



Taiwan

WTS Global Country TP Guide

Last Update: December 2017

| 1. Legal Basis | |
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| Is there a legal requirement to prepare TP documentation? | Yes |
| Since when does a TP documentation requirement exist in your country? | 2004 |
| Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines? | No. It depends on tax officers as the OECD TP guidelines are not regulation in Taiwan, but most tax officers would take it seriously. However, some officers will have their explanation of law and sometimes ignore TP Guidelines. |
| Does your country apply the arm's length standard? | Yes |
| Which TP methods may be applied? | TNMM |
| Are any TP methods preferred over others? | The tax authority prefers TNMM but also prefers to segregate the transactions by different related-parties. |
| 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 | The new regulation provides for CbCR/MF/LF since 2017, according to articles regarding this. <ul style="list-style-type: none"> • Local File: Article 22 of the non-arm's length transaction auditing regulation (TP regulation); • Master File: Article 21-1 of the non-arm's length transaction auditing regulation (TP regulation); • CbCR: Article 22-1 of the non-arm's length transaction auditing regulation (TP regulation). |
| Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general: - | Same as above. In addition, the original legal base for transfer pricing auditing is Article 43-1 of Income Tax Law which authorises the Tax Authority to investigate related-party transactions. More than Transfer Pricing Documentation, tax officers can request more reasonable documentation if they deem this necessary. |

| 2. Master File (MF) | |
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| What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF? | The thresholds for preparing MF are taxpayers with 3 billion Taiwan Dollar revenue and 1.5 billion Taiwan Dollar related-party transactions amount both. The related-party transactions amount calculate with aggregate separate transaction types by gross base. |
| Euro Equivalent | EUR 83,361,100 |
| As from which year does this obligation exist? | Applies since 2017 fiscal year. |
| When does the Master File need to be available? | In one year after the end of fiscal year which taxpayer reached the threshold. |
| When does it need to be submitted? | The taxpayer should filed to local tax authority in one month upon requested by tax authority. |
| Does the MF have to be prepared in the relevant local language ? | Yes |
| Is documentation in English permissible? | No, unless it been approved by tax authority |

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| What are the possible consequences of not having the MF available? | <p>If the tax adjustment was regarded as tax avoidance then an administration penalty from 3,000 to 30,000 Taiwan Dollar to apply and the tax adjustment will base on the deemed profitability.</p> <p>If the tax adjustment was regarded as tax evasion then will trigger a penalty of up to 200 percent of underpaid tax liability.</p> |
| Penalties? | Yes |
| Shifting of the burden of proof? | No |
| Other? | No |
| 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 basically. |

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| 3. Local File (LF) | Yes |
| What is the threshold requirement for the obligation to prepare a LF? | <p>Related-party transactions with two conditions were met:</p> <ul style="list-style-type: none"> • Taiwan Dollar 300 million for revenue • Taiwan Dollar 200 million for related-party amount |
| Euro Equivalent | EUR 8,336,110 |
| As from which year does this obligation exist? | For the fiscal year of 2004. |
| When does the LF need to be available? | There are five months for preparing Local File after the end of fiscal year, however, taxpayer submission is based on the request from tax authority and having one month submission period. |
| When does the LF need to be submitted? | Upon request and having one month to submit |
| Does the LF have to be prepared in the relevant local language? | Yes |
| Or is documentation in English permissible? | Yes. Only if taxpayer have permission |
| What are the possible consequences of not having the LF available? | |
| Penalties? | Yes |
| Imprisonment? | No |
| Shifting of the burden of proof? | No |
| Other? | No |
| 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 basically. |

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| 4. Country-by-Country Reporting | Yes |
| What is the threshold requirement for the obligation to prepare Country-by-Country Reporting? | The threshold is 27 billion Taiwan Dollar of consolidated revenue of parent company. |
| Euro Equivalent | EUR 750,249,000 |
| As from which year does this CbCR obligation exist? | Applies since 2017 fiscal year |
| When and how do the tax authorities need to be notified who the reporting entity is? | The multinationals need to submit CbCR to tax authority in one year after the end of fiscal year. Which taxpayers need to access the regulation by themselves without notifying tax authority in advance. |
| If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline? | In one year |
| Are there any deviating submission deadlines for the secondary mechanism? | No |

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| 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 ? | The detailed procedure remains to be clarified later by circular. |
| How is the CbCR to be submitted, specifically, is there any prescribed standard? | The detailed procedure remains to be clarified later by circular. |
| What are the possible consequences of not having the CbCR available? | |
| Penalties? | Yes |
| Imprisonment? | No |
| Shifting of the burden of proof? | No |
| Other? | No |
| 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 basically. |
| 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. | Singapore, Indonesia, Vietnam, South Africa, Australia, New Zealand, Gambia, Malaysia, Swaziland, Macedonia, Netherland, UK, Senegal, Sweden, Belgium, Denmark, Israel, Paraguay, Hungary, France, India, Slovakia, Switzerland, Germany, Thailand, Kiribati, Luxembourg, Austria, Italy, Japan, Canada, Poland. |
| 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

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| Does a taxpayer need to disclose information regarding TP documentation in his tax return? | Yes. Some basic information such as related-party transaction types, amount, count parties information. |
| What would be the filing deadline? | Five months after the end of fiscal year. |
| 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 tax return and result in tax adjustment which will receive at most two times of adjusted tax as penalty, the discretionary power is on the tax authority. Furthermore, if the taxpayer's behaviour was treated as tax evasion then the taxpayer may have at most five years imprisonment, however, the trigger point of tax evasion is very high. |
| 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? | If the taxpayer behaviour was treated as tax evasion and tax advisor/accountant was proved to assist the taxpayer did it then they may have at most four and half years imprisonment. Otherwise, there is no legal responsibility for tax advisor/accountant/ administrator. |
| Does a taxpayer need to file TP-specific returns? | No |

| 6. Benchmarking | |
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| 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 |
| Or is a new search every three years without any financial updates in year 2 and 3 sufficient? | No. The benchmarking should prepare annually with updated financial figures, but the benchmarking/comparables could be the same as prior year if no significant function, risk change. |

| 7. Year-end adjustments | |
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| Are year-end adjustments permissible? | No |
| Does the taxpayer have to comply with any specific features or guidance? | No |

| 8. Transfer Pricing Audit and Dispute Resolution Mechanisms | |
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| What are currently the main TP areas of scrutiny by the tax authorities in your country? | The tax authority prefer reviewing the related-party transactions by separate type of transactions, which means they prefer to test the profitability of different type transaction, such as trading, services providing etc..., not reviewing the aggregate amount of one party. And entities having transactions with low tax jurisdictions are easily been selected for tax auditing. |
| 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? | There are few conditions for applying to APA process as below: 1, The revenue is over 500 million Taiwan Dollar and 200 million related-party Taiwan Dollar. 2, No significant tax compliance failure in three years. 3, Well prepare TP Documentation. 4, other requirements made by the Treasury. |

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