

Transfer Pricing | 2021

**A collection of transfer pricing
summaries of countries in the
Central & South America region**



Transfer Pricing | 2021

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"This publication has been prepared for the purpose of quick information dissemination. Its contents should not be used as a basis for advice or formulating decisions under any circumstances."

BOLIVIA

2021 TRANSFER PRICING

1. Transfer Prices

The purpose of this Resolution is to establish the operational framework for the fulfillment of the obligations of taxpayers who carry out operations with related parties regarding the documentation and information to be presented, characteristics, requirements, means, deadlines and penalties in the event of non-compliance. The provisions contained in this Resolution reach all taxpayers of the Income Tax of IUE Companies that carry out commercial and / or financial operations with related parties.

2. Pricing Transfer Studies

The Transfer Pricing Study - EPT must be prepared in physical and digital format, written in Spanish (Castilian), expressed in Bolivians, and will include the signature of the Legal Representative or holder of the NIT, as appropriate.

The price or value of the operation with related parties, as well as that of the comparable operations must be expressed in Bolivianos (Bs), for this purpose, when the operation has been carried out in a different currency, the taxpayer must convert said amounts to Bolivians using the official exchange rate in effect on the date of operation, between the national currency and the respective foreign currency, as published by the Central Bank of Bolivia when appropriate.

In the event that the foreign currency does not have an official quotation in national currency, the price or value of the operation must be converted into dollars of the United States of North America (USD) according to the official exchange rate published by the official body that governs the exchange policy of the country of origin of the currency, and then to Bolivians according to the preceding paragraph, taking as a basis the respective exchange rates used on the date of each operation.

Approval of Electronic Form 601 - Informational Affidavit of Operations with Related Parties, study of EPT transfer prices.

Electronic Form 601 is approved Informative Affidavit of Operations with Related Parties to be used on a mandatory basis by the taxpayers covered by this provision.

3. Filling Form 601

The filling of the Electronic Form 601 Informative Affidavit of Operations with Related Parties must be done through the Da Vinci application, whose update and filling instructions will be available on the website of the National Tax Service www.impuestos.gob.bo.

4. Subjects Obliged to Submit Information	<p>They are obliged to present information on their operations with Related parties, as appropriate:</p> <ol style="list-style-type: none"> Taxpayers whose operations with related parties accumulated in an annual management are equal to or greater than Bs15,000,000.- (Fifteen million 00/100 Bolivianos), must submit Electronic Form 601 Information Affidavit of Operations with Related Parties and the EPT Transfer Pricing Study. Taxpayers whose operations with related parties accumulated in an annual management are equal to or greater than Bs7,500,000.- (Seven million five hundred thousand 00/100 Bolivianos) and less than Bs15,000,000.- (Fifteen million 00/100 Bolivianos), they must submit Electronic Form 601 Informative Affidavit of Operations with Related Parties. Taxpayers whose operations with related parties accumulated in an annual management are less than Bs7,500,000.- (Seven million five hundred thousand 00/100 Bolivianos), have the obligation to keep the necessary documentation to demonstrate that their operations with related parties They were made at market prices or that the necessary adjustments were made.
5. Shipping Presentation	<p>The physical copy of the Transfer Pricing Study - EPT, must be presented to the District Management or GRACO of the corresponding jurisdiction, together with the financial statements corresponding to the closing of the administration. The digital information of the Transfer Pricing Study - EPT will be sent through the website of the National Tax Service www.impuestos.gob.bo, for this purpose, the taxpayer must generate an unscanned PDF file, same that must have the possibility of carrying out text searches and copying of its content, the file name must follow the following format:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>NIT_aaamm_ept.pdf por ejemplo 12345567019_201512_ept.pdf</p> </div> <p>Where “aaaa” It refers to the year of the declared management and “mm” to the month of its closing. Sending the Electronic Form 601 Information Affidavit of Operations with Related Parties must be done through the Da Vinci module of the Virtual Office, or from the Da Vinci application itself in case of having an Internet connection.</p>
6. Deadlines	<p>The presentation of the Transfer Pricing Study - EPT in physical and digital format and / or the sending of the Electronic Form 601 Informative Affidavit of Operations with Related Parties must be made within the term established for the presentation of the Affidavit and payment of the Tax on the Utilities of the Companies (IUE), in accordance with the provisions of article 39 of Supreme Decree No. 24051, as of the first management reached by the entry into force of Law No. 549 of July 21, 2014.</p>

