

Slovak Republic

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	Income Tax Act , Article 17, para 5 and Article 18, para 1
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The OECD Transfer Pricing Guidelines (TPG) are not legally binding, but acceptable as an explanatory instrument.	Income Tax Act , Article 1, para 2
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 Article 2 of the Income Tax Act, defines related parties as follows: <i>n) 'associated person' shall mean:</i> <ol style="list-style-type: none"> 1. a close person, 2. a person or entity with economic, personal or other ties, 3. a person or entity which is part of a consolidated whole for purposes of consolidation <i>o) 'economic ties or personal ties' shall mean a person's or entity's participation in the assets, control or management of other person or entity or mutual relation between persons or entities being under control or management of the same person, a person close to such person or entity, or in which such person, a person close to such person or entity has a direct ownership interest or indirect ownership interest; participation in:</i> <ol style="list-style-type: none"> 1. the assets or control shall mean a direct interest, indirect interest or indirect derived interest amounting to at least 25 % of the registered capital, a direct interest, indirect interest or indirect derived interest amounting to at least 25 % of voting rights or an interest amounting to at least 25 % of profit; indirect interest shall be calculated as the product of the percentage of direct interests 	Income Tax Act , Article 2 letter n) - r)

		<p><i>divided by one hundred and the result calculated in this way shall be multiplied by one hundred and the indirect derived interest shall be calculated as a total of indirect interests; the indirect derived interest shall only be used to calculate the amount of participation of one person or entity in the assets or control of another person or entity where such one person or entity has participation in the assets or control of multiple persons or entities, each of which has participation in the assets or control of the same other person or entity; if the indirect derived interest exceeds 50% and more, all the persons or entities used to calculate its amount shall be deemed to have economic ties regardless of the actual amount of their interests; for the purpose of this point, the person or entity acting jointly with another person or entity as regards voting rights or interest in the registered capital shall be considered a person or entity having participation in all voting rights or owning the interest in the registered capital held by such other person or entity,</i></p> <p>2. <i>management shall mean the relationship between members of statutory bodies, supervisory bodies or other similar bodies of a legal person or entity and this legal person or entity,</i></p> <p>p) <i>'other ties' shall mean a legal relationship or other similar relationship created in particular for the purpose of tax base reduction or tax loss increase,</i></p> <p>r) <i>'foreign associated person' shall mean a domestic natural person, domestic legal person or domestic entity having ties with a foreign natural person, foreign legal person or foreign entity pursuant to Paragraph (n); the relationship between the taxpayer with unlimited tax liability and their permanent establishments abroad, as well as the relationship between the taxpayer with limited tax liability and their permanent establishment in the territory of the Slovak Republic, and the relationship between permanent establishments of taxpayers with mutual ties pursuant to Paragraph (n) and the mutual relationship between these permanent establishments and these taxpayers shall be assessed in the same way.</i></p>	
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Transfer Pricing Methods

4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="694 1292 1541 1449"> <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 style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table>	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"/>	<p>Income Tax Act, Article 18</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"/>										

		<p>Article 18 of the Income Tax Act, provides for the use of the transfer pricing methods as follows:</p> <p>The methods, which are based on price comparison, include:</p> <ul style="list-style-type: none"> a) the method of arm's length price, in which the price of transfer of property or service agreed between associated persons and the comparable arm's length price are compared; if there is a difference between these prices, the price agreed between associated persons shall be replaced by the arm's length price. b) the resale method, in which the price of the transfer of the property purchased by an associated and resold to an independent person is converted into the arm's length price, by reducing a usual amount of trade margin of comparable independent sellers, c) the cost-plus method, in which the arm's length price is calculated from real direct and indirect costs of the property or service transferred between associated persons increased by a mark-up applied by the same supplier in relation to independent persons or by the mark-up which would have been applied by an independent person in a comparable transaction under comparable conditions. <p>The methods, which are based on profit comparison, include:</p> <ul style="list-style-type: none"> a) the profit split method, which is based on the splitting of the expected profit of associated persons, consistently with profits that would be expected by independent persons in joint business while observing the arm's length principle, b) the transactional net margin method ascertains the amount of net profit margin from a business or financial relation between associated persons in relation to costs, revenues or other bases, by comparison with the profit margin used by independent persons. <p>In determining the method of determination of prices and conditions for the purposes of Article 17 section 5, which would be used between independent persons in comparable transactions, the method pursuant to Clause 2 or Clause 3 or their mutual combination shall be used, or other methods that are not mentioned in Clauses 2 and 3. Only such methods whose use complies with the arm's length principle may be used.</p>	
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) 	

		There is no specific guidance. Slovak Republic applies general TP rules and follows the TPG.	
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>)	
		There is no specific guidance. Slovak Republic follows the OECD TPG approach as per its status as an explanatory instrument.	
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	
		The TPG are not legally binding but acceptable as an explanatory instrument. According to this approach, the comparability analysis outlined in Chapter III of the TPG are followed in practice.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		The preference to use domestic comparables is not established in domestic legislation. It comes from practice as a general rule to use domestic comparables as a first step and in case this is not possible, as a second step, foreign comparables are used.	
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	
		The use of arm's length range or statistical measures is not directly defined in domestic legislation. Slovak Republic follows the TPG.	

