

Turkey

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 <p>Under Article 13(3) of CITL (Corporate Income Tax Law), it is stated that <i>“Arm's length principle means that the price or consideration charged for the purchase or sale of goods or services between related parties should be the price or consideration which would have been occurred in the absence of such a relationship between them.”</i></p>	Corporate Income Tax Law No. 5520 (CITL) Article 13(3)
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	In the legal ground for Article 13 of the CITL, it is stated that transfer pricing legislation is prepared by taking into account international developments and particularly the OECD Transfer Pricing Guidelines.	Corporate Income Tax Law No. 5520 (CITL) Article 13 Rationale
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>In general, related party refers to:</p> <ul style="list-style-type: none"> • Shareholders of the corporation; • Individuals or legal entities related to the corporation or its shareholders; • Individuals or legal entities which control the corporation directly or indirectly in terms of management, supervision or capital; • Individuals or legal entities which are controlled by the corporation directly or indirectly in terms of management, supervision or capital. <p>Article 13(2) also states that <i>“By considering whether the taxation capacity of the source country's tax system is the same with that of Turkey and considering the exchange of information, all transactions made with persons located in countries</i></p>	Corporate Income Tax Law No. 5520 (CITL) Article 13(2) Details are provided in Section 3 of Transfer Pricing General Communiqué No.1

or regions to be announced by the President will be deemed as if they were made with related parties”.

To implement the transfer pricing rules, there must be a minimum 10 percent shareholding ratio in the existence of a direct or indirect shareholder relationship. (In cases where there is at least 10% voting or dividend rights directly or indirectly without any shareholding relation, parties shall still be treated as related parties.)

Transfer Pricing Methods

4 Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?

- Yes
 No

If affirmative, please check those provided for in your legislation:

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 checked="" type="checkbox"/>

The most appropriate method shall be selected to determine the arm’s length price in transactions with related parties. However, if it is not possible to determine the arm’s length price by using these methods, taxpayers may use other methods which are appropriate to the nature of the transactions.

[Corporate Income Tax Law](#) No. 5520 (CITL) Article 13(4)

Details are provided in Section 5 of Transfer Pricing General Communiqué No.1

5 Which criterion is used in your jurisdiction for the application of transfer pricing methods?

- Please check all that apply:
- Hierarchy of methods
 Most appropriate method
 Other (if so, please explain)

There is no hierarchy of methods. Taxpayers must use the method which is most appropriate to the nature of the transaction. Turkey follows the OECD TPG.

[Corporate Income Tax Law](#) No. 5520 (CITL) Article 13(4)

Details are provided in Section 5 of Transfer Pricing General Communiqué No.1

6 If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.

- For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.
 Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain)

		<input type="checkbox"/> Other (<i>if so, please explain</i>)	
		There is no specific regulation regarding 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	Details are provided in Section 4 of Transfer Pricing General Communiqué No.1
		<p>Transfer Pricing General Communiqué No.1 includes a clear explanation of the comparability analysis in line with Chapter I D.I of the OECD TPG.</p> <p>There is no clear reference to Chapter III of the OECD TPG but the implementation of transfer pricing rules is generally in line with Chapter III of the OECD TPG.</p>	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is no explicit prohibition against the use of foreign comparables. Depending on the facts and circumstances of the controlled transaction, the most appropriate comparables are preferred.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		There is no specific prohibition of using secret comparables.	
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	Details are provided in Section 4 of Transfer Pricing General Communiqué No.1
		Depending on the facts and circumstances of the controlled transaction, the use of both arm's length range and other statistical tools (interquartile range, weighted average, median, multiple-year data etc.) are allowed.	
11	Are comparability adjustments required under your domestic	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Details are provided in Section 4 of Transfer Pricing General Communiqué No.1

	legislation or regulations?	If necessary, comparability adjustments are required depending on the facts and circumstances of the case.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The arm's length principle also applies to intangibles. Section 10 of Transfer Pricing General communique includes specific provisions regarding intangibles.	Details are provided in Section 10 of Transfer Pricing General Communiqué No.1
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	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The arm's length principle also applies to intra-group service transactions.	Details are provided in Section 11 of Transfer Pricing General Communiqué No.1
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
			Turkey's domestic legislation or regulation does not contain specific provisions regarding financial transactions. The arm's length principle provisions in the CIT would apply.
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	Corporate Income Tax Law No. 5520 (CITL) Article 11 clause 1(i); According to clause 1(i) of the 11 th article of the Corporate Income Tax Law numbered 5520, for companies with foreign liabilities exceeding their equity, 10% of the total of interest, commission, maturity difference, dividend, foreign exchange difference and expenses and cost elements made under the similar names related to the foreign liabilities used in the enterprise are not considered as a deduction in determining the corporate earnings. Financing expenses that are added to the cost of the investment are not treated within the scope of the clause. Clause 1(i) of the 11 th article will be applied to the earnings of the taxable years starting as of 1 January 2021 and onwards. Within the scope of the article; credit institutions, financial institutions, financial leasing, factoring and financing companies are excluded.