7. Adjustments to the Range of Value Differences	<p>In accordance with paragraphs I and article 6 of Supreme Decree No. 2227, if the price or agreed value of the transaction between related parties is outside the range of differences in value, and as a consequence of this, a decrease in the Taxable base for the determination of the Tax on the Profits of the Companies (IUE), the adjustment to the price or value of the operation that would have used independent parties, will be determined by means of the following format:</p> $R_2 = \text{Linf} + \frac{2(\text{Lsup} - \text{Linf})}{4}$ <p> R_2 = Average value of the range Lymph = Lower limit of the sample, that is the minimum value Lsup = Upper limit of the sample, that is the maximum value </p>
8. Sanctions	<p>Failure to comply with local legislation may generate administrative sanctions, in addition to payment of fines.</p>

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BRAZIL

2021 TRANSFER PRICING

1. Transfer Prices Rules in Brazil

The term “transfer price” has been used to identify the controls to which commercial or financial operations carried out between related parties, based in different tax jurisdictions, or when one of the parties is based in the tax haven are subject.

Due to the existing peculiar circumstances in the operations carried out between these people, the price charged in these operations can be artificially stipulated and, consequently, diverging from the market price negotiated by independent companies, under similar conditions - price based on the “arm’s length principle”.

2. Related Parties

Two or more people, companies or entities are considered related parties when:

1. The parent company, when domiciled abroad;
2. The subsidiary or branch, domiciled abroad;
3. The natural individual or a legal entity, resident or domiciled abroad, whose corporate participation in the capital stock of an entity characterizes it as a parent company (according to the Brazilian “lei das S/A);
4. The legal person domiciled abroad that is characterized as its controller or in the manner defined in the Brazilian law (according to the Brazilian “lei das S/A - § 1 and 2, art. 243).
5. The legal person domiciled abroad, when it and the company domiciled in Brazil are under common corporate or administrative control or when at least 10% (ten percent) of the capital stock of each belonging to the same natural or legal person;
6. The natural or legal person, resident or domiciled abroad, who, together with the legal person domiciled in Brazil, has a corporate interest in the capital stock of a third legal person, the sum of which characterizes them as controlling or affiliated company.
7. The natural or legal person, resident or domiciled abroad, who is associate, in the form of a consortium or condominium, as defined in Brazilian legislation (according to the Brazilian “lei das S/A);
8. The natural person residing abroad who is related or related up to the third degree, spouse or partner of any of its directors or of its partner or controlling shareholder in direct or indirect participation.
9. The natural or legal person, resident or domiciled abroad, who enjoys exclusivity, as its agent, distributor, or concessionaire, for the purchase and sale of goods, services or rights.

Additionally, the transfer pricing regulations in Brazil establish several additional situations in which the parties are considered to be related.

