

Mexico

Transfer Pricing Country Profile

Updated October 2017

	SUMMARY	REFERENCE
The Arm's Length Principle		
1	<p>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Articles 76 (section XII) and 179 of the Mexican Income Tax Law (MITL)</p> <p>Articles 51 and 53 of the Hydrocarbons Revenues Law (HRL)</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>The OECD TPG are specifically referenced in the Mexican legislation, and are used for guidance and interpretation in transfer pricing-related issues.</p>	<p>Article 179 of the MITL and Article 30 of the HRL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>
3	<p>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.</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Two or more persons are considered to be related parties when one of them participates, directly or indirectly, in the administration, control or equity of the other, or when a person or group of persons participates, directly or indirectly, in the administration, control, or equity of said persons. Members of partnerships are considered to be related, as are the persons who in accordance with this paragraph are considered related parties of said members.</p> <p>Similarly, the head office or other permanent establishments thereof are considered related parties of a permanent establishment, as are the persons indicated in the preceding paragraph and the permanent establishments thereof.</p>	<p>Article 179 of the MITL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>

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 (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 type="checkbox"/></td> </tr> </tbody> </table>	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 type="checkbox"/>	<p>Article 180 of the MITL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</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 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 checked="" type="checkbox"/> Hierarchy of methods</p> <p><input type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (if so, please explain)</p> <hr/> <p>Article 180 of the MITL states that taxpayers must first apply the method set forth in (I) of such Article, and may only use the methods indicated in (II), (III), (IV), (V) and (VI) thereof when the method set forth in (I) is inappropriate for determining if the transactions were conducted at market prices.</p> <p>Mexico’s approach to method hierarchy is not in conflict with “the most appropriate method” approach of the TPG, given that it considers applying the guidance in paragraph 2.2 of the TPG, which inherently implies making an applicability test for each method taking into account several factors, among other tests.</p>	<p>Article 180 of the MITL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</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 checked="" type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain)</p> <p><input type="checkbox"/> Other (if so, please explain)</p> <hr/> <p>According to articles 51 and 53 of the Hydrocarbons Revenues Law (HRL), when an Exploration/Extraction Assignment Holder transfers hydrocarbons (Oil, Natural Gas, Condensates, Natural Gas Liquids or Methane Hydrates) to related parties, they shall consider for such transactions, the prices and amounts of the considerations they would have used with or between independent parties in</p>	<p>Article 51 and 53 of the Hydrocarbons Revenues Law (HRL)</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>												

		comparable transactions, applying to that end the CUP method. Regarding other commodities, no specific guidance is contained in the domestic legislation as of the date of this questionnaire, but through the reference to the TPG in the MITL, the commodities guidance is applicable.	
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 Through the reference to the OECD TPG in the MITL, the guidance on comparability analysis is applicable.	Article 179 of the MITL http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Although in principle there is a preference for local comparables, it must be mentioned that Mexico has limited local comparables, and in practice, foreign comparables are relied upon.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any information to which the tax authority has access may be used. However, use of secret comparables is case-specific. References to this are contained in articles 46 and 69 of the Federal Fiscal Code.	Federal Fiscal Code, articles 46 and 69 http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx
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 The use of interquartile range is required.	Article 180 of the MITL http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx MITL Regulations Article 302 http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/reglamentos_legislacion.aspx
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 179 of the MITL http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx

		Article 179 of the MITL states that transactions or enterprises are understood to be comparable when there are no differences among them that significantly affect the price or consideration amount or the profit margin referred to in the methods set forth in Article 180 of the MITL, or when any such differences that do exist are eliminated through reasonable adjustments.	actividad/Paginas/2017/leyes_2017.aspx
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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	
		No specific guidance is contained in the MITL as of the date of this questionnaire, but through the reference to the OECD TPG in the MITL, the intangibles-related guidance is applicable.	
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	
		No specific guidance is contained in the MITL as of the date of this questionnaire, but through the reference to the OECD TPG in the MITL, the HTVI guidance is applicable.	
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	
		No specific guidance is contained in the MITL as of the date of this questionnaire, but through the reference to the TPG in the MITL, the intra-group services guidance is applicable.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Article 28 section XVIII of the MITL http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p> <p>Miscellaneous rule 3.3.1.27 (2017) http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/resolucion_misclanea_2017.aspx</p>
Cost Contribution Agreements			
18	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>No specific guidance is contained in the MITL as of the date of this questionnaire, but through the reference to the TPG in the MITL, the CCA's guidance is applicable.</p>	
Transfer Pricing Documentation			
19	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p><i>If affirmative, please check all that apply:</i></p> <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>Article 76 (sections IX, X, and XII) of the MITL Article 76-A of the MITL http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p> <p>Miscellaneous rules 3.9.15., 3.9.16., and 3.9.17. http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/resolucion_misclanea_2017.aspx</p>

