

# France

## Transfer Pricing Country Profile

December 2021

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<a href="#">Article 57</a> of the General Tax Code ( <i>Code général des Impôts</i> ) is the equivalent in domestic law of Article 9 of the OECD Model Tax Convention.
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>Although the OECD Transfer Pricing Guidelines are not prescriptive under French domestic law or regulation, French administrative doctrine makes express references to them. French domestic administrative doctrine refers to the OECD Transfer Pricing Guidelines for the arm's length principle and for the methods used for determining the transaction price between related parties under this principle.</p>	<p><i>Le Bulletin Officiel des Finances Publiques</i> (Official Public Finances Bulletin) <a href="#">BOI-SJ-RES-20-20120912</a> of the 12th of September 2012, on APAs.</p> <p><i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-INT-DG-20-40-20120912</a> of the 12th of September 2012, on general transfer pricing guidance, treaty provisions and practical issues.</p> <p><i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-BIC-BASE-80-20140218</a> of the 18th of February 2014, on definition, calculation, documentation, control and procedure about transfer pricing between associated enterprises.</p>
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><i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-BIC-BASE-80-20-20150902</a> of the 2nd of September 2015 on indirect transfer of profits between dependent enterprises, guidance on control and transfer pricing audit procedures.</p>
		<p>In the context of transfer pricing, associated enterprises are those that depend on or control enterprises outside France.</p>	

Article 57 of the General Tax Code refers to the notion of dependence but does not define it; dependence can be either *de jure* or simply *de facto*. Moreover, Article 57 dispenses the tax authorities from having to prove the relationship of dependence or control in respect of profit transfers to enterprises located in a foreign State or territory outside France that has a preferential tax regime, or that are incorporated or constituted in a non-cooperative jurisdiction or territory as it is determined by French law.

Administrative doctrine stipulates that:

*De jure* dependence is established if a French enterprise is dependent on a foreign enterprise, which is the case if the foreign enterprise holds a preponderant share of the French enterprise's equity or an absolute majority of the voting rights. In practice, holding more than 50 % of the shares is enough to characterize dependency or control.

*De facto* dependence may either be contractual or stem from conditions underlying the dealings between the two enterprises (there is abundant case law illustrating this notion of *de facto* dependence). For example, if the foreign enterprise is empowered to perform functions that include decision-making affecting the French enterprise, either directly or through intermediaries.

[Article 57](#) of the General Tax Code (*Code général des Impôts*)

### 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"/>

There is no specific legislation or regulation on transfer pricing methods to be used, but the French administrative doctrine provides that the guidance in the OECD Transfer Pricing Guidelines should be followed.

*Le Bulletin Officiel des Finances Publiques* [BOI-BIC-BASE-80-10-10-20140218](#) of the 18th of February 2014 on indirect transfer of profits between dependent enterprises, providing guidance on definitions and principles on determining transfer pricing.

5	<b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b>	<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 (<i>if so, please explain</i>)</p> <hr/> <p>There is no specific legislation or regulation on transfer pricing methods to be used, but the French administrative doctrine provides that the guidance in the OECD Transfer Pricing Guidelines should be followed. The most appropriate method is to be selected after performing a functional analysis in order to identify the arm's length price between independent companies.</p>	<p><i>Le Bulletin Officiel des Finances Publiques</i>  <a href="#">BOI-BIC-BASE-80-10-10-20140218</a> of the  18th of February 2014.</p>
6	<b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <hr/> <p>There is no specific guidance on commodity transactions.</p>	
<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>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <hr/> <p>French guidance mention the need to carry out a comparability analysis in order to test the arm's length principle.</p>	<p><a href="#">BOI-INT-DG-20-40 §50</a></p>
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<p><input type="checkbox"/> <b>Yes</b></p> <p><input checked="" type="checkbox"/> <b>No</b></p> <hr/> <p>There is no preference defined in the French domestic law or regulation.</p> <p>However, in practice, because of the specificities of each domestic market, national comparables are deemed to better meet the requirement of comparability. Then, in the absence of usable national comparables, the use of foreign comparables does not present difficulties.</p>	

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  French domestic legislation does not contain as such specific guidance on comparability analysis. However, French domestic administrative doctrine refers to the OECD Transfer Pricing Guidelines for the arm's length principle and for the methods used for determining the transaction price between related parties under this principle.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Comparability adjustments can be accepted (not required) when specific circumstances justify it.	
<b>Intangible Property</b>			
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  There is no specific legislation or regulation on transactions involving intangibles, but the French administrative doctrine provides some general guidance in this respect.	<a href="#">Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218</a> of the 18th of February 2014.
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	<a href="#">HTVI Implementation Questionnaire</a>
14	Are there any other rules outside transfer pricing rules that are relevant	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<a href="#">Article 238</a> of the <i>General tax code</i> (GTC)