3. Methods for Transfer Pricing	<p>Unfortunately, Brazil is not a member country of the OECD, and therefore, the models suggested by them are not followed in its integrity. Brazil adopts, however, adopts, in the signed international treaties to avoid double taxation, the OECD Model Convention and its suggestions. But, for transfer price purpose, it is very important to keep in mind that the methodology established for the transfer price rules adopted by the OECD should not be applied integrally to Brazil, taking into account that Brazil has its own legislation with methodology already established.</p> <p>It is important to keep in mind, that although Brazil signed several DTAs in order to avoid double taxation, its operations are not exempt of transfer price testing.</p> <p>Next, the methods determined by the Brazilian legislation, both in import and export will be shown below:</p> <table border="0"> <thead> <tr> <th>Import</th><th>Export</th></tr> </thead> <tbody> <tr> <td>1. PIC</td><td>1. PVE_x</td></tr> <tr> <td>2. PRL - 20% (resell)</td><td>2. PVA</td></tr> <tr> <td>3. PRL - 60% (production)</td><td>3. PVV</td></tr> <tr> <td>4. CPL</td><td>4. PVA</td></tr> </tbody> </table> <p>Companies must apply the most appropriate method with respect to the particular transaction, to determine the value for Income Tax purposes.</p>	Import	Export	1. PIC	1. PVE _x	2. PRL - 20% (resell)	2. PVA	3. PRL - 60% (production)	3. PVV	4. CPL	4. PVA
Import	Export										
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4. CPL	4. PVA										
4. Comparability Analysis	<p>Transactions between related parties are comparable to one carried out between independent parties, under the same or similar conditions. Tax control of transfer prices is imposed based on the need to avoid the loss of tax revenue. This reduction is due to the artificial allocation of income and expenses in operations with the sale of goods, rights or services, between people located in different tax jurisdictions, when there is a link between them, or even if they are not linked, but provided that one of them is located in a country with favored taxation or enjoys a privileged tax regime.</p>										

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DOMINICAN REPUBLIC

2021 TRANSFER PRICING

1. Transfer Prices

Transfer prices can be defined as the value assigned to transactions between two related companies. These transactions include the transfer of physical goods, services, and intangible property.

In our country the operations carried out between related or related parties are regulated by articles 281, 281 bis, 281 quater and 281 quater of the Tax Code and Regulation 78-14 on Transfer Prices. For the purposes, they are considered related or linked parties, natural persons, legal entities or entities, provided that one of them resides or is located in the Dominican Republic and with respect to which any of the relationship assumptions defined in the Paragraph are verified. IV of article 281.

The taxpayers reached by the transfer pricing regulations are the natural persons, legal entities or resident entities that carry out operations with:

- Its related parties abroad.
- Your resident related parties.
- Individuals, companies or companies resident or domiciled, incorporated or located in States or territories with preferential tax regimes, low or no taxation or tax havens, whether or not the latter are residents.

2. Advance Pricing Agreements (APA)

By virtue of the provisions of Article 281 Bis, of the Tax Code, taxpayers who carry out operations with their related parties, may request in writing, within the first three (3) months of the fiscal year, to the General Directorate of Internal Taxes , the conclusion of an Advance Pricing Agreement (APA).

3. What are Advance Pricing Agreements?

It is an agreement on transfer pricing between the DGII and the taxpayers who request it, which establishes the values of the commercial and financial operations that they carry out with related or related parties, prior to carrying them out and for a given time. The request will be accompanied by a proposal that must describe the relevant comparability factors based on the characteristics of the operation, the selection of the most appropriate method, among others.

This agreement may also refer to the financing of the taxpayer with third parties, when the taxpayer may be subject to the limitation of deduction of interest, according to Article 287, literal a), of the Tax Code.

The request for an Advance Price Agreement must contain the following information:

- Name or company name, National Taxpayer Registry, domicile and address of the taxpayer.

