

Maldives

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	Section 67 and Section 79 (r) of Income Tax Act and Transfer Pricing Regulation (2020 –R-43).
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The Transfer pricing regulation of the Maldives was prepared with reference to the OECD Transfer Pricing Guidelines (TPG). The Transfer pricing documentation and the Transfer Pricing Arm's Length Guide have also been prepared in light of the OECD TPG.	
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 Section 79 (00) defines a relative as below: (oo) "Relative" of a person means: <ol style="list-style-type: none"> (1) the person's spouse; (2) the person's child, parent, grandparent or sibling; (3) the spouse of a person referred to in subsection 79 (oo)(2). Section 79 (ss) defines associate as below: "Associate" means each of two persons where one person: <ol style="list-style-type: none"> (1) controls, or is controlled by, the other, or both persons are controlled by the same person or persons; or (2) is a relative of the other person; or (3) is a partnership and the other person is a partner in that partnership; or is a partner in a partnership and the other person is a partner in the same partnership; or (4) is a trust and the other person is a beneficiary of that trust; or (5) is a trust and the other person is a settlor of the trust. 	Section 79 (ss) and 79 (oo) of Income Tax Act defines relative and associates.

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="width: 100%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Other methods are a method approved by MIRA that takes into account the price paid or payable in comparable circumstances to an independent party in comparable circumstances, considering all the relevant facts.</p> <p>If a taxpayer wants to apply other method, they are required to seek prior approval from MIRA. So far, no such requests received.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<p>Specified under Transfer Pricing Regulation Section 8(e).</p>					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)										
<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	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<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> <p>The most appropriate method shall be the method which is best suited to the facts and circumstances of each particular transaction, and which provides the most reliable measure of price, profit or income.</p> <p>In selecting the most appropriate method, the following factors shall be taken into consideration:</p> <ol style="list-style-type: none"> 1. The nature of the controlled transaction, determined by conducting a functional analysis. 2. The degree of actual comparability when making comparisons with transactions between independent parties 3. The completeness and accuracy of data in respect of the independent party transaction 4. The reliability of any assumptions made; and 5. The degree to which the adjustments are affected if the data is inaccurate or the assumptions incorrect. 	<p>Draft Transfer pricing guide – determination of Arm’s length – Page 26</p>												

		MIRA does not have a specific preference for any one method. Instead, the method that produces the most reliable results, taking into account the quality of available data and degree of accuracy of adjustments, should be selected.	
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>)	
		No specific guidance for 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 MIRA recommends that taxpayers adopt the following three-step approach to apply the arm's length principle in their controlled transactions: Step 1 - Conduct comparability analysis Step 2 - Identify the most appropriate transfer pricing method and tested party Step 3 - Determine the arm's length results Step 1 – Comparability analysis Application of the arm's length principle is based on a comparison of the conditions in a controlled transaction with the conditions that would have been made had the parties been independent and undertaking a comparable transaction under comparable circumstances. There are two key aspects in such an analysis. They are: 1. Accurate delineation of the controlled transaction by identifying the commercial and financial relations between associated parties and economically relevant characteristics attached to it. 2. Comparing the economically relevant characteristics of the controlled transaction as accurately delineated to that of the potential comparable independent transaction.	Link to draft Transfer Pricing Arm's Length Guide .

8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>There is nothing mentioned in law to say preference is given to domestic comparables. It depends on data availability as well.</p> <p>So far, it is applied in practice only. Currently MIRA has access to a transfer pricing database as well. Hence, in future there is possibility for MIRA to go for foreign comparables as well. In some cases, taxpayers have gone for foreign comparables as well.</p> <p>No preference to domestic comparables at this stage.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>We do use secret comparables, though we do not encourage it. There is no limitation to using secret comparables in the law, this is followed in practice. And there is confidentiality clause mentioned in Tax Administration Act S.15.</p> <p>In bringing rates determined using secret comparables, MIRA ensures that confidentiality of taxpayer information is maintained.</p> <p>However, no legal cases on this matter so far.</p>	
10	<p>Does your legislation or regulation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>When application of the most appropriate method produces a range of figures, all of which are equally reliable, then to go for an AL range.</p> <p>“... where the dataset constructed consists of six or more entries, an arm's length range beginning from the thirty-fifth percentile of the dataset and ending on the sixty-fifth percentile of the dataset shall be constructed and arm's length price shall be computed as follows:</p> <p>a. If the price of the controlled transaction falls within the arm's length range, then the price is deemed as arm's length price.</p> <p>b. If the price of the controlled transaction falls outside the arm's length range, then the arm's length price shall be taken to be the median of the dataset.</p>	<p>Link to draft Transfer Pricing Arm's Length Guide, Page 27.</p>