Cost Contribution Agreements

20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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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): 	<p>Details are provided in Section 7 of Transfer Pricing General Communiqué No.1</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><i>For each documentation requirement, please indicate the timing for preparation or submission, language, any difference in respect to the Action 13 three-tier approach, notification in the case of CbCR.</i></p> <p>There are currently six types of documentation requirements:</p> <ol style="list-style-type: none"> 1. Master file which is prepared by corporate income taxpayers who are affiliated to a multinational enterprise group and whose both asset size in the balance sheet and net sales amount in the income statement as an attachment to the annual CIT return related to the preceding fiscal year are 500 million Turkish Lira and above until the end of the fiscal year following the relevant fiscal year and after the end of this period, it must be submitted, if requested, to the Turkish Revenue Administration or other tax authorities entitled to make tax examination. 2. Annual Transfer Pricing Report (Local File) which must be prepared by all corporate income taxpayers until the deadline for filing the annual CIT return and, upon request, submitted to Turkish Revenue Administration or other tax authorities entitled to make tax examination. 3. Country-by-Country Reporting: According to the consolidated financial statements of the immediately preceding fiscal year prior to reporting fiscal year, the ultimate parent entity or surrogate parent entity, resident in Turkey, of the multinational enterprise group whose total consolidated group revenue is equal to and exceeds 750 million Euro prepares country-by-country reporting until the end of the twelfth month after the 	<p>Details are provided in Section 6 and 7 of Transfer Pricing General Communiqué No.1</p>

		<p>reporting fiscal year and files it electronically to the Turkish Revenue Administration.</p> <ol style="list-style-type: none"> 4. Notification form related to country-by-country reporting: The members of the multinational enterprise group that is included in the scope of CbCR inform the Turkish Revenue Administration about whether they are the ultimate parent entity or surrogate parent entity and which entity will be reporting CbCR on behalf of the group and its fiscal year. This information will be provided electronically on an annual basis through Internet Tax Office until the end of June of the year following the reporting fiscal year. 5. Transfer Pricing, Controlled Foreign Corporations and Thin Capitalisation Form which must be filled by all corporate income taxpayers and submitted to the relevant tax office as an attachment to the annual CIT return. However when total transaction volume does not exceed TL 30 000; the transfer pricing section of the form is not mandatory. 6. Taxpayers having an APA should prepare an Annual APA Report every year during the term of the APA and submit it to the Turkish Revenue Administration before the deadline for filing the annual CIT return. <p>As a general rule, tax administration or tax inspectors need to provide at least fifteen days to taxpayers to submit any written information including transfer pricing documentation.</p> <p>The transfer pricing documentation should be prepared in the Turkish language. If the documents are prepared in a foreign language, a Turkish version is required.</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>There are no specific transfer pricing penalties regarding transfer pricing documentation. The provisions of Tax Procedural Law regarding irregularity penalties apply.</p> <p>According to Article 13(8) of the CITL, if the transfer pricing documentation requirements are fulfilled timely and properly, tax penalties in case of a tax assessment due to the application of non-arm's length prices will be reduced by 50%.</p>	<p>Article (repetitive) 355 of the Tax Procedural Law No.213.</p> <p>Details are provided in Section 8 of Transfer Pricing General Communiqué No.1</p> <p>Corporate Income Tax Law No. 5520 (CITL) Article 13(8)</p>

24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	All corporate taxpayers have to prepare the transfer pricing documentation. Personal income tax taxpayers (individuals) do not have to prepare the transfer pricing documentation. However, upon the request of the tax administration or tax inspectors, personal income tax taxpayers also have to provide information involving related party transactions.	Details are provided in Section 7 of Transfer Pricing General Communiqué No.1
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> <hr/> <p>Turkey has in place a formal APA programme under which it is allowed to enter into unilateral, bilateral and multilateral APAs. There are no timelines for the filing of an APA request. APAs are entered into for a period of a maximum of five years. Turkey's APA programme also includes a roll-back for bilateral APA requests in appropriate cases.</p> <p>A roll-back of a bilateral APA is possible for those fiscal years that are still open under Turkey's domestic statute of limitation (where the relevant facts and circumstances in the earlier tax years are the same).</p>	<p>Corporate Income Tax Law No. 5520 (CITL) Article 13(5)</p> <p>Details are provided in Section 6 of Transfer Pricing General Communiqué No.1</p> <p>Turkey'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	<p><input type="checkbox"/> Yes</p>	

	questionnaire? If so, please provide a brief explanation.	<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	Details are provided in Article 13/6 of Corporate Income Tax Law No. 5520 and Section 9/2 of Transfer Pricing General Communiqué No.1
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Details are provided in Article 13/6 of Corporate Income Tax Law No. 5520 and Section 9/2 of Transfer Pricing General Communiqué No.1
		In case of a non-arm's length-related party transaction, profits arising from that transaction are considered "constructive dividend" (disguised profit distribution).	
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 <i>In how many tax treaties?</i> <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i>	
		<input type="checkbox"/> No <i>In how many tax treaties?</i>	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. whether your jurisdiction is preparing new transfer	Turkey is a member of the Convention on Mutual Administrative Assistance in Tax Matters (MAAC) and one of the signatories of the Multilateral Competent	

<i>pricing regulations, or other relevant aspects not addressed in this questionnaire)</i>	Authority Agreement on the Exchange of Country-by-Country Reports (CbC MCAA).	
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For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>