



## Hungary

### WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	Yes
Since when does a TP documentation requirement exist in your country?	2003
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Which TP methods may be applied?	Comparable Uncontrolled Price (CUP); Resale Price Method; Cost Plus Method; Transactional Net Margin Method; Transactional Profit Split Method. Other methods may be applied if the arm's length price cannot be supported by these methods.
Are any TP methods preferred over others?	There is no preferred method prescribed by law. However, upon tax inspections, the inspectors prefer the application of CUP and TNMM methods.
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR, MF/LF implemented.
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	<ul style="list-style-type: none"> <li>Local File &amp; Master File: Decree of 22/2009 published by the Ministry of Finance has been repealed by the new Decree of 32/2017 issued by the Ministry of National Economy as of 17 November 2017.</li> <li>CbCR: CbCR-specific parts in Act XXXVII of 2013 (approved by the Hungarian Parliament on 15 May 2017).</li> </ul>
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:	Please see above.

2. Master File (MF)	
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	TP documentation liability arises for a taxpayer if the market value of the (consolidated) related transaction exceeds HUF 50,000,000 (approx. EUR 167,000) in a tax year. Based on the new decree, TP documentation needs to include Local File and Master File.
Euro Equivalent	167000
As from which year does this obligation exist?	HUF 50 million threshold has to be reviewed in the given tax year. If the threshold is exceeded, TP documentation (including Local File and Master File) has to be prepared by the taxpayer.
When does the Master File need to be available?	It has to be available by the filing day of the corporate income tax return of the given year. However, if the taxpayer prepared the Local File by the filing day of the corporate income tax return but the Master File is not available due to the legislation applicable for the final parent company, the Master File has to be available the latest within 12 months following the last day of the fiscal year.
When does it need to be submitted?	It has to be filed only upon request during a tax inspection.
Does the MF have to be prepared in the relevant local language ?	No, it can be prepared in Hungarian, English, German or French language.

Is documentation in English permissible?	Yes
What are the possible consequences of not having the MF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	No
To which extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?	Consistent with OECD requirements.

<b>3. Local File (LF)</b>	Yes
What is the threshold requirement for the obligation to prepare a LF?	TP documentation liability arises for a taxpayer if the market value of the (consolidated) related transaction exceeds HUF 50,000,000 (approx. EUR 167,000) in a tax year. Based on the new decree, TP documentation needs to include Local File and Master File.
Euro Equivalent	EUR 167,000
As from which year does this obligation exist?	HUF 50 million threshold has to be reviewed in the given tax year. If the threshold is exceeded, TP documentation (including Local File and Master File) has to be prepared by the taxpayer.
When does the LF need to be available?	It has to be available by the filing day of the corporate income tax return of the given year.
When does the LF need to be submitted?	It has to be filed only upon request during a tax inspection.
Does the LF have to be prepared in the relevant local language?	No. The LF can be prepared in Hungarian, English, German or French language.
Or is documentation in English permissible?	Yes, but the tax authority may request Hungarian translation for certain parts of the documentation.
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	No
To which extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?	Basically consistent with OECD requirements but require some more details.

<b>4. Country-by-Country Reporting</b>	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	EUR 750 million (or equivalent HUF amount) consolidated revenue in the previous financial year
As from which year does this CbCR obligation exist?	As from the year following the year that the threshold is met (so that CbCR is prepared for the year in which the threshold was met or exceeded) <ul style="list-style-type: none"> <li>• For primary reporting, CbCR is first to be prepared for fiscal years starting on or after 1 January 2016</li> <li>• For secondary reporting, CbCR is first to be prepared for fiscal years starting on or after 1 January 2017</li> </ul>
When and how do the tax authorities need to be notified who the reporting entity is?	Notification has to be filed online (by using the tax authority's electronic template) up to the last day of the reporting fiscal year, except for the financial year starting on or after 1 January 2016 as in this case notification has to be made within 12 months calculated from the last day of the given fiscal year.

If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	12 months from the end of the fiscal year to which CbCR relates
Are there any deviating submission deadlines for the secondary mechanism?	No
Does your country have a requirement that the financial figures of the group need to be aligned with?	No
Does your country have a requirement that the financial years of the group need to be aligned with?	No
Where is the CbCR to be submitted ?	CbCR has to be filed online by using the electronic template of the Hungarian tax authority.
How is the CbCR to be submitted, specifically, is there any prescribed standard?	The official form published by the Hungarian tax authority has to be filled out and submitted to the tax authority online through a special system.
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	No
To which extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?	Consistent with OECD requirements
Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	Yes
Did your country enter into other information exchange agreements, such as on a bilateral basis?	No
Please specify the country involved and date the agreement came into force.	Bilateral agreement with the US is in progress.
Can a taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?	Yes

## 5. TP disclosure in tax return or transfer pricing specific returns

Does a taxpayer need to disclose information regarding TP documentation in his tax return?	Yes, for FY 2017 if the taxpayer prepared/used Master File for a given year based on the Decree No. 22/2009, it has to be indicated in the corporate income tax return. No information is available currently whether any information has to be disclosed in the tax return as from FY 2018.
What would be the filing deadline?	The filing deadline of the corporate income tax return is the last day of the fifth month after the end day of the fiscal year, i.e. in case the fiscal year is the same as the calendar year, the filing deadline is 31 May of the following year.
When a taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect transfer pricing, what could be the legal consequences?	Tax shortage, 50% tax penalty, default penalty up to HUF 500,000 (approx. EUR 1,700), late payment interest.

