



Burkina Faso

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?	2018
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 Method (CUPM) section 66-4° and 588-8°
Are any TP methods preferred over others?	Comparable Uncontrolled Price Method (CUPM) section 66-4° and 588-8°
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	LF, MF but no CbCR yet.
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	The BEPS project has been approved by the Council of Ministers meeting on 25 June 2016
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:	Strictly speaking, sections 66, 99, 588-8°, 616-1°, 617-1° 618-2, but in extension, sections 62 (limitation on management fees deductibility), 63 (limitation of commission on purchases deductibility), 64 (limitation of royalties deductibility), of the New Tax Code and the forthcoming administrative guidance to be issued by the Ministry of Finances

2. Master File (MF)	
	Yes
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	In our country, tax is assessed on each associated company result, not on a consolidated revenue. Groups are not yet treated as taxpayers or fiscal entities. The threshold revenue to submit a MF or LF is EUR 4,572,944 (3 billion in local currency). The MF details in progress will be in line with OECD BEPS 13
As from which year does this obligation exist?	From 2018
When does the Master File need to be available?	Especially at the beginning of a tax audit. Or 30 days later upon request by the auditors (Section 99-5°).
When does it need to be submitted?	During tax audit
How and where should the MF be filed?	More details to come with the forthcoming administrative guidance to be issued by the Ministry of Finances (section 99 of the New Tax Code)
Does the MF have to be prepared in the relevant local language ?	Yes
Is documentation in English permissible?	No
What are the (possible) consequences of not having the required MF available?	Non deductibility of the expenses or reassessment of the revenue omitted (section 66 -1° of the New Tax Code), Fine of 5% of the amount the transaction (Section 99-5°)
What are the possible consequences of not having the MF available?	
Penalties?	Yes
Shifting of the burden of proof?	Yes

3. Local File (LF)	
	Yes
What is the threshold requirement for the obligation to prepare a LF?	The threshold revenue or total assets to submit a MF or LF is EUR 4,572,944 (3 billion in local currency)The MF details in progress will be in line with OECD BEPS 13
As from which year does this obligation exist?	2018
When does the LF need to be available?	Especially at the beginning of a tax audit. Or 30 days later upon request by the auditors (Section 99-5°).
When does the LF need to be submitted?	During tax audit
How and where should the LF be filed?	More details to come with the forthcoming administrative guidance to be issued by the Ministry of Finances (section 99 of the New Tax Code)
Does the LF have to be prepared in the relevant local language?	Yes
Or is documentation in English permissible?	No
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Shifting of the burden of proof?	Yes
Other?	Yes

4. Country-by-Country Reporting	
	Not implemented
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.	(Section 626 of the new Tax Code)

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. Not on the current legal basis but the administrative guidance in progress may set up this obligation
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?	Fine of EUR 762 to EUR 7,260 or imprisonment of six months to 2 years the first time and EUR 1,524. The repetition of the offence within a deadline of 5 five years may double the fines and the vindicatory sanctions
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?	Fine of EUR 762 the first time and EUR 1,524 the second time
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
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	N/A
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8. Transfer Pricing Audit and Dispute Resolution Mechanisms	
What are currently the main TP areas of scrutiny by the tax authorities in your country?	Intercompany sales (mining companies), hedging contracts and other intercompany financing contracts, royalties and insurances services, other mining services, commissions on purchases
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?	Yes
Are there any restrictions?	No

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