.</p> <p>The Tax Authorities have the right to check the correctness of application of the prices under transaction only in the following cases: between interdependent persons, on goods exchange operations, at fulfilment of the foreign trade transaction, at a deviation of more than 20% increase or drop in prices, applied on the identical/one-miscellaneous goods, works, services within the limits of a short period of time.</p>	Statute of limitations: 3 years.
Transfer pricing penalties: Under the transactions specified above, the price for the purposes of the taxation (not the price of the transaction) proceeding from market prices, can be certain with an extra fee of the tax and penalty fee.	Advance pricing agreements (APA): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Russian Tax Authorities must prove the use of non market values.
Documentation requirements: The law on book keeping № 129, clause 9 from 21/11/1966 and the tax code of the Russian Federation, clause 252.	Principal differences with OECD guidelines: Transaction net margin method is not contemplated in Russian Regulations.

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Singapore

Tax law: No specific law on transfer pricing.	Types of documentation required: No specific documentation required.
Regulations & rulings: Section 33 and 53(2A) of the Singapore Income Tax Act have been used for transfer pricing adjustments. In February 2006, the Inland Revenue Authority of Singapore (IRAS) published a circular on transfer pricing which provide guidance on transfer pricing issues and the application of the arm's length principle.	Deadline to prepare and submit documentation: No specific deadline.
Interpretation of arm's length principle: Singapore's tax legislation does not contain a specific provision stipulating the use of the arm's length principle for related party transactions. However, the new Transfer Pricing Guidelines mentioned above and various provisions of the Singapore Income Tax Act imply or refer to the concept or use of the arm's length principle. In addition, this principle is found in all of Singapore's comprehensive tax treaties.	Return disclosure related party disclosure: Yes.
Pricing methods priorities: A taxpayer can select any one of the 5 methods, or even a modified version of a method listed below to comply with the arm's length principle: comparable uncontrolled price, resale price, cost plus, profit split method, transactional net margin method.	Statute of limitations: Currently 7 years, to be reduced to 5 years pending necessary amendments to the Singapore Income Tax Act.
Transfer pricing penalties: No specific penalty. General penalty up to 300%.	Advance pricing agreements (APA): There is no mandatory requirements to seek an APA. However, IRAS would accept an APA request from taxpayers who are engaged in cross-border related transactions subject to the agreement of the relevant foreign authorities involved. An APA may be unilateral, bilateral or multilateral. The Transfer Pricing Guidelines provide guidance on the application of such APA process.
Reduction in penalties: Not applicable.	Burden of proof: Taxpayers should keep documents to demonstrate that reasonable efforts have been taken to comply with the arm's length principle.
Documentation requirements: Adequate documentation necessary to substantiate that transfer prices are in accordance with the arms' length principle.	Principal differences with OECD guidelines: None.

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Slovakia

Tax law: Income Tax Act No. 595/2003 Coll. Articles 2/n-r, 17/ 5, 17/6, 17/7 and 18 and 16/1-4.	Types of documentation required: Although no written contracts are obligatory, the Finance Authority usually asks for written contracts for management, marketing and other services.
Regulations & rulings: Measure of the Ministry of Finance of SR No. 1/6/-651/1997, Decree Issued by the Ministry of Finance No. 14/1997, No. 83/1999, No. 12/2002. Transfer pricing principles by OECD.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: In case of a request from the Tax Office, the subject is obliged to supply supporting documentation proving the connection with foreign parties.
Pricing methods priorities: Comparable uncontrolled price method (CUP) is the primary method applicable, though all other OECD methods (comparable price method, resale price method, profit sharing method and transactional net margin method) can be used if it is possible for the business activity.	Statute of limitations: For all tax periods of taxation open for tax audit; usually 6 years, but when international tax agreements apply the period is 11 years.
Transfer pricing penalties: According to Article 17/5 of Income Tax Act if the transfer price is different from market price, Finance Authority can adjust tax base, adjust (increase) income tax and assess penalty.	Advance pricing agreements (APA): A taxpayer has the right to request the Slovak Tax Authorities approve a specific method. If approved, this method must not be changed earlier than 1 year. For detailed procedure see Tax law above.
Reduction in penalties: Not applicable.	Burden of proof: The primary company must prove that there is no difference between transfer prices and market value.
Documentation requirements: No statutory requirement, although documentation will be needed for negotiation in case of a tax inspection.	Principal differences with OECD guidelines: All OECD Guidelines are followed.

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Slovenia

Tax law: Slovenian Corporate Income Tax Law (Official Gazette 40/2004) Articles 12-15.	Types of documentation required: Transfer pricing questionnaire has to be submitted together with the yearly income tax form.
Regulations & rulings: Law on Tax Procedures (Official Gazette 54/2004) (Article 365) and Decree on transfer pricing (Official Gazette 130/2004).	Deadline to prepare and submit documentation: During a tax audit.
Interpretation of arm's length principle: See the Regulations and rulings above.	Return disclosure related party disclosure: Yes, for all companies.
Pricing methods priorities: Comparable uncontrolled prices method (CUP) is mandatory if applicable, otherwise the other 4 methods from OECD Transfer Pricing Guidelines can be used.	Statute of limitations: 10 years after the fiscal year.
Transfer pricing penalties: Transfer pricing can be the subject of a tax audit. If differences in pricing arose, the consequences (payment of the difference plus penalty interests) were the same as they would have been in other examples of tax evasions.	Advance pricing agreements (APA): Not possible.
Reduction in penalties: None.	Burden of proof: On the taxpayer.
Documentation requirements: The transfer pricing file has to be prepared when a tax audit takes place.	Principal differences with OECD guidelines: None from the methodology point of view.

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South Africa

Tax law: The South African Income Tax Act 1962 as amended – Section 31.	Types of documentation required: None legally required, but onus of proof with the taxpayer.
Regulations & rulings: Practice note 7 issued by SARS (South Africa Revenue Services).	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Paragraph 1 of Article 9 of the OECD Model Tax Convention.	Return disclosure related party disclosure: Disclosure of international transactions with connected persons in annual income tax returns of entities.
Pricing methods priorities: Comparable uncontrolled price method, resale price method, cost plus method, transactional net margin method, profit split method.	Statute of limitations: 3 years from assessment date if full disclosure made. Otherwise no limitation.
Transfer pricing penalties: The Act does not impose specific penalties in respect of non-arm's length pricing practices. However, sections 75, 76 and 104 of the Act are applicable. Also sections 89bis and 89quat. Any adjustments subject to STC.	Advance pricing agreements (APA): Neither at present nor in the foreseeable future.
Reduction in penalties: At the discretion of SARS. Subject to appeal.	Burden of proof: Rests with the taxpayer.
Documentation requirements: No statutory requirement. Onus of proof rests with taxpayer.	Principal differences with OECD guidelines: OECD Guidelines are followed.

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Spain

Tax law: Spanish Tax Agency: Spanish Corporation Tax Law 4/2004 Article 16.	Types of documentation required: The deduction of research and development costs and management support expenses require a prior written contract.
Regulations & rulings: Royal Decree 1777/2004 Articles 16 to 29.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: Only for companies quoted in Spanish exchanges.
Pricing methods priorities: Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP, resale price and cost plus methods. If the above cannot be determined, profit split method must be applied.	Statute of limitations: 4 years from last filing deadline.
Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Spanish Tax Authorities and bilaterally between countries. Validity of 3 years. APAs are not made retrospectively. For detailed procedure see Tax law above.
Reduction in penalties: Not applicable.	Burden of proof: Spanish Tax Authorities must prove the use of non-market values.
Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection. Special rules apply to research and development and management support expenses.	Principal differences with OECD guidelines: Almost all OECD Guidelines are followed except for the use of transactional net margin method which is not contemplated in Spanish Regulations.

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Sweden

Tax law: Swedish Income Tax Law (1999:1229) and LSK (2001:1227).	Types of documentation required: Required documentation: company description, documentation of inter-company transactions as well as conditions applied, an analysis of company functions and risks, documentation of pricing method and an analysis of compatibility with the arm's length principle.
Regulations & rulings: (1999:1229) ch. 15 Article 19 and 20 and (2001:1227).	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Related party legislation (see Tax law above).	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: The result is calculated as if market prices were used.	Statute of limitations: 6 years from last filing deadline.
Transfer pricing penalties: 20% extra tax on miss-pricing. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may carry a penalty even if there is no intention to act fraudulently.	Advance pricing agreements (APA): No advanced pricing agreements (APAs) can be made with the Swedish Tax Authorities.
Reduction in penalties: If miss-pricing is possible to detect without a tax audit the penalty is reduced from 20% to 5%.	Burden of proof: The Swedish Tax Authorities must prove the use of non market values if documentation by the company is fulfilled according to above.
Documentation requirements: Documentation is required by law.	Principal differences with OECD guidelines: Rules are based on EU principles of conduct.