3. What are Advance Pricing Agreements? (cont.)

- The name or company name, domicile and address, country of residence and, where appropriate, Tax Identification Number, of the related parties covered by the requested agreement.
- General description of the main economic activity and the ancillary activities carried out by the applicant and his related parties, with which operations that have been included in the agreement are carried out; as well as the general description of market conditions.
- Detail and description of the composition of the capital stock and main agreements or contracts entered into with the related parties, intervening in the operation with incidents in the financial statements.
- Description and detail of the types of operations to be hedged, indicating the currency in which the operations are expected to be carried out.
- In the case of requests related to Article 287, literal a), of the Tax Code, the reasons and the duration of the over-indebtedness must be stated;
- Description and detail of the activities and functions carried out by the taxpayer and its related parties; as well as the risks assumed and the assets used by the taxpayer in the performance of said activities and functions; as well as the functional analysis of the business, organizational structure, among others.
- Transactions and fiscal years that will be covered by the agreement.
- Proposed transfer pricing methodology, description and justification: details of the information and analysis that support said methodology.
- Availability and identification of internal and / or comparable prices or margins and expected range of results, comparability adjustment, etc.
- The proposal may be approved, denied or modified by the General Directorate of Internal Taxes (DGII) within a period of up to twenty-four (24) months from its presentation.

4. Protection Regime

A protection regime refers to rules applied to certain sectors or economic activities where the Tax Administration may determine and set a minimum price or profit margin in order to simplify tax compliance in transfer pricing matters.

In accordance with the provisions of paragraph V, article 281 bis of the Tax Code, if the taxpayer accepts this price or profit margin and reflects it in his return, the Administration will consider that it has been agreed as between independent parties, in operations comparable and under the same or similar circumstances:

- The taxpayer's price or minimum tax profit margin may be calculated taking into consideration the total value of income, of the assets used in the operation during the fiscal year, the total amount of operating costs and expenses, and other variables. Impact of the sector duly justified.
- For the purposes of this paragraph, once the sector or economic activity has been selected. The DGII will issue a reasoned resolution containing the margins or prices.

**4.
Protection
Regime
(cont.)**

In accordance with article 16 of Regulation 78-14 on Transfer Pricing, taxpayers who wish to avail themselves of a protection regime must notify the Tax Administration in advance of the fiscal year in which they are to apply it, in the manner, place and deadlines that apply. established by General Standard.

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GUATEMALA

2021 TRANSFER PRICING

1. Transfer Pricing	<p>The valuation of transactions between related parties, or carried out from, to, or through tax havens must be in accordance with the principle of Arm's Length; that is, that the agreed prices are within the price that independent parties to comparable transactions, similar terms and conditions would have agreed.</p> <p>The Tax Administration has the power to adjust the valuation granted for income tax purposes, only when it observes that the non-application of the transfer pricing rules determines a lower tax payable in Guatemala.</p>
2. Linked Entities	<p>Two or more persons, companies or entities are considered to be related parties when:</p> <ul style="list-style-type: none"> ✓ One of them participates directly or indirectly in the administration, control or capital of the other party, or, ✓ This same person or group of persons participates directly or indirectly in the administration, control or capital of the entities that take part in the transaction. ✓ The linking will also operate when the transaction is made using interposed persons whose purpose is to cover up a transaction between related parties <p>In addition, the transfer pricing rules establish additional situations in which the parties are considered to be related.</p>
3. Methods for Transfer Pricing	<p>The Income Tax Law establishes the following methods for determining the price of transactions, as follows:</p> <ul style="list-style-type: none"> • Uncontrolled comparable price method • Added cost method • Resale price method • Transactional net margin method. <p>Companies should apply the most appropriate method with respect to the particular transaction, to determine the market value for income tax purposes.</p>
4. Comparability Analysis	<p>Transactions between related parties are comparable to a transaction between independent parties, on equal or similar terms, where at least one of the following two conditions is met:</p> <ul style="list-style-type: none"> • That none of the differences between the transactions under comparison or between the characteristics of the parties performing them may materially affect the price, amount of considerations or profit margin; Or • That even if there are differences between the transactions being compared or between the characteristics of the parties making them, which may materially affect the price, amount of considerations or profit margin, such differences may be eliminated through reasonable adjustments.

