

Dominican Republic

Transfer Pricing Country Profile

Updated December 2020

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Article 281 of the Tax Code (hereinafter DTC) regulates transactions associated taxpayers. Accordingly, it is provided that: "Transactions between a resident and a related natural person, legal person, or entity must be agreed according to the prices or amounts that would have been agreed between parties independent, in comparable transactions and under the same or similar circumstances.</p> <p>Paragraph I. The previous provisions will also apply when a resident conducts commercial or financial transactions with (i) a related resident; or with (ii) physical or legal persons or entities domiciled, incorporated or located in States or territories with preferential tax regimes, low or no taxation or tax havens, whether or not are the latter related. The latter will be considered as related to the purposes of this article.</p> <p>Paragraph II. When the prices agreed for commercial or financial transactions between companies in scope of this article, do not adjust to the values of similar transactions between independent companies, the General Directorate of Taxes Internal (DGII) may challenge them and make the corresponding adjustments when the valuation agreed between the parties will result in less taxation in the country or a tax deferral.</p> <p>Paragraph III. When corporate expenses are distributed among individuals, legal entities or entities covered by the provisions of this article, and they do not correspond to the value or price that for similar transactions are charged between parties independent, the Tax Administration may challenge them."</p>	<p>Dominican Tax Code, Article 281</p>

2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The OECD TPG is used as a technical reference as long as it does not contradict the domestic legislation.	
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>According to the DTC, a party is related with another party:</p> <ul style="list-style-type: none"> - When one of the parties has a direct or indirect participation on the management, control or equity of the other; - When one of the parties resident in the country has a permanent establishment abroad; - When a permanent establishment in the country has its head office abroad; - When one of the parties enjoys an exclusive agent agreement, distributor or dealer status for the sale of goods, services or rights; - When one of the parties receives or transfers at least 50% of its production; - When one of the parties assumes the responsibility of any loss or expense of the other party. <p>These regulations are supplemented by the provisions contained in Article 2 of the Decree No. 78-14 of 6 March 2014 on transfer pricing regulations (hereinafter TP Decree).</p>	Dominican Tax Code , Article 281, Paragraph 4 Transfer Pricing Decree , Article 281

Transfer Pricing Methods

4	Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <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>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dominican Tax Code , Article 281, Paragraph 7				
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> <hr/> <p>The TP Decree contemplates the most appropriated method rule, which indicates that the selection of a transfer pricing method should be based on the following:</p> <ol style="list-style-type: none"> 1. The method that best corresponds to the business operations; 2. The availability of reliable information in terms of quality and quantity. 3. The method that has a major degree of comparability between parties; transactions and functions; 4. The method that requires the fewer transfer pricing adjustments. 	<p>Transfer Pricing Decree, Article 7</p>
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 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 checked="" type="checkbox"/> Other (<i>if so, please explain</i>)</p> <hr/> <p>The DTC largely aligns to the criteria in paragraphs 2.18-2.22 of the OECD TPG. The Dominican legislation states that the CUP must be applied to the import or export of products that are exchanged in transparent markets, such as commodities. In the case of imports, the price at the day of the bill of lading must be used. For exports, the price at the day of the customs declaration. Therefore, any transfer pricing adjustment should be based on the quoted price of those dates.</p>	<p>Transfer Pricing Decree, Article 8</p>
<p>Comparability Analysis</p>			
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>The OECD TPG is used as a technical reference as long as it does not contradict the domestic legislation. However, Article 281, largely follows the guidance on comparability outlines in the OECD TPG.</p>	<p>Dominican Tax Code, Article 281</p>

		<p>For instance, Paragraph VI of the DTC, provides that for the purposes of conducting a comparability analysis, the characteristic of property transferred or services provided, the contractual terms of the transactions, the functional analysis (functions performed, assets used, and risks assumed), the economic circumstances and the business strategies pursued by the parties, should be considered.</p> <p>Paragraph V of the DTC defines the process of identifying the comparables, which is consistent with the guidelines in Chapter III of the OECD TPG. Accordingly, when conducting a comparability analysis, the elements below should be considered:</p> <ol style="list-style-type: none"> 1. Evaluation of the economic circumstances of where the multinational group operates (e.g.: macroeconomic aspects, market conditions, industry classifications). 2. Evaluation of the tested party: financial statements, products, contractual terms, assets utilized, risk, type of affiliation between the parties. 3. Identification, availability, reliability, and analysis of the internal and external comparable prices. 4. Selection of the most appropriate method. 5. Elaborate a comparability analysis between the tested party and the possible comparables. 6. Making comparability adjustment when appropriate. 	
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Transfer Pricing Decree, Article 5</p>
		<p>Prevalence is only given to comparables that require the least adjustments.</p> <p>Article 5, TP Decree:</p> <p>“1. When there are internal comparables that do not require adjustments, these should be used for the comparability analysis.</p> <p>2. When there are comparables that have similar characteristics in terms of availability, reliability, identification, etc., the comparable that requires the least adjustments should be used.”</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10		<input checked="" type="checkbox"/> Yes	<p>Transfer Pricing Decree, Article 12</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?	<input type="checkbox"/> No All the transactions between related parties must comply with the arm's length principle and the TP Decree affirms that the interquartile range is the acceptable measure.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Comparability adjustments are made to eliminate the effect of any differences when such differences could materially affect the price/margin examined. Moreover, domestic regulations establish that the taxpayers should eliminate the differences between comparable transactions if needed, with respect to the elements, such as payment deadline, quantity of the traded product, advertising and publicity, sales intermediation costs, freight and insurance, product specifications, among others.	Transfer Pricing Decree , Article 5
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 Domestic law does not provide specific guidance on intangible. However, the OECD TPG may be used as a reference.	
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 Domestic law does not provide specific guidance on HTVI. However, the OECD TPG may be used as a reference.	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In no case will the deduction of interest, royalties or technical assistance payments be admitted if the withholding tax (27%) provided for in the Articles 298 and 305 of the DTC is not withheld.	Dominican Tax Code , Article 281, Paragraph III. b) and Articles 298 and 305

