

УДК 336.1+336.22

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GOOD PRACTICE OF TRANSFER PRICING: THE CASE OF TURKEY

As a member of the Organisation for Economic Co-operation and Development (OECD), Turkey follows the transfer pricing guidelines recommended by the organization. This helps to ensure that Turkey’s tax laws are consistent with global standards, leading to a more transparent and reliable taxation system. For enterprises conducting activities in Turkey, this translates to a reduction in the risks associated with transfer pricing and enhanced confidence that their operations are aligned with global transfer pricing standards.

Ukraine has been adopting the transfer pricing norms and recommendations of the Organisation for Economic Co-operation and Development (OECD). The country recognizes the significance of updating its laws and practices regularly in line with changes in the international environment and prevailing economic conditions. This proactive approach is fundamental to Ukraine’s compliance with international standards, minimization of tax disputes, and the creation of a conducive business and investment environment within its borders. Moreover, Ukraine should ensure the efficient functioning of its tax authorities and establish alternative dispute resolution mechanisms to comply with transfer pricing requirements and resolve conflicts related to taxation. By doing so, the country can enhance its transparency and accountability, promote investor confidence, and foster a healthy economic and social environment.

Turkey has a wealth of experience that could prove beneficial to Ukraine in its efforts to implement OECD norms and recommendations. By conducting comparative analyses of legal norms, audit methodologies, and mechanisms for resolving tax disputes, Ukraine can identify best practices and acquire valuable

information to enhance its transfer pricing system. Drawing from the experiences of other nations could help Ukraine bolster its effectiveness in managing tax risks and create more favorable business development conditions.

Transfer Pricing Country Profiles are documents or reports that provide detailed information about the transfer pricing regulations and practices in specific countries [1]. These profiles typically include information on:

1. **Legislation and Regulations:** Details about the laws and regulations governing transfer pricing in the country, including any recent updates or changes.

2. **Tax Authority Guidelines:** Information about guidelines, rulings, and interpretations issued by the tax authorities regarding transfer pricing.

3. **Documentation Requirements:** Requirements for preparing and maintaining transfer pricing documentation, including the type of information that needs to be included.

4. **Arm's Length Principle:** Explanation of how the arm's length principle is applied in the country, including any specific methods endorsed or required by the tax authorities.

5. **Penalties and Compliance:** Penalties for non-compliance with transfer pricing regulations, as well as information on compliance requirements such as filing deadlines and reporting obligations.

6. **Advance Pricing Agreements (APAs):** Availability and process for obtaining APAs, which are agreements between taxpayers and tax authorities on transfer pricing methodologies to be applied in future transactions.

7. **Transfer Pricing Audits and Dispute Resolution:** Information about how transfer pricing audits are conducted in the country and the procedures for resolving disputes between taxpayers and tax authorities.

These profiles are valuable resources for multinational corporations, tax professionals, and policymakers to understand the transfer pricing landscape in different countries and ensure compliance with local regulations. They help businesses navigate the complexities of cross-border transactions and minimize the

risk of disputes with tax authorities.

In Turkey, taxpayers are provided with the option to utilize both internal and external comparables while determining transfer pricing assessments [2]. However, the availability of local data is limited to publicly held companies only, as they are mandated to declare their financial data. The absence of clear guidance on benchmarking studies in Turkish transfer pricing legislation, coupled with the lack of any prohibition on the use of databases, implies that foreign comparables can be used provided differences in geographic markets are removed through appropriate adjustments and analyses. It is recommended that comparable company sets be updated annually according to the most recent data available. It is crucial for Turkish taxpayers to be aware that tax auditors may use their own “secret comparables,” which only they have access to, due to their public authority when determining transfer pricing-related assessments. Therefore, it is recommended that Turkish taxpayers remain prepared to challenge this approach, which runs counter to the relevant OECD principles. When determining the arm’s length price or cost, the internal precedent should be used first (if available). If internal prices or costs are not available or reliable, then external precedents should be used for comparison. Whether this principle is applicable or not depends on the comparability of transactions between related and unrelated persons. During a comparability analysis, any differences caused by the characteristics of the products or services, terms of the agreement, functions performed by related and unrelated persons, risks undertaken, market structure, economic conditions, business strategies, and the value of non-material assets should be corrected.

References

1. Transfer Pricing Country Profiles / OECD. URL: <https://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm>.
2. Global transfer pricing guide. Transfer pricing – Turkey. URL: <https://www.grantthornton.global/en/insights/articles/transfer-pricing-guide/transfer-pricing---Turkey/>.