

# Sri Lanka Transfer Pricing Guide 2024

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# Sri Lanka

## 1. Legal Basis

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

Yes, TP documentation has to be prepared annually as per the TP regulations. LF and MF are required to be submitted upon request.

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

The effective commencement date for Local File and Master File is 1 April 2018. The CbCR is effective from 1 April 2020.

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

OECD legislation adopted. Furthermore, their domestic legislation has been prepared in line with OECD TP guidelines as well as the UN TP Manual.

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

Yes, Sri Lanka is a part of the inclusive framework. Domestic legislation has been prepared in line with OECD TP Guidelines as well as the UN TP Manual.

### **Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?**

Sri Lanka is not a member of the OECD. However, the IRD generally refers to the OECD TP Guidelines to resolve matters involving interpretations of its own TP regulations. By the same token, the IRD broadly recognises the pricing methods stipulated in the OECD TP Guidelines.

### **Which TP methods may be applied?**

The TP regulations prescribe the following methods for the determination of the arm's length price: 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 regulations do not provide a hierarchy of methods, but require that the process of selecting a method should be aimed at finding the most appropriate method.

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

Yes, Sri Lanka has adopted the OECD's three tiered documentation approach (i.e., LF, MF and CbCR) set out in BEPS Action 13.

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

Sri Lanka is not a member of the OECD. However, the IRD generally refers to the OECD TP Guidelines to resolve matters involving interpretations of its own TP regulations. By the same token, the IRD broadly recognises the pricing methods stipulated in the OECD TP Guidelines.

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

The statute of limitations is 30 months from the date of the filing of the income tax return. In the case of fraud or wilful evasion, the statute of limitations will not apply.

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

TP rules are primarily contained in Sections 76, 77 and 78 of the Inland Revenue Act.

## 2. Master File (MF)

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

If the aggregate revenue exceeds EUR 50 million (or the LKR equivalent).

### Euro Equivalent

EUR 50 million.

### From which year does this obligation exist?

The effective commencement date from year of assessment 2020/21 (Regulation 6 of the TP Gazette).

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

The MF must be available at the time of the income tax return filing, on or before 30 November following the end of each year-end.

### When does it need to be submitted?

The MF should be submitted to the IRD within 60 days upon request.

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

For international transactions, English should be used. For domestic transactions, Sinhalese or Tamil can be used.

### Is documentation in English permissible?

Yes.

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

### Penalties?

Yes, The TP specific penalty regime became effective from YA 2020/21. Such penalties are imposed as follows:

- › For not maintaining documentation, a penalty of up to 1% of the aggregate transaction value may be levied;
- › For not furnishing required documents, a penalty of up to LKR 250,000 may be levied;
- › For nondisclosure of any required information, a penalty of up to 2% of the aggregate transaction value may be levied;
- › For failure to submit documents on the specified date, a penalty of up to LKR 100,000 may be levied; and
- › Concealment of income, furnishing inaccurate particulars or evasion could lead to imposing a penalty of 200% of incremental tax on the TP adjustment.

### 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?

Consistent with OECD requirements.

## 3. Local File (LF)

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

If the aggregate value of associated enterprise transactions exceeds LKR 200 million.

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## Euro Equivalent

EUR 623,706.

## From which year does this obligation exist?

The effective commencement date for LF and MF is 1 April 2018 (commencing for Year of Assessment 2020/2021).

## When does the LF need to be available?

The LF must be available at the time of the income tax return filing, on or before 30 November following the end of each year-end.

## When does the LF need to be submitted?

The LF should be submitted to the IRD within 60 days upon request.

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

For international transactions, English should be used. For domestic transactions, Sinhalese or Tamil can be used.

## Or is documentation in English permissible?

Yes.

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

### Penalties?

Yes, The TP specific penalty regime became effective from 1 April 2018. Such penalties are imposed as follows:

- › For not maintaining documentation, a penalty of up to 1% of the aggregate transaction value may be levied;
- › For not furnishing required documents, a penalty of up to LKR 250,000 may be levied.
- › For nondisclosure of any required information, a penalty of up to 2% of the aggregate transaction value may be levied;
- › For failure to submit documents on the specified date, a penalty of up to LKR

100,000 may be levied; and

- › Concealment of income, furnishing inaccurate particulars or evasion could lead to imposing a penalty of 200% of incremental tax on the TP adjustment.

