

Sri Lanka

Transfer Pricing Country Profile

June 2022

		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 76 & 77 of the Inland Revenue Act, No. 24 of 2017.
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The domestic legislation has been prepared in line with OECD Transfer Pricing Guidelines as well as UN TP Manual.	
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 TP Gazette and Inland Revenue (IR) Act does not contain a definition for related parties. Regulation 8 of the TP Gazette specifies the conditions to be met that consider to be deemed as an associated enterprise. Associated Enterprises - For the purposes of Sections 76 and 77 of the Inland Revenue Act and for these regulations, two enterprises shall be deemed to be associated enterprises, if, at any time during the year of assessment, any of the following conditions is met. (a) any person or enterprise holds, directly or indirectly, shares or otherwise carrying the majority of the voting power in the other enterprise; (b) any person or enterprise holds, directly or indirectly, shares carrying not less than fifty percent of the voting power in each of such enterprise; (c) loans advanced by one enterprise to another enterprise constitute not less than fifty-one percent of the book value of the total assets of the other enterprise	Regulation 8 of Extraordinary Gazette Notification No. 2217/7 dated March 02, 2021 (TP Gazette).

		<p>provided that it is not given by a financial institution which is not considered as an associated enterprise under any other item of this regulation;</p> <p>(d) Loans and equity provided by one enterprise to another enterprise constitute not less than fifty-one percent of the book value of the total assets of the other enterprise provided that it is not given by a financial institution which is not considered as an associated enterprise under any other item of this regulation;</p> <p>(e) one enterprise guarantees not less than twenty five percent of the total borrowings of the other enterprise;</p> <p>(f) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise;</p> <p>(g) more than half of the board of directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons;</p> <p>(h) ninety percent or more of the raw materials, semi-finished goods and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, or of purchases required for the sale, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise;</p> <p>(i) the goods or articles manufactured or processed by one enterprise are sold/transferred to another enterprise or to persons specified by the enterprise, and the prices and other conditions relating thereto are influenced by such enterprise or vice versa;</p> <p>(j) where one enterprise is controlled by an individual or jointly by such individual and his relative, and the other enterprise is controlled by such individual or his relative or jointly by such individual and his relative or jointly by relatives of such individual;</p> <p>(k) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten percent interest in such firm, association of persons or body of individuals, or</p> <p>(l) where the controlled transaction differs from the transactions that would have been made or imposed by any person not directly participating in the management, control or capital as mentioned in section 76 or 77, but confers a potential advantage to the enterprise.</p>	
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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%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 15%;">CUP</th> <th style="width: 15%;">Resale Price</th> <th style="width: 15%;">Cost Plus</th> <th style="width: 15%;">TNMM</th> <th style="width: 15%;">Profit Split</th> <th style="width: 20%;">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>Regulation 2 of the TP Gazette stipulates how the arm's length price is determined by the application of the most appropriate method to the facts and circumstances of the case from any of the methods specified.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Regulation 2 (I) of TP Gazette Notification No. 2217/7 dated March 02, 2021</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 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>As per regulation 5 of the TP Gazette, the transfer pricing method to be used is the "Most Appropriate Method" which is arrived at after considering the nature and class of international transactions, the functions, assets and risks (FAR) analysis of the related parties and the availability and reliability of comparable data.</p> <p>Accordingly, the most appropriate method shall be the method which is best suited to the facts and circumstances of each particular controlled transaction between associated enterprises, and which provides the most reliable measure of an arm's length price in relation to such transaction.</p>	<p>Regulation 5 of TP Gazette Notification No. 2217/7 dated March 02, 2021</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 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>													

		Sri Lanka does not have specific Guidance on 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 Sri Lanka tax administration largely follows the OECD guidance (and the relevant guidance under the UN TP Manual) in practice.	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Sri Lanka does not have an explicit preference for domestic comparables over foreign comparables in accordance of the guidance and IR Act. Subject to the selection of the tested party appropriate comparables (domestic or foreign) are carefully chosen by the transfer pricing officer.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No TP audits mostly rely on publicly available data and information to arrive at comparable data.	
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 Regulation 2(II) of the TP Gazette, Sri Lanka considered the interquartile range as the arm's length range. Minimum/lower limit would be the 25 th percentile of the arm's length range and maximum/upper limit would be the 75 th percentile of the arm's length range. Where the actual price of a controlled transaction is not within the arm's length range, the median in the arm's length range shall be treated as the arm's length price for such transaction. For the purposes of this, the median of the arm's length range shall be the 50 th percentile of the financial indicator figures derived from the comparable uncontrolled transactions within the arm's length range.	Regulation 2 (II) of TP Gazette Notification No. 2217/7 dated March 02, 2021

		Detailed method for considering the arm's length range has been prescribed.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Regulation 4 of TP Gazette Notification No. 2217/7 dated March 02, 2021
		Sri Lanka allows necessary adjustments in comparability analysis. Reliable and accurate adjustments can be done, if any, between the uncontrolled transactions and controlled transactions being compared.	
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	
		Sri Lanka does not have specific guidance on pricing of controlled 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	
		Sri Lanka does not have such rules or special measures regarding HTVI.	
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	Item 4, 5 and 8 of “Guidance and examples on the completion of Transfer Pricing Disclosure Form” in Annexure V and Expense Transactions categories in Annexure VI (ii) of TP Gazette Notification No. 2217/7 dated March 02, 2021
		<p>Sri Lanka does not have specific guidance for intra-group services. However, taxpayers should disclose information of intra-group service transactions with associated enterprises under expense transactions of associated enterprises in the Transfer Pricing Disclosure Form (TPDF) according to TP Regulation 6 (d).</p>	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>There is no specific approach in Sri Lanka. Sections 76 (Profits and income or loss from international transactions between associates) and 77 (Profits and income or loss from transactions between associates) of the Inland Revenue Act require to ascertain the income, gains and profits arising from or any loss incurred by any person in Sri Lanka engaged in any international transactions entered into with its associated enterprises, having regards to the arm’s length price. However, the determination of the arm’s length price referred to in sections 76 and 77 may be subject to safe harbor rules specified by the Commissioner-General. Further, though the Inland Revenue Act provides the legal basis, no guideline has been issued yet on safe harbor rules.</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	Expense Transactions species in Annexure VI (ii) of TP Gazette Notification No. 2217/7 dated March 02, 2021
		<p>Sri Lanka does not have any specific guidance for financial transactions. However, in the TPDF, taxpayers should disclose the information of financial instruments and other financial services under expenses transactions of associated enterprises.</p>	
19		<input checked="" type="checkbox"/> Yes	

	<p>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?<i>(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</i></p>	<p><input type="checkbox"/> No</p> <p>In order to limit the interest deductions, Sri Lanka has introduced provisions in section 18 of the IR Act. The amount of financial costs deducted in calculating the income of a company (other than a financial institution) which is incorporated in or outside Sri Lanka and having an issued share capital as at the date on which the year of assessment ends, from conducting a business or investment for a year of assessment, shall not exceed the limit of four times of total of the issued share capital and reserves of the company as at the end of the year.</p>	<p>Section 18 of the Inland Revenue Act, No. 24 of 2017.</p>
Cost Contribution Agreements			
20	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
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 checked="" type="checkbox"/> Other (specify): Transfer Pricing Disclosure Form (TPDF) <p>Regulation 6 of the TP Gazette requires that enterprises having “international transactions”, or “transactions other than international transactions” made between associated enterprises who fulfil the requirements of Regulation 1 and that carry out during an assessment year aggregate controlled transactions that exceed Sri Lanka Rupees (LKR) 200 million must submit a TPDF along with the Income Tax Return.</p>	
22	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e.</p>	<p>Transfer pricing documentation as stipulated in Regulation 6 of the TP Gazette, should be prepared, which requires (i) a Local File referring specifically to material controlled transactions of the local taxpayer, (ii) a Master File containing standardized information relevant for all the members of a multinational group and (iii) a Country-</p>	<p>Regulation 6 of TP Gazette Notification No. 2217/7 dated March 02, 2021</p>

