



## Mexico

### 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?	1997
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?	The comparable uncontrolled price method ("CUP" method), the resale price method ("RPM"), the cost plus method ("CPM"), the transactional net margin method ("TNMM") and the transactional profit split method ("TPSM"). In addition to the OECD's recognised methods, the MITL establishes the transactional residual profit split method ("TRPSM").
Are any TP methods preferred over others?	The CUP is considered the preferred method, followed by the CPM and the RPM methods. Profit-based methods are to solely be applied when the former methods are N/A. However, taxpayers must demonstrate that the method used is the most appropriate based on available information.
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: Article 76-A, section II of the MITL, Rules 3.9.11 and 3.9.16 of the Miscellaneous Tax Resolution For 2017 For Fiscal Year ("MTR")</li> <li>Master File: Article 76-A, section I of the MITL, Rules 3.9.11, 3.9.13 and 3.9.15 of the MTR</li> <li>CbCR: Article 76-A, section III of the MITL, Rules 3.9.11, 3.9.13, 3.9.14 and 3.9.17 of the MTR.</li> </ul>

<p>Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:</p>	<ul style="list-style-type: none"> <li>• Articles 27-V, 28 (XVII, XVIII, XXVII and XXIX): deductibility requirements and limitations for payments to domestic or foreign related parties under specific circumstances</li> <li>• Article 76, sections IX and XII of the MITL: Taxpayers' obligations to obtain and keep transfer pricing support documentation with regard to transactions entered between or amongst non-resident related parties, and to determine their gross income and authorised deductions in accordance with the arm's length standard, regardless of whether the transactions are domestic or cross-border intra-group transactions. Rule 3.9.5 of the MTR establishes an option for legal entities entering into transactions with domestic related parties, which exempts them from obtaining and keeping transfer pricing support documentation provided that certain legal requirements are met.</li> <li>• Article 76, section X of the MITL: Taxpayers engaged in business activities are required to file a multiple annual tax return ("DIM") on transactions made with non-resident related parties. Said informative return is to be jointly submitted with their annual tax return by 31 March through Annex 9 thereto. Rule 3.9.4 of the MTR establishes a tax ease exempting legal entities from filling said file, if the transactions made are comprised in the catalogue of activities set therein.</li> <li>• Article 76-A, sections I, II and III of the MITL: Taxpayers' obligation to submit the local file, master file and country-by-country report to the Mexican tax authorities.</li> <li>• Article 179 of the MITL: Tax authorities' right to adjust taxpayers' gross income and authorized deductions to arm's length result; related party definition (OECD); comparability (functional analysis); business cycles, and Transfer Pricing Guidelines application for interpretative purposes.</li> <li>• Article 180 of the MITL: Transfer pricing methods, ranges and selection of the most appropriate method.</li> <li>• Article 32-A of the Federal Fiscal Code ("FFC"): Certain legal entities or individuals engaged in business activities may choose to audit their financial statements through an authorised public accountant ("CPA"). Significant transfer pricing information is required to be disclosed by the CPA, including the transfer pricing method. In addition, the CPA must state whether the transactions were reflected on an arm's-length basis and whether a tax adjustment was made to comply with the arm's-length standard.</li> <li>• Article 32-H of the FFC: Taxpayers should file an Informative Tax Return on Tax Situation ("DISIF"), whenever they enter into transactions with non-resident related parties. The DISIF should be submitted by 30 June of the following fiscal year.</li> <li>• Article 34-A of the FFC: Unilateral and bilateral Advance Pricing Agreements ("APA"). Rule 2.12.8 of the MTR establishes the documentation and information requirements for filling an unilateral APA to the tax authorities, as well as the procedural requirements that the latter should meet for carrying out the functional analysis.</li> </ul>
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<b>2. Master File (MF)</b>	Yes
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	MXN 708,898,920.00 or greater (last updated amount).
Euro Equivalent	EUR 30,783,968
As from which year does this obligation exist?	Taxpayers' obligation to submit the master file was incorporated in the tax reform for FY 2016, through the "Decree amending, adding or repealing several provisions of the Income Tax Law, the Law governing the Special Tax on Production and Services, the Federal Fiscal Code and the Federal Law on Budget and Treasury Responsibility ", published in the Federal Official Gazette ("FOG") on November 18, 2015.
When does the Master File need to be available?	<p>Article 76-A of the MITL: The master file should be submitted no later than December 31 of the following year. For transactions performed in 2016, the filling deadline is December 31, 2017. Nevertheless, when foreign related party's FY is not closed on a calendar-year basis, the master file might be submitted in accordance with the following due dates:</p> <ul style="list-style-type: none"> <li>- When the fiscal year ends in June, July, August, September, October, November, or December, by 31 December of the following FY.</li> <li>- When the fiscal year ends in January, by 31 January of the following FY.</li> <li>- When the fiscal year ends in February, by the last day of February of the following FY.</li> <li>- When the fiscal year ends in March, by 31 March of the following FY.</li> <li>- When the fiscal year ends in April, by 30 April of the FY.</li> <li>- When the fiscal year ends in May, by 31 May of the FY.</li> </ul>
When does it need to be submitted?	The master file must be submitted before the said deadlines. However, tax authorities may also require its exhibition within a tax audit, since said file is an integral part of taxpayer's accounting records. If the tax authorities request taxpayer's master file, the latter has 15-business days to submit it. An extension of 10 business days could be granted by the tax authorities upon request. In accordance with rule 3.9.12 of the MTR, a single master file may be filed for one Multinational Enterprise ("MNE") Group, by listing the names and taxpayer ID numbers of the companies resident in Mexico that are part of the group and are obligated to file a master file.
How and where should the MF be filed?	Taxpayers are legally required to submit their master file through the Mexican Tax Administration Service's ("SAT") electronic portal.
Does the MF have to be prepared in the relevant local language ?	No. However, taxpayers may file the information prepared by a foreign entity from the same MNE Group in English or Spanish, provided that its content was completed in accordance with the Final Report of Action 13 of the Action Plan against the Erosion of the Taxable Base and the Transfer of Benefits. Furthermore, foreign currencies might be used for the presentation of the master file.
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?	Yes

