

Canada

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	Section 247 of the Income Tax Act , RSC 1985, c 1 (5th Supp) (ITA / LIR en français); All of Canada's publically available policies and information can be obtained on the Canada Revenue Agency's external website (version française) . TPM-14 (version française) , 2010 Update of the OECD Transfer Pricing Guidelines.
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	Canada as a member of the OECD endorses the OECD Transfer Pricing Guidelines (TPG). The TPG provide guidance but are not law in Canada.	
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 Sub-section 251(2) of the ITA defines related persons. Paragraph 251(1)(a) deems related persons not to deal with each other at arm's length. This is the case regardless of how they actually conduct their mutual business transactions. According to paragraph 251(2)(a) of the ITA, individuals connected by blood relationship, marriage, common-law partnership or adoption are related persons. Under paragraph 251(2)(b) of the ITA, a corporation will be related to another person (including another corporation) where: (a) that person controls the corporation;	Paragraph 251(1)(a) of the ITA (LIR) Sub-section 251(2) of the ITA Income Tax Folio S1-F5-C1, Related Persons and Dealing at Arm's Length (version française) provides further information

(b) that person is a member of a related group that controls the corporation; or
(c) that person is a person who is related to a person described in (a) or (b) above.
In addition, paragraph 251(2)(c) provides that two corporations will be related if:
(i) the two corporations are controlled by the same person or group of persons;
(ii) each of the corporations is controlled by one person and the person who controls one corporation is related to the person who controls the other corporation;
(iii) one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation;
(iv) one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation;
(v) any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation; or
(vi) each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

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 (<i>If so, please describe</i>)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Canada's legislation does not specify any method to be used in respect of related party transactions. However, Canada's published domestic administrative guidance reflects our endorsement of Chapter II of the TPG.

[TPM-14 \(version française\)](#), 2010 Update of the OECD Transfer Pricing Guidelines

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

[TPM-14 \(version française\)](#), 2010 Update of the OECD Transfer Pricing Guidelines

		<input type="checkbox"/> Other (<i>if so, please explain</i>)	
		Canada's published domestic administrative guidance reflects the guidance provided in Chapter II of the TPG.	
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input 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>)	
		Neither Canada's legislation nor regulations provides specific guidance on commodity transactions.	
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	TPM-14 (version française) , 2010 Update of the OECD Transfer Pricing Guidelines
		The Canada Revenue Agency follows the guidance provided in Chapter III of the TPG. Canada's published domestic administrative guidance provides further information.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		In general, domestic comparables would be assumed to be more reliable in cases where the Canadian taxpayer is the tested party. However, foreign comparables are acceptable provided that they meet the same standards of comparability.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	TPM-04 (version française) , Third Party Information
		Canada's legislation allows the Minister to use all information in her possession for the purposes of the administration and enforcement of the ITA. However, from	

		an administrative perspective, the use of secret comparables as the basis for an assessment is an approach of last resort.	
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 Canada's legislation does not mention ranges or statistical tools. Canada's published domestic administrative guidance allows the use of arm's length ranges but instructs taxpayers not to use interquartile ranges or multiple-year averages to determine arm's length prices. The averaging of historical outcomes of comparable transactions over multiple years may provide information relevant in an advance pricing arrangement (APA) context. Nonetheless, even in this context transfer prices used will be verified on a year-by-year basis.	TPM-16 (version française) , Role of Multiple Year Data in Transfer Pricing Analyses
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no such specific requirement in Canadian legislation or regulations. Canada's published domestic administrative guidance indicates that comparability adjustments must be made where appropriate provided that they can be done on a reliable basis.	TPM-14 (version française) , 2010 Update of the OECD Transfer Pricing Guidelines
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	
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	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

	for the tax treatment of transactions involving intangibles?	There are a number of provisions in Canada's income tax legislation and regulations that address the domestic tax treatment of intangibles and assets in general.	
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	
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 for the tax treatment of transactions involving services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		There are a number of provisions in Canada's income tax legislation and regulations that address the domestic tax treatment of expenses in relation to services.	
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	
		Canada does not have any specific legislation or regulations related to the transfer pricing of financial transactions.	
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	
		Canada operates a "thin capitalisation" regime that caps the proportion of related party cross-border interest that may be deducted by reference to a debt-equity ratio of 1.5:1. The government has proposed to introduce, starting in 2023, a rule limiting deductions of interest consistent with the recommendations of the BEPS Action 4	

		<p>Report. It also proposed to introduce anti-hybrid rules consistent with the BEPS Action 2 recommendations.</p> <p>More generally, there are a number of provisions in Canada's income tax legislation and regulations that address the domestic tax treatment of financial transactions.</p>	
Cost Contribution Agreements			
20	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The determination of whether a CCA is arm's length falls within our general transfer pricing rules as set out in Section 247 of the ITA.</p>	<p>Section 247 of the ITA (LIR)</p>
Transfer Pricing Documentation			
21	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p><input type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input checked="" type="checkbox"/> Other (specify):</p> <p>Canada requires specific filings concerning transfer pricing and offshore holdings. See specific references in the next column.</p>	<p>T2 Schedule 19 (version française) – Non Resident Shareholder Information;</p> <p>T2 Schedule 22 (version française) – Non Resident Discretionary Trust;</p> <p>T2 Schedule 25 (version française) – Investment in Foreign Affiliates;</p> <p>T2 Schedule 29 (version française) – Payments to Non-Residents;</p> <p>T2 Schedule 44 (version française) – Non-Arm's Length Transactions;</p> <p>T2 Schedule 97 (version française) - Additional Information on Non-resident Corporations in Canada;</p> <p>T106 (version française) - Information Return of Non-Arm's Length Transactions with Non-Residents;</p> <p>T1134 (version française) - Information Return Relating to Controlled and Not-Controlled Foreign Affiliates;</p>