4. Comparability Analysis (cont.)	<p>In order to determine whether transactions are comparable, account shall be taken of those elements or circumstances that reflect to a greater extent the economic reality of the transactions, depending on the method selected, considering among others, the following elements:</p> <ul style="list-style-type: none"> ✓ The characteristics of the operations. ✓ The functions or economic activities, including the assets used and risks assumed in the operations, of each of the parties involved in the operation ✓ The contractual terms. ✓ Economic or market circumstances. ✓ Business strategies, including those related to market penetration, permanence and expansion. <p>When, for purposes of determining comparable transactions, local information is not available, taxpayers may use information from foreign companies, having to make the necessary adjustments to reflect the differences in the markets.</p>
5. Advance Pricing Agreements (APA)	<ul style="list-style-type: none"> ✓ Prior application to SAT. ✓ Unilateral. Sat may approve, deny or modify the proposal. ✓ In other jurisdictions there are also bilateral agreements. ✓ It takes effect with respect to operations carried out after the approval date. ✓ It takes effect for a maximum of 4 fiscal periods. ✓ Administrative silence operates in a negative sense.
6. Informative Annual Declarations of Transfer Pricing	<p>Taxpayers whose transactions are subject to transfer pricing rules are also subject to the formal obligation to submit the following annual returns:</p> <ul style="list-style-type: none"> ✓ Informative Affidavit Local Report. ✓ Annex to annual Informative Affidavit (Transfer Pricing). <p>The information contained in the informative affidavits may be used by the Tax Administration for the exercise of its functions and for the exchange of tax information with the competent authority of another State provided for in international treaties or in the decisions of the Community Commission Andean observing the rules of confidentiality and computer security indicated in them.</p>
7. Presentation of the Transfer Pricing Statements	<p>Taxpayers must submit each of the transfer pricing returns based on the last digit of their NIT number and according to the schedule established by the tax administration.</p>
8. Adjustments to Transfer Pricing	<p>It will only be necessary to adjust the value agreed by the parties when it determines in the country a lower tax than it would correspond by application of the transfer pricing rules. The Tax Administration may adjust the agreed value even if the above assumption is not met, if said adjustment affects the determination of a higher tax in the country with respect to transactions with other related parties.</p>

8. Adjustments to Transfer Pricing (cont.)	<p>In order to assess whether the agreed value determines a lower tax, the effect that, independently, each transaction or set of transactions, either individually or together, at the time of applying the respective method, generates for Income Tax.</p>
9. Information Retention Term for Transfer Pricing	<p>The documentation and information supporting the informative affidavits, as appropriate, must be kept by the taxpayers, duly translated into Spanish, if applicable, for a period of five years or during the limitation period, whichever is greater (the longest period of prescription is five years).</p>
10. Sources of Interpretation	<p>For the interpretation of transfer pricing issues, the Income Tax Law and its regulations will be applied according to government agreement 213-2013 and amended by Decree 19-2013 of the Republic of Guatemala.</p>
11. Penalties	<ul style="list-style-type: none"> ✓ Breach of formal duties ✓ Lack of information delivery ✓ Adjustment for incorrect valuation of operations subject to transfer pricing ✓ Omitted tax payment ✓ 100% fine ✓ Interests

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MEXICO

2021 TRANSFER PRICING

1. Transfer Price Study. (TPS)

- A. When legal entities enter into transactions with foreign resident-related parties, they must obtain and keep the supporting documentation. This documentation should prove that their income and deductions were determined under the prices or amounts that independent parties in comparable transactions would have used.

The following legal entities should not comply with this obligation:

- a. Taxpayers who carry out entrepreneurial activities and their taxable income in the immediate previous year did not exceed \$13 million (Mexican Pesos).
 - b. Taxpayers who provide professional services and their taxable income in the immediate previous year did not exceed \$3 million (Mexican Pesos).
- B. When legal entities enter into transactions with Mexican resident-related parties, they must obtain and keep the supporting documentation. This documentation should prove that their income and deductions were determined under the prices or amounts that independent parties in comparable transactions would have used.
- C. When legal entities obtained taxable income in the immediate previous year of \$842 million (Mexican Pesos) or more, they also have to prepare and file the following tax returns no later than December 31 of the next year:
- Master information return.
 - Local informative return of related parties.
 - Informative return, country-by-country, of the multinational business group.