<p>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?</p>	<p>The original draft rules published in October 2016 by the SAT through Mexican Taxpayers' Ombudsman ("PRODECON") required information and documentation that exceeded what Action 13 of the BEPS Action Plan contemplated. After a five-month process that involved technical analysis by PRODECON and several transfer pricing specialists, as well as technical opinions from the public in general and discussions with the SAT, the new master file requirements are very similar to the principles in BEPS Action 13.</p>
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<p><b>3. Local File (LF)</b></p>	<p>Yes</p>
<p>What is the threshold requirement for the obligation to prepare a LF?</p>	<p>MXN 708,898,920.00 or greater (last updated amount).</p>
<p>Euro Equivalent</p>	<p>EUR 30,790,900</p>
<p>As from which year does this obligation exist?</p>	<p>Taxpayers' obligation to submit the local file was incorporated in the tax reform for FY 2016, through the "Decree amending, adding or repealing several provisions of the Income Tax Law, the Law governing the Special Tax on Production and Services, the Federal Fiscal Code and the Federal Law on Budget and Treasury Responsibility ", published in FOG on November 18, 2015.</p>
<p>When does the LF need to be available?</p>	<p>Article 76-A of the MITL: The local file should be submitted no later than 31 December of the following year. For transactions performed on 2016, the filling deadline is 31 December 2017.</p>
<p>When does the LF need to be submitted?</p>	<p>The local file must be submitted before the said deadline (December 31). However, tax authorities may also require its exhibition within a tax audit, since said file is an integral part of taxpayer's accounting records. If the tax authorities request a taxpayer's local file, the latter has 15-business days to submit it. An extension of 10-business days could be granted by the tax authorities upon request.</p>
<p>How and where should the LF be filed?</p>	<p>Taxpayers are legally required to submit their local file through SAT's electronic portal.</p>
<p>Does the LF have to be prepared in the relevant local language?</p>	<p>Yes. However rule 3.9.16 of the MTR states which documentation or information may be prepared in English. Contracts with related parties and business descriptions of comparables may be submitted in English or Spanish.</p>
<p>Or is documentation in English permissible?</p>	<p>Yes. However rule 3.9.16 of the MTR states which documentation or information may be prepared in English. Contracts with related parties and business descriptions of comparables may be submitted in English or Spanish.</p>
<p>What are the possible consequences of not having the LF available?</p>	
<p>Penalties?</p>	<p>Yes</p>
<p>Imprisonment?</p>	<p>No</p>
<p>Shifting of the burden of proof?</p>	<p>No</p>
<p>Other?</p>	<p>Yes</p>