What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?	If such a tax return is countersigned by a tax advisor/tax expert, the tax authority imposes default penalty to the tax advisor/tax expert. Otherwise, tax consequences need to be arranged by the parties (taxpayer and tax advisor/tax expert) internally or in the course of civil litigation.
Does a taxpayer need to file TP-specific returns?	No

**6. Benchmarking**

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	<p>Yes. According to Decree of 32/2017, a taxpayer can take the following sources into account for determining the arm's length price:</p> <ul style="list-style-type: none"> <li>a) contract with independent party</li> <li>b) contract between related party and independent party</li> <li>c) contract between independent parties</li> <li>d) data from publicly available or verified database by the tax authority regarding comparable products and services</li> <li>e) data from publicly available or verified database by the tax authority regarding comparable companies</li> </ul> <p>As for the application of points d)-e) the taxpayer can apply further adjustments if these are properly documented (also including the proper explanation of how the applied adjustments support the comparability).</p> <p>In general the arm's length price range has to be determined with the use of statistical methods (interquartile ranges) during database filtering except if the taxpayer ensures that each point of the full range (minimum-maximum) qualifies as arm's length price. To apply the wider range (instead of the narrower interquartile range) functional analysis has to be carried out for each element from the sample resulted in the comparative analysis, and the taxpayer has to justify without any doubt that the controlled transaction and the comparable transaction are truly comparable.</p>
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	<p>Yes. If a taxpayer has no transfer pricing documentation liability, no benchmark study has to be prepared, e.g. transactions between related parties under the (consolidated) market value of HUF 50 million (approx. EUR 167,000) in the given tax year are exempted from transfer pricing documentation liability. If a taxpayer qualifies as an SME, no transfer pricing documentation liability arises. Simplification rules apply for certain services (e.g. consulting services, transportation and storage) up to the yearly net market value of HUF 150 million (approx. EUR 500,000) if additional requirements are fulfilled.</p>
Does your country apply the general guidance by the OECD to prepare a new benchmarking search every three years and an update of the financial data of the accepted comparable in year 2 or 3?	Yes
Or is a new search every three years without any financial updates in year 2 and 3 sufficient?	No. Based on the new decree, new benchmarking search has to be prepared every three years and financial data of the accepted comparables have to be updated in every year unless if there is a change in the meantime.

7. Year-end adjustments	
Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	Yes. Year-end adjustments are basically permitted but these should be sufficiently justified by the taxpayer as to why their application is deemed economically necessary based on the functions and risks. If the tax authority reveals that cost adjustments are made only with the purpose of having lower tax liability, the tax authority may increase the tax base of the taxpayer so that it shows the justified costs.

8. Transfer Pricing Audit and Dispute Resolution Mechanisms	
What are currently the main TP areas of scrutiny by the tax authorities in your country?	Previously only the existence of transfer pricing documentation was in focus upon a tax audit. We still experience this upon "general" tax inspections but in case of transfer pricing audit transfer pricing issues are investigated by the tax authority in more detailed, i.e. the functional analysis, the method applied, the determination of the market price. As a result of the CbCR requirements, the tax authority will treat the transfer pricing issues with higher priority.
Based on your experience, are joint or multilateral audits initiated and carried out?	Yes
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	Yes
Are there any restrictions?	<p>Applying for unilateral, bilateral or multilayer APA is generally a complex, long and costly process. APA can be requested only for future transfer pricing transactions (i.e. contract is concluded after the filing of the APA request, or with certain conditions contract is concluded before). Key factors of the transaction has to remain unchanged during the validity period of the APA.</p> <p>APA issued by the tax authority qualifies as a binding ruling of the tax authority which is valid retroactively back to the filing date of the APA request for a period of at least 3 years and up to 5 years; it may be extended once by additional 3 years upon request by the taxpayer being filed 6 months before the end of the final validity date. No transfer pricing documentation has to be prepared by the taxpayer regarding the transaction supported by a valid APA.</p> <p>Deadline for the procedure is 120 days, which may be extended by 2*60 days. Preliminary consultation is possible with the tax office before filing the APA request (conditions, timing, method and possible coordination).</p> <p>As of 1 January 2018, the official fee for the consultation is HUF 500,000 (approx. EUR 1,600) per consultation, while the official fee for the APA depends on the type of APA (unilateral, bilateral, or multilateral procedure) - it is HUF 2 million (approx. EUR 6,500) multiplied by the number of countries involved (e.g. in case of bilateral APA, the official fee is HUF 4 million).</p>

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