

# Philippines Transfer Pricing Guide 2024

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# Philippines

## 1. Legal Basis

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

Yes, provided that the Taxpayer met the established materiality thresholds.

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

2013.

### **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)?**

Yes, the Philippines joined the Inclusive Framework on 11 October 2023.

### **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 regulations adopt the methods to determine the arm's length price under the OECD 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?**

There is no specific preference for any one method. In determining the arm's length result, the most appropriate method for a particular case shall be used.

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

Only LF. No MF and CbCR.

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

While the Philippines has not yet adopted BEPS Action 13, a local TP documentation is required to be prepared contemporaneously under RR No. 2-2013, subject to materiality thresholds discussed below.

### **Is there any statute of limitation period?**

The general statute of limitations applies which is three years after the last day prescribed by law for filing the return. In cases of fraud with the intent to evade tax, the statute of limitations is 10 years from the discovery of fraud.

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

The related guidelines released by the tax authorities in the Philippines are the RR 02-2013, RR 03-13, and RR 34-2020.

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## 2. Master File (MF)

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

Not applicable.

**Euro Equivalent**

Not applicable.

**From which year does this obligation exist?**

Not applicable.

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

Not applicable.

**When does it need to be submitted?**

Not applicable.

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

Not applicable.

**Is documentation in English permissible?**

Not applicable.

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

**Penalties?**

Not applicable.

**Imprisonment?**

Not applicable.

**Shifting of the burden of proof?**

Not applicable.

**Other?**

Not applicable.

**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?**

Not applicable.

## 3. Local File (LF)

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

- (i) Annual gross revenue exceeding PHP 150 million and total amount of related party transactions with foreign and domestic related parties exceeds PHP 90 million; or
- (ii) aggregate amount of related party transactions involving: (1) Sale of intangible goods to the same related party exceeding PHP 60 million; or (2) service transaction, payment of interest, utilisation of intangible goods, or other RPTs with the same related party exceeding PHP 15 million.

**Euro Equivalent**

EUR 2.4 million.

**From which year does this obligation exist?**

In general, the guidelines on the preparation of a TP Documentation have been in place since 2013. However, the application of the threshold started only in December 2020.

**When does the LF need to be available?**

Under RR No. 34-2020, the TP documentation is no longer required to be attached to the RPT Form upon filing.

However, the TP documentation and other documents have to be submitted to the BIR within 30 calendar days from receipt of the request to submit during a tax audit, subject to a non-extendible period of 30 calendar days.

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## When does the LF need to be submitted?

The TP documentation and other documents have to be submitted to the BIR within 30 calendar days from receipt of the request to submit during a tax audit, subject to a non-extendible period of 30 calendar days.

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

The TP documentation is prepared in English.

## Or is documentation in English permissible?

Yes.

## 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 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?

RR 2-2013 is silent on the manner of preparation. However, being largely based on the OECD TP Guidelines, the preparation of TP documentation in year one should be sufficient.

## **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.

## 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.

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## **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?**

Yes.

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

No.

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

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

A Taxpayer must disclose all related party transactions irrespective of the amount. The materiality threshold is relevant only in determining who is required to prepare TP documentation.

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

Yes. In addition, if a Taxpayer is not required to file the RPT Form, such must be disclosed in the Notes to the Financial Statements.

## **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?**

Taxpayers may be subjected to deficiency taxes upon tax audit. Further, if the over declaration/under declarations amount exceeds the relevant threshold for fraud, criminal penalties may likewise be imposed.

Also, Taxpayers who have not prepared adequate documentation may find their application for MAP rejected or that the TP issue would be much more difficult to resolve. However, no specific penalties were mentioned.

## **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?**

Section 13 of the Revenue Regulations 02-2013 states that the provisions of the Tax Code and other applicable laws regarding the imposition of penalties and other appropriate sanctions shall be applied to any Taxpayer who fails to comply with or violates the provisions and requirements of these regulations.

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

Yes.

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

The BIR Form No. 1709, Information Return on Transactions with Related Party (Domestic and/or Foreign) ("**RPT Form**").

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## What would be the filing deadline?

The RPT Form is filed as an attachment to the Annual Income Tax Return which must be filed on or before the 15th day of the 4th month following the close of the Taxpayer's taxable year.

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

The TP regulations adopt the provisions of the Tax Code and other applicable laws in imposing penalties on any Taxpayer who fails to comply with or who violates the regulations.

## 6. Benchmarking

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

Yes. Benchmarking is commonly known as "comparability analysis". It entails an analysis of the similarities and differences in the conditions and characteristics that are found in the associated enterprise transaction with those in an independent party transaction.

Once the impact of these similarities or differences on the transfer price has been determined, the arm's length price/margin (or a range) can then be established using an appropriate TP method.

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

There is no legal requirement for local jurisdiction comparables, but local comparable companies are used because the BIR requires the most reliable companies and uses local companies in determining the arm's length price of intercompany transactions. Asia Pacific comparables would be acceptable if it can be shown that no local comparables are available.

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

No.

## 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?

There is none specified.

## 8. TP Audit and Dispute Resolution Mechanisms

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

Provision for administrative and other support (back-end) services, outsourced front-end services, shared services, sale and distribution of goods, manufacturing of goods (both full-fledged and toll), royalties, leasing real property, interest on intercompany advances/ loans, income and expenses shifted in favour of a related company with special tax privileges such as Board of Investments ("BOI") Incentives and Philippine Economic Zone Authority ("PEZA") fiscal incentives will further be scrutinised.

### 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. However, there are still no guidelines providing for the mechanism/procedure to govern the same.

### Are there any restrictions?

Though not mandatory, if a Taxpayer avails itself of an APA, it may choose freely between a unilateral and bilateral/multilateral APA. If the Taxpayer does not choose to enter into an APA and its transactions are subject later on to TP adjustments, it may still invoke the MAP Article to resolve double taxation issues. It is said that a separate guideline was to be issued regarding the application of APA and MAP processes.

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