Intra-group Services

15	<p>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>According to the TP Decree, concerning to intra-group services, taxpayers have to demonstrate that:</p> <ol style="list-style-type: none"> 1. The services have been effectively received; 2. The service provided an economical benefit to the party that receives it; 3. The price must be at an arm's length; 4. It has collected the correspondent withholding tax from the service provider. <p>Additionally, the taxpayers are required to file to the tax administration an agreement regarding the corporate expense allocation with the following specifications:</p> <ul style="list-style-type: none"> - List of the participants of the agreement. - Specific expenses covered by the agreement. - Period of the agreement. - The criteria selected to quantify the quote of corporate expenses allocated to each participant. - The value of the contribution of each participant. 	<p>Dominican Tax Code, Article 281, Paragraph XII. Transfer Pricing Decree, Article 3</p>
16	<p>Do you have any simplified approach for low value-adding intra-group services?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>In no case will the deduction of interest, royalties or technical assistance payments be admitted if the withholding tax (27%) provided for in the Articles 298 and 305 of the DTC is not withheld.</p> <p>In addition, legal persons or entities that agree to distribute corporate expenses with residents in preferential tax regimes or territories with low or no taxation must get authorization from the Tax Administration, in order for them to be considered deductible.</p>	<p>Dominican Tax Code, Article 281, Paragraph III. b) and Articles 298 and 305 Transfer Pricing Decree, Article 3, Paragraph II.</p>

Cost Contribution Agreements

18	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Taxpayers are required to deliver to the tax administration the cost contribution agreement, with the following specifications:</p> <ul style="list-style-type: none"> - List of the participants of the agreement. - List of any other party involved in the activities or services of the agreement. - Specific activities and projects covered by the agreement. - Period of the agreement. - The criteria to quantify the expected benefits participation shares corresponding to each participant and the provision used to determine their amount. - The way and value of the initial contribution of each participant as well as a detailed description of the mode to quantify the value of the initial and in progress contribution and to apply the accounting principles in a uniform way to all participants to determine expenses and the value of their contributions. - Reasonable attribution of the responsibilities and obligations related to the activity of the agreement between the participants and other individuals, legal persons or entities. - The procedures to add or withdraw a participant to the agreement and their consequences as well as the procedures and consequences in case of the agreement termination. - Terms that prevent compensatory payments or that allow the modification of the contractual terms to reflect a modification of the economic circumstances. 	<p>Transfer Pricing Decree, Article 4</p>
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Transfer Pricing Documentation

19	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 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 checked="" type="checkbox"/> Other (specify): Transfer pricing study. 	Transfer Pricing Decree , Article 18
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>The TP Decree establishes that the taxpayers in the scope of the transfer pricing legislation, have to file a transfer pricing return 180 days after the fiscal year end.</p> <p>Furthermore, a transfer pricing study should be made available to the Tax Administration upon its request.</p> <p>All documentation must be filed/provided in Spanish.</p>	Transfer Pricing Decree , Article 18, Paragraph I
21	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 <p>The DTC provides a penalty for non-compliance with formal duties, which ranges from 5 up to 30 minimum salary In the case of transfer pricing documentation or any other information required the penalties increase three times.</p> <p>In addition to the minimum wage penalty fee, the tax administration could apply a penalty of the 0.25% of the previous year revenue.</p>	Dominican Tax Code , Article 281ter; Dominican Tax Code , Article 257
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	Taxpayers with related parties' transactions, which total amount does not exceed RD\$11,552,402.00, are exempt from the preparation of the transfer pricing study. However, they must comply with the arm's length principle. The exempted threshold must be updated annually.	Transfer Pricing Decree , Article 18, Paragraph V

Administrative Approaches to Avoiding and Resolving Disputes

23	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<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> <hr/> <p>APAs are regulated by Article 281 Bis of the DTC and Article 15 of the TP Decree.</p> <p>An authorised Competent Authority can enter into a bilateral or multilateral APA under the MAP Article of the relevant tax treaty.</p> <p>For further information, please refer to the Dominican Republic's Dispute Resolution Profile (MAP Profile).</p>	<p>Dominican Tax Code, Article 281 bis</p> <p>Transfer Pricing Decree, Article 15</p> <p>Dominican Republic MAP Profile</p>
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Safe Harbours and Other Simplification Measures

24	<p>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>The Dominican legal framework establishes rules on safe harbours respect of certain sectors or economic activities where could be determined a price or minimum profit.</p>	<p>Dominican Tax Code, Article 281 bis, Paragraph V</p> <p>Transfer Pricing Decree, Article 16.</p>
25	<p>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Transfer Pricing Decree , Article 1, Paragraph I
		<p>Taxpayers are allowed to carry out transfer pricing adjustment only in the cases when the taxable base is not reduced or the tax deferred.</p> <p>The information filed in the transfer pricing returns and any other returns, when mistakes, miscalculations or omissions are made or identified can be amended.</p>	
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Transfer Pricing Decree , Article 1 c)
		<p>Secondary adjustment has not yet been applied. However, the Administration is analysing the cases in which the secondary adjustment can be made.</p>	
Other Relevant Information			
28	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
29	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>)	The Dominican Republic is currently working on a draft Decree which will introduce changes consistent with the BEPS Actions 8-10 and 13 Reports.	