

Pakistan Transfer Pricing Guide 2024

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Pakistan

1. Legal Basis

Is there a legal requirement to prepare TP documentation?

Yes.

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

Tax Year 2017.

Adoption of the OECD or UN legislation in your country?

OECD.

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

A member of 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?

The TP methods applied are those specified in the OECD TP Guidelines: Comparable Uncontrolled Price ("CUP"); Resale Price method ("RPM"); Cost Plus method ("CPM"), Profit Split ("PS"); and Transaction Net Margin Method ("TNMM").

Is there a stated preference for any particular TP methods?

The TP method to be selected shall be the most appropriate method with regard to all of the facts and circumstances. The Profit Split method

will apply only if the other methods cannot be reliably applied.

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

Yes, Pakistan has implemented the BEPS Action 13 minimum standard for CbCR.

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

Local File: Rule 27M Chapter VIA Part III of Income Tax Rules, 2002.

Master File: Rule 27K Chapter VIA Part III of Income Tax Rules, 2002.

CbCR: Rule 27B Chapter VIA Part II of Income Tax Rules, 2002 (Complete Chapter).

Is there any statute of limitation period?

The general statute of limitations should not exceed more than 6 years from the date of the filing of the return, according to the Income Tax Ordinance, 2001.

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

Section 108 of Income Tax Ordinance 2001.

Chapter VI and VIA of Income Tax Rules 2002.

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2. Master File (MF)

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

MF preparation for MNEs with a group turnover of more than PKR 100 million.

Euro Equivalent

EUR 330,000.

From which year does this obligation exist?

Tax Year 2017.

When does the Master File need to be available?

The MF can be requested by the Commissioner of Inland Revenue [CIR] at any time after the due date of filing of income tax return and shall be furnished within 30 days of such request, with an extended period of a further 45 days if allowed by the CIR.

When does it need to be submitted?

Same as above.

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

Yes, it is required to be prepared in English.

Is documentation in English permissible?

Yes, it is required to be in English.

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

Penalties?

Yes, 1% of the value of transactions.

Imprisonment?

No.

Shifting of the burden of proof?

Yes.

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?

The contents of the MF are mostly in line with the OECD standard.

3. Local File (LF)

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

LF preparation for related party transactions of more than PKR 50 million.

Euro Equivalent

EUR 165,000.

From which year does this obligation exist?

Tax Year 2017.

When does the LF need to be available?

The LF can be requested by the Commissioner Inland Revenue [CIR] at any time after the due date of filing of income tax return and shall be furnished within 30 days of such request, with an extended period of a further 45 days if allowed by the CIR.

When does the LF need to be submitted?

Same as above.

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

Yes, it is required to be prepared in English.

Or is documentation in English permissible?

Yes, it is required to be in English.

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

Penalties?

Yes, 1% of the value of transactions.

Imprisonment?

No.

Shifting of the burden of proof?

Yes.

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?

The contents of the LF are mostly in line with the OECD standard.

4. Country-by-Country Reporting (CbCR)

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

CbCR for MNEs with consolidated revenue of more than EUR 750 million or an equivalent amount in PKR in the previous tax reporting year.

Euro Equivalent

EUR 750 million.

From which year does this CbCR obligation exist?

Tax Year 2017.

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

Yes.

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

The CbCR submission is required within twelve months after the last day of the tax reporting FY of the MNE group. CbCR needs to be sent via email to the Tax Authorities.

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

Same as above (twelve months after the last day of the tax reporting FY of the MNE group).

Are there any deviating submission deadlines for the secondary mechanism?

The Board may, on an application made by Taxpayers required to furnish information within any period specified in Chapter-VIA, permit through an order in writing to furnish the information within such period as the Board considers appropriate subject to limitations or conditions specified in the order.

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

No.

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

No.

Where is the CbCR to be submitted?

Email to cbcr@fbr.gov.pk.

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

The CbCR is submitted in the prescribed digital format (XML file).

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

Penalties?

Yes, failure to furnish CbCR by the due date is subject to a penalty of PKR 2,000 for each defaulting day (minimum penalty of PKR 25,000).

Imprisonment?

No.

Shifting of the burden of proof?

Yes.

Other?

No.

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?

Consistent with OECD requirements.

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

Yes.

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

Yes.

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 the tax return or TP specific returns

Is there a threshold for Related Party Transactions?

Taxpayers are expected to disclose related party transactions in their financial statements under the International Financial Reporting Standards ("IFRS"). Taxpayers must report transactions above PKR 50 million with non-residents in their tax returns.

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

Yes.

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?

In a situation where the Taxpayer's case is selected for tax audit/ tax assessment, additional tax along with interest will be charged on the additional income (i.e. arising on account of TP adjustment) and also penalty as mentioned above.

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?

Same as above.

Does a Taxpayer need to file TP specific returns?

No.

Please state the filing form number and name.

Not applicable.

What would be the filing deadline?

There is no statutory deadline.

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What would be the penalties for non-compliance?

Not applicable.

6. Benchmarking

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

Although there are no specific references in the regulations about local comparables, the FBR preference has been for local comparables. Where local comparables' information is not available, it is recommended that documentation be provided evidencing that a local search was attempted.

Is there any stated preference for local benchmarks?

No.

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

Not applicable.

7. Year-end, secondary, and corresponding adjustments

Are year-end/ secondary/ corresponding adjustments permissible?

Yes.

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?

Allocation of Management fees, Franchise Fee, Licensing Fee, Transfer of Intangibles, Advertising Marketing and Promotional expenses incurred for brand building, intercompany financing transactions (i.e., guarantees and interest) etc.

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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