

Czech Republic

Transfer Pricing Country Profile

July 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	The Czech Income Tax Act 586/1992 Coll., Section 23 para 7
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The OECD TP Guidelines are not implemented into the Czech tax legislation directly, but in the Guideline GFD D-22 (which provides for a uniform procedure for the application of certain provisions of the Czech Income Tax Act) there is the recommendation to use TPG.	Instructions of the competent tax authority General Financial Directorate: GŘ D-22 , GŘ D-32 , GŘ D-34 , D-334 and GŘ D-10 Some of these are available in English here .
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 a) persons associated through capital <ol style="list-style-type: none"> 1. where one person directly participates in the capital or voting rights of the other person, or where one person directly participates in the capital or voting rights of several persons; and where, simultaneously, this share constitutes at least 25 % of the registered capital or 25 % of the voting rights of such persons, then all such persons are persons directly mutually associated through capital, 2. where one person indirectly participates in the capital or voting rights of the other person or where one person directly or indirectly participates in the capital or voting rights of several persons; and where, simultaneously, this share constitutes at least 25 % of the registered capital or 25 % of the voting rights of such persons, then all such persons are persons mutually associated through capital, b) persons otherwise associated which are persons	The Czech Income Tax Act 586/1992 Coll., section 23 para 7

		<ol style="list-style-type: none"> 1. where one person participates in the management or control of another person, 2. where identical persons or close persons participate in the management or control of other persons, then such other persons are persons otherwise mutually associated. Persons otherwise associated shall not be deemed to be persons where one person is a member of the supervisory boards of two persons, 3. controlling and controlled and also persons controlled by the same controlling person, 4. close, 5. that created a legal relationship predominantly for the purpose of reducing a tax base or increasing a tax loss. 	
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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="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> <td><input type="checkbox"/></td> </tr> </tbody> </table> <p>Czech domestic provisions are consistent with the TPG and use the same transfer pricing methods.</p> <p>The methods themselves are incorporated into the binding methodological guidelines not in the Act itself. See ans. 2.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Guideline GFR D-34				
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 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>Czech domestic legislation is consistent with the transfer pricing methods described in the TPG. The Guideline GFD D-22 contains a recommendation to use the TPG. This is also mentioned in Guideline GFR D-34.</p>	Guideline GFR D-34
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6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input checked="" 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>Czech Republic follows the OECD TPG approach as per its status as an explanatory instrument.</p>	
Comparability Analysis			
7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Czech domestic legislation is consistent with Chapter III of the TPG.</p>	
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> <hr/> <p>The Czech Republic has no specific regulation in this respect, but, during the administrative procedures provided in Guideline GFR D-34, domestic comparables or comparables from similar markets are preferred.</p>	Guideline GFR D-34
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Czech domestic legislation is consistent with Chapter I of the TPG.</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> <hr/> <p>Czech domestic legislation is consistent with Chapter I of the TPG.</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	
		General transfer pricing regulation in the tax law applies for transactions involving intangibles.	
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	HTVI Implementation Questionnaire
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	Guideline GŘ D-10
		<p>General transfer pricing regulation in the tax law applies for intra-group services transactions.</p> <p>The Czech tax administration issued a special guideline only for low value adding intra group services (Guidance GŘ D-10).</p>	
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Guidance of the General Financial Directorate (GŘ D-10 , see ans. 15)
		<p>The Guidance of the General Financial Directorate GŘ D-10. This guidance implements principles in Section D, Chapter VII of the OECD TPG on Low value-adding intra-group services and the “Joint-Transfer Pricing Forum (JTPF) Report: Guidelines on Low Value Adding Intra-Group Services”.</p> <p>Accordingly, an entity that meets certain criteria in respect of the provision of LVAIGS is entitled for 3-7% mark-up on costs.</p>	

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	
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 Interest limitation rule. Section 23e of the Czech Income tax Act adopts interest limitation rule based on the Council Directive (EU) 2016/1164 against tax avoidance practices (ATAD).	
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The general principles of TPG are applied.	
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 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): 	Guidance D-334 .

