

Russian Federation

Transfer Pricing Country Profile

July 2021

		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	Point 1 article 105.3 of the Russian Tax Code (RTC) (in Russian only)
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The OECD Transfer Pricing Guidelines (TPG) are not a source of law under domestic legislation. The TPG along with the UN TP Manual are admissible as supplementary guidance.	
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>If the peculiarities of relations between parties may influence the conditions and/or the results of transactions between these parties and/or economic results from activities of these parties or activities of the persons represented by these parties, such parties can be considered related parties for the purpose of taxation.</p> <p>For determination of related party status the influence of one party upon another shall be considered, such influence may come from participation in capital, be incurred by a contract or exist due to other ability of a party to determine the decisions made by other parties.</p> <p>Such influence shall be considered irrespective of the fact that it is exercised by a party directly and independently or jointly with its related parties, the status of which was determined according to article 105.1 of the RTC.</p> <p>Ownership threshold is considered in sub points 1 – 3 of point 2 article 105.1 and set at more than 25% of direct and (or) indirect ownership (shares with voting rights).</p>	Definition in point 1 article 105.1 of the RTC Specific instances in point 2 article 105.1 of the RTC

Influence incurred by a contract may take place when a party is the only (or the dominant) counteragent and when the terms of a contract strongly suggest deviation from arm's length principle.

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 checked="" type="checkbox"/>

If none of the five methods is applicable to a one-off transaction (a single transaction not typical for the ordinary activities of a taxpayer) valuation can be used.

Articles 105.7 – 105.13 and Point 9 article 105.7 of the [RTC](#)

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)

The CUP is the primary method except for resale transactions for which the Resale Price Method (RPM) takes priority over the CUP.

The usual hierarchy is as follows: CUP > RPM or Cost Plus > TNMM > Profit split. For resale transactions RPM > CUP > Cost Plus > TNMM > Profit split.

Articles 105.7 – 105.13 of the [RTC](#)

6 **If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.**

For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.
 Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain)
 Other (if so, please explain)

There is no specific guidance on commodity transactions. However, the legislation allows an approach similar to paragraphs 2.18-2.22 of the TPG. For example, the

Article 105.9 of the [RTC](#)

		price in a commodity transaction can be determined with reference to an exchange market price or a quoted price.	
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 Comparability analysis largely follows the same principles as in the TPG.	Article 105.5 of the RTC
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Foreign comparables for TNMM may be used only if domestic comparables are not available.	Second paragraph of sub point 2 point 2 article 105.6 of the RTC
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Point 3 Article 105.6 of the RTC
10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The legislation prescribes to use an interquartile range except for quoted and exchange prices for which a min-max range should be used.	Point 4 article 105.8, points 3-6 article 105.9 of the RTC
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Adjustments can be made based on the results of comparability analysis.	Article 105.5 of the RTC
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

	the pricing of controlled transactions involving intangibles?	In case of intangibles, the general transfer pricing provisions (e.g. the five methods) are applicable. The OECD TPG and the UN Manual may be used to supplement the provisions in the law (e.g. DEMPE analysis).	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The guidance on deductibility of expenses for intra-group services is applicable. In this sense, the analysis for intra-group services is as follows: <ul style="list-style-type: none"> • first, it should be determined that the amount paid for the services qualifies as an expense for the purpose of the corporate income tax and is able to ‘path through’ the general anti avoidance rules; • if not, the amount is not deductible and no transfer pricing analysis shall take place; • if so, then the general transfer pricing provisions would apply and the mark up can be tested using the transfer pricing methods. 	Letters of the Federal Tax Service IIIIO-4-13/12599@ dated 06.08.2020 and IIIIO-4-13/1749@ dated 12.02.2021
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	Are there any other rules outside transfer pricing rules that are relevant	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Articles 252 and 54.1 of the RTC.

	for the tax treatment of transactions involving services?	General deductibility and anti-avoidance rules contained in Articles 252 and 54.1 of the RTC and the Letter of the Federal Tax Service ББ-4-7/3060@ applies.	Letter of the Federal Tax Service ББ-4-7/3060@ dated 10.03.2021
Financial transactions			
18	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No General transfer pricing provisions would apply.	
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 Controlled loans rates safe harbours and thin capitalization rules apply. Under the controlled loans rate safe harbour, a taxpayer may recognize income (expense) according to the actual interest rate if such a rate is above (below) the minimum (maximum) point of the safe harbour range. For the purpose of the thin capitalizations rule debt to equity ratio is 3 and 12,5 for banks.	Article 269 of the RTC
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Cost contribution agreements are not recognized under domestic legislation.	
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 	Article 105.15 and Chapter 14.4-1 of the RTC

