

# Ireland

## Transfer Pricing Country Profile

December 2021

|                            | SUMMARY   | REFERENCE   |
|----------------------------|---|---|
| The Arm's Length Principle |   |   |
| 1                          | <p><b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b></p> <p><input checked="" type="checkbox"/> Yes<br/><input type="checkbox"/> No</p> <p>In December 2019, Ireland updated its transfer pricing legislation (which has always referred to the Arm's Length Principle) by replacing the previous provisions. The updated legislation was introduced by section 27 of Finance Act 2019 and applies for chargeable periods commencing on or after 1 January 2020 and, in respect of claims for capital allowances, where the related capital expenditure is incurred on or after 1 January 2020. The application of the transfer pricing rules to small and medium sized enterprises ("SMEs") is subject to a commencement order by the Minister of Finance. The information contained in this transfer pricing country profile is based on the updated legislation as substituted by section 27 of Finance Act 2019.</p> <p>The definition for SME is based on the Annex to the Commission Recommendation 2003/361/EC ("the Annex") and applies on a group basis. Some modifications to the approach outlined in the Annex apply in an Irish context.</p> | <p>Section 835C of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p> <p>The Taxes Consolidation Act 1997 (and the Finance Acts amending that Act) may be accessed on the <a href="#">Irish Statute Book</a>.</p> |
| 2                          | <p><b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b></p> <p>Ireland's transfer pricing rules are construed in accordance with the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations published by the OECD on 10 July 2017 ("TPG") supplemented by -</p> <ul style="list-style-type: none"><li>- the Guidance for Tax Administrations on the Application of the Approach to Hard-to-Value Intangibles,</li><li>- the Revised Guidance on the Application of the Transactional Profit Split Method, and</li><li>- Any additional guidance published by the OECD on or after the date of the passing of the Finance Act 2019 (i.e. 22 December 2019) as the Minister for Finance may designate by order.</li></ul>   | <p>Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p>   |

|   |   |   |   |
|---|---|---|---|
| 3 | <p><b>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.</b></p> | <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>Ireland’s domestic legislation provides a definition of “associated”, as below:</p> <p>(1) For the purposes of this Part —</p> <p>(a) 2 persons are associated at any time if at that time —</p> <p>i: one of the persons is participating in the management, control or capital of the other, or</p> <p>ii: the same person is participating in the management, control or capital of each of the 2 persons, and</p> <p>(b) a person (in this paragraph referred to as the ‘first person’) is participating in the management, control or capital of another person at any time only if that other person is at that time —</p> <p>i: a company, and</p> <p>ii: controlled by the first person.</p> | <p>Section 835B of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p> |
|---|---|---|---|

### Transfer Pricing Methods

| 4                                   | <p><b>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p> | <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Ireland’s domestic legislation is to be construed in accordance with the TPG and, accordingly, provides for the transfer pricing methods that are set out in the TPG.</p> <p>“Other” methods may be acceptable, in accordance with paragraph 2.9 of the TPG.</p> | CUP   | Resale Price                        | Cost Plus                           | TNMM | Profit Split | Other (If so, please describe) | <input checked="" type="checkbox"/> | <p>Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p> |
|-------------------------------------|--|--|---|-------------------------------------|-------------------------------------|------|--------------|--------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|---|
| CUP                                 | Resale Price   | Cost Plus  | TNMM  | Profit Split                        | Other (If so, please describe)      |      |              |                                |                                     |                                     |                                     |                                     |                                     |                                     |   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/>  | <input checked="" type="checkbox"/>  | <input checked="" type="checkbox"/>   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |      |              |                                |                                     |                                     |                                     |                                     |                                     |                                     |   |
| 5                                   | <p><b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b></p>                                      | <p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (if so, please explain)</p>  | <p>Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p> |                                     |                                     |      |              |                                |                                     |                                     |                                     |                                     |                                     |                                     |   |