		c. If median is not applicable, the arm's length price shall be the arithmetical mean of all the values included in the dataset.”	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>Specified in transfer-pricing arm's length guide.</p> <p>The guideline specifies that in conducting comparability analysis, to identify the differences in economically relevant characteristics between the associated party transaction and the independent party transaction which could materially affect the pricing, and to determine reasonably accurate adjustments that can be made to eliminate those differences.</p>	
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	
		There is not a specific regulation about intangibles, however, general transfer pricing provisions in the tax law and regulations would apply. The Maldives also follows the OECD TPG for these cases.	
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 for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-group Services			
15		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Link to draft Transfer Pricing Arm's Length Guide .

	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	There is not a specific regulation about intra-group services, however, general transfer pricing provisions in the tax law and regulations would apply. The Maldives also follows the OECD TPG for these cases.	
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 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Transfer Pricing Regulation
		Specific guidance is provided in the Transfer Pricing Regulation and the Transfer Pricing Arm's Length guide	Transfer Pricing Arm's Length Guide
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	Income Tax Act
		Section 22 of the Income Tax Act imposes a 6% cap on interest paid to loans from non-approved bodies. Furthermore, Section 71 covers thin capitalization rules which impose a limit on interest deduction which is 30% of tax- EBITDA.	
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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> <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): 	<p>Master and Local filing requirement under Transfer Pricing Regulation.</p> <p>Transfer pricing regulation is made pursuant to Section 68 (b) (4) and Section 76 (b) of the Income Tax Act</p> <p>Country by country reporting requirement under Section 31-1 of the Tax Administration Act as per the rules stipulated in Country by Country Reporting Regulation (2021 –R9).</p> <p>Schedule 4 of MIRA Income Tax Return is specifically for reporting of international transactions with associates. This has to be submitted along with the income tax return.</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>The transfer pricing documentation (which includes master file and local file) shall be prepared and finalized for the accounting period to which the transaction or arrangement relates. There is no fixed annual deadline for the submission of the documentation. It has to be submitted to MIRA upon request within 30 days of the request.</p> <p>The deadline for CbCR filing is 12 months after the last date of the reporting fiscal year of the MNE.</p>	<p>Master and Local filing requirement under Transfer Pricing Regulation.</p> <p>Country by country reporting requirement specified under Country by Country Reporting Regulation (2021 –R9).</p>
23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>No specific penalties regarding transfer pricing. Sanctions contained in Section 64 and 65 of the Tax Administration Act would apply in case of any non-compliance with the transfer pricing documentation requirement.</p>	
24	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>Exemptions are specified under Section 68(a) of the Income Tax Act and Section 7 of the Transfer Pricing Regulation of Maldives.</p> <p>Transfer pricing documentation exemption is given at two levels basically. One is taxpayer level exemptions (that is in S.68 (a)) and further transaction level exemptions given in transfer pricing regulation (Section 7)</p> <p>For 68 (a) the exemptions at taxpayer level include, micro or SMEs (that is taxpayers with annual revenue below MVR 20 Million).</p>	<p>Section 68(a) of the Income Tax Act</p> <p>Section 7 of the Transfer Pricing Regulation</p>

		Exempt income is specified in Income Tax Act S.12	
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 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 type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Advance Pricing Regulation (2021- R42). Section 52-1 of Tax Administration Act facilitates MAP.</p> <p>4th Amendment on Tax Administration Act Maldives' MAP Profile</p>
		<p>Changes to the tax administration of Maldives were made recently, where also dispute resolution procedures were implemented. A separate APA regulation was published and effective from 16 March 2021. Amendments have been made to tax administration regulation to facilitate 52-1 of the Tax Administration Act which facilitates MAP. MIRA is currently working on formulating robust policies and procedures for the implementation of dispute resolution procedures.</p> <p>For more information on Maldives's administration of MAPs, please refer to Maldives'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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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 Maldives currently has only one treaty with UAE which follows the OECD approach for profit attribution and does apply the FAR rule.	
31	[NEW] Does your jurisdiction follow also another approach?	<input checked="" type="checkbox"/> Yes	Section 24 of Income Tax Act .
		<input type="checkbox"/> No Section 24 of Income Tax Act limits head office expenses up to 3% of the total income generated.	

Other Relevant Information

32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	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>)	N/A	

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