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Switzerland

Tax law: No special Swiss tax law or statutory transfer pricing rules.	Types of documentation required: Not applicable.
Regulations & rulings: Art. 58 Federal Direct Tax Law and Art. 24 of the Federal Tax Harmonization Law are basis for transfer pricing. Instructions issued by the Federal Tax Authorities in 1959, 1960, 1997 and 2004.	Deadline to prepare and submit documentation: No special deadline for transfer pricing ruling concepts. After an assessment by the Tax Authorities, the taxpayer has 30 days to appeal against decisions.
Interpretation of arm's length principle: Expenditure must be commercially justifiable.	Return disclosure related party disclosure: The taxpayer has to provide the Tax Authorities with relevant information for properly assessing the taxpayer's profit. If the taxpayer does not comply, fines may be imposed.
Pricing methods priorities: Switzerland accepts the OECD Transfer Pricing Guidelines as closely as possible.	Statute of limitations: Basically 10 years.
Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.	Advance pricing agreements (APA): Advanced pricing agreements (APA) can be made with the Swiss Tax Authorities. A large ruling policy exists in Switzerland. This procedure is informal and no explicit statute or guidelines exist.
Reduction in penalties: Not applicable.	Burden of proof: The taxpayer has to prove the justification of tax deductible expenses. The Tax Authorities must prove adjustments which increase taxable income.
Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection.	Principal differences with OECD guidelines: Switzerland follows the OECD Transfer Pricing Guidelines as closely as possible.

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Taiwan

<p>Tax law:</p> <p>Income Tax Law - Article 43-1, Taiwan, Republic of China.</p>	<p>Types of documentation required:</p> <p>Required documents: group overview, organisation structure/ ownership linkage within the group, summary and detail descriptions of controlled transactions.</p> <p>A transfer pricing report (TP Report), which should comprise of the following: analysis of economy and industry; analysis of the functions and risks of the associated enterprises of the controlled transactions; status of applying the arm's length principle; description of the selected comparable transactions; analysis of the comparability; selection of most appropriate pricing method and the reason for selection; reasons for rejecting other pricing methods; pricing policies and related information of the associated enterprises of controlled transactions; description of the adjustments applied to achieve comparability; description of the evaluation, the arm's length range and conclusion; and adjustments (compensating adjustments) made in accordance with the evaluation.</p>
<p>Regulations & rulings:</p> <p>Examining Guidelines Governing Assessment of Profit Seeking Enterprise Income Tax - Article 114-1.</p> <p>Examining Guidelines Governing Profit Seeking Enterprises' Not Conforming Regular Business Practice Transfer Pricing.</p>	<p>Deadline to prepare and submit documentation:</p> <p>The Tax Authorities may issue notice to a taxpayer for the submission of TP Report and related documents for examination. The TP Report and related documents are required to be ready upon return filing and be submitted within one month after receiving the notice. Application for an extension of submission is allowed for one month at most.</p>
<p>Interpretation of arm's length principle:</p> <p>Examining Guidelines Governing Profit Seeking Enterprises' Not Conforming Regular Business Practice Transfer Pricing—Chapter II.</p> <p>Arm's length principles: comparability; use of most appropriate pricing methods; evaluation of separate and combined transactions; use of current year or multiple year data; use of an arm's length ranges; analysis of the cause of loss; and separate evaluation of transactions being offset.</p>	<p>Return disclosure related party disclosure:</p> <p>Disclosure requirements for related parties information, controlled transactions and compensating adjustments are applied to all profit-seeking enterprises in return filings except for those taxpayers who do not reach the requirement thresholds prescribed in the "Safe Harbour Protocols".</p>
<p>Pricing methods priorities:</p> <p>Methods:</p> <p>Comparable uncontrolled price method (CUP); comparable uncontrolled transaction method (CUT); comparable profits method (CPM); resale price method (RPM); cost plus methods (CPLM); profit split method (PSM).</p> <p>Applicable for different types of transaction: tangible asset transfer: CUP, RPM, CPLM, CPM, PSM.</p> <p>Intangible asset transfer and utilisation: CUT, CPM, PSM.</p> <p>Service provision: CUP, CPLM, CPM, PSM.</p> <p>Financing: CUP, CPLM.</p>	<p>Statute of limitations:</p> <p>5 years for returns filed within the prescribed time limit which have not been accused of tax evasion.</p> <p>7 years for returns not filed within the prescribed time limit, or have been accused of tax evasion by the Tax Authorities during examinations.</p>

Transfer pricing penalties:

A taxpayer is subject to a penalty up to 300% of the assessed income tax payable if the taxpayer did not file the required disclosure.