	<b>for the tax treatment of transactions involving intangibles?</b>	Article 238 of the General tax code provides a special rule for transactions involving capital gains on the transfer of patents, patentable inventions or improvements made therein. This rule provides that companies may, under certain conditions, subject to separate taxation at a reduced rate the net income issued from the sale, concession or sub-concession of patents and similar 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No  There is no specific legislation or regulation on intra-group services, but the French administrative doctrine provides some general guidance on those transactions.	<i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-BIC-BASE-80-10-10-20140218</a> of the 18th of February 2014 on indirect transfer of profits between dependent enterprises about definitions and principles on determining transfer pricing.
16	<b>Do you have any simplified approach for low value-adding intra-group services?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  There is no specific legislation or regulation on low value-adding intra-group services, but the French administrative doctrine provides some general guidance.	<i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-BIC-BASE-80-10-10-20140218</a> of the 18th of February 2014 on indirect transfer of profits between dependent enterprises about definitions and principles on determining transfer pricing.
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 <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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Article 57 of the General Tax Code (GTC) allows the tax administration to ensure compliance with the arm's length principle and to reassess profits declared in corporate income tax returns when these profits have been indirectly transferred abroad, either by way of increase or decrease in purchase or sale prices, or by any other means.	<a href="#">Article 57</a> of the General Tax Code ( <i>Code général des Impôts</i> ) is the equivalent in domestic law of Article 9 of the OECD Model Tax Convention.

		These provisions are intended to apply to all types of transactions, including financial transactions such as loans, cash pooling, or guarantees.	
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"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
		<p>Article 39 of the GTC allows the deduction of interest paid to partners on certain conditions as long as they do not exceed the average rates charged by banks.</p> <p>Article 212 bis of the GTC caps the deduction of net financial charges of companies subject to corporation tax at 30% of their profit before taxes, interest, depreciation and amortization (“EBITDA fiscal”), or at EUR 3 million if this amount is higher. Moreover, this article also provides for mechanisms for deferral to subsequent years of net financial charges not allowed in deduction under the limitation rules, as well as unused deduction capacities for a year. These rules are stricter for under-capitalized companies.</p> <p>An anti-hybrid rule (Article 205 B of the GTC) prohibits the deduction of sums when the income is not included in the taxable income of the beneficiary due to a hybrid asymmetry.</p>	
<b>Cost Contribution Agreements</b>			
20	<b>Does your jurisdiction have legislation or regulations on cost contribution agreements?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	<p><i>Le Bulletin Officiel des Finances Publiques</i>  <a href="#">BOI-BIC-BASE-80-10-10-20140218</a> of the  18th of February 2014.</p>
		<p>There is no specific legislation or regulation on cost contribution agreements, but the French administrative doctrine provides some general guidance in this respect.</p> <p>French administrative doctrine provides some general guidance on cost contribution agreements (CCA) as follows: the possibility of setting up a CCA is mentioned. This agreement must relate to services which must be remunerated at the same price as if they were provided between independent companies. The individualized services must be invoiced directly and for other services the valuation methods must be sufficiently precise so that the prices conform to the market price. The method adopted must be representative of the value of the services rendered, which excludes any flat-rate allocation method. The use of an individualized distribution key is recommended.</p>	

## Transfer Pricing Documentation

21	<p><b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p><i>If affirmative, please check all that apply:</i></p> <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 type="checkbox"/> Other (specify):</li> </ul>	
22	<p><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>	<p>The transfer pricing documentation requirements in the French tax law covers all transactions between associated companies.</p> <p>Under Article L 13 AA of the Tax Procedure Code (TPC), any entity which belongs to a group, whose annual turnover or balance sheet assets is at least EUR 400 million, is required to keep available both a master and a local file for the tax administration services.</p> <p>The first document provides background information about the related companies within the group whereas the second contains additional information about the local company under tax audit.</p> <p>Entities dealing with related parties located in non-cooperative jurisdictions are subject to additional requirements (Article L 13 AB of the TPC). It involves providing documents that are required from corporations liable to the corporation tax under French law, including balance sheet and income statement.</p> <p>Article 223 quinquies B of the General Tax Code (GTC) requires from companies whose turnover or balance sheet assets is at least EUR 50 million to file every year a simplified version of the master and local file. Furthermore, companies that do not exceed the threshold above mentioned of EUR 400 million can be required, in case of control, to produce targeted and lightened information (Article L. 13 B of the TPC). Article L. 13B of TPC provides, in case of a tax audit, the possibility, for the administration, to request legal, economic, fiscal, accounting, methodological information on the methods according to which the price of transactions was set between a company and companies located abroad. This procedure occurs only if the company has not provided the information requested</p>	<p><a href="#">Article L 13 AA</a> of the Tax procedure code (TPC)</p> <p><a href="#">Article L 13 AB</a> of the TPC</p> <p>Article 223 <a href="#">quinquies B</a> and <a href="#">quinquies C</a> of the General tax code (GTC). Deadline for the filing date is within 6 months after filing corporate tax result for 223 quinquies B and it is within 12 months of the group's financial year closure for CBC under Article 223 quinquies.</p> <p><a href="#">More information</a></p>