|                               |   |  |   |
|-------------------------------|---|--|---|
|                               |   | In accordance with the TPG, the most appropriate method is used for the application of transfer pricing methods.   |   |
| 6                             | <b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b> | <input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.<br><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities ( <i>if so, please explain</i> )<br><input type="checkbox"/> Other ( <i>if so, please explain</i> ) | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ). |
|                               |   | Ireland's transfer pricing rules are construed in accordance with the TPG.   |   |
| <b>Comparability Analysis</b> |   |  |   |
| 7                             | <b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>                             | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ). |
|                               |   | Ireland's transfer pricing rules are construed in accordance with the TPG.   |   |
| 8                             | <b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>  | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No   |   |
|                               |   | In line with the EU Code of Conduct on Transfer Pricing Documentation (EU TPD) adopted by the European Council on 27 June 2006, Ireland accepts European comparables. If there are insufficient European comparables, Ireland may accept other foreign comparables.  |   |
| 9                             | <b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>  | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No   |   |
| 10                            | <b>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</b>            | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ). |
|                               |   | Ireland's transfer pricing rules are construed in accordance with the TPG, including the guidance on the use of an arm's length range and statistical measures for determining an arm's length remuneration in Chapters II and III.  |   |

|                             |  |  |  |
|-----------------------------|--|--|--|
| 11                          | <b>Are comparability adjustments required under your domestic legislation or regulations?</b>  | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ).  |
|                             |  | Ireland's transfer pricing rules are construed in accordance with the TPG, including the guidance on comparability adjustments in Chapters II and III.   |  |
| <b>Intangible Property</b>  |  |  |  |
| 12                          | <b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b>        | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ).  |
|                             |  | Ireland's transfer pricing rules are construed in accordance with the TPG.   |  |
| 13                          | <b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?</b> | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ).<br><br><a href="#">HTVI Implementation Questionnaire</a> |
|                             |  | Ireland's transfer pricing rules are construed in accordance with the TPG, supplemented by the Guidance for Tax Administrations on the Application of the Approach to Hard-to-Value Intangibles. |  |
| 14                          | <b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b>         | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   |  |
|                             |  | Section 291A (as amended) of the Taxes Consolidation Act 1997 provides for capital allowances in respect of the acquisition of specified intangible assets.                                      |  |
| <b>Intra-Group Services</b> |  |  |  |
| 15                          | <b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b>                                   | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ).  |
|                             |  | Ireland's transfer pricing rules are construed in accordance with the TPG.   |  |
| 16                          | <b>Do you have any simplified approach for low value-adding intra-group services?</b>  | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   |  |

|                               |   |   |   |
|-------------------------------|---|---|---|
|                               |   | Ireland's transfer pricing rules are construed in accordance with the TPG.  | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ).   |
| 17                            | <b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b> | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No  |   |
| <b>Financial Transactions</b> |   |   |   |
| 18                            | <b>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</b>                             | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No<br><br>Financial transactions are subject to the general transfer pricing rules, which are construed in accordance with the TPG.<br><br>The Irish transfer pricing legislation refers to the 2017 TPG, which does not include the new Chapter X (Transfer Pricing Guidance on Financial Transactions). While this specific additional guidance has not yet been implemented into Irish law, and is subject to a future Ministerial Order, it will be considered as best practice by the Irish Revenue when analysing transfer pricing issues associated with financial transactions. | Sections 835C and 835D of the Taxes Consolidation Act 1997 ( <a href="#">as substituted by Section 27 of the Finance Act 2019</a> ).<br><br>See Section 4.4.2 of the <a href="#">Revenue, Tax and Du Manual, Transfer Pricing, Part 35A-01-01</a> |
| 19                            | <b>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</b>    | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No<br><br>Ireland has extensive and long-standing rules in place to prevent abuse of interest deductions in calculating taxable profits.<br><br>In addition, Ireland is in the process of implementing the interest limitation rules/measures in the ATAD/ATAD 2. These provisions have been included in Finance Bill 2021, as initiated, and will apply to accounting periods commencing on or after 1 January 2022.   | Section 31 of the <a href="#">Finance Bill 2021</a> (as initiated) contains the proposed interest limitation rules.   |

## Cost Contribution Agreements

|    |  |  |   |
|----|--|--|---|
| 20 | <b>Does your jurisdiction have legislation or regulations on cost contribution agreements?</b> | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No     | Section 835D of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ). |
|    |  | Ireland's transfer pricing rules are construed in accordance with the TPG. |   |