If a taxpayer has fulfilled filing obligations, it is subject to a penalty of up to 200% of the understatement of income tax liability if either of the three following situations apply:

Filed prices of the controlled transactions are more than two times or are less than one half of the arm's length transaction prices assessed by the Tax Authorities;

The increased taxable income resulting from the Tax Authority's adjustment is more than 10% of the total assessed taxable income, and is more than 3% of the assessed net operating income; or

A taxpayer fails to submit a TP Report and related documents upon the Tax Authorities request during examination.

When an adjustment to a taxpayer's return becomes certain, the Tax Authorities should make corresponding adjustments to the returns of transaction counterparts (the associated enterprises) within Taiwan. Tax treaties are complied with if the associated enterprises are located in other jurisdictions.

Reduction in penalties:

The general rule stipulated by Section 48-1 of the Tax Assessment and Collection Act is applied to all the tax related penalties:

Where a taxpayer voluntarily files and pays the amount which the taxpayer should but did not file, as long as it is neither a case brought about by an impeachment, nor a case under investigation by the Authorities, the taxpayer is exempt from the punishment imposed under various tax acts and regulations governing tax evasion, and is exempt from any criminal liability if a criminal act is involved. In addition to the amount of supplementary tax paid, the taxpayer shall pay the interest accrued at the prescribed interest rate for the delay period.

Advance pricing agreements (APA):

Advanced pricing agreements (APAs) are signed between taxpayers and the Taiwan Tax Authorities.

To obtain an APA the following criteria must be met:

The amount for the transactions related to the APA should be over NT\$ 1,000 million (approximately US\$30 million) in total, or its yearly transaction amount should be over NT\$ 500 million (approximately US\$ 15 million); the applicant has not committed significant tax avoidance and tax evasion for the past three years; the applicant has prepared the required documentation for applications.

The application should be submitted before the end of the accounting period in which the applicable transaction commences.

The review of the application shall be completed within one year. Under special circumstances, the Tax Authority can notice the applicants, before the expiry, of an extension for six months at the most. The Tax Authority can make a second extension for another six-months.

APAs are effective for the shorter of: transaction duration or 5 years since the year of application (the year in which the applicable transaction commences).

Taxpayers should keep records and file an annual report with the Tax Authorities every year within the effective period of APA demonstrating the compliance with the terms and that the critical assumptions remain relevant.

Taxpayers should inform the Tax Authorities within one month since the occurrence of the changes (e.g., participants of the controlled transactions become non-related, transaction prices have been re-negotiated, significant changes in the factors influencing the outcomes of the controlled transactions) during the effective period of the APA.

Taxpayers can submit an application, before the expiry of an APA, for an extension of no more than 5 years where the critical assumptions and business environment remain unchanged.

An APA can be revoked where there are misrepresentations, mistakes or omissions attributable to the neglect, carelessness or wilful default of the applicants. The effect of revocation is retroactively traced back to its commencement.

Burden of proof:

A TP Report documents the necessary information supporting the filed amount is in compliance with arm's length principle.

The Tax Authorities assess the income tax returns based on the filed and submitted documents. Where the taxpayers failed to submit required documents, the Tax Authorities have the right to assess the returns based on other available information, or based on profit standard of the same trade of business if there is no available taxation data.

Taxpayers can go through remedial procedures if in disagreement with the results of assessments. The remedial procedure includes a re-examination, an administrative appeal and two administrative litigations. Taxpayers should submit reasonable arguments or evidence supporting their claims during the procedures.

Documentation requirements:

A Transfer Pricing Report (TP Report) and related documents should be ready. They are not filed in the return, but should be submitted upon request from the Tax Authorities during examination. Those taxpayers who do not reach the requirement thresholds prescribed in “Safe Harbour Protocols”, are exempt from preparing a TP Report.

Disclosure requirements for related parties information, controlled transactions and compensating adjustments are applied to all profit-seeking enterprises in return filings except for those taxpayers do not reach the requirement thresholds prescribed in “Safe Harbour Protocols”.

