



Spain

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?	2006
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?	CUP / Cost Plus / Resale Price / TNMM / Profit Split / other
Are any TP methods preferred over others?	CUP / Cost Plus / Resale Price / TNMM / Profit Split Other methods can only be applied when it is not possible to use the methods stated above.
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	Local File: article 15 of Royal Decree 634/2015, of Corporate Income Tax Regulations. Master File: article 16 of Royal Decree 634/2015, of Corporate Income Tax Regulations. CbCR: Article 14 of Royal Decree 634/2015, on Corporate Income Tax Regulations.
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.	Article 18 of Law 27/2014, of Corporate Income Tax. Articles 13 to 36 of Royal Decree 634/2015, of Corporate Income Tax Regulations.

2. Master File (MF)	
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	Yes
Euro Equivalent	Groups with a turnover not exceeding EUR 45 million are not obliged to prepare a Master File.
As from which year does this obligation exist?	EUR 45,000,000
When does the Master File need to be available?	As from the year following the year that the threshold is met.
When does it need to be submitted?	Taxpayers are obliged to have available the master file no later than the due date for the filing of the tax return for the fiscal year in question; i.e. 25 days following the 6 months after the conclusion of the tax period.
Does the MF have to be prepared in the relevant local language ?	The documentation has to be provided to the Tax Authorities upon request.
Is documentation in English permissible?	No. The Tax Authorities are entitled to request the documentation in Spanish.
What are the possible consequences of not having the MF available?	Yes. The documentation is generally accepted in English, but a translation into Spanish may be requested.
Penalties?	
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	Yes

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.
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<b>3. Local File (LF)</b>	Yes
What is the threshold requirement for the obligation to prepare a LF?	Regulations allow for the preparation of a 'simplified' LF for taxpayers with a turnover not exceeding EUR 45 million. A super simplified LF may be filed by taxpayers with turnover not exceeding EUR 10 million.
Euro Equivalent	EUR 45,000,000
As from which year does this obligation exist?	As from the year following the year that the threshold is met.
When does the LF need to be available?	Taxpayers are obliged to have available the LF no later than the due date for the filing of the tax return for the fiscal year in question; i.e. 25 days following the 6 months after the conclusion of the tax period.
When does the LF need to be submitted?	The documentation has to be provided to the Tax Authorities upon request.
Does the LF have to be prepared in the relevant local language?	Yes. The Tax Authorities are entitled to request the documentation in Spanish.
Or is documentation in English permissible?	Yes. The documentation is generally accepted in English, but a translation into Spanish may be requested.
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	Yes
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?	Consistent with OECD requirements.

<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.
Euro Equivalent	EUR 750,000,000
As from which year does this CbCR obligation exist?	As of the year following the year that the threshold is met.
When and how do the tax authorities need to be notified who the reporting entity is?	Before the end of the fiscal year to which the CbCR refers.
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	During the twelve months following the end of the fiscal year to which the CbCR refers.
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 ?	Spanish Tax Authorities' website.
How is the CbCR to be submitted, specifically, is there any prescribed standard?	Web access.

What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	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?	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?	Yes
Please specify the country involved and date the agreement came into force.	Spain has implemented the European Union Automatic Information Exchange Directive (EU Directive 2016/881/EU). Royal Decree 634/2015, of Corporate Income Tax Regulations, implemented the Directive.
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?	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?	If the taxpayer provides complete documentation, no penalties arise.
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?	The tax advisor/accountant/administrator can also be responsible of a criminal case when it is understood that there is a wilful misconduct.
Does a taxpayer need to file TP-specific returns?	Yes
Please state the filing form number and name.	Form 232, informative tax return of transactions with related parties and tax havens.
What would be the filing deadline?	In general, during the month of May. For fiscal years started in 2016, the filing deadline will be during the month of November.
What would be the penalties for non-compliance?	The bill does not establish a specific regime of penalties. Therefore, our understanding is that the general penalty regime will apply. The amount due will be determined by the number of missing or incomplete data / group of data.

## 6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	Yes. Article 17 of Royal Decree 634/2015, of Corporate Income Tax Regulations, sets forth basic guidance with regard to the preparation of a benchmarking study.
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?	Services, specially if received from abroad.
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?	The Tax authorities can adjust the tax due (i) if the underlying facts and circumstances to the APA agreement are not met or (ii) the taxpayer does not apply the APA in the terms agreed.

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