			<p>T1135 (version française) - Foreign Income Verification Statement;</p> <p>T1141 (version française) - Information Return in Respect of Contributions to Non-Resident Trusts, Arrangements or Entities;</p> <p>T1142 (version française) - Information Return in Respect of Distributions from and Indebtedness to a Non-Resident Trust.</p>
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>Taxpayers are not obliged to file contemporaneous documentation with their tax return. However, failure to make reasonable efforts to determine and use arm's length prices exposes the taxpayer to transfer pricing penalties in the event that the tax administration (Canada Revenue Agency) makes transfer pricing adjustments that exceed the thresholds specified in sub-section 247(3) of the ITA.</p> <p>A taxpayer is deemed not to have made reasonable efforts to determine and use arm's length transfer prices or allocations unless the taxpayer has prepared or obtained records or documents which provide a description that is complete and accurate in all material respects of the items listed in subparagraphs 247(4)(a)(i) through (vi). The documentation must be prepared or obtained on or before the taxpayer's documentation-due date for the tax year or fiscal period in which the transaction is entered into. The taxpayer must provide the records or documents specified in subsection 247(4) to the CRA within three months of service of a written request to do so.</p> <p>It may still be the case that a taxpayer has provided transfer pricing documentation within the specified timelines and still be subject to a transfer pricing penalty. This occurs where the tax administration finds that the documentation provided is not sufficient to demonstrate that the taxpayer determined and used arm's length transfer prices.</p> <p>Canada's Country-by-Country reporting requirements comply with the BEPS Action 13 minimum standard. They can be found in section 233.8 of the ITA.</p>	<p>Section 233.8 and sub-sections 247(3) and 247(4) of the ITA (LIR)</p> <p>TPM-05R (version française) - Requests for Contemporaneous Documentation.</p> <p>TPM-09 (version française) - Reasonable efforts under section 247 of the ITA (LIR)</p>
23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>See response to question 22.</p>	
24	<p>If your legislation provides for exemption from transfer pricing</p>	N/A	

	documentation obligations, please explain.		
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 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>Divisions I and J of Part I of the ITA (LIR).</p> <p>IC 71-17r6 (version française) Guidance on Competent Authority Assistance under Canada's Tax Conventions</p> <p>IC 94-4R (version française) International Transfer Pricing: Advance Pricing Arrangements (APAs)</p> <p>Canada's MAP Profile</p>
		<p>Taxpayers may appeal any reassessment, including those resulting from transfer pricing adjustments, to the Appeals Division of the CRA for an independent impartial review. Thereafter, recourse is also available through the Canadian court system.</p> <p>Where applicable, taxpayers may also file for relief from double taxation under the mutual agreement procedure provisions of Canada's tax treaties.</p> <p>For further information, please refer to Canada's MAP Profile.</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?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</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	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Canada requires taxpayers to price their cross-border related-party transactions in accordance with the arm's length principle. A year-end adjustment is one way that this requirement may be met.</p>	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Sub-Section 247(12)-(13) of the ITA (LIR). TPM-02R (version française) Secondary transfer pricing adjustments, repatriation and Part XIII tax assessments</p>
		<p>Sub-Section 247(12) of the ITA provides for a secondary adjustment on all transfer pricing adjustments. Broadly, the amount adjusted is deemed by this provision to be a dividend and withholding tax is applicable according to the relevant treaty rates. Sub-Section 247(13) provides that relief from secondary adjustments is available in certain circumstances.</p>	

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 type="checkbox"/> Yes <i>In how many tax treaties?</i> <p>Canada has three tax treaties containing an Article 7 broadly in line with the OECD Model Tax Convention 2010.</p>	<p>Canada's tax treaties (unofficial versions) can be accessed here (version française).</p>
		<input type="checkbox"/> No <i>In how many tax treaties?</i> <p>The remainder of Canada's tax treaties (91), do not contain an Article 7 broadly in line with the OECD Model Tax Convention 2010.</p>	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information

32	<p>Other legislative aspects or administrative procedures regarding transfer pricing</p>	<p>Subsection 247(2.1) was added by SC 2021, c 23, s 60, in order to clarify the interaction of subsection 247(2) and the other provisions of the ITA. The subsection provides an ordering for the application of the transfer pricing adjustments in the context of the provisions of the Act: the transfer pricing rules apply in priority to the application of the other provisions of the ITA.</p>	<p>SC 2021, c 23 / LC 2021, c 23</p> <p>Technical notes: Explanatory Notes Relating to the Income Tax Act and Other Legislation-Canada.ca / Notes explicatives relatives à la Loi de l'impôt sur le revenu - Canada.ca</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>	<p>The government has announced its intention to consult on possible measures to improve Canada's transfer pricing rules.</p>	<p>Part 4 - Fair and Responsible Government Budget 2021 (version française)</p>

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