2. Related Parties

Two or more persons are considered to be related parties when:

- A. One of them participates, directly or indirectly, in the other's administration, control, or equity.
- B. A person or group of persons participates, directly or indirectly, in the administration, control, or equity of said persons.
- C. Members of partnerships are related, as the persons under this paragraph are considered related parties of said members.

3. Comparable Operations

Transactions between related parties are comparable to independent parties when there are no differences that significantly affect the price or amount of consideration or profit margin; if there are significant differences, they should be eliminated by reasonable adjustments.

In determining these differences, the following elements must be taken into account:

3. Operaciones Comparables	<p>A. The characteristics of the operations, as follows:</p> <ul style="list-style-type: none"> • In financing operations, items such as capital amount, term, guarantees, debtor solvency, and interest rate. • In providing services, elements such as the nature of the service and whether or not it includes experience or technical knowledge. • In use or temporary enjoyment of goods and disposal, consider the good's physical characteristics, quality, and availability. • Where exploitation is granted, or an intangible good is transmitted, consider whether it is a patent, trademark, trade name, or transfer of technology, duration, and degree of protection. • In the transfer of shares, the updated book capital of the issuer, the present value of the projected profits or cash flows, or the stock price of the last fact of the day of the transfer of the station. <p>B. Functions and activities, including the assets used and risks, assumed in the operations.</p> <p>C. The contractual terms.</p> <p>D. Economic circumstances.</p> <p>E. Business strategies.</p>
4. Applicable Methods	<ul style="list-style-type: none"> a. Comparable price not controlled. b. Resale price. c. Added cost. d. Partitioning utilities. e. Utility partition residual. f. Transactional margins of operating profit.
5. Implement- ation of the TPS	<p>The TPS development aims to generate the necessary documentation supporting compliance with the market value principle of transactions carried out between related parties and reduce the possibility of a transfer price adjustment in the tax results obtained.</p> <p>The above study comprises the following phases:</p> <p><u>Step I:</u></p> <p>This phase aims to identify the related parties, the transactions under review, and the applicable existing tax provisions.</p> <p><u>Phase II: Transactional and Functional Analysis</u></p> <p>The second step is to review the functions undertaken, the risks assumed, and the assets (tangible and intangible) used by the parties involved in the operation under study. At this stage, contractual terms, economic circumstances, and market conditions that could affect the participants' results in the transaction under analysis are also reviewed.</p>

5. Implement- ation of the TPS (cont.)

Phase III: Economic Analysis

Based on the information obtained in Phase II, an economic analysis is carried out whose main objective is to determine whether the operation under study was carried out under the principle of market value. The first step in this phase is the search and identification of comparables. A detailed review of the financial and descriptive information of comparable companies or transactions is carried out accordingly to make the necessary adjustments that will increase the analysis's reliability and determine market value compensation for the operation under study.

The resulting TPS includes the following documents:

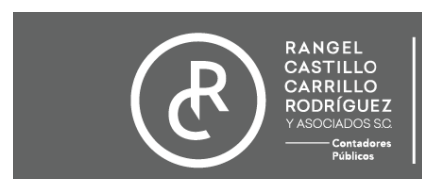
- Description of the company's activities
- Summary of functional analysis;
- Valuation of comparable operations or companies;
- Explanation of reasons to select particular method;
- Description of the method applied;
- Compliance in terms of the law;
- Conclusions.

The TPS developed in this way allows:

- To have the possibility of a penalty reduction up to 50%, when applicable.
- To know the range of margins or prices in which trades can be agreed.
- To update corporate contracts, assumptions, asset values, and operating and market conditions.
- To validate, question, and even improve the corporate structure of the related parties.

