

SPAIN

Questionnaire on the Implementation of the HTVI Approach

	QUESTION	RESPONSE
1	Has your country adopted the hard-to-value intangibles (“HTVI”) approach as defined in Chapter VI of the TPG? If so, under what legal basis?	Spain has not developed internal legislation related to HTVI yet. The OECD Transfer Pricing Guidelines are applicable in Spain as a source of interpretation, and to the extent that there is no contradiction with Spanish internal law.
2	If your country applies the HTVI approach, what are the conditions for the application of the HTVI approach?	Please see answer to question no. 1.
3	Are transactions falling within the scope of the HTVI approach subject to a transfer pricing analysis differing from the one established in Chapter I and VI, or to other compliance requirements specifically applicable to transfer prices (e.g. domestic anti-abuse rules)?	No.
4	What is the statute of limitations applicable to transactions falling within the scope of the HTVI approach in your legislation? Does this statute of limitations differ from those applicable to other transactions?	The statute of limitations applicable to transactions falling within the scope of the HTVI approach in Spain is the same that for any other transaction, that is, in general, four years.
5	Can taxpayers request a bilateral or multilateral advance pricing agreement (“APA”) for transactions falling within the scope of the HTVI approach under your legislation?	Yes.

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6	What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?	No special measures have been adopted in Spain for this purpose. The OECD Transfer Pricing Guidelines are applicable in Spain as a source of interpretation, and to the extent that there is no contradiction with Spanish internal law. Therefore, hindsight is not allowed in any case.
7	Is it possible for your tax administration to make adjustments under the HTVI approach in open years for closed years?	Please, see the answers to questions no. 1 and 4. If a year is closed according to the statute of limitation, it is not possible to make an adjustment for that year.
8	Does your domestic legislation or administrative practice allow the tax administration to make corresponding adjustments under the HTVI approach in open years for closed years?	The answer to this question depends on the applicable Double Tax Convention, as is the case with any other kind of transaction.
9	Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?	Please, see the answer to question no. 1. As Spain has not developed internal legislation related to the HTVI approach yet, Spanish legislation (like the OECD Transfer Pricing Guidelines) is silent on this point.

For further information, please see <http://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm>