



Benin

WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	No
Is the preparation of TP documentation advisable, e.g. to avoid penalties?	Yes
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR intended; No MF / LF
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:	Under Beninese law, transfer pricing issues are governed essentially by Articles 21-5-f and 1085 ter-2 of the General Tax Code
2. Master File (MF)	
	Not implemented
As from which year does this obligation exist?	In Benin, there is no obligation to transmit transfer pricing data and the MF in line with OECD BEPS 13 has not been implemented. However, in the context of an accounting verification procedure, the Administration may request information and documents specifying how the transfer price may be assessed between an undertaking established in Benin and one or more undertakings operating outside Benin or companies or groups established outside Benin.
3. Local File (LF)	
	Not implemented
What is the threshold requirement for the obligation to prepare a LF?	In Benin, there is no obligation to transmit transfer pricing data and the LF in line with OECD BEPS 13 has not been implemented. However, in the context of an accounting verification procedure, the Administration may request information and documents specifying how the transfer price may be assessed between an undertaking established in Benin and one or more undertakings operating outside Benin or companies or groups established outside Benin. The answers provided in the following relate to information requests by the tax administration.
When does the LF need to be submitted?	Upon request (as part of an accounting verification procedure) - the deadline is thirty (30) days. - this period may be extended on a reasoned request not exceeding forty-five (45) days. if the answer is insufficient, the administration must issue a formal notice. The company has a period of thirty (30) days to provide additional information.
Does the LF have to be prepared in the relevant local language?	Yes. All documents provided to the tax authorities must be written in French. Failing this, a translation into French is mandatory
Or is documentation in English permissible?	No, documents written in English must be translated into French

What are the possible consequences of not having the LF available?	
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes

4. Country-by-Country Reporting	
	Intentions
Does your country have a requirement that the financial figures of the group need to be aligned with?	Separate to any CbCR requirement, in terms of presentation of financial statements, the rules applied in Benin are those in force in the OHADA area. These rules are in conformity with: - the international accounting standards approved by I.A.S.C. (International Accounting Standards Committee); - European standards (7th Directive of the Council of the European Communities)
Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	No
Did your country enter into other information exchange agreements, such as on a bilateral basis?	Yes
Please specify the country involved and date the agreement came into force.	Benin acceded to the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes in May 2017

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?	No
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?	Inaccurate income tax returns subject to tax adjustments following the procedures defined in the General Tax Code with penalties and fines
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?	Any independent professional (accountant, tax adviser, business agent, etc.) who has assisted in the preparation or use of documents or information found to be inaccurate is liable to a fine of CHF 500,000 for the first offense charged to him, 1,000,000 francs for the second offense, 1,500,000 francs for the third, and so on, by increasing by 500,000 francs the amount of the fine for each new offense
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?	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?	No

8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	Sales and purchases of goods and services, the allocation of common management expenses,
Based on your experience, are joint or multilateral audits initiated and carried out?	No
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	No

Your contact person:

Mr. Romuald Avoungnassou
stratemaconseils07@gmail.com
T: +229 97116569