

Croatia

Transfer Pricing Country Profile

February 2022

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Profit Tax Act, Article 13 Profit Tax Ordinance, Article 40 (in Croatian)
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	Even if there is no direct reference in Croatian legislation (in Profit Tax Act and Profit Tax Ordinance), the Croatian Tax Administration uses the OECD Transfer Pricing Guidelines in practice.	
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No According to the Profit Tax Act, Article 13 Paragraph 2: "Persons shall be associated if one of them participates, directly or indirectly, in the management, control or capital of the other person, or if the same persons participate, directly or indirectly, in the company's management, control or capital." The General Tax Act in Article 46 defines related entities as companies that can stand in mutual relationship as: <ol style="list-style-type: none"> 1. a company that has majority shareholding or majority decision-making power in another company; 2. dependent and mothers company; 3. consortium; 	Profit Tax Act, Article 13, paragraph 2 General Tax Act, Article 46

4. associated companies that are related so that each company has more than a quarter of shares in another company;
5. companies related to entrepreneurial contracts, such as contracts for the conduct of business, profit transfer contracts and other entrepreneurial contracts registered into the court register.

Transfer Pricing Methods

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

Yes

No

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

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

According to Profit Tax Act, Article 13, the following methods can be used:

- Comparable uncontrolled price method
- Resale price method
- Cost plus method
- Profit split method
- Transactional net margin method

[Profit Tax Act, Article 13](#)

5 Which criterion is used in your jurisdiction for the application of transfer pricing methods?

Please check all that apply:

Hierarchy of methods

Most appropriate method

Other (if so, please explain)

According to Article 40 of the Profit Tax Ordinance, when selecting the method for determining transfer pricing, it is necessary to determine the method that is most appropriate for a given case. In this process the advantages and disadvantages of the prescribed methods should be taken into account, the appropriateness of the method to the nature of the controlled transaction as determined by functional analysis, the availability of reliable information required for the application of the

[Profit Tax Ordinance, Article 40](#) (in Croatian)

		<p>selected method and the degree of comparability of controlled and uncontrolled transactions, including the reliability of comparability adjustments that may be required for the elimination of their mutual material differences.</p> <p>Furthermore, it is stipulated that classical transaction methods (comparable uncontrolled price method, resale price method, cost plus method) can more directly determine whether the terms of trade and financial relationships of related parties are in line with the arm's length principle. Taking into account the above criteria, where the classical transaction method and the transaction gain method (profit split method and transactional net margin method) can be applied with the same reliability, the advantage is given to the classical transaction method, that is, when it is possible to use the Comparable uncontrolled price method and some other method for determining transfer pricing, it is preferable to use the Comparable uncontrolled price method, with the emphasis being placed on finding the method that is most appropriate for a given case.</p>	
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	
		Currently, Croatia has no legislation or regulations containing specific guidance on commodity transactions and tend to rely on the OECD TPG.	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		If available, domestic comparables are used, otherwise Croatia uses foreign comparables.	

9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Concerning comparability adjustments, in practice Croatia applies the OECD TPG as provided in Chapter III A.6., as part of comparability analysis. Croatian Tax Administration uses statistical tools such as the interquartile range.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Concerning comparability adjustments, we are applying OECD TP Guidelines as provided in Chapter III A.6., as part of Comparability analysis.	Profit Tax Ordinance, Article 40 (in Croatian)
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Croatian domestic legislation does not contain specific guidance or special measures regarding HTVI and tend to rely on the OECD TPG.	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	HTVI Implementation Questionnaire
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-Group Services			
15		<input type="checkbox"/> Yes	

	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input checked="" type="checkbox"/> No Croatian domestic legislation does not contain specific guidance or special measures regarding intra-group services transactions and tend to rely on the OECD TPG.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Croatian domestic legislation does not contain specific guidance or special measures regarding low value-adding intra-group services and tend to rely on the OECD TPG.	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Financial Transactions

18	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No According to Profit Tax Act, Article 8, interest on shareholders' and company members' loans are not tax-deductible if loans are accepted from shareholders or company members holding at least 25% of the stocks or capital shares or voting rights in the taxpayer and if at any time during the taxation period these loans exceed four times the amount of the share of that shareholder or company member in capital or voting right, determined in relation to the amount and loan period during the taxation period, except interest for loans by financial organizations. Also, Profit Tax Act in Article 14 prescribes safe harbor rule for revenue from loans given or expenditure for loans received from associated parties.	Profit Tax Act, Articles 8 and 14
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Croatia Profit Tax Act in Article 30.a prescribes Interest limitation rules in line with the EU ATAD (implementing BEPS Action 4).	Profit Tax Act, Article 30.a

Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Transfer Pricing Documentation			
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): PD-IPO form - transactions between related parties 	Profit Tax Act, Article 13 Profit Tax Ordinance, Article 40 (in Croatian) Law on Administrative Cooperation in the Field of Taxation, Article 34 (in Croatian)
22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>According to the Profit Tax Act and the related ordinance, the business relations between related entities will only be recognised if a taxpayer has and provides (at the request of the tax authority) the following information:</p> <ul style="list-style-type: none"> - Information about the group, the position of the taxpayer in the group and the analysis of related transactions, i.e. general information about the group and specific information about the taxpayer; - Identification of the method selected, description of information reviewed, the methods and analyses used to determine the arm's length price and the rationale for selecting the specific method; - Documentation about the assumptions and valuations made in the course of determining the arm's-length price (which would underline benchmark analysis, functional analysis and risk analysis); - Documentation about all calculations made in the course of the application of the selected method in relation to the taxpayer and any comparables used in the analysis; 	Profit Tax Act, Article 13 Profit Tax Ordinance, Article 40 (in Croatian)

		<ul style="list-style-type: none"> - Updated documentation that relies on a prior-year analysis containing adjustments because of material changes in relevant facts and circumstances. <p><i>Submission of CbC reports is defined by the Act on Administrative Cooperation in the taxation area and Ordinance on Automatic Exchange of Information in the taxation area. Croatian legislation on CbC reporting is aligned with Action 13 minimum standard and the EU Council Directive 2016/881.</i></p> <p><i>The Ultimate Parent Entity (UPE) is required to file CbC report no later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.</i></p> <p><i>According to the Ordinance, Constituent Entities of the MNE Groups are obligated to file Notifications to the Tax Administration in order to confirm their status as UPE, Surrogate Parent Entity (SPE) or other constituent entity according to the law or to inform about the Constituent Entity in other jurisdiction which will submit the CbC report. Notifications should be submitted no later than 4 months after the end of the period for which profit tax is determined as defined by profit tax legislation.</i></p>	<p>Link to the CbC Report: Microsoft Word - Dokument1 (porezna-uprava.hr)</p>
23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>According to Article 192 of the General Tax Act, a fine in the amount between HRK 20 000 and 500 000 shall be imposed on a legal person if:</p> <ul style="list-style-type: none"> - they do not keep financial and other records for the purpose of taxation in accordance with tax regulations applied in the Republic of Croatia; - the accounting entries and other information in their financial records are not done completely or correctly or timely or properly; - financial and other records and accounting documents are not kept within legally prescribed deadlines; - they do not present financial and other records, business documentation and other documents upon request of the tax authority. 	<p>General Tax Act, Article 192</p>
24	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>The exemption from transfer pricing documentation obligations is not prescribed by Croatian legislation.</p>	

Administrative Approaches to Avoiding and Resolving Disputes

25	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>):</p> <p>Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union</p> <p>Convention on the elimination of double taxation in connection with the adjustments of profits of associated enterprises (90/436/EEC) (the Union Arbitration Convention)</p> <hr/> <p>An APA programme is in place whereby the duration of an APA is 5 years with no rollback being allowed. There is no simplified procedure. The covered period should not exceed five consecutive years and fees apply. For more information, please refer to the Croatian MAP Profile.</p>	<p>General Tax Act, Article 10</p> <p>General Tax Ordinance, Articles 6-16 (in Croatian)</p> <p>Profit Tax Act, Article 14a</p> <p>APA Ordinance (in Croatian)</p> <p>MAP guidance</p> <p>MAP profile</p>
Safe Harbours and other Simplification Measures			
26	<p>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Croatia only has safe harbours for financial transactions. The interest rate is prescribed by the Ministry of Finance.</p> <p>For further information, please refer to question 18.</p>	<p>Profit Tax Act, Article 14</p>
27	<p>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Other Legislative Aspects or Administrative Procedures

28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>If the taxpayer at the end of the tax period determines that there is a mismatch of the price with the arm's length principle, it is obliged to carry out compensatory adjustment.</p> <p>The adjustments can be made at any point, up to the deadline for submission of the tax return. After that filing date a taxpayer may submit, within the period of 3 years, an amended tax return for the relevant fiscal period, which can be incorporated a change to any transfer pricing adjustment.</p>	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> In one. <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i> Croatia applies the AOA in practice, regardless weather it is contained in treaties or not.	
		<input type="checkbox"/> No	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information

32	Other legislative aspects or administrative procedures regarding transfer pricing	Currently, there is no special tax audit procedure for transfer pricing that differs from the regular tax audit procedure. The Tax Administration has published a Manual for transfer pricing audit in 2019 that follows 2017 OECD TPG. Also, a Manual for transfer pricing audit of financial transactions in accordance with the OECD 2020 Financial Transaction Guidelines has been internally developed in Croatian Tax Administration in June 2021. Therefore, it is not publicly available.	
33	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	N/A	

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>