		<input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify):	
22	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p><i>1. Transfer pricing documentation</i></p> <p>A taxpayer should prepare transfer pricing documentation in case its transactions meet the requirements in article 105.14 of the RTC. The documentation should be prepared in the Russian language and can be requested no earlier than 1st of June of the year following the calendar year in which the controlled transactions were conducted by the taxpayer. The transfer pricing documentation can only be requested by the tax authorities within a transfer pricing audit. The documentation should be provided within 30 days from the request by the tax authorities.</p> <p>Pursuant to the general rule, Local File, Master file and CbCR should be prepared (submitted) by a taxpayer in case if it is a part of a multinational group of companies of which consolidated revenue exceeds the appropriate threshold for CbCR purposes in the jurisdiction if its parent entity or RUB 50 billion if the parent entity is a tax resident of the Russian Federation</p> <p><i>2. Local file</i></p> <p>The documentation should be prepared in Russian language and can be requested no earlier than 1st of June of the year following the calendar year in which the controlled transactions were conducted by the taxpayer. The transfer pricing documentation can only be requested by the tax authorities within a transfer pricing audit. The documentation should be provided within 30 days from the request of the tax authorities.</p> <p><i>3. Master file</i></p> <p>The documentation should be prepared in the Russian language and can be requested no earlier than after twelve (12) months and no later than after thirty-six (36) months from the date of the end of the relevant reporting period. The documentation is only provided upon request from the tax authorities and it should be provided within 3 months from the day of such request.</p> <p><i>4. CbCR</i></p> <p>The report must be submitted to the tax authorities no later than 12 months from the date of the end of the reporting tax period. The report can be prepared both in Russian and in a foreign language. Foreign language is available for preparation when the parent company of the MNE group is located outside the Russian Federation.</p> <p><i>5. Notification</i></p>	Chapter 14.4-1 of the RTC

		Russian taxpayers – members of multinational groups of companies, must notify the tax authorities of their participation in MNE groups. The notification must be submitted to the tax authorities no later than 8 months from the date of the end of the reporting period of the parent company of the MNE Group.	
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 129.3 and Articles 129.9 - 129.11 of the RTC
		<p>1. Transfer pricing documentation – no penalties for non-submission, but in cases where price deviations have been established in controlled transactions and the documentation was in fact provided, penalties for non-payment of additional tax may not be imposed.</p> <p>2. Local File – penalties in the amount of RUB 100 000 in case of non-submission.</p> <p>3. Master File – penalties in the amount of RUB 100 000 in case of non-submission.</p> <p>4. CbCR – penalties in the amount of RUB 100 000 in case of non-submission or submission of inaccurate information.</p> <p>5. Notification – penalties in the amount of RUB 50 000 in case of non-submission.</p>	
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	<p>According to the RTC, all the cross-border transactions between related parties are deemed to be controlled for the purpose of taxation from the threshold equalling RUB 60 million. Therefore, a taxpayer should prepare transfer pricing documentation with respect to each controlled transaction made by the taxpayer during the relevant tax period.</p> <p>At the same time, there are several exemptions from transfer pricing documentation obligations provided in the RTC, including (1) transactions in which prices are set in accordance with antitrust order or regulated by the relevant government authorities; (2) transactions with unrelated parties; (3) transactions with publicly traded securities and derivatives; (4) transactions with respect to which a taxpayer has concluded an advance pricing agreement.</p> <p>Please, see answer to question 22 for Country by Country reporting exemption.</p>	Article 105.14 and Point 4 article 105.15 of the RTC

Administrative Approaches to Avoiding and Resolving Disputes

25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): ICAP</p> <hr/> <p>According to domestic legislation, unilateral, bilateral and multilateral APAs can be concluded. The term of an APA is 1-3 years with a possible extension of maximum of 2 years. Rollback is not possible.</p> <p>MAP regulations are in place. Specific information can be found in the MAP profile.</p>	<p>Chapters 14.6 of the RTC (APA)</p> <p>Order of the Ministry of Finance № 60H dated 29.03.2018 (BAPA, MAPA)</p> <p>Chapter 20.3 of the RTC (MAP)</p> <p>Order of the Ministry of Finance № 102H dated 11.06.2020 (MAP)</p> <p>Russia's MAP Profile</p>
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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?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Controlled loan rates safe harbours (please see answer to question 19).</p>	<p>Article 269 of the RTC</p>
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Other Legislative Aspects or Administrative Procedures

28		<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
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	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	Year-end adjustments are possible. For cross-border transactions the taxpayers are allowed to make upward tax base adjustments (to pay additional tax), a downward adjustment is possible via MAP or a bilateral or multilateral APA.	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		In cases allowed by the appropriate double tax treaties.	
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> <p>In accordance with textual analysis of our double tax treaties, most of them (50) do not contain an explicit permission on indirect methods of profit allocation. This may lead to the conclusion that only the direct method is available, which meets the requirements of AOA.</p> <p><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></p> <p>In practice, we did not encounter the need to resolve such uncertainties in the absence of such cases.</p>	
		<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	The legislation is based on a transactional approach, i.e. the financial results for the purpose of transfer pricing adjustments are determined for each transaction or for a group of uniform transactions. Portfolio approach for non-uniform transactions is not allowed.	
33	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant</i>	New APA legislation in force.	Federal Law № 6-ФЗ dated 17.02.2021

	<i>aspects not addressed in this questionnaire)</i>		
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For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>