Principal differences with OECD guidelines:

Taiwan Guidelines do not have stipulations in respect of issues involving other jurisdictions, such as: mutual agreement procedure with the tax administrations of other jurisdictions; bilateral or multilateral APA with the competent Tax Authorities of other jurisdictions; or simultaneous tax examination.

There is a general rule that the above issues are governed by tax treaties agreed with other jurisdictions.

Except for the above, Taiwan Guidelines in general follow the OECD Guidelines.

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Turkey

Tax law: Turkish Corporation Tax Law 5520 Article 13.	Types of documentation required:
Regulations & rulings: No regulations.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle:	Return disclosure related party disclosure: All companies.
Pricing methods priorities: Comparable uncontrolled price method (CUP) is the primary method applicable. Subsidiary to CUP, resale price and cost plus methods.	Statute of limitations: 5 years from last filing deadline.
Transfer pricing penalties: No specific provisions. Tax audit adjustments may be carried out during a tax inspection due to the use of non market values. These adjustments may only carry a penalty if there is proof of fraudulent intent.	Advance pricing agreements (APA): Advanced pricing agreements (APAs) can be made with the Turkish Tax Authorities and bilaterally between countries. Validity of 3 years.
Reduction in penalties: Not applicable.	Burden of proof: Turkish Tax Authorities must prove the use of non market values.
Documentation requirements: No statutory requirement, although documentation will be needed for defence in case of a tax inspection.	Principal differences with OECD guidelines: OECD Guidelines are followed.

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United Arab Emirates

Tax law: UAE is tax free therefore there are no transfer pricing guidelines.	Types of documentation required: Not applicable.
Regulations & rulings: Not applicable.	Deadline to prepare and submit documentation: Not applicable.
Interpretation of arm's length principle: Not applicable.	Return disclosure related party disclosure: Not applicable.
Pricing methods priorities: Not applicable.	Statute of limitations: Not applicable.
Transfer pricing penalties: Not applicable.	Advance pricing agreements (APA): Not applicable.
Reduction in penalties: Not applicable.	Burden of proof: Not applicable.
Documentation requirements: Not applicable.	Principal differences with OECD guidelines: Not applicable.

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United Kingdom

Tax law:

Taxes Act 1988, Schedule 28AA.

Types of documentation required:

Any corporate entity subject to UK corporation tax on its profits, including a UK trading presence of a non-UK resident company, may be required to prepare and maintain documentation which outlines its transfer pricing policy and demonstrates its consistency with the arm's length standard.

It must retain documentation and supporting benchmarking materials used to establish pricing. Documentation should include written agreements and board minutes which approve the conclusions of the transfer pricing study. Benchmarking materials should consist of UK data and studies of independent operations of a similar size and activity.

Certain Small Size Enterprises (as defined by the EU) are exempt from the legislation. The legislation does not distinguish between UK to UK transactions and UK to non-UK transactions.

Regulations & rulings:

There is a small body of UK case law in respect of transfer pricing matters which confirm that transfer pricing rules may apply in certain cases of the provision of share options and the award of shares.

The UK Tax Authorities may refer to the laws of other jurisdictions in their approach to transfer pricing, e.g. they may apply Article 9 of the OECD Model Treaty in so far as adjustments are made in the tax return of the affected company where it is resident in one of the countries with which the UK has a full OECD Model Treaty. The taxpayer may also request to enter into the Mutual Agreement Procedures under Article 25 or the EU Arbitration Convention.

Deadline to prepare and submit documentation:

Documentation as described above forms part of company records and should be in place prior to the filing of a tax return. Without it, the taxpayer is not in a position to make an accurate self-assessment of its chargeable profits.

Documentation may be requested by the UK Tax Authorities during their enquiries into a filed tax return. The deadline for submission will be 30-60 days. The deadline may be extended where a company is classed as a Medium Sized Enterprise.

Interpretation of arm's length principle:

The principle is defined in line with general international consensus. An arm's length provision will have been made between two independent enterprises. In comparing actual and arm's length price, the terms and conditions of the transaction are assessed and adjusted to arm's length terms.

Return disclosure related party disclosure:

The taxpayer is required to confirm that it is carrying out transactions on an arm's length basis. The taxpayer may be required to disclose transfer pricing adjustments that are not in its accounts.

Pricing methods priorities:

There are no specific rulings. The following is a general guide only applicable where the company does not undertake comparable transactions with third parties and cannot therefore rely on this basis as a reliable method to apply arm's length pricing.