<p>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?</p>	<p>Final rules issued by the SAT include some items that differ from the BEPS Action 13 format:</p> <ul style="list-style-type: none"> <li>• Intercompany transactions comprised: The Mexican local file form includes all transactions with domestic related parties, whereas the OECD's form under Action 13 only relates to transactions with related parties resident abroad.</li> <li>• Functional analysis: In the case of intangibles, the Mexican local file form calls for a description of the strategy concepts for the development, improvement, maintenance, protection, and exploitation of intangibles of the Multinational Enterprise Group to which the Mexican taxpayer belongs.</li> <li>• Financial information segmented (in detail): Financial and tax information of related parties resident abroad with which the Mexican taxpayer enters into related transactions is required, including information regarding current assets, fixed assets, sales, costs, operating expenses, net income, taxable base, and tax payments, specifying which currency was used.</li> <li>• The preparation date, as well as the tax ID number of the preparer of the transfer pricing study (and that of the transfer pricing advisor, if different) must be included.</li> <li>• The local file requires confirmation that transactions with related parties were entered at market values, since the information contained therein is evidence of compliance with the arm's length principle in accordance with Articles 179 and 180 of the MITL.</li> <li>• A list of the advance pricing agreements ("APA") the Mexican taxpayer has in its possession must be submitted with the local file.</li> </ul>
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<p><b>4. Country-by-Country Reporting</b></p>	<p>Yes</p>
<p>What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?</p>	<p>MXN 12 billion consolidated revenue in the previous FY.</p>
<p>Euro Equivalent</p>	<p>EUR 521,218,000</p>
<p>As from which year does this CbCR obligation exist?</p>	<p>Taxpayers' obligation to submit the CbCr was incorporated in the tax reform for FY 2016, through the "Decree amending, adding or repealing several provisions of the Income Tax Law, the Law governing the Special Tax on Production and Services, the Federal Fiscal Code and the Federal Law on Budget and Treasury Responsibility ", published in the FOG on November 18, 2015.</p>
<p>When and how do the tax authorities need to be notified who the reporting entity is?</p>	<p>There are two taxpayers compelled to file the CbCr: (i) Mexican Parent Company of the MNE that complies with the requirements and conditions set in the MITL and (ii) subsidiary company of the MNE, residing in Mexico for tax purposes, designated by its foreign parent company to submit the CbCr. In this second scenario, the subsidiary company complies with the obligation to present notice of its designation to the Mexican tax authorities by submitting the CbCr within the established deadlines in accordance with Rule 3.9.14 of the MTR.</p>
<p>If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?</p>	<p>In accordance with article 76-A of the MITL, the CbCr should be submitted no later than December 31 of the following year. For transactions performed in 2016, the filing deadline is December 31, 2017. However, tax authorities may also require its exhibition within a tax audit, since said file is an integral part of Taxpayer's accounting records. If the tax authorities request a taxpayer's CbCr, the latter has 15 business days to submit it. An extension of 10 business days could be granted by the tax authorities upon request.</p>