20	<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 documents associated with the three-tiered approach to TP documentation (i.e. Master file, Local File and CbC Report) must be filed by December 31st of the succeeding required year.</p> <p>Specific TP informative return must be filed in conjunction with the annual tax return or statutory tax report.</p>	<p>Article 76-A of the MITL</p> <p>Article 76 (section X) of the MITL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>
21	<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>Article 32-D (IV) - The public sector will not contract with taxpayers that failed to submit a tax return. This section is applicable to Article 76-A of the MITL.</p> <p>Article 76 - Penalty on omitted tax whenever it is unveiled by the tax authority and as long as the taxpayer has TP documentation that supports its determination of taxable income: 27.5% or 37.5% of the omitted amount.</p> <p>In the case of losses: 15% - 20% of the excess of the reported over the real losses.</p> <p>However, if there is no TP documentation that supports the determination of taxable income the penalty will be 55% or 75% of the omitted amount, and 30% or 40% of the excess of the reported over the real losses, respectively.</p> <p>Articles 81-XVII and 82-XVII - Whenever the taxpayer fails to inform about its transactions executed with related parties as set forth in Article 76 of Income Tax Law, a penalty of MXN \$68,590 to MXN \$137,190 is imposed.</p> <p>Articles 81-XL and 82 XXXVII - Whenever the taxpayer fails to submit the related parties informative returns as set forth in Article 76-A of Income Tax Law, a penalty of MXN \$140,540 to MXN \$200,090 is imposed.</p> <p>Articles 83-XV and 84-XIII - Whenever the taxpayer fails to identify transactions executed with related parties residing abroad and report them accordingly to Article 76 of Income Tax Law in its accounting records, a penalty of MXN \$1,550 to MXN \$4,670 is imposed for each transaction.</p>	<p>Federal Fiscal Code, Articles 32-D, 76, 81 (section XVII and XL), 82 (section XVII and XXXVII), 83 (section XV), 84 (section XIII)</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>
22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>Taxpayers engaging in business activities whose income in the immediately preceding fiscal year did not exceed MXN \$13,000,000.00 and taxpayers which income from the provision of professional services did not exceed MXN \$3,000,000.00 shall not be bound to prepare transfer pricing documentation, except those taxpayers:</p> <ul style="list-style-type: none"> - That enter into transactions with entities in low tax jurisdictions; - Taxpayers that are contract or assignation holders in terms of the HRL <p>Taxpayers that do not meet the following requirements are not bound to prepare</p>	<p>Article 76 section IX, second paragraph of the MITL</p> <p>Article 76-A of the MITL and Federal Fiscal Code, Article 32-H</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>

		<p>the Master File and Local file:</p> <ul style="list-style-type: none"> - Taxpayers that in the immediately preceding fiscal year reported in their annual return revenue equal to or exceeding MXN \$708,898,920 (approximately USD \$38,000,000 updated every year), - Companies included in the optional tax regime for groups, - State owned companies, or - Foreign resident legal entities with a permanent establishment in Mexico. 	
Administrative Approaches to Avoiding and Resolving Disputes			
23	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>Federal Fiscal Code, Articles 34 and 34-A</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>
Safe Harbours and Other Simplification Measures			
24	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> <hr/> <p>Existing safe harbour is targeted to a specific industry (i.e. Maquiladora).</p>	<p>Article 182 of the MITL</p> <p>http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx</p>
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	Not applicable.	

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	Federal Fiscal Code, Article 31-A http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/leyes_2017.aspx
		Periodical adjustments (i.e., during the year) as well as year-end adjustments are allowed when registered in the accounts before the end of the fiscal year to make sure tax and accounting figures are consistent, and compliant with miscellaneous rule section 3.9.1. Adjustments have to be reflected in Form 76 (Relevant Transactions), which is required through Article 31-A of the Federal Fiscal Code.	http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/2017/resolucion_misclanea_2017.aspx
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing	Not applicable.	
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>)	Not applicable.	