

# Bangladesh Transfer Pricing Guide 2024

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# Bangladesh

## 1. Legal Basis

### **Is there a legal requirement to prepare TP documentation?**

According to TP regulations in Bangladesh, taxpayers are required to maintain TP documentation before the due date of filing the annual Corporate Tax return. However, they only need to submit the documentation to the tax authorities upon request. It's important to note that the data of comparable must be relevant to the financial year and therefore, there is a contemporaneous requirement.

### **Since when does a TP documentation requirement exist in your country?**

Transfer pricing regulations in Bangladesh have been made effective from 1 July 2014 by SRO 161-Law/Income Tax/2014.

### **Adoption of the OECD or UN legislation in your country?**

Bangladesh is not a member of the OECD. Its legislation is broadly based on the OECD Guidelines. Six methods prescribed in the Bangladeshi legislation to compute arm's length prices conform with the OECD Guidelines.

### **Is your country a member of the OECD, Inclusive Framework, or other OECD groups (e.g. BEPS)?**

Bangladesh is not a member of the OECD, but it participates in the BEPS Inclusive Framework.

### **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?**

Bangladesh legislation prescribes the following methods: Comparable Uncontrolled Price ("**CUP**"); Resale Price method ("**RPM**"); Cost Plus method ("**CPM**"), Profit Split ("**PS**"); and Transaction Net Margin Method ("**TNMM**") and any other method. When it can be demonstrated that none of the first five methods can be reasonably applied to determine the arm's length price for an international transaction, Section 235 allows the use of any other method that can yield a result consistent with the arm's length price.

To determine a comparable uncontrolled transaction, the relevant rule provides that only the data pertaining to the relevant financial year should be used. However, the rule permits the use of data before the relevant financial year, if it can be substantiated that such data bears facts that could influence the analysis of comparability.

### **Is there a stated preference for any particular TP methods?**

The legislation requires Taxpayers to adopt the "most appropriate" TP method.

### **Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF, and CbCR concepts)?**

No.

### **Reference to documentation and statements of local government or tax authorities regarding OECD BEPS implementation status**

This is still pending.

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## Is there any statute of limitation period?

Section 239 of the Income Tax Act 2023 (act no. 12 of 2023) require specified information, documents and records to be maintained by every person who has entered into international transactions of aggregate value exceeding BDT 30 million with related parties. These information, documents and records shall be maintained for eight years from the end of the relevant assessment year.

## Reference to relevant articles of law, legislative regulation, or applicable administrative guidance that are in place for TP documentation in general.

Sections 233 to 239 and Section 276 to 279 of the Income Tax Act, 2023 (the Act), refers to TP.

## 2. Master File (MF)

### What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?

BDT 30000000.

### Euro Equivalent

EUR 250,000.

### From which year does this obligation exist?

From 26 June 2014. Applicable for Year of Assessment 2015-2016.

### When does the MF need to be available?

When international transaction with associated parties exceeds BDT 30 million.

### When does it need to be submitted?

When the TP officer asks for the MF.

### Does the MF have to be prepared in the relevant local language?

As the TP laws are in the local (Bengali) language, the documentation should be prepared in the local language.

## Is documentation in English permissible?

Yes, English is also acceptable in Bangladesh.

## What are the possible consequences of not having the MF available?

### Penalties?

1% of the international transaction amount.

### Imprisonment?

No.

### Shifting of the burden of proof?

No.

### Other?

No.

## To what 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?

Bangladesh TP rules are broadly based on the OECD TP Guidelines.

## 3. Local File (LF)

### What is the threshold requirement for the obligation to prepare a LF?

There is an applicable materiality limit in Bangladesh for the purpose of preparing TP documentation in LF based on aggregate transaction values of Bangladesh taka (BDT) 30 million.

### Euro Equivalent

EUR 250,000.

### From which year does this obligation exist?

From 26 June 2014. Applicable for Year of Assessment 2015-2016.

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## When does the LF need to be available?

TP documentation is required to be maintained by the taxpayer on or before the due date of filing the TP return.

## When does the LF need to be submitted?

When the TP officer asks for the LF.

## Does the LF have to be prepared in the relevant local language?

As the TP laws are in the local (Bengali) language, the documentation should be prepared in the local language.

## Or is documentation in English permissible?

Yes, English is also acceptable in Bangladesh.

## What are the possible consequences of not having the LF available?

### Penalties?

Yes, penalties apply for:

- › Failure to keep, maintain or furnish any information or documents as required by Section 237 of the Act, the taxpayer faces a penalty not exceeding 1% of the value of the international transaction.
- › Failure to comply with the notice or requisition under Section 235 of the Act by the Deputy Commissioner of Taxes, the taxpayer faces a penalty not exceeding 1% of the value of the international transaction.
- › Failure to file a Statement of International Transactions ("**SIT**"), there is a penalty of 2% of the value of the international transaction under Section 238 of the Act.
- › Not furnishing an accountant's certificate, the taxpayer is fined an amount not exceeding BDT300,000.

