



Transfer Pricing Regulation and Instructions for Income Tax Purposes

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Important Definitions

Person: A natural or legal person, including a group of persons created by contractual arrangement and permanent establishments.

Transactions between concerned persons: Transactions of disposal and any exchange of everything of value between the concerned person and the taxpayer thereof

Transactions between independent persons: Transactions between unconcerned persons.

Taxpayer of multinational group of companies: Any taxpayer belonging directly or indirectly to a multinational group of companies.

Transfer prices: Prices of transactions between concerned persons, including the exchange of goods and services, loans, financing and disposal of movable and immovable property.

Multinational group of companies: Two or more concerned legal persons whose tax residence is in different countries or the group to which a taxable person belongs in a country other than the tax residence thereof.

Approved taxpayer: The taxpayer who submits the special report for each country to the department for reporting purposes on behalf of the multinational group of companies.

The parent entity of the multinational group of companies: An entity that directly or indirectly owns stakes or shares in one or more multinational companies and that is committed to preparing consolidated financial statements in accordance with international accounting standards recognized in the country of the tax residence thereof.



The General idea

That the terms and conditions of transactions between concerned persons shall be similar to the terms and conditions of **comparable transactions** conducted between independent persons.

That there should be no material difference between the transfer price of transactions between concerned parties, the fair price and comparable transactions made with independent persons.

That the concerned person must adjust his/her taxable income, and thus the tax, and declare this in the tax returns thereof.

To which transactions do transfer prices apply:

Below are the transactions, for example, but not limited to:

- Exchange of goods and services.
- Loans.
- Financing.
- Disposal of movable and immovable property.

When do the transfer prices between concerned persons become similar or comparable to transactions between independent persons?

- When there is no material difference between the transfer price and the fair price.
- If an appropriate settlement is made to the transactions between independent persons in relation to the transfer price.



When does this System apply to legal persons, where transactions are considered relevant?

- If the natural person or any of his/her relatives up to the second degree is a partner or shareholder in another (legal person) company and he/she directly or indirectly controls 50% or more of the voting rights, company's profits or capital.
- To any two or more legal persons subject to joint management or control, in any of the following two cases:

A- If the legal person (or the persons related to it jointly or individually) directly or indirectly controls 50% or more of the capital, profits or voting rights of any other legal person.

B- If the person (or persons associated with it, collectively or individually) have **effective control** over the legal person or over the decisions thereof.

When shall control be considered an effective one?

Control is effective if a person or group of persons has any ability or control in any of the following cases:

- 1 - Having the ability to conclude an agreement to provide administrative services to the company or to perform management functions therein.
- 2 - Having 50% or more of the members of the board of directors, or having the right to appoint management representatives or terminate the representation thereof.
- 3- Having the right to obtain 50% or more of the profits of other persons.
- 4 - If they provide loans that constitute 50% or more of the total loans and capital, excluding undistributed profits.
- 5 - If they issue guarantees covering 33% or more of the total value of other persons' loans.
- 6 - If 50% or more of the transactions of the other person, as shown in the financial statements, depend on this person
- 7 - If they are related to a person who owns 50% or more of a legal person or participates in the management thereof.
- 8 - If they are a commercial agent or supplier to the other person.



Relevant price types:

- A- Transfer price: It is the approved price for transactions between concerned parties.
- B- The price of comparative transactions: It is the price of transactions between independent persons.
- C- Fair price range: A set of financial figures and indicators based on a fair price, including prices, margins or profit shares resulting from the application of transfer pricing methods.

Methods of adopting transfer prices:

طريقة السعر المقارن	Comparable Uncontrolled Price Method (CUP)
طريقة سعر اعادة البيع	Resale Price Method
طريقة التكلفة الاجمالية مضافا اليها هامش الربح	Cost Plus Method
طريقة صافي هامش الربح للمعاملة	Transactional Net Margin Method (TNMM)
طريقة تقسيم الربح.	Profit Split Method



What are the procedures and requirements resulting from this Regulation?

- 1- Identification of related parties.
- 2- Identification of the type of transactions with concerned parties.
- 3- Determining the method of adopting transfer prices.
- 4- Determining the price of comparable transactions and the fair price range.
- 5- Determining the difference between the transfer price and the fair and/or comparative price.
- 6- Determining the tax impact resulting from the differences in the prices above (if any).
- 7- Preparing a local file that includes basic and detailed information on all the transactions thereof with concerned persons to be submitted to the department upon request.
- 8- Preparing a master file that includes basic and detailed information on global business and transfer pricing policies for the transactions of the multinational group of companies to which the taxpayer belongs and to be submitted to the department upon request.
- 9- Submitting a disclosure form with the tax return to the department, provided that it includes information related to transactions between concerned persons, including the following:
 - A- Information related to transactions between the concerned and related persons, the names of said persons, their countries of residence and their tax residence.
 - B- Business restructuring information for the multinational group of companies or the taxpayer, if any.
 - C- Information about the actual owner and the beneficial owner, as the case may be, for the persons concerned, including the name, state of incorporation, state of residence and percentage of ownership.
 - D- Total revenues, total expenditures, and the value of the net profit or loss contained in the tax return.
 - E- Information on the type and nature of the relationship between the persons involved in the transactions and the concerned persons.
 - F- A description of the nature of the business or commercial activities of the concerned persons and the transactions between them.



G- Determining the method used for transfer prices.

H- The taxpayer's declaration on whether he/she has concluded a transaction between the concerned persons or any transaction without consideration or for non-cash consideration during the tax period. In the event of such transactions, detailed information must be provided, including the fair market value