Are there any deviating submission deadlines for the secondary mechanism?	<p>Yes. In accordance with Rule 3.9.14 of the MTR, when foreign parent company's FY is not closed on a calendar-year basis, the CbCr might be submitted by the designated subsidiary company in accordance with the following due dates:</p> <ul style="list-style-type: none"> <li>- If the FY ends in June, July, August, September, October, November, or December, by 31 December of the following FY.</li> <li>- If the FY ends in January, by 31 January of the following FY.</li> <li>- If the FY ends in February, by the last day of February of the following FY.</li> <li>- If the FY ends in March, by 31 March of the following FY.</li> <li>- If the FY ends in April, by 30 April of the following FY.</li> <li>- If the FY ends in May, by 31 May of the following FY.</li> </ul>
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 ?	Taxpayers are legally required to submit their local file through SAT's electronic portal.
How is the CbCR to be submitted, specifically, is there any prescribed standard?	There is an electronic platform for filling the CbCr, contained in SAT's web site.
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Other?	Yes
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?	The original draft rules published in October 2016 by the SAT through PRODECON required information and documentation that exceeded what Action 13 of the BEPS Action Plan contemplated. After a five-month process that involved technical analysis by PRODECON and several transfer pricing specialists, as well as technical opinions from the public in general and discussions with the SAT, the new CbCr requirements are very similar to the principles in BEPS Action 13.
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
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?	<p>Yes. In accordance with article 76, section X of the MITL, taxpayers engaged in business activities should file a multiple annual tax return (Exhibit 9 of the Multiple Annual Tax Return "DIM") on transactions made with non-resident related parties. Details of the intercompany transactions should be presented, including the conclusion of the intercompany transactions, whether the transactions comply with the arm's length principle, the transfer-pricing method applied, and the amount of any adjustment made. Rule 3.9.4 of the MTR establishes a tax ease exempting legal entities from filling said file, if the transactions made are comprised in the catalogue of activities set therein.</p>
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What would be the filing deadline?	An informative return must be jointly submitted with their annual tax return by march 31, through Exhibit 9 thereto.
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?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime (tax fraud). Legal consequences may range from (monetary) fines to imprisonment of up to 9 years.
Does a taxpayer need to file TP-specific returns?	Yes. A transfer-pricing-specific information return ("DISIF")
Please state the filing form number and name.	<ul style="list-style-type: none"> <li>• Exhibit 15 of the DISIF - Related-party transactions.</li> <li>• Exhibit 16 of the DISIF - Information on its operations with related parties.</li> <li>• Exhibit 19 of the DISIF - Cross-border transactions.</li> </ul>
What would be the filing deadline?	The DISIF must be filed annually by June 30 of the following FY, through SAT's electronic platform "DISIF 32H-CFF".
What would be the penalties for non-compliance?	Yes. If the DISIF is (i) not submitted, or (ii) submitted incomplete, the taxpayer should be subject to a fine of up to MXN 120,760.00, in accordance with articles 31, section XVII and 84, section XV of the MITL.

## 6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	<p>No. Very limited local comparable transactions and companies information is available; generally, taxpayers and the tax administration have used foreign comparables data for benchmarking purposes. Usually North American comparable companies are used by the SAT for audit purposes</p> <p>Any information to which the tax authority has access may be used. The tax authorities have the power to use confidential information of third parties. However, the taxpayer has limited access to this data through two designated representatives who must agree to be personally liable to criminal prosecution if the data is disclosed. However, use of secret comparables is not very common.</p>
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	No
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?	No

## 7. Year-end adjustments

Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	Yes. Some transfer pricing adjustments are performed after the fiscal year-end; thus, they would not be in the books for that fiscal year, although they must be reflected in the financial statements and other formal requirements must be met (amended tax returns, informative returns and transfer pricing documentation, among others). Self-initiated adjustments may be made only if they do not derive from a primary adjustment proposed by the competent authority of a treaty partner.

## 8. Transfer Pricing Audit and Dispute Resolution Mechanisms

<p>What are currently the main TP areas of scrutiny by the tax authorities in your country?</p>	<p>Intercompany financing; business restructuring; commissionaire arrangements; intangible property; cost-sharing agreements, pro rata-base charges; interests (Thin capitalisation or interests deemed dividends); and services fees on technical and administrative intercompany services.</p>
<p>Based on your experience, are joint or multilateral audits initiated and carried out?</p>	<p>No</p>
<p>Does the taxpayer have the option to apply for bilateral or multilateral APAs?</p>	<p>Yes</p>
<p>Are there any restrictions?</p>	<ul style="list-style-type: none"> <li>• Term: Unilateral APAS may produce effects in the FY of its application, the three subsequent FYs and a one-year rollback. They may be in effect for a longer period when they arise from a multilateral APA ("MAP"), under the terms of any tax treaty signed by Mexico.</li> <li>• Effectiveness: The underlying facts and circumstances to the APA should not change after submitting the application.</li> <li>• Audits: The APA must be requested before the tax authorities performs a tax audit to the taxpayer.</li> <li>• Functional analysis: Mexican Tax Authorities are entitled to perform on-site visits to carry out their own functional analysis, when considering the information provided by the taxpayer to be insufficient.</li> </ul>

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