### Imprisonment?

No.

## Shifting of the burden of proof?

No.

## Other?

No.

## To what 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?

Bangladesh TP rules are broadly based on the OECD TP Guidelines.

## 4. Country-by-Country Reporting (CbCR)

### What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?

Not applicable.

### Euro Equivalent

Not applicable.

### From which year does this CbCR obligation exist?

Not applicable.

### Are Taxpayers required to notify of CbCR filing in your country?

Not applicable.

### If yes, when and how do the tax authorities need to be notified?

Not applicable.

### If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?

Not applicable.

### Are there any deviating submission deadlines for the secondary mechanism?

Not applicable.

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**Does your country have a requirement that the financial figures of the group need to be aligned?**

Not applicable.

**Where is the CbCR to be submitted?**

Not applicable.

**How is the CbCR to be submitted, specifically, is there any prescribed standard?**

Not applicable.

**What are the possible consequences of not having the CbCR available?**

**Penalties?**

Not applicable.

**Imprisonment?**

Not applicable.

**Shifting of the burden of proof?**

Not applicable.

**Other?**

Not applicable.

**To what 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?**

Not applicable.

**Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbCR ("CbCR MCAA")?**

No.

**Did your country enter into other information exchange agreements, such as on a bilateral basis?**

No.

**Can a Taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?**

Not applicable.

## **5. TP disclosure in the tax return or TP specific returns**

**Is there a threshold for Related Party Transactions?**

There is an applicable materiality limit in Bangladesh for the purpose of preparing TP documentation based on aggregate transaction values of Bangladesh taka (BDT) 30 million.

Not applicable for domestic transactions.

**Does a Taxpayer need to disclose information regarding TP documentation in his tax return?**

Under Section 238 of the Act, every person that has entered into an international transaction shall furnish, along with the return of income, an SIT in the form and manner as may be prescribed.

Under Section 239, the Deputy Commissioner of Taxes may, by written notice, ask for an accountant's report certifying that the documents and information maintained by a taxpayer are in line with Bangladesh's TP regulations, provided the taxpayer is entering into an international transaction in which the aggregate value of the international transactions entered into by the taxpayer exceeds BDT30 million.

**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 TP, what could be the legal consequences?**

For failure to file a TP Return, there is a penalty of 2% of the value of the international transaction under Section 278 of the Act.

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## **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 taxpayer may face a penalty not exceeding 1% of the value of the international transaction.

## **Does a Taxpayer need to file TP specific returns?**

Yes.

## **Please state the filing form number and name.**

Rule 75A (Earlier; new form will come soon).

## **What would be the filing deadline?**

Every company (resident or non-resident) is required to file a return of income by the 15th day of the seventh month following the end of the income year or 15 September, following the end of the income year where the said 15th day falls before 15 September.

## **What would be the penalties for non-compliance?**

For failure to file an SIT, there is a penalty of 2% of the value of the international transaction under Section 278 of the Act. For not furnishing an accountant's certificate, the taxpayer is fined an amount not exceeding BDT300,000 under Section 279 of the Act.

## **6. Benchmarking**

### **Is there any local guidance or requirement about the preparation of a benchmark study?**

Bangladesh TP legislation has not provided any preference for single-year or multiyear testing. Since Bangladesh TP regulations are broadly based on the OECD Guidelines, it is generally suggested that multiple-year data be used. As per Bangladesh TP laws, in case six or more data sets are being used, the arm's length price shall be considered as the range of the 30th percentile to the 70th percentile. A fresh benchmarking search every year is preferable.

The regulations do not explicitly provide guidance in relation to the use of contemporaneous data but the relevant rule provides that only the data pertaining to the relevant financial year should be used. However, the rule permits the use of data before the relevant financial year, if it can be substantiated that such data bears facts that could influence the analysis of comparability.

## **Is there any stated preference for local benchmarks?**

Since no local databases are available, regional benchmarking is undertaken.

## **Are there any materiality thresholds that apply to the requirement to have a benchmark study available?**

No materiality threshold.

## **7. Year-end, secondary, and corresponding adjustments**

### **Are year-end/ secondary/ corresponding adjustments permissible?**

No.

### **Does the Taxpayer have to comply with any specific features or guidance?**

No.

## **8. TP Audit and Dispute Resolution Mechanisms**

### **What are currently the main TP areas of scrutiny by the tax authorities in your country?**

No. The first round of audits in Bangladesh is yet to be initiated.

### **Based on your experience, are joint or multilateral audits initiated and carried out?**

No. The first round of audits in Bangladesh is yet to be initiated.

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## **Does the Taxpayer have the option to apply for bilateral or multilateral APAs?**

Bangladesh does not have a formal APA program.

## **Are there any restrictions?**

Not applicable.

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