

SLOVENIA

TRANSFER PRICING PROFILE

1. Reference to the Arm's Length Principle

Article 16 of Corporate Income Tax Act (Zakon o davku od dohodkov pravnih oseb, ZDDPO2; Official Gazette of the Republic of Slovenia, No 117/06, 56/08, 76/08, 5/09, 96/09, 110-09-ZDavP-2, 43/10, 59/11, 24/12, 30/12, 94/12 and 81/13; CIT2) describes the use of the ALP and provides methods to establish whether the conditions imposed in commercial or financial relations between related parties are consistent with the ALP (paragraphs 3, 4 and 5).

ALP concept is incorporated in CIT2 and also in:

- the Rules on Transfer Prices (RTP or Rules) – the RTP describes methods for determining transfer prices, determines the use of the most appropriate method and introduces the concept of comparability analysis;
- the Transfer Pricing Examination Manual (Priročnik za delo davčne inšpekcije na področju transfernih cen; Manual) and a variety of explanations of legislation from the Tax Administration of the Republic of Slovenia (DURS).

2. Reference to the OECD Transfer Pricing Guidelines

There is no direct reference to the OECD Transfer Pricing Guidelines; however the provisions of CIT-2 and regulation for transfer prices follow the OECD Transfer Pricing Guidelines.

3. Definition of related parties

Article 16 of CIT2 provides the definition of related parties in cross-border dealings of MNE (paragraphs 1 and 2).

According to CIT2 Article 16 a taxpayer – resident or non-resident – and a foreign legal entity or a foreign person without legal entity who is not a taxpayer are considered associated enterprises, when:

- the taxpayer directly or indirectly holds at least 25 percent of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of a foreign person, or controls the foreign person on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or
- the foreign person directly or indirectly holds at least 25 percent of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer, or controls the taxpayer on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or
- the same person at the same time directly or indirectly holds at least 25 percent of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and foreign person or of two taxpayers, or controls this persons on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances; or
- the same individuals or their family members directly or indirectly hold at least 25 percent of the value or number of shares or equity holdings, shares in managing or control and/or voting rights of the taxpayer and foreign person or of two residents or control them on the basis of a contract, or the transaction conditions differ from the conditions that have been or would have been agreed between non-associated enterprises under equal or comparable circumstances.

4. Transfer pricing methods

According to CIT2 Article 16 Paragraph 5 the comparable market prices shall be fixed by using one of the following methods or any combination of the following methods:

1. Comparable uncontrolled price method
2. Resale price method
3. Cost plus method
4. Profit split method and/or
5. Transactional net margin method.

On the basis of paragraph 6 of Article 16 the Minister of Finance issued the RTP, which regulates the implementation of Article 16 of CIT2 in detail. In Chapter 1 of RTP transfer pricing methods are described in detail and use of the most appropriate method and hierarchy of transfer pricing methods is determined.

5. Transfer pricing documentation requirements

Article 18 of CIT2 provides:

An associated taxpayer under Article 16 of CIT2 shall ensure and keep the data related to the associated enterprises, and the scope and type of transactions conducted with them, as well as data on establishing comparable market prices, within a time limit and in a manner used in compliance with the Act regulating tax procedure (Article 382 of Tax Procedure Act – TPA2).

According to Article 382 of TPA2 any taxpayer from Article 18 of CIT2 is obliged to ensure and keep transfer pricing documentation comprising of a "master file" of standardised information and a "country-specific" version of standardised documentation for each state in which the taxpayer has transactions with associated enterprises. The taxpayer shall simultaneously collect documentation on transfer pricing for an individual transaction (contemporaneous documentation). Documentation shall be prepared (collected) at the latest till submission of the tax return for the tax year to the tax authority. Documentation is not submitted to the tax authority together with the tax return, but the taxpayer keeps it and submits it upon request of the tax authority at the initiation of the audit procedure. If transactions in essence do not differ, the taxpayer may provide documentation for two or more transactions, and make adjustments for any differences between these transactions if they exist. Taxpayer may keep documentation in electronic form.

Implementation of the Code of Conduct on Transfer Pricing documentation for associated enterprises in the European Union (EU TPD) - summary of Member States' responses to the 2013 JTPF questionnaire on the implementation of the EU TPD:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transfer_pricing/forum/jtpf/2013/summary-ms.pdf

6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

Tax examination in Slovenia is performed according to the provisions of the Tax Procedure Act (TPA2). There is no significant difference between provisions for 'normal' tax examinations and transfer pricing examinations. There are some special provisions regarding the preparation, submission of transfer pricing documentation.

In cases of transfer pricing, the first paragraph of Article 397 of TPA2 provides that a fine of between EUR 3,200 and 30,000 (since 2011) should be imposed on a legal entity for an offence:

- who in contravention of the law does not make available to the tax authority data from records, databases, registers or other records that such person keeps, or does not enable the tax authority to view his own documentation or the documentation held by an associated enterprise (Article 40 of TPA2);
- who does not submit or does not submit in the prescribed manner or by the prescribed deadline the documentation on associated enterprises, the volume and type of business and on the formulation of transfer pricing (Article 382 of TPA2).

The responsible employee of a legal person who commits an infringement specified in the first paragraph of Article 397 of TPA2 is liable to a fine of between EUR 400 and 4,000.

7. Information for Small and Medium Enterprises on TP

Information relevant for SMEs in tackling transfer pricing matters is available on the JTPF webpage at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/profile-si.pdf

8. Information on dispute resolution

Competent Authority	Ministry of Finance of the Republic of Slovenia Directorate for the System of Tax, Customs and Other Public Finance Revenues Department for Tax and Customs Policy and Legislation Župančičeva 3 1001 LJUBLJANA SLOVENIA
	tel.: 00 386 1 369 6717 fax: 00386 1 369 6719 e-mail: gp.mf@gov.si
Organization	Ministry of Finance, Directorate for the System of Tax, Customs and Other Public Finance Revenues, Department for Tax and Customs Policy and Legislation, is the competent authority according to tax treaties.
Scope of MAP & MAP APA	<ul style="list-style-type: none"> • interpretation and application of tax treaties • relief of double taxation • currently there is no legislative basis for APAs in Slovenia
Domestic guidelines & administrative arrangements	None
Time for filing	No time limits in domestic legislation, tax treaty applies.
Form of request	No particular form required.
Documentation requirement	No special requirements.
User fees	None
Tax collection / penalty / interest	No specific provisions. General rules apply.
Other dispute resolution mechanisms	The EU Arbitration convention for the transfer pricing cases.
Government Website	http://www.vlada.si/en/ (Government of Slovenia) http://www.mf.gov.si/en/ (Ministry of Finance)

Dispute resolution under the Arbitration Convention does not need to be initiated and may be suspended if one of the enterprises involved is subject to a 'serious penalty' for the transactions giving rise to the profit adjustment (Article 8).

Declaration by the Republic of Slovenia (*Official Journal C 160, 30/06/2005 P. 0011 – 0022*)

"The concept of "serious penalty" means a penalty for any infringement of tax law."

9. Relevant regulations on Advance Pricing Arrangements

No APA regulations.

10. Links to relevant government websites

<http://www.mf.gov.si/en/>
<http://www.durs.gov.si/en/>

11. Other relevant information

Secondary and compensating year-end adjustments may result in double taxation. Two questionnaires launched by the EU Joint Transfer Pricing Forum (JTPF) in 2011 took stock of the situation prevailing in each EU Member State with respect to secondary and compensating year-end adjustments as on 1 July 2011.

[Secondary Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)

[Compensating/year-end Adjustments - overview on the legal and administrative/practical aspects in the different Member States](#)