

Chile

Transfer Pricing Country Profile

Updated May 2019

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 41 E of the Chilean Income Tax Law; http://www.sii.cl/normativa_legislacion/dl824.pdf
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	In our Circular No. 29 of June 14, 2013, which instructs on the modifications made by Law No. 20,630, about the transfer pricing rules contained in the Income Tax Law, there is explicit reference to the transfer pricing guidelines: methods, comparability analysis, and use of ranges and definition of transfer prices.”	http://www.sii.cl/normativa_legislacion/circulares/2013/circu29.pdf
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>The taxpayer domiciled and resident in Chile will be considered as related to the counterpart in the following cases:</i> <i>a) When one of the parties participates directly or indirectly in the direction, control, capital, profits or income of the other party;</i> <i>b) When the same person or persons participate directly or indirectly in the direction, control, capital, profits or income of both parties, all of them being related to each other;</i>	Article 41 E, Number 1, of the Chilean Income Tax Law; http://www.sii.cl/normativa_legislacion/dl824.pdf Circular 29/2013; http://www.sii.cl/normativa_legislacion/circulares/2013/circu29.pdf

c) When the operations are carried out between an agency, branch or any other form of permanent establishment with its parent company; with other permanent establishments of the same parent company; with related parties of the latter and permanent establishments of those;

d) When, whether or not exists a direct or indirect relationship between the parties, the operations are carried out with resident, domiciled, established or incorporated parties in a listed country or territory, unless said country or territory signs with Chile an agreement that allows the exchange of relevant information for the purposes of applying the tax provisions, which are in force

e) The natural persons will be understood related to each other, when between them they are married or there is relationship by consanguinity or affinity up to the fourth degree

f) Among the parties involved, when a party carries out one or more transactions with a third party which, in turn, carries out, directly or indirectly, with a related party, one or more operations similar or identical to those carried out with the first, whatever the quality in which said third party and the parties intervene in such operations.

Transfer Pricing Methods

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Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?

- Yes
 No

If affirmative, please check those provided for in your legislation:

CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Other Methods, When the characteristics and circumstances of the case are met, it is not possible to apply any of the aforementioned methods (CUP, Resale Price, Cost Plus, TNMM or Profit Split), the taxpayer may determine the prices or values of his operations using other methods that reasonably allow to determine or estimate the prices or normal values of market that have or would have agreed to

Article 41 E, Number 2, of the Chilean Income Tax Law;
http://www.sii.cl/normativa_legislacion/dl824.pdf

		<i>independent parties in comparable transactions and circumstances. In such qualified cases, the taxpayer must justify that the characteristics and special circumstances of the operations do not allow applying the foregoing methods.</i>	
5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>In our legislation, the taxpayer must use the most appropriate method considering the characteristics and circumstances of the particular case.</p>	<p>Article 41 E, Number 2, of the Chilean Income Tax Law; http://www.sii.cl/normativa_legislacion/dl824.pdf</p> <p>Circular 29/2013 http://www.sii.cl/normativa_legislacion/circulares/2013/circu29.pdf</p>
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<p><input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>In part of our Circular 29/2013 we can find: “<i>In order to carry out a comparability analysis that allows the determination of normal market prices, values or returns, that is, those that independent parties have agreed or obtained with respect to a certain operation or group of operations (when applicable), it is useful bear in mind the comparability factors that are indicated in the OECD Guidelines on Transfer Pricing (OECD Guides) and that represent international practice in transfer pricing matters</i>”.</p>	<p>Circular 29/2013, Paragraph 3.2: Comparability analysis. http://www.sii.cl/normativa_legislacion/circulares/2013/circu29.pdf</p>

8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Our legislation allows the use of an arm's length range and statistical measures for determining arm's length remuneration through Circular 29/2013, Paragraph 3.4: Range of prices, values or normal market profits.	Circular 29/2013, Paragraph 3.4: <i>Range of prices, values or normal market profits.</i> http://www.sii.cl/normativa_legislacion/circulares/2013/indcir2013.htm
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Comparability adjustments are allowed when taxpayer considers that it will improve comparability.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No We followed the recommendations of Chapter VI of the OECD Guidelines.	

13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No We followed the recommendations of Chapter VII of the OECD Guidelines.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Cost Contribution Agreements

18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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Transfer Pricing Documentation

19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): In our legislation we require a specific transfer pricing documentation called Form 1907. 	<p>Article 41 E, Number 6, of the Chilean Income Tax Law; http://www.sii.cl/normativa_legislacion/dl824.pdf</p> <p>Resolución Exenta N° 126 of 2016; http://www.sii.cl/normativa_legislacion/resoluciones/2016/res_ind2016.htm</p>
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>Form 1907 is an annual filing that requires specific information about the transactions with related parties made to taxpayers during the previous fiscal year.</p> <p>The presentation is in Spanish language and Chilean pesos.</p> <p>The Form 1907 should be presented until June every year.</p>	<p>Article 41 E, N°6, of the Chilean Income Tax Law: http://www.sii.cl/normativa_legislacion/dl824.pdf</p> <p>Resolución Exenta N° 126 of 2016: http://www.sii.cl/normativa_legislacion/resoluciones/2016/res_ind2016.htm</p> <p>Form 1907 and 1937: http://www.sii.cl/ayudas/ayudas_por_servicios/2120-formularios_y_plazos_2019-2171.html</p>

21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In our legislation, we have specific penalties regarding transfer pricing documentation. You can find the specific penalties in Circular 31/2016.	Circular N° 31 of 2016: http://www.sii.cl/normativa_legislacion/circulares/2016/indcir2016.htm
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.		
Administrative Approaches to Avoiding and Resolving Disputes			
23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	Please check those that apply: <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>):	Article 41 E, Number 7, of the Chilean Income Tax Law; http://www.sii.cl/normativa_legislacion/dl824.pdf Resolución Exenta N°68 of 2013; http://www.sii.cl/normativa_legislacion/resoluciones/2013/res_ind2013.htm

Safe Harbours and Other Simplification Measures

24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
24	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Legislative Aspects or Administrative Procedures

25	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
26	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information

27	Other legislative aspects or administrative procedures regarding transfer pricing		
28	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)		