

Georgia

Transfer Pricing Country Profile

December 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	Tax Code Article 127 – General principles of transfer pricing
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>The principles of the TP Instructions are based on the 2017 OECD Transfer Pricing Guidelines.</p> <p>If there is no difference between the Tax Code rules and domestic TP instructions (Articles 126-1291 of the GTC (Tax Code of Georgia) and Decree #423 of the Finance Minister December 18, 2013) and the 2017 OECD Transfer Pricing Guidelines, then the 2017 OECD Transfer Pricing Guidelines is to be applied. Moreover, if the domestic law and regulations of Georgia do not contain specific guidance on certain topics, Georgia relies on the 2017 OECD Transfer Pricing Guidelines as an explanatory instrument.</p>	Decree #423 of the Finance Minister December 18, 2013, Tbilisi
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>Article 126 of the Tax Code states that:</p> <p>1. Two persons shall be related if:</p> <p>a) one person directly or indirectly participates in the management, control or capital of the other person;</p> <p>b) the same persons directly or indirectly participate in the management, control or capital of two persons.</p>	Tax Code Article 126 – Meaning of the concepts for the purposes of this Chapter

	<p>2. A person directly or indirectly participates in the management, control or capital of an enterprise if:</p> <p>a) he/she directly or indirectly owns over 50% of an enterprise;</p> <p>b) he/she actually controls the business decisions of an enterprise.</p> <p>Please note that the ownership reference in 2(a) above refers to economic ownership.</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" style="margin-left: auto; margin-right: auto;"> <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> <p>Guidance on the application of Articles 126-1291 of Georgian Tax Code and Transfer Pricing Decree:</p> <p>4.2.6 Other Methods 4.44 - In accordance with the Article 8(6) of the Decree #423 of the Finance Minister, taxpayers are allowed to apply a method other than those listed in Article 128(1) of the GTC, provided the following conditions are met:</p> <p>a) none of the approved transfer pricing methods can be reasonably applied to determine the market conditions for the controlled transaction; and,</p> <p>b) such other method yields a result consistent with that which would be achieved by independent enterprises engaging in comparable uncontrolled transactions under comparable circumstances.</p> <p>4.45 Where a taxpayer is seeking to apply an “other method” the burden of proof is on a taxpayer to demonstrate that the above conditions are met.</p> <p>4.46 It is the view of the GRS (Georgia Revenue Service) that the application of the “other method” should be applied in exceptional cases only.</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>Tax Code</p> <p>Article 128 – Transfer pricing methods</p> <p>Guidance on the application of Articles 126-1291 of Georgian Tax Code and Transfer Pricing Decree N 15609</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	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) The arm's length price of a controlled transaction shall be determined by the method that best suits each particular transfer pricing instance.	Tax Code Article 128 – Transfer pricing methods
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 on commodity transactions in Georgian domestic law. However, Georgia relies on the OECD TPG.	
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 guidance and standard for performing a comparability analysis in Georgia is fully aligned with the guidance outlined in Chapter III of the TPG.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Article 7 (Sources of information on comparable uncontrolled transactions) of the Decree #423 of the Finance Minister states that: Recognizing the difficulties in obtaining information on comparable uncontrolled transactions in Georgia, the use of foreign comparables will be accepted by the Revenue Service, provided that the impact of geographic differences and other factors on the financial indicator being examined under the appropriate transfer	Decree #423 of the Finance Minister December 18, 2013, Tbilisi Article 7 - Sources of information on comparable uncontrolled transactions

		pricing method are analyzed, and that, where appropriate, comparability adjustments are made in accordance with the guidance provided in Article 6 of these Instructions.	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Article 10 (Market range) of the Decree #423 of the Finance Minister states that:</p> <p>1. A market range is a range of relevant financial indicator figures (e.g. prices, margins or profit shares) produced by the application of the most appropriate transfer pricing method as set out in Article 8 of these Instructions to a number of comparable uncontrolled transactions, which must be determined:</p> <p>a) with reference to the results of all the comparable uncontrolled transactions, when the information on the controlled transaction and comparable uncontrolled transaction is sufficiently complete that it is likely that all material differences have been identified, each such difference has a definite and reasonably ascertainable effect on the relevant financial indicator, and, where appropriate, comparability adjustments have been made to eliminate the effect of each such difference.</p> <p>b) with reference to the interquartile range of the results of comparable uncontrolled transactions of a similar level of comparability and reliability that are selected with reference to Article 127(4) of the GTC and Article 5 of these Instructions, but that do not meet the conditions in subparagraph "a" of this paragraph.</p> <p>2. A controlled transaction, or a set of controlled transactions that are combined according to Article 11 of these Instructions, shall not be subject to an adjustment under Article 127(3) of the GTC where the relevant financial indicator derived from the controlled transaction or set of controlled transactions and being tested under a transfer pricing method selected in accordance with Article 8 of these Instructions is within the market range.</p>	<p>Decree #423 of the Finance Minister December 18, 2013, Tbilisi</p> <p>Article 10 - Sources of information on comparable uncontrolled transactions</p>