## Transfer Pricing Documentation

|    |  |   |  |
|----|--|---|--|
| 21 | <b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b>  | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No<br><br><i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input checked="" type="checkbox"/> Other (specify):</li> </ul> <p>A taxpayer must have available such documentation as may reasonably be required to demonstrate compliance with transfer pricing legislation.</p> <p>The requirement to prepare a master file applies where the total consolidated global revenue of the MNE group is or is likely to be at, or above, EUR 250 million in the chargeable period.</p> <p>The requirement to prepare a local file applies where the total consolidated global revenue of the MNE group is or is likely to be at, or above, EUR 50 million in the chargeable period.</p> | <p>Section 835G of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>)</p> <p>Country-by-country reporting is legislated by way of:</p> <p>Section 891H of the Taxes Consolidation Act 1997 (as inserted by <a href="#">section 33 of the Finance Act 2015</a> and as amended <a href="#">by section 24(1) of the Finance Act 2016</a>), and <a href="#">S.I. No. 653 of 2016, Taxes (Country-by-Country Reporting) Regulations 2016</a></p> |
| 22 | <b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b> | <p>Country-by-country reports must be filed within 12 months from the end of each fiscal year (for example, by 31 December 2021 for fiscal years ending 31 December 2020).</p> <p>In relation to transfer pricing documentation, the legislation requires that a taxpayer company have such records (including, where applicable, a local file and master file) available as may reasonably be required to demonstrate</p>  | <p>Country-by-country reporting is legislated by way of:</p> <p>Section 891H of the Taxes Consolidation Act 1997 (as inserted by <a href="#">section 33 of the Finance Act 2015</a>)</p>   |

|    |  |  |  |
|----|--|--|--|
|    |  | <p>compliance with transfer pricing legislation. The documentation must be prepared no later than the date on which the tax return for the chargeable period is due to be filed. Where a Revenue officer makes a written request for such documentation, it must be provided to the Revenue within 30 days from the date of the request. The documentation must be kept in Irish or English.</p>   | <p><a href="#">Act 2015</a> and as amended <a href="#">by Section 24(1) of the Finance Act 2016</a>), and</p> <p><a href="#">S.I. No. 653 of 2016, Taxes (Country-by-Country Reporting) Regulations 2016</a></p> <p>The legislative requirement for general transfer pricing documentation is contained in Section 835G of the Taxes Consolidation Act 1997(as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p>   |
| 23 | <p><b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p> | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The penalty for a failure to file a country-by-country report/equivalent country-by-country report is EUR 19 045 plus EUR 2 535 for each day the failure continues. The penalty for filing an incomplete or incorrect country-by-country report/equivalent country-by-country report is EUR 19 045.</p> <p>Where a person fails to comply with the requirement to provide transfer pricing documentation within 30 days of a written request, a fixed penalty of EUR 4 000 will apply. Where a person is of such size that it is required to prepare a local file, the fixed penalty is increased from EUR 4 000 to EUR 25 000 plus EUR 100 for each day on which the failure continues. The increased fixed penalty applies where the person has failed to provide <i>any</i> required transfer pricing documentation, and this is not limited to failure to provide the local file.</p> <p>In addition, where a transfer pricing adjustment results in additional tax due, the transfer pricing legislation provides for protection from tax-geared penalties in circumstances where the taxpayer has fully complied with transfer pricing documentation requirements and demonstrates reasonable efforts were made in applying transfer pricing to the arrangement. This protection from tax-geared penalties does not apply in the case of deliberate behaviour by the taxpayer to under-declare a tax liability.</p> | <p>Penalties in relation to country-by-country reporting are provided for in section 891H (7) of the Taxes Consolidation Act 1997 (as inserted by <a href="#">section 33 of the Finance Act 2015</a> and as amended <a href="#">by section 24(1) of the Finance Act 2016</a>).</p> <p>Penalties in relation to general transfer pricing documentation are provided for in section 835G of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>).</p> |
| 24 | <p><b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b></p>                                  | <p>In line with the OECD model legislation, country-by-country reporting requirements only apply to multinational enterprises with annual consolidated group revenue equal to or exceeding EUR 750 million in the preceding fiscal year.</p> <p>Ireland’s legislation provides for simplified transfer pricing documentation requirements in respect of SMEs. When SMEs are brought within the scope of transfer pricing rules under Ministerial Order, a small enterprise will not be required to provide transfer pricing documentation and medium enterprises will be</p>   | <p>Section 835F of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a>)</p>   |

required to have available simplified transfer pricing documentation in respect of certain arrangements.