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 Czech tax return contains a specific annex that includes information about transactions with related entities. Filed with a tax return in the Czech language.</p> <p>Master File and Local File are not currently regulated by law and are not mandatory, but the Ministry of Finance through Guidance D-334 recommends having them in accordance with the TPG.</p> <p>CbC report is regulated since 2017 by the Act 164/2013 (conditions for submission are stated in the mentioned Act 164/2013), with the amendment No.: 305/2017.</p>	<p>Act 164/2013 Coll. Sections 13za and following</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>The obligation to file the CbC report was introduced in the Czech Republic in 2017. In case the taxpayer fails to comply his obligation, it is possible to impose a fine as follows:</p> <p>(1) The tax administrator is entitled to impose a fine on a Czech Constituent Entity of the MNE Group for non-compliance with an obligation in kind also in case that the entity fails to comply with the obligation to</p> <ol style="list-style-type: none"> a) retain documents, b) request the Ultimate Parent Entity of the Group for assistance. <p>(2) The tax administrator is entitled to impose a disciplinary fine on a Czech Ultimate Parent Entity of an MNE Group up to CZK 1 500 000, if the entity fails to comply with a reporting obligation.</p> <p>(3) The tax administrator is entitled to impose a disciplinary fine on a Czech Constituent Entity of an MNE Group, which is the Surrogate Entity of the Group, up to CZK 1 500 000, if the entity fails to comply with a reporting obligation.</p> <p>(4) The tax administrator is entitled to impose a disciplinary fine on the Czech Constituent Entity of the MNE Group up to CZK 600 000, if the entity fails to comply with a reporting obligation.</p> <p>(5) A disciplinary fine referred to in paragraph 4 may not be imposed on a Czech Constituent Entity of the MNE Group, which</p> <ol style="list-style-type: none"> a) proves that it has not received or obtained from the Ultimate Parent Entity of the Group the information required for the compliance with the obligation to file the country-by-country report on behalf of the Group, for the provision of which the Czech Constituent Entity asked the Ultimate Parent Entity previously, b) states in the country-by-country report any and all information available to the Czech Constituent Entity, which the entity has received or obtained, and 	<p>Act 164/2013 Coll. Section 13zp (This Section sets the rules for CbCR only).</p>

		c) states in the report that the Ultimate Parent Entity has refused to provide assistance.	
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	As per Guidance GŘ D-10: <i>“If the explanations provided and the documents submitted are sufficient to assess compliance with the arm’s length principle, the tax administrator will waive the requirement for the full breadth of transfer pricing documentation in accordance with Guidance D-334 of the Ministry of Finance when assessing intra-group services.”</i>	Guidance of the General Financial Directorate D-10 for low value added intra-group services.
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 type="checkbox"/> Other (<i>please specify</i>):</p>	<p>The Czech Income Tax Act 586/1992 Coll., Section 23 para 7</p> <p>Act on International Cooperation in the Resolution of Tax Disputes in the European Union implementing EU Directive 2017/1852, so called DRM (dispute resolution mechanism)</p> <p>Czech Republic’s MAP Profile</p>
		<p>APA are regulated through the Czech Income Tax Act Section 38nc and 38nd and double taxation treaties. Roll back APAs are not allowed.</p> <p>MAP are regulated through double taxation treaties and Act no. 335/2020 implementing EU Directive EU 2017/1852 on 22. 7. 2020.</p> <p>For more information, please refer to Czech Republic’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 checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	Guidance of the General Financial Directorate D-10 for low value added intra-group services
		<p>Guideline GFD D-10 provides for a simplified approach for low value-adding intra-group services.</p> <p>See answer to question 16.</p>	

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>There are no special rules in the Czech Income Act. Czech Republic has not explicitly provided for this in internal law or guidance.</p> <p>Czech Republic follows the OECD TPG approach as per its status as an explanatory instrument, and therefore end-year adjustments are used in practice.</p>	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Secondary adjustments (used for adjustments within the Czech legislation):</p> <p>The Czech Income Tax Act 586/1992 Coll. – section 22 par. 1 letter g) point 3 – “reclassification” of differences between the transfer price arranged and the usual market price under section 23 par. 7 of the Act and interests non-deductible as expenditure (cost) under section 25 par. 1 letter w) of the Act into profit shares (so called secondary adjustment).</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 <input checked="" type="checkbox"/> No	
		<p>Double tax treaties concluded by the Czech Republic have the Article 7 in the wording of the Model OECD Convention of 2008 – non AOA approach.</p>	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>Despite the fact that the AOA approach is not applied it is possible to make an adjustment of the profit after the end of the taxation period in order to provide a</p>	

		true and just figures respecting the real situation (functions and risks borne by the individual parts of the company (PEs) and the company itself).	
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>