		<p>3. Where the relevant financial indicator derived from a controlled transaction, or from a set of controlled transactions that are combined according to Article 11 of these Instructions, falls outside the market range, the Revenue Service may make an adjustment to the taxable profits of the Georgian enterprise pursuant to Article 127(3) of the GTC. The adjustment shall be to the median of the market range unless the facts and circumstances clearly support an adjustment to a different point within the market range.</p> <p>4. Burden of proof for showing that the facts and circumstances support an adjustment to a point in the market range that is different from the median is to be born by:</p> <p>a) the Georgian enterprise, when the Georgian enterprise asserts that the facts and circumstances indicate about the equality of the financial indicator to the point different from the market range median;</p> <p>b) the Revenue Service, when the Revenue Service asserts that the facts and circumstances indicate about the equality of the financial indicator to the point different from the market range median.</p>	
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 10(1)a of the Decree #423 of the Finance Minister states that:</p> <p>With reference to the results of all the comparable uncontrolled transactions, when the information on the controlled transaction and comparable uncontrolled transaction is sufficiently complete that it is likely that all material differences have been identified, each such difference has a definite and reasonably ascertainable effect on the relevant financial indicator, and, where appropriate, comparability adjustments have been made to eliminate the effect of each such difference.</p>	<p>Decree #423 of the Finance Minister December 18, 2013, Tbilisi</p> <p>Article 10(1)a - Sources of information on comparable uncontrolled transactions</p>
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

	the pricing of controlled transactions involving intangibles?	Georgian domestic legislation does not contain specific guidance on the pricing of controlled transactions involving intangibles and tends to rely on the OECD TPG.	
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 There are no specific legislation or regulations in Georgia dealing with HTVI. However, Georgia follows the OECD TPG in this respect.	
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 Georgian domestic legislation does not contain specific guidance on the pricing of controlled transactions involving services and tends to rely on the OECD TPG.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In practice, tax administration and taxpayers use the simplified approach. Technically, there is no specific domestic legislation in this regard, but the principles of the local TP Instructions are based on the 2017 OECD Transfer Pricing Guidelines. If there is no difference between the Articles 126-129 ¹ of the GTC and these instructions and the 2017 OECD Transfer Pricing Guidelines, then the 2017 OECD Transfer Pricing Guidelines is to be applied.	Decree #423 of the Finance Minister December 18, 2013, Tbilisi
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 GRS follows the 2017 OECD Transfer Pricing Guidelines and the OECD Transfer Pricing Guidance on Financial Transactions.	
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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 legislation or regulations in Georgia regarding cost contribution agreements. However, Georgia follows the OECD TPG in this respect.	
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 type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input 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 type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): 	Tax Code Article 70 ¹ - Country-by-Country reporting of the MNE Group Decree #423 of the Finance Minister December 18, 2013, Tbilisi Article 17 - Transfer Pricing Documentation Article 2(ii) of the Regulation (Rules) For Country-by Country Reporting (in Georgian, no English translation available yet)

Article 70¹ (Country-by-Country reporting of the MNE Group) of the Tax Code states that:

1. Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Georgia shall file a Country-by-Country Report, with the tax administration of Georgia, not later than December 31 of the next year of the Reporting Fiscal Year of the MNE Group.

2. Any Constituent Entity of an MNE Group that is resident for tax purposes in Georgia shall notify the Tax Administration of Georgia whether it is the Ultimate Parent Entity or the Surrogate Parent Entity no later than the last day of the Reporting Fiscal Year of such MNE Group.

