



# Panama

## 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?	2010
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)?	No CbCR/MF/LF
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.	Article 762-I, 762-J, 762-K of Panamanian Fiscal Code. Article 10 and Article 11 of Executive Decree 39 of 24 October 2016.
2. Master File (MF)	
	Not implemented
3. Local File (LF)	
	Not implemented
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.	USA - 4/18/2017, Finland 12/20/2013, Faroe Island 3/15/2013, Iceland 11/30/2013, Greenland 3/9/2013, Denmark 12/28/2013, Norway 12/20/2013, Sweden 12/28/2013, Canada 12/6/2013, Japan 02/10/2017. Panama has signed the MCAA for CRS.
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
What would be the filing deadline?	March 30.
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?	After the Tax Administration request the TP study they do the audit. They could determine a transfer pricing adjustment and collect the income tax not paid by the taxpayer.

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?	No consequences.
Does a taxpayer need to file TP-specific returns?	Yes
Please state the filing form number and name.	Transfer Pricing 930 Form
What would be the filing deadline?	Six months after the end of fiscal year i.e. June 30.
What would be the penalties for non-compliance?	Failure to submit the report will be sanctioned with a fine equivalent to 1% of the total amount of transactions with related parties. For the computation of the fine, the gross amount of the operations will be considered regardless of whether they are representative of income, costs or deductions. The fine shall not exceed one million dollars (USD 1,000,000.00).

**6. Benchmarking**

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	<p>Yes. In order to determine whether two or more transactions are comparable, the following elements shall be taken into account insofar as they are economically relevant</p> <ol style="list-style-type: none"> <li>1. The specific characteristics of the operations, including: <ol style="list-style-type: none"> <li>A. In the case of financing operations, elements such as principal amount, term, risk rating, guarantee, debtor's solvency and interest rate.</li> <li>B. In the case of the provision of services, elements such as the nature of the service and whether the service involves an experience or technical knowledge.</li> <li>C. In the case of granting rights to use or dispose of tangible assets, elements such as physical characteristics, quality, reliability, availability of the good and volume of the offer.</li> <li>D. In the case of exploitation or transfer of an intangible asset, elements such as the class of property, patent, trademark, trade name, transfer of technology or know-how, duration and degree of protection and benefits expected Obtain from its use.</li> </ol> </li> <li>and. In the case of disposal of shares, the net worth of the issuer, the present value of the projected profits or cash flows, or the stock market quotation of the issuer of the last event on the day of the disposal.</li> <li>2. Significant economic functions or activities undertaken by the parties in relation to the operations under analysis, including the risks assumed and weighting, where appropriate, the assets used.</li> <li>3. The actual contractual terms from which, if any, operations are derived taking into account the responsibilities, risks and benefits assumed by each contracting party.</li> <li>4. The characteristics of markets or other economic factors that may affect operations.</li> <li>5. Business and business strategies, such as policies for penetration, permanence or expansion of markets, as well as any other circumstance that may be relevant in each case. If the taxpayer performs several operations of the same nature and in the same circumstances, he may group them to carry out the analysis of comparability, provided that this grouping respects the principle of free competition. Two or more separate operations may also be grouped together when they are so closely linked or so continuous that they can not be adequately valued independently.</li> </ol>
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
Or is a new search every three years without any financial updates in year 2 and 3 sufficient?	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?	Administrative, technical and advertising services rendered and received.
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

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