11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The Process of comparability adjustments is defined in the domestic legislation – Income tax Act, Section 18, Subsection 1. Accordingly:</p> <p><i>“The difference referred to in Section 17 subsection 5 above shall be determined using any of the methods pursuant to subsection 2 or 3 or their mutual combination or, as appropriate, other methods, which are not described in subsections 2 or 3 below. Only such methods may be used, the use of which complies with the arm’s length principle. The arm’s length principle is based on comparison of the terms which were agreed in any business or financial transactions between related parties and the terms which would have been agreed between unrelated parties in similar business or financial transactions, in comparable circumstances.</i></p> <p><i>The review of comparability of the terms is made by confronting in particular the businesses conducted by the parties, including, but not limited to, their production, assembly works, research and development, purchase and sale, the scope of their business risks, the characteristics of the compared property or the service, the terms agreed between the parties to the transaction, the economic environment in the marketplace, and the business strategy. The terms shall be considered comparable if there is no difference at all or if only minor adjustments would compensate any such a difference.</i></p>	<p>Income tax Act, Article 18, section 1</p>
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>There is no specific guidance. Slovak Republic applies general TP rules and follows the TPG.</p>	
13	<p>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>There is no specific guidance. Slovak Republic applies general TP rules and follows the TPG.</p>	

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No Slovak Republic applies general TP rules and follows the TPG except for the approach mentioned in the TPG, Section D.2.: Simplified determination of arm's length charges for low value adding intra-group services. Article 17, section 5, third sentence of the Income Tax Act provides: <i>In determining the tax base of an associated person, it is permitted to also include in the tax expenditures the commensurate part of expenditures (costs) incurred by another person, to which it is an associated person if:</i> <ol style="list-style-type: none"> <i>a) these expenditures (costs) are provably related to the subject of activity of this associated person,</i> <i>b) it would have to bear these expenditures (costs) itself or to order such service from independent persons if it is not provided by the person to which it is an associated person,</i> <i>c) the sum of the expenditures (costs) or the price of the service corresponds to the arm's length principle (Article 18 (1)),</i> <i>d) it proves the total amount of the expenditures (costs) related to or spent on this service and the way of their division among the persons receiving benefit from this service.</i> 	Income tax Act , Article 17, section 5
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is not a simplified approach applicable to low value-adding intra-group services.	
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no specific guidance. Slovak Republic applies the general TP rules and follows the TPG.	
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 The deduction of related party interest is limited to 25% of the EBITDA.	Income tax Act , Article 21a
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no specific guidance. Slovak Republic applies the general TP rules and follows the TPG.	
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 checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): 	Guidance of Ministry of finance of the Slovak republic MF/014283/2016-724 on determining the content of documentation according to Income tax Act Article 18 section 1

22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	The taxpayer shall submit transfer pricing documentation within 15 days from delivery of the tax administration's or financial directorate's request; such request may be, for the documentation for the relevant tax period, sent no earlier than on the first day following expiry of the period for tax return filing for that tax period. The taxpayer shall submit the records in Slovak language, the tax administration or financial directorate may, upon taxpayer's request, agree that the records be submitted in a language other than Slovak language. Simplified documentation applies to certain low-volume / low-risk transactions.	
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no penalties specific to TP documentation, but general, from EUR 60 up to EUR 3,000 for the administrative offence for fail to comply with any of the obligations of non-financial nature according to this Act or according to special regulations.	Act No. 563_2009 Coll. on Tax Administration (Tax Procedure Code) and on Amendments and Supplements to Certain Acts , Section 154, para 1, letter j)
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	There is no exemption for TP documentation obligations but there is simplification on TP documentation requirements for individuals, SME and domestic transactions.	Guidance of Ministry of finance of the Slovak republic MF/014283/2016-724 on determining the content of documentation according to Income tax Act Article 18 section 1
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: <input checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>): The taxpayer may ask the tax administrator for the issuance of a decision on unilateral approval of the use of pricing method. The taxpayer may also ask for the issuance of the decision on approving the use of pricing method based on the	Income Tax Act , Article 18, sections 4-10 Guidance of the Ministry of Finance of the Slovak republic MF/020525/2017-724 for MAP See Slovak Republic's MAP Profile

		<p>application of a double taxation convention in effect. In issuing the decision based on a double taxation agreement, the competent authorities may also agree upon the use of the pricing method for previous tax periods (rollback).</p> <p>Along with the application for the issuance of the decision on approving the use of a pricing method, the taxpayer shall pay a fee of EUR 10 000 for the issuance of the decision on unilateral approval of the use of pricing method by the tax administration and EUR 30 000 in the event of approving the use of a pricing method based on the application of a double taxation convention.</p> <p>In connection with MAP regulations, the Slovak Republic applies Income Tax Act and the Guidance of the Ministry of Finance of the Slovak republic MF/020525/2017-724.</p>	
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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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>The tax base of an associated person pursuant to Article 2(n) and (r) shall also include the difference, by which the prices or conditions in controlled transactions differ from the prices or conditions, which would be used between independent person in comparable transaction and this difference shall reduce the tax base or increase the tax loss. The procedure pursuant to Article 18 shall be used in determining the difference.</p>	Income tax Act , Article 17, section 5
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

30	<p>[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><i>In how many tax treaties?</i></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>Slovakia has a Reservation to the 2010 version of Article 7 of the OECD Model Tax Convention (para 96 of the Commentary to the MTC) and applies the pre-2010 Article 7 in its treaties. Slovakia has not signed any DTC with the 2010 version of Article 7. Generally, the arm's length principle and the separate entity approach apply for PEs. With regard to notional transactions between an enterprise and its PE, Slovakia adheres to an interpretation whereby no profit mark-up, or interest charges or royalties may be recognized. Interest or royalties paid to another entity (within or outside the group) or its respective portion may be allocated to the PE.</p> <p>The OECD PE Report 2010 is applied only to the extent to which it is consistent with the above.</p>	
		<p><input type="checkbox"/> No</p> <p><i>In how many tax treaties?</i></p>	
31	<p>[NEW] Does your jurisdiction follow also another approach?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
<h3>Other Relevant Information</h3>			
32	<p>Other legislative aspects or administrative procedures regarding transfer pricing</p>		
33	<p>Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)</p>		

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