

# Estonia

## Transfer Pricing Country Profile

Updated February 2018

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Income Tax Act, Section 10, Article 50, Subsection 4; <a href="https://www.riigiteataja.ee/en/eli/516012017002/consolide">https://www.riigiteataja.ee/en/eli/516012017002/consolide</a> .
2	<b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b>	The OECD Transfer Pricing Guidelines (OECD TPG) have no legal status within the Estonian tax system. However, they have been translated into Estonian and, according to Article 20 of the Regulation no. 53 drafted by MoF (in force since 1.01.2007), taxpayers and tax administrations are encouraged to use the OECD TPG for those situations not covered by the Regulation, as far as the guidance in the OECD TPG is not in contradiction with the Regulation.	Methods for determining the value of transactions conducted between associated persons, Article 20; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
3	<b>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.</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  The definition of the related parties is contained in Article 8 of the Income Tax Act and according to that parties are deemed to be associated if they have common business interest or if one party has dominant influence over other. This article also includes an illustrative list of associated persons:  (1) Persons are deemed to be associated if they have a common commercial interest or if one person has dominant influence over the other. The following persons are always deemed to be associated:  1) spouses, civil partners, direct or in-law relatives;  2) companies belonging to one group as defined in § 6 of the Commercial Code;  3) a legal person and a natural person who owns more than 10 per cent of the share capital, total number of votes or rights to the profits of the legal person;	Income Tax Act, Section 2, Article 8; <a href="https://www.riigiteataja.ee/en/eli/516012017002/consolide">https://www.riigiteataja.ee/en/eli/516012017002/consolide</a> .

		<p>4) a legal person and a person who owns, together with other associated persons, more than 50 per cent of the share capital, total number of votes or rights to the profits of the legal person;</p> <p>5) legal persons if more than 50 per cent of their share capital, total number of votes or rights to the profits belongs to one and the same person or associated persons;</p> <p>6) persons who own more than 25 per cent of the share capital, total number of votes or rights to the profits of one and the same legal person;</p> <p>7) legal persons whose management board members or bodies substituting the management board are the same persons;</p> <p>8) an employer and an employee, the employee's spouse, civil partner or direct blood relative;</p> <p>9) a legal person and a member of its management board or controlling body (§ 9), the spouse, civil partner or a direct blood relative of a member of the management or controlling body.</p> <p>Transfer pricing rules apply to transactions of resident legal persons, non-resident persons operating in Estonia through a permanent establishment and also transactions of sole proprietors with any related persons.</p>	
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**Transfer Pricing Methods**

4	<p><b>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="683 1066 1534 1225"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>If the circumstances related to the transaction do not allow for using the listed methods, another method may be used for determining the market value of the transfer price. Justifications must be given for such use of another method.</p>	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"/>	<p>Methods for determining the value of transactions conducted between associated persons, Article 11;</p> <p><a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>
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"/>										

5	<b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b>	<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> <hr/> <p>The method providing the most reliable result shall be selected on the basis of the specifics of the inspected transaction, the reliability of the available data about comparable transactions, the justification of the assumptions, and the level of similarity of comparable transactions.</p>	<p>Methods for determining the value of transactions conducted between associated persons, Article 11, subsection 2;</p> <p><a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>
6	<b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b>	<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> <hr/> <p>Domestic legislation recognises comparable uncontrolled price method as most reliable if there is comparable information available or small differences could be adjusted.</p>	<p>Methods for determining the value of transactions conducted between associated persons, Article 12, Subsection 4;</p> <p><a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a></p>
<b>Comparability Analysis</b>			
7	<b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>According to the Article 20 of Methods for determining the value of transactions conducted between associated persons it is recommended to follow the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.</p>	<p>Methods for determining the value of transactions conducted between associated persons, Article 20;</p> <p><a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Upon comparing transactions, data of transactions between the taxpayer and a non-associated person shall generally be preferred to the data of transactions between a third party and a non-associated person, and data in Estonian databases shall be preferred to data in databases of foreign states.</p>	<p>Methods for determining the value of transactions conducted between associated persons, Article 3, Subsection 3;</p> <p><a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>

9	<b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	<b>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Estonian legislation determines the full range as an arm's length range. However, inter-quartile range is commonly applied in practice.	Methods for determining the value of transactions conducted between associated persons, Article 11, Subsection 8;  <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
11	<b>Are comparability adjustments required under your domestic legislation or regulations?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Comparability adjustments are applied based on the OECD TPG.	Methods for determining the value of transactions conducted between associated persons, Article 3, Subsection 4;  <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
<b>Intangible Property</b>			
12	<b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Domestic legislation refers to OECD TPG on intangibles.	Methods for determining the value of transactions conducted between associated persons, Article 5;  <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
13	<b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b>	<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	Methods for determining the value of transactions conducted between associated persons, Article 20; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
		Domestic legislation refers to OECD TPG on intra-group services transactions.	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Methods for determining the value of transactions conducted between associated persons, Article 17; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
		The regulation follows the same criteria as outlined in OECD TPG.	

