

# Slovak Republic

## Transfer Pricing Country Profile

Updated October 2017

	SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>		
1	<p><b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b></p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Income Tax Act, Section 17, para 5; <a href="http://www.finance.gov.sk/en/Default.aspx?CatID=286">http://www.finance.gov.sk/en/Default.aspx?CatID=286</a></p>
2	<p><b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b></p> <p>The OECD Transfer Pricing Guideline (TPG) is not legally binding, but acceptable as an explanatory instrument.</p>	<p>No specific reference.</p>
3	<p><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></p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>n) the term "related party" means a close person or a person with economic, personal or other ties;</p> <p>o) the term "economic or personal tie" means a person's interest in the property, control or management of other person or mutual relation between persons which are under control or management of the same person or where such person has direct or indirect ownership interest where interest in</p> <p>1. the property or control means more than a 25% direct or indirect interest or indirect derived interest in the registered capital or in voting rights where indirect interest shall be calculated as a product of the percentage of direct interests divided by one hundred and the result calculated in this manner shall be multiplied by one hundred and the indirect derived interest shall be calculated as a total of indirect interests; the indirect derived interest shall only be used to calculate the interest of one person in the property or control of other person where such one person has interest in the property or control of multiple persons</p>	<p>Income Tax Act, Section 2, <a href="http://www.finance.gov.sk/en/Default.aspx?CatID=286">http://www.finance.gov.sk/en/Default.aspx?CatID=286</a></p>

	<p>each of which has interest in the property or control of the same other person; where the indirect derived interest exceeds 50%, all persons used in the calculation thereof shall be deemed to have economic ties irrespective of the actual amount of their interests;</p> <p>2. the term "management" means the relationship between the members of the statutory bodies or the members of the supervisory bodies of a business company or a cooperative to that business company or cooperative;</p> <p>p) the term "other ties" means a commercial relationship established particularly for the purposes of tax base decrease or tax loss increase;</p> <p>r) the term "non-resident related party" shall mean a situation, in which a resident individual or legal entity has ties to a non-resident individual or a non-resident legal entity as provided in letter n) above; the above shall apply also to the relation between a taxpayer with unlimited tax liability and its permanent establishments abroad, and to the relationship between a taxpayer with limited tax liability and its permanent establishment in the territory of the Slovak Republic and the relationship between permanent establishments of taxpayers with ties as set out in letter n) and the correlation between these permanent establishments and these taxpayers;</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" style="margin-left: auto; margin-right: auto;"> <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>The domestic legislation on the TP methods provides as follows:</p> <p><b>(2) The following are methods based on a comparison of prices:</b></p> <p>a) comparable uncontrolled price method consisting of a comparison of the price of a transfer of property or service agreed between related parties, and the comparable fair market price agreed between unrelated parties; if there is any difference between the two prices, the price agreed between related parties shall be replaced with the fair market price, which would be used by unrelated parties in comparable business or financial transactions at similar terms;</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>Income Tax Act, Section 18,</p> <p><a href="http://www.finance.gov.sk/en/Default.aspx?CatID=286">http://www.finance.gov.sk/en/Default.aspx?CatID=286</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"/>									

		<p>b) resale price method, whereby the price of the transfer of the assets purchased by a related party is converted to the fair market price using the price, at which the related party resells the assets to an unrelated party, after deducting the trading margin, which is usually applied by comparable independent resellers;</p> <p>c) cost plus method, whereby the fair market price is determined with reference to actual direct and indirect costs of the assets or service transferred between related parties, increased by the trading margin applied by the same supplier vis-à-vis unrelated parties, or by a trading margin, which would be applied by an unrelated party in a comparable transaction on comparable terms.</p> <p><b>(3) The following are methods based on a comparison of profits:</b></p> <p>a) profit split method, which is based on such split of the anticipated profit generated by related parties, which would be expected from unrelated parties engaged in a joint venture, while respecting the arm's length principle;</p> <p>b) transactional net margin method used to determine a profit margin in a business or financial transaction between related parties in relation to costs, revenues or other basis, which is then compared with a profit margin used vis-à-vis unrelated parties.</p> <p>The domestic legislation allows using any of the methods pursuant to subsection 2 (comparison of prices) or 3 (comparison of profits) or their mutual combination or, as appropriate, other methods, which are not described in subsections 2 or 3 below. Only such methods may be used, the use of which complies with the arm's length principle. The arm's length principle is based on a comparison of the terms which were agreed in any business or financial transactions between related parties and the terms which would have been agreed between unrelated parties in similar business or financial transactions, in comparable circumstances.</p>	
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 (if so, please explain)</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 (if so, please explain)</p> <p><input type="checkbox"/> Other (if so, please explain)</p>	