Resale price method (RPM): compensates the reseller of goods for costs incurred and provides an appropriate margin for functions performed, assets employed and risks borne. This basis should not be used where the reseller adds substantially to the value of the product or incorporates the product into another.

Cost plus method (CPM): an appropriate mark-up is applied to costs incurred. CPM is appropriate where there is a provision of services, in particular where the services are of a routine nature and do not contribute significantly to the profits of the recipient. It may also be applicable in circumstances including contract manufacturing and long-term buy and sell arrangements.

The profit split and transactional net margin methods may be applicable in some circumstances.

Transfer pricing penalties:

Where the taxpayer has been negligent in filing a transfer pricing position as part of a tax return, the Tax Authorities may impose tax-geared penalties where further tax becomes due as a result of adjustments. Penalties may amount to up to 100% of the additional tax which falls due (excluding interest for late payment of the additional tax). Penalties may also be imposed for failing to document and retain evidence justifying the transfer pricing adopted.

Reduction in penalties:

The level of penalties may be decreased at the discretion of the Tax Authorities depending on the circumstances in which the correction to the tax return arose, e.g. where a genuine effort was made to apply UK transfer pricing principles and the Tax Authority contends that an adjustment should be made, penalties may be reduced considerably.

Such penalties may not be reduced below 10%. Where the differences in approach and pricing are minor it can be argued that no penalties should be levied.

The level of penalties can depend on the taxpayer's circumstances and co-operation.

Documentation requirements:

A transfer study including: a review of the group, activities, analysis of risks and assets and transactions with connected parties. It should discuss the basis for the pricing method adopted and an analysis of the data reviewed for benchmarking purposes.

Group agreements which document the various transactions undertaken, services performed, etc, including the terms and conditions.

Board minutes which evidence the company's agreement to the adoption of the study, its underlying recommendations and the group agreements.

Statute of limitations:

UK Tax Authorities confine their enquiries to the period covered by the tax return. However, where transfer pricing compliance requirements have not been met, they can reassess the previous 6 years. In the case of fraud or negligence the authorities may review the previous 21 years.

Advance pricing agreements (APA):

APAs may relate to unilateral, bilateral or multi-lateral arrangements. The Tax Authorities do not charge a fee for APAs, which are given on a 3-5 year term. It will only permit an applicant to enter the APA where their position is deemed to be sufficiently complex and will set out in detail what they expect to see in an application, including the nature of the underlying documents. They also expect relevant business briefings before deciding whether or not to accept the application.

Burden of proof:

The burden of proof falls on the UK taxpayer.

Principal differences with OECD guidelines:

The Tax Authorities may accept most of the pricing policies which the OECD recommends however the pricing policy adopted should be consistent with the circumstances in which the OECD deems these to be acceptable, e.g. it may be difficult for the UK Tax Authorities to agree that the profit-split or net margin methods are acceptable.