		<p>by the administration. This article introduces documentation obligations for transfer pricing policy of the company.</p> <p>Finally, Article 223 quinquies C of the GTC faithfully transposes the OECD recommendations regarding the country-by-country (CBC) reporting, for MNEs exceeding the threshold of EUR 750 million.</p> <p>Declarations must be filled on the tax forms provided by the administration and electronically sent.</p> <p>The administration has the possibility to request the documents written in a foreign language to be translated in French.</p> <p>Where an enterprise does not produce the required documentation, or when it produces it partially, the administration shall send a formal notice to produce it or to complete it within a period of thirty days.</p> <p>Some specific information could be asked in case of a tax audit.</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>An audited enterprise that fails to produce the required documentation or produces partial documentation provided for in Articles L 13 AA and L 13 AB of the TPC can be liable to a fine provided by Article 1735 ter of the GTC. This fine, that cannot be less than EUR 10 000, may reach 0.5% of the amount of transactions covered by the documents undelivered, or 5% of the profits reassessment. In case an enterprise does not fulfil the conditions provided under Article L 13 B of the TPC, Article 1735 of the GCT provides that such enterprise is liable to a fine of EUR 10 000 per tax year.</p> <p>With regard to Article 223 quinquies B of the GTC, the common penalties mechanism is applicable, consisting in the application of a fine of EUR 150 as provided by article 1729 B of the GTC.</p> <p>Finally, as far as the country-by-country report is concerned, the fine provided in Article 1729 F of the GCT cannot exceed EUR 100 000.</p>	<p><a href="#">Article 1735 ter</a> of the GTC</p> <p><a href="#">Article 1735</a> of the GTC</p> <p>Articles <a href="#">1729B</a> and <a href="#">1729 F</a> of the GCT</p>
24	<p><b>If your legislation provides for exemption from transfer pricing</b></p>	<p>The French tax law does not provide any exemption other than those resulting from turnover and/ or assets balance thresholds.</p>	



	documentation obligations, please explain.		
<b>Administrative Approaches to Avoiding and Resolving Disputes</b>			
25	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input checked="" 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>Regarding MAP, the French tax administration does apply arbitration with partners with which France has an agreement containing an arbitration clause (27 countries with the MLI).</p> <p>For further information on APAs, please refer to the French MAP profile, <a href="#">doctrine PT APA</a>.</p>	<a href="#">France's MAP Profile</a>
<b>Safe Harbours and Other Simplification Measures</b>			
26	<b>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
27	<b>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Simplified APA procedure for SMEs and simplified TPG application for SMEs.</p>	<p><a href="#">More information</a></p> <p><a href="#">Transfer pricing guideline for SMEs</a></p>

		<p>SMEs wishing to secure their transfer pricing tax purposes can request an APA. In practice, this agreement guarantees the company that the prices charged in this intra-group industrial, commercial or financial relations do not qualify for a transfer of profits.</p> <p>French tax administration has also drawn up an explanatory guide on transfer pricing, adapted to the expectations of SMEs.</p>	
<b>Other Legislative Aspects or Administrative Procedures</b>			
28	<b>Does your jurisdiction allow/require taxpayers to make year-end adjustments?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
		<p>France considers year-end adjustments as a possibility to reach an arm's length price for economic and financial transactions within the limit of the tax statute of limitation. French legal framework does not contain a reference to year-end adjustments. However, in practice, this may be allowed in the event of special circumstances assessed on a case-by-case basis (e.g. change in economic situation or correction of an accounting error).</p>	
29	<b>Does your jurisdiction make secondary adjustments?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<p><i>Le Bulletin Officiel des Finances Publiques</i> <a href="#">BOI-INT-DG-20-30-10-20170201</a> §630 of the 1st of February 2017 on Mutual agreement procedures.</p>
		<p>France makes secondary adjustments when the conditions exposed in the doctrine are met. In application of our domestic legislation, when the adjustment is carried out by the French tax authorities and is considered to constitute a deemed distributed profit, subject to the stipulations of the bilateral tax treaty, a withholding tax may be levied at the conventional rate on the deemed distributed profit. However, if the company agrees to repatriate the sums considered to constitute a transfer of profits within 90 days of receipt of the proposal, the notified withholding tax will not be maintained.</p>	
<b>Attribution of Profits to Permanent Establishments</b>			
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> <input checked="" type="checkbox"/> <b>No</b>	
		<i>In how many tax treaties?</i>	

		France has not adopted the Authorised OECD Approaches for the attribution of profits to PEs (AOA). Nonetheless, France has already used this method to solve MAP cases for fiscal years post-2010. In practice, this methodology was used to solve cases involving the banking sector regarding the question of capital allocation.	
31	<b>[NEW] Does your jurisdiction follow also another approach?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Other Relevant Information</b>			
32	<b>Other legislative aspects or administrative procedures regarding transfer pricing</b>	For more information on the MAP and APA procedures, please refer to the OECD MAP Portal.	<a href="#">France's MAP Profile</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> )	N/A	

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