	timing for preparation or submission, languages, etc.)	<p>by-Country Report (CbCR) containing certain information relating to the global allocation of the multinational group's income and taxes paid together with certain indicators of the location of economic activity within the group that meets the monetary thresholds prescribed under the respective rules.</p> <p>The transfer pricing documentation (Local File and Master File) shall be submitted by the taxpayer within 60 calendar days of the written request being duly issued by the Commissioner General of Inland Revenue. The CbCR shall be filed not later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.</p> <p>TPDF should be submitted along with the Income Tax Return.</p>	
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Section 184 states specific transfer pricing penalties, where any person fails to comply with the requirements of section 76 or 77 in relation to transactions with associated enterprises.</p> <p>There is no specific compliance incentives regarding transfer pricing documentation.</p>	Section 184 of the Inland Revenue Act, No. 24 of 2017.
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	<p>Regulation 6 of the TP Gazette provides the threshold for maintenance of transfer pricing documentation, as follows:</p> <ol style="list-style-type: none"> (1) The local file is to be prepared and maintained by those enterprises that carry out aggregate controlled transactions which exceeds LKR 200 million for each year of assessment as recorded in the books of account. (2) The Master File is to be prepared and maintained by those enterprises that have declared group revenue whose value exceeds EUR 50 million or its equivalent in Sri Lanka Rupees for each year of assessment as recorded in the books of account commencing from year of assessment 2020/2021. (3) The CbCR with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of not less than EUR 750 million or its equivalent in LKR during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year. 	Regulation 6 of TP Gazette Notification No. 2217/7 dated March 02, 2021

Administrative Approaches to Avoiding and Resolving Disputes

25	<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 checked="" type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input 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>In terms of section 75 of the Inland Revenue Act, where Parliament by resolution approves any double taxation agreement or mutual administrative assistance agreement entered into between the Government of Sri Lanka and the Government of any other territory, or such agreement entered into by the Government of Sri Lanka with the Governments of any other territories, such agreement shall, notwithstanding anything in any other written law, have the force of law in Sri Lanka. Every such resolution which is so approved by Parliament shall be published in the <i>Gazette</i>.</p> <p>In terms of section 199 of the Inland Revenue Act, the Minister may, on behalf of the Government, enter into, amend, or terminate a mutual administrative assistance agreement with a foreign government or governments.</p> <p>For further information, please refer to the OECD MAP Profile of Sri Lanka.</p>	<p>Sri Lanka's OECD MAP Profile</p>
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Safe Harbours and Other Simplification Measures

26	<p>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <hr/> <p>However, in terms of sections 76 and 77 of the Inland Revenue Act, the determination of the arm's length price may be subject to safe harbor rules specified by the Commissioner-General. However, no guidelines have been issued yet on safe harbor rules.</p>	<p>Section 76 and 77 of the Inland Revenue Act, No. 24 of 2017.</p>
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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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		TP Regulation 10 provides for secondary adjustments for International Transactions.	
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 Sri Lanka does not follow the AOA for the attribution of profits to PEs.	
31	[NEW] Does your jurisdiction follow also another approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Sri Lanka approaches for the attribution of profits to PEs are done in accordance of the DTA and Provisions of the IR Act.	

Other Relevant Information

32	<p>Other legislative aspects or administrative procedures regarding transfer pricing</p>	<p>In terms of section 78 of the Inland Revenue Act, there shall be a Dispute Resolution Panel (DRP) for the purpose of resolution of disputes on interim order.</p> <p>Where a taxpayer has communicated his dissatisfaction with the interim order referred in the sections 76 and 77 of the Inland Revenue Act to the Commissioner-General, the DRP shall, within six months of the date of such communication of dissatisfaction on such interim order, make a final order and shall transmit such order in writing or by electronic mean to such person. However, the taxpayer has the right to appeal against the decision of the DRP.</p>	<p>Section 76, 77 and 78 of the Inland Revenue Act, No. 24 of 2017.</p>
33	<p>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>)</p>	<p>All the relevant Act and regulations mentioned in this profile can be accessed at the websites mentioned in the “References” column.</p>	<p>www.ird.gov.lk</p>

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