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United States

<p>Tax law:</p> <p>U.S.C. Title 26, Subtitle A, Chapter 1, Subchapter E, Part III, Section 482; U.S.C. Title 26, Subtitle F, Chapter 68, Subchapter A, Part II, Section 6662.</p>	<p>Types of documentation required:</p> <p>Principal documents include: overview of taxpayer's business; description of the taxpayer's organisational structure; explicitly required documentation per section 482; description of method selected and explanation of why; description of alternative methods not used and why; description of controlled transactions; description of comparables used and why; explanation of the economic analysis and projections relied upon; description of any relevant data the taxpayer obtains after year end but before the filing of the tax return; and general index of the principal and background documents used.</p>
<p>Regulations & rulings:</p> <p>Reg. §§1.482-0 to 1.482-7; Reg. §1.6662-6.</p>	<p>Deadline to prepare and submit documentation:</p> <p>Documentation is to be prepared and maintained contemporaneously during the course of the tax year. If the documentation is requested by the Tax Authorities, it should be provided within 30 days of the request.</p> <p>Pursuant to Reg. §1.6662-6(d)(2)(iii)(A), documentation is generally considered to be contemporaneous if it is in existence as of the last day of the tax year.</p>
<p>Interpretation of arm's length principle:</p> <p>Related party legislation (see Tax law above).</p>	<p>Return disclosure related party disclosure:</p> <p>Forms 5471, 5472, or 8865.</p>
<p>Pricing methods priorities:</p> <p>Comparable uncontrolled price method (CUP) is the primary method applicable. Other methods available include the resale price method, the cost plus method, the comparable profits method, the profit split method, and other unspecified methods, as appropriate.</p>	<p>Statute of limitations:</p> <p>Generally 3 years from the later of: the due date of the tax return or the date the tax return is actually filed.</p>
<p>Transfer pricing penalties:</p> <p>A penalty is imposed on any underpayment attributable to a substantial valuation misstatement in the form of either a transactional penalty or a net adjustment penalty. The penalty is equal to: 20% of the underpayment of tax attributable to that substantial undervaluation; or the 20% penalty is increased to 40% of the underpayment in the case of a gross valuation misstatement with respect to either penalty.</p> <p>Reg. §1.6662-6(a).</p>	<p>Advance pricing agreements (APA):</p> <p>Advanced pricing agreements (APAs) can be made with the Internal Revenue Service (Tax Authority). A unilateral, bilateral or multilateral request may be made. APA's are generally prospective in nature, although a retrospective request may be made when applying for the APA.</p>
<p>Reduction in penalties:</p> <p>Generally not applicable.</p>	<p>Burden of proof:</p> <p>The burden of proof generally resides with the taxpayer.</p>
<p>Documentation requirements:</p> <p>Contemporaneous documentation is required and should be maintained in anticipation of the event of an examination by the Tax Authorities, as discussed above.</p>	<p>Principal differences with OECD guidelines:</p> <p>The U.S. model treaty generally conforms with OECD Guidelines.</p>

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Venezuela

<p>Tax law:</p> <p>1999 Venezuelan Income Tax Law (ITL) applicable for fiscal year 2000 and 2001. 2001 ITL applicable for fiscal year 2002. 2001 Master Tax Code: chapter III, articles 220 to 229, articles 109, 110 and 111.</p> <p>For everything else not considered in these regulations OECD rules will be applicable.</p>	<p>Types of documentation required:</p> <p>Documentation reflecting the organizational structure , the functions, assets, risk, business description, information about all operations with related and non-related parties, audited financial statements, agreements and contracts, reasoned method selection, inventory valuation method, analysis results and other relevant information.</p>
<p>Regulations & rulings:</p> <p>There are no transfer pricing rules in the Venezuelan Income Tax rulings. There are only Administrative Rulings for year 2001. SENIAT Providence NR sNAT-2003-2424, dated February 13, 2004 (effective from date of issuance).</p>	<p>Deadline to prepare and submit documentation:</p> <p>By the end of every fiscal year and by the filling date of annual income tax return.</p> <p>The deadline to submit is upon request by the Tax Administration.</p>
<p>Interpretation of arm's length principle:</p> <p>Related party legislation (see Tax Law above).</p>	<p>Return disclosure related party disclosure:</p> <p>It is important to remark that Article 168 of the ITL establishes that the Informative Return must be reported on June of each year. However, subsequently SENIAT Providence NR sNAT-2003-2424, dated February 13, 2004 establishes that said Return must be reported sixth month after each year – end for fiscal year ending different than December</p>
<p>Pricing methods priorities:</p> <p>Most internationally accepted methods are available; comparable uncontrolled price method (CUP), resale price, cost plus, profit split and transactional net margin method.</p> <p>Priority is given to the CUP method but any of the other methods can be applied.</p>	<p>Statute of limitations:</p> <p>4 years from date of filing return. 6 years from compliance date if overall tax compliance was not accomplished.</p>
<p>Transfer pricing penalties:</p> <p>Fines from 300 to 500 tax units can be established for not applying Income Tax Law. The 2005 and 2006 tax unit are BS 29,400/unit and BS 33,600/unit respectively. In addition there will be a fine up from 25% to 200% of the omitted tax amount and interest may also be added to these amounts.</p>	<p>Advance pricing agreements (APA):</p> <p>There are unilateral and bilateral APAs with nations that have double taxation treaties.</p>
<p>Reduction in penalties:</p> <p>Reduction applies if transfer prices documented according to Legislation (Tax Code art. 96 num. 5).</p>	<p>Burden of proof:</p> <p>Burden of proof lies with the taxpayer.</p>
<p>Documentation requirements:</p> <p>Contemporaneous documentation required (ITL art. 169 effective for tax years beginning after January 1, 2002).</p>	<p>Principal differences with OECD guidelines:</p> <p>ITL states no preference among transaction-based and profit-based methods.</p>

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