### 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"> <li><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input type="checkbox"/> Other (specify):</li> </ul>	Methods for determining the value of transactions conducted between associated persons, Article 18; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .  Tax Information Exchange Act, Article 20 <sup>3</sup> ; <a href="https://www.riigiteataja.ee/en/eli/504072017001/consolide">https://www.riigiteataja.ee/en/eli/504072017001/consolide</a>
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20	<b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b>	The tax authority shall give the company a term of at least sixty days for submitting the transfer pricing documentation. The tax authority may request a translation of the documents into Estonian language, if the documents have been prepared in a foreign language by assigning a reasonable timeline for submitting the translation.	Income Tax Act, Section 10, Article 50, Subsection 7; <a href="https://www.riigiteataja.ee/en/eli/516012017002/consolide">https://www.riigiteataja.ee/en/eli/516012017002/consolide</a> .  Methods for determining the value of transactions conducted between associated persons, Article 18, Subsection 9; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
21	<b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  There are no special transfer pricing penalties. The law provides for penalties in case of concealment of tax liability and increase of claim for refund without basis. Failure to submit information to a tax authority intentionally or submission of false information if the tax or withholding obligation is decreased thereby or the claim for refund is increased is punishable by a fine of up to 32 000 EUR (Article 153 <sup>1</sup> of the Taxation Act). In case of obstruction of activities of tax authority (failure to submit a tax return, other document or thing by the due date, failure to register with a tax authority, failure to comply with the requirements for the keeping of records or failure to comply with an order of a tax authority) the fine is up to 3 200 EUR (Article 154 of the Taxation Act). Intentional submission of wrong information in tax return may also cause criminal proceedings where the fine is up to 16 million EUR (Article 44 of the Penal Code).	Taxation Act, Article 153 <sup>1</sup> and Article 154; <a href="https://www.riigiteataja.ee/en/eli/528082017004/consolide">https://www.riigiteataja.ee/en/eli/528082017004/consolide</a>  Penal Code, Article 44, Subsection 8; <a href="https://www.riigiteataja.ee/en/eli/508092017002/consolide">https://www.riigiteataja.ee/en/eli/508092017002/consolide</a>
22	<b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b>	N/A	

### Administrative Approaches to Avoiding and Resolving Disputes

23	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <hr/> <p>Disputes are generally resolved between taxpayers and the tax authorities. If they fail to reach an agreement, the taxpayer has the right to turn to administrative court. Estonian transfer pricing regulation does not have advanced pricing agreement mechanism in place. Cross border disputes may also be subject to mutual agreement procedures.</p>	<p>Administrative Procedure Act, Article 87; <a href="https://www.riigiteataja.ee/en/eli/531102016002/consolide">https://www.riigiteataja.ee/en/eli/531102016002/consolide</a></p> <p>Methods for determining the value of transactions conducted between associated persons, Article 19, Subsection 4; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>
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### Safe Harbours and Other Simplification Measures

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

### Other Legislative Aspects or Administrative Procedures

25	<b>Does your jurisdiction allow/require taxpayers to make year-end adjustments?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>OECD TPG is followed to make year-end adjustments.</p>	<p>Methods for determining the value of transactions conducted between associated persons, Article 20; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a>.</p>
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26	<b>Does your jurisdiction make secondary adjustments?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Methods for determining the value of transactions conducted between associated persons, Article 20; <a href="https://www.riigiteataja.ee/en/eli/515012015002/consolide">https://www.riigiteataja.ee/en/eli/515012015002/consolide</a> .
		OECD TPG is followed to make secondary adjustments.	
<b>Other Relevant Information</b>			
27	<b>Other legislative aspects or administrative procedures regarding transfer pricing</b>	N/A	
28	<b>Other relevant information</b> (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	N/A	