### Administrative Approaches to Avoiding and Resolving Disputes

25 **Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?**

Please check those that apply:

- Rulings
- Enhanced engagement programs
- Advance Pricing Agreements (APA)
  - Unilateral APAs
  - Bilateral APAs
  - Multilateral APAs\*
- Mutual Agreement Procedures

Other (*please specify*):

\*Ireland will consider engaging in multilateral APAs by way of a series of bilateral APAs.

For more information on APAs in Ireland, refer to [Ireland's MAP Profile](#) and [Bilateral APA Guidelines](#).

For more information on MAPs in Ireland, refer to [Ireland's MAP Profile](#) and [MAP Guidance](#).

[Bilateral APA Guidelines](#)

[MAP Guidance](#)

[Ireland's MAP Profile](#)

### Safe Harbours and Other Simplification Measures

26 **Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?**

- Yes
- No

27 **Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.**

- Yes
- No

### Other Legislative Aspects or Administrative Procedures

|    |   |  |   |
|----|---|--|---|
| 28 | <b>Does your jurisdiction allow/require taxpayers to make year-end adjustments?</b> | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b>   | Section 835C of the Taxes Consolidation Act 1997 (as substituted by <a href="#">section 27 of the Finance Act 2019</a> ). |
|    |   | Adjustments are allowed to the extent that they are appropriate to the year concerned and are in accordance with the Arm's Length Principle. |   |
| 29 | <b>Does your jurisdiction make secondary adjustments?</b>                           | <input type="checkbox"/> <b>Yes</b><br><input checked="" type="checkbox"/> <b>No</b>   |   |

### Attribution of Profits to Permanent Establishments

|    |  |  |   |
|----|--|--|---|
| 30 | <b>[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?</b> | <input type="checkbox"/> <b>Yes</b>  | Section 28 of the <a href="#">Finance Bill 2021</a> (as initiated) contains the proposed legislation that will provide for the application of the Authorised OECD Approach. |
|    |  | <input checked="" type="checkbox"/> <b>No</b><br>Currently only 2 treaties that are in force and in effect contain the new version of Article 7.   |   |
|    |  | Ireland is in the process of implementing legislation that will provide for the application of the Authorised OECD Approach for the attribution of income to a branch of a non-resident company operating in the State. These provisions have been included in Finance Bill 2021, as initiated, and will apply to accounting periods commencing on or after 1 January 2022.  |   |
| 31 | <b>[NEW] Does your jurisdiction follow also another approach?</b>  | <input checked="" type="checkbox"/> <b>Yes</b><br><input type="checkbox"/> <b>No</b><br>Non-resident companies trading in Ireland through a branch or agency are chargeable to corporation tax in accordance with section 25 TCA 1997. Under section 25(1) TCA 1997, a company that is not resident in the State is within the charge to corporation tax if it carries on a trade in the State through a branch or agency. If it does so, the non-resident company is chargeable to corporation tax on all of its <i>chargeable</i> profits, wherever arising. Under section 25(2) TCA 1997, the <i>chargeable</i> profits of such a non-resident company comprise (i) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency ("relevant branch income"), and (ii) chargeable gains attributable to the branch or agency. |   |

|                                   |  |   |   |
|-----------------------------------|--|---|---|
|                                   |  | As noted above, Ireland is in the process of implementing legislation that will provide for the application of the Authorised OECD Approach for the attribution of relevant branch income to a branch of a non-resident company operating in the State. These provisions have been included in Finance Bill 2021, as initiated, and will apply to accounting periods commencing on or after 1 January 2022. |   |
| <b>Other Relevant Information</b> |  |   |   |
| 32                                | <b>Other legislative aspects or administrative procedures regarding transfer pricing</b>   | Revenue has published guidance on both Bilateral Advance Pricing Agreements and Mutual Agreement Procedures.  | <a href="#">Bilateral APA Guidelines</a><br><a href="#">Guidelines on Requesting MAP Assistance</a> |
| 33                                | <b>Other relevant information</b> (e.g., <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i> ) | Prior to the amendment of Ireland's transfer pricing legislation by Section 27 of Finance Act 2019, Ireland's transfer pricing rules were contained in Part 35A of the Taxes Consolidation Act 1997 (as inserted by Section 42 of the Finance Act 2010). Section 27 of Finance Act 2019 amends the Taxes Consolidation Act 1997 by substituting a new Part 35A.   | <a href="#">Section 42 of the Finance Act 2010</a>  |

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