## Comparability Analysis

7	<p><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"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
		<p>TPG is not legally binding but acceptable as an explanatory instrument.          According to this approach, comparability analysis outlined in Chapter III of the TPG is followed in practice.</p>	
8	<p><b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b></p>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
		<p>The preference to use domestic comparables is not established in domestic legislation. It comes from practice as a general rule to use domestic comparables as a first step and in case there is no other possibility, as a second step, we use foreign comparables.</p>	
9	<p><b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b></p>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
10	<p><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></p>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
		<p>The use of arm's length range or statistical measures is not directly defined in domestic legislation, but we follow the recommendation of TPG.</p>	
11	<p><b>Are comparability adjustments required under your domestic legislation or regulations?</b></p>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<p>Income tax Act, Section 18, Subsection 1   <a href="http://www.finance.gov.sk/en/Default.aspx?ContentID=286">http://www.finance.gov.sk/en/Default.aspx?ContentID=286</a></p>
		<p>Process of comparability adjustments are defined in domestic legislation – Income tax Act, Section 18, Subsection 1 :</p> <p>“The difference referred to in Section 17 subsection 5 above shall be determined using any of the methods pursuant to subsection 2 or 3 or their mutual combination or, as appropriate, other methods, which are not described in subsections 2 or 3 below.. Only such methods may be used, the use of which complies with the arm's length principle. The arm's length principle is based on a</p>	

		comparison of the terms which were agreed in any business or financial transactions between related parties and the terms which would have been agreed between unrelated parties in similar business or financial transactions, in comparable circumstances. The review of comparability of the terms is made by confronting in particular the businesses conducted by the parties, including, but not limited to, their production, assembly works, research and development, purchase and sale, the scope of their business risks, the characteristics of the compared property or the service, the terms agreed between the parties to the transaction, the economic environment in the marketplace, and the business strategy. The terms shall be considered comparable if there is no difference at all or if only minor adjustments would compensate any such a difference.“	
<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	
		There is no specific guidance. We apply general TP rules and we follow TPG.	
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	
		There is no specific guidance. We apply general TP rules and we follow TPG.	
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	
<b>Intra-group Services</b>			
15	<b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is no specific guidance. We apply general TP rules and we follow TPG except of approach mentioned on TPG D.2.: Simplified determination of arm's length charges for low value adding intra-group services.	

16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is not simplified approach applicable to low value-adding intra-group services.	
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	
<b>Cost Contribution Agreements</b>			
18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		There is no specific guidance. We apply general TP rules and we follow TPG.	
<b>Transfer Pricing Documentation</b>			
19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If affirmative, please check all that apply: <ul style="list-style-type: none"> <li><input type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input 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 checked="" type="checkbox"/> Other (specify):</li> </ul> The following information are included in the master file: Organisational structure Description of MNE's business(es) The following information are included in the local file: Local entity information Controlled transactions information	<a href="http://www.mfsr.sk/Default.aspx?CatID=9908">http://www.mfsr.sk/Default.aspx?CatID=9908</a>

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 taxpayer shall submit the records (TDP) within 15 days from delivery of the tax administration's or financial directorate's request; such request may be, for the documentation for the relevant tax period, sent no earlier than on the first day following expiry of the period for tax return filing for that tax period. The taxpayer shall submit the records in the state language, the tax administration or financial directorate may, upon taxpayer's request, agree that the records be submitted in a language other than the state language.	
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 is no penalties specific to TP documentation, but general, from EUR 60 up to EUR 3,000 for the administrative offence for fail to comply with any of the obligations of non-financial nature according to this Act or according to special regulations.	Act No. 563_2009 Coll. on Tax Administration (Tax Procedure Code) and on Amendments and Supplements to Certain Acts , Section 154, para 1, letter j)  <a href="http://www.finance.gov.sk/en/Default.aspx?CatID=405">http://www.finance.gov.sk/en/Default.aspx?CatID=405</a>
22	<b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b>	There is no exemption for TP documentation obligations but there is simplification on TP documentation requirements for individuals, SME and domestic transactions. No requirements of functional and risk analysis and no requirements of benchmark analysis for transactions of individuals, transactions of SME and domestic transactions.	<a href="http://www.mfsr.sk/Default.aspx?CatID=9908">http://www.mfsr.sk/Default.aspx?CatID=9908</a>
<b>Administrative Approaches to Avoiding and Resolving Disputes</b>			
23	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	Please check those that apply: <input checked="" 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 (please specify):	Income Tax Act, Section 18, para 4-10  <a href="http://www.finance.gov.sk/en/Default.aspx?CatID=286">http://www.finance.gov.sk/en/Default.aspx?CatID=286</a>

### 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	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	No.	

### Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Income tax Act, Section 17, Subsection 5 <a href="http://www.finance.gov.sk/en/Default.aspx?CatID=286">http://www.finance.gov.sk/en/Default.aspx?CatID=286</a>
	<p>Year-end adjustments are defined in domestic legislation:</p> <p>Income tax Act, Section 17, Subsection 5: “The tax base of a related party pursuant to Section 2 letter n) and r) shall also include the difference between the prices agreed in business transactions of related parties (including the prices of services, loans, and credits), and the prices applied between unrelated parties in comparable business transactions, as long as such difference results in a reduction of the tax base or increase of tax loss. The difference above shall be determined in accordance with Section 18 below.”</p>		
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

### Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing		
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29	<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)		
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