3. For the purposes of this article:

a) The term “MNE Group” means any Group that:

a.a) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction;

a.b) is not an Excluded MNE Group;

b) The term “Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than EUR 750 million during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.

c) “Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria:

c.a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange; and

c.b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in subsection (c.a) above in the first mentioned Constituent Entity.

		<p>d) “Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in that Constituent Entity’s jurisdiction of tax residence, on behalf of such MNE Group when the conditions set out in Article 2(ii) of the Regulation (Rules) For Country-by Country Reporting apply.</p> <p>e) “Constituent Entity” means:</p> <p>e.a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;</p> <p>e.b) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds;</p> <p>e.c) any permanent establishment of any separate business unit of the MNE Group included in d.a) or d.b) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting/tax reporting, or internal management control purposes.</p> <p>4. Minister of finance shall define the rules for filing the Country-by-Country Report of an MNE Group.</p> <p>Moreover, Article 17 (Transfer Pricing Documentation) of the Decree #423 of the Finance Minister provides for transfer pricing documentation, as follows:</p> <p>1. For the purpose of Article 129(1) of the GTC, a request by the Revenue Service to provide an explanation regarding the ground based on which it considers its profit consistent with the market principle shall be considered satisfied where:</p> <p>a) The Georgian enterprise has prepared transfer pricing documentation in accordance with this article and</p> <p>b) The documentation is provided to the Revenue Service within 30 calendar days of receipt of the request in writing.</p>	
22	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e.</p>	<p>The documentation is provided to the Revenue Service within 30 calendar days of receipt of the request in writing. Moreover, the country-by-country report should be submitted not later than December 31 of the next year of the Reporting Fiscal Year of the MNE Group.</p>	<p>Decree #423 of the Finance Minister December 18, 2013, Tbilisi</p>

	timing for preparation or submission, languages, etc.)	Transfer pricing documentation may be submitted in Georgian or English, however, at the request of the Revenue Service translation of English documents into Georgian is required at the expense of the Georgian enterprise.	
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 279 ¹ (Failure to submit Country-by-Country Report of an MNE Group in due time or a complete Report) of the Tax Code states that: Failure to submit to the Tax authority the Country-by-Country Report of an MNE Group provided in article 70 ¹ in a due time defined by this code, or failure to submit complete or correct CbC Report, shall entail imposing a fine in the amount of GEL 5 000 (approximately EUR 1 400)	Tax Code Article 279 ¹ - Failure to submit Country-by-Country Report of an MNE Group in due time or a complete Report
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	N/A	
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 type="checkbox"/> Bilateral APAs <input type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>): Upon the taxpayer's request, the Head of the Revenue Service is authorized to enter into an advance pricing agreement with the taxpayer for the purposes of an internationally controlled operation.	Georgia's MAP Profile Decree #45 of the Ministry of Finance, 2 March 2021 Decree #423 of the Finance Minister December 18, 2013, Tbilisi

		<p>Georgia's Ministry of Finance published decree #45, amending Georgian transfer pricing rules concerning the unilateral advance pricing agreement (APA) procedure. The period covered by the unilateral APA shall not exceed 3 years and no rollback is allowed. The fee to apply for an APA is GEL 30 000. Moreover, companies are entitled to apply for a unilateral APA in Georgia regardless of the value of the expected controlled transactions.</p> <p>The forms necessary for filing APA applications were added as appendices to decree #423, as follows:</p> <p>The application form for requesting a pre-APA application meeting with the tax authority;</p> <p>The application form for the APA request;</p> <p>The form of APA;</p> <p>The form for determination consistency of the enterprise's transfer pricing policy with the approach provided in the concluded APA act.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is no requirement to make year-end adjustment, but if it contributes to reach an arm's length price then it could be accepted.	

29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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 <input checked="" type="checkbox"/> No <i>In how many tax treaties?</i> There is no any mention about AOA in Georgian legislation, and all Georgian tax treaties are based on the old version of Article 7. However, in practice, Georgia Revenue Service and taxpayers in Georgia apply the AOA for profit attribution to PEs.	
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	N/A	
33	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	Georgia Revenue Service started receiving APA requests. On March 2, 2021 Georgia's Ministry of Finance published decree #45, amending Georgian transfer pricing rules concerning the unilateral advance pricing agreement (APA) procedure. The period covered by the unilateral APA shall not exceed 3 years and the price of application is GEL 30 000.	Decree #45 of the Ministry of Finance, 2 March 2021.

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