## 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?

Consistent with OECD requirements.

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

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

If the entity is a member of an MNE group and the group's revenue exceeds EUR 750 million (or the LKR equivalent) in the preceding financial year.

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

The CbCR is effective from 1 April 2020.

### Are Taxpayers required to notify of CbCR filing in your country? If yes, when and how do the tax authorities need to be notified?

The CbCR notification should be filed annually by not later than 31 December of the reporting Fiscal Year of the MNE group. CbCR notification should be filed annually for each reporting Fiscal Year of the MNE group. TP regulations do not provide specific provisions in this regard.

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

The CbCR should be filed no later than 12 months after the last day of the reporting Fiscal Year of the MNE group.

### **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?**

Submitted to the IRD.

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

It is submitted via the prescribed form (Form No: TP/CbCR/01). CbCR should be submitted to the Commissioner, International Tax Policy, 14th floor, Inland Revenue Department manually (either a hard copy or a compact disc) or electronically by email.

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

#### **Penalties?**

Yes, The TP specific penalty regime became effective from 1 April 2018. Such penalties are imposed as follows:

- › For not maintaining documentation, a penalty of up to 1% of the aggregate transaction value may be levied;
- › For not furnishing required documents, a penalty of up to LKR 250,000 may be

levied;

- › For nondisclosure of any required information, a penalty of up to 2% of the aggregate transaction value may be levied;
- › For failure to submit documents on the specified date, a penalty of up to LKR 100,000 may be levied; and
- › Concealment of income, furnishing inaccurate particulars or evasion could lead to imposing a penalty of 200% of incremental tax on the TP adjustment.

### **Imprisonment?**

No.

### **Shifting of the burden of proof?**

No.

### **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")?**

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?**

Yes.

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

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

Yes, Regulation 6 of the TP Gazette requires that enterprises having "international transactions", or "transactions other than international transactions" made between associated enterprises who fulfil the requirements of Regulation 1 and that carry out during an assessment year aggregate controlled transactions that exceed LKR 200 million must submit a TPDF along with the Income Tax Return.

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

The TP Disclosure Form filed along with the income tax return should provide information related to the transaction, associated enterprise, TP methodology and arm's length price.

### **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?**

Concealment of income, furnishing inaccurate particulars or evasion could lead to imposing a penalty of 200% of incremental tax on the TP adjustment.

### **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?**

Concealment of income, furnishing inaccurate particulars or evasion could lead to imposing a penalty of 200% of incremental tax on the TP adjustment.

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

Yes, Taxpayers are required to file a TPDF along with the income tax return by the due date.

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

TP Disclosure Form.

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

Taxpayers are required to file a TPDF along with the income tax return by the due date.

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

For not furnishing required documents, a penalty of up to LKR250,000 may be levied.

## **6. Benchmarking**

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

As per the TP regulations, use of the interquartile range is mandatory. However, there is a risk that the IRD may amend the TP regulations, narrowing the range further.

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

TP regulations neither provide clear guidance on benchmarking studies nor prohibit the use of regional comparables. Therefore, regional comparables should be acceptable, provided that the differences can be eliminated through appropriate adjustments and analyses.

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

As per the TP regulations, if no significant changes have occurred, no fresh benchmarking search needs to be conducted every year, but the financial data of the comparables needs to be updated. A fresh benchmark search is required every three years. However, there is no specific guidance on the term "significant changes".

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

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

Yes, Sri Lanka allows necessary adjustments in comparability analysis. Reliable and accurate adjustments can be done, if any, between the uncontrolled transactions and controlled transactions being compared.

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

Regulation 4 of TP Gazette Notification No. 2217/7 dated March 02, 2021.

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

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

No particular transaction, industry and situation is more at risk of receiving a tax audit than another. Experience indicates that once the IRD has had substantial success with a tax audit of a particular company, other companies in the same industry have been targeted.

### **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, The TP regulations provide an opportunity for Taxpayers to opt for a unilateral, bilateral or multilateral APA.

### **Are there any restrictions?**

The TP regulations provide that an APA is available for a period not exceeding four years. This term could be reduced if the economic circumstances from one year to another change drastically. However, the corresponding guidelines have not yet been issued specifying the procedures to be followed.

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