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NICARAGUA

2021 TRANSFER PRICING

1. Transfer Pricing

Law No. 922 is published on December 17, 2015 in La Gaceta. This law reforms Law No. 822 which issues the extension to the entry into in force of transfer prices from 1 January 2016 to 30 June 2017.

The Tax Authority (DGI) has the power to adjust the valuation granted for income tax purposes, only when it observes that the non-application of the transfer pricing rules determines a lower tax payable.

DGI must have to do the following actions:

1. Check that transactions between related parties have been assessed in accordance with the provisions of the previous Article and make the corresponding adjustments where the valuation agreed between the parties' results in lower taxation in the country or a deferral in the payment of the tax. The adjustments thus determined shall be duly justified and notified to the taxpayer and shall be actionable within the time limits laid down in the Tax Code.
2. Be bound by the adjusted value in relation to the other parties residing in the country.
3. In the case of imports of goods, check the transaction value together with the Customs Administration, each maintaining their respective competences.

2. Linked Entities

Two or more persons, companies or entities are considered related parties when:

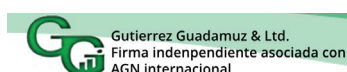
- ✓ When one of them directs or controls the other, or possesses, directly or indirectly, at me 40% of its share capital or voting rights;
- ✓ Where five or fewer persons direct or control these two persons, or jointly, directly or indirectly, hold at least 40% share of the share capital or voting rights of both persons; and when they are societies belonging to the same decision-making unit. It shall be understood that, two companies are part of the same decision-making unit if one of them is a partner or participates in the other and is in connection with it in one of the following situations.
- ✓ In a business collaboration contract or a partnership contract involved where one of the contractors or associates participates directly or indirectly in more than 40% in the outcome or usefulness of the contract or activities arising from the association.

In addition, transfer pricing rules establish additional situations in which the parties are considered as related parties.

3. Methods for Transfer Pricing	<p>The Income Tax Law establishes four methods to determine the price of transactions, as follows:</p> <ul style="list-style-type: none"> • Uncontrolled comparable price method. • Resale price method • Increased cost method. • Transaction net margin method. <p>Companies must apply the most appropriate method with respect to the particular transaction, to determine the market value for income tax purposes.</p>
4. Comparability Analysis	<p>Transactions between related parties are comparable to a performance between independent parties, under the same or similar conditions, when at least one of the following two conditions is met:</p> <ul style="list-style-type: none"> • That none of the differences exist between the operations object of comparison or between the characteristics of the parties that the operations may materially affect the price, amount of consideration or profit margin; or, • That even when there are differences between the operations object of comparison or between the characteristics of the parties that the operations, which may materially affect the price, amount of consideration or profit margin, differences can be eliminated through reasonable adjustments. <p>In order to determine whether the transactions are comparable, those elements or circumstances that more closely reflect the economic reality of the transactions will be taken into account, depending on the method selected, considering, among others, the following elements:</p> <ul style="list-style-type: none"> ✓ The characteristics of the operations. ✓ The functions or economic activities, including the assets used and risks assumed in the operations, of each of the parties involved in the operation. ✓ The contractual terms. ✓ Economic or market circumstances. ✓ Business strategies, including those related to market penetration, permanence and expansion. <p>When, for purposes of determining comparable transactions, local information is not available, taxpayers may use information from foreign companies, having to make the necessary adjustments to reflect the differences in the markets.</p>
5. Informative Annual Declarations of Transfer Pricing	<p>Taxpayers whose transactions are subject to transfer pricing rules are also subject to the obligation contained in the tax code.</p>
6. Presentation of the Transfer Pricing Statements	<p>Taxpayers must submit each of the transfer pricing returns based on the last digit of their RUC number and according to the schedule established by the Tax Code.</p>

7. Adjustments to Transfer Pricing	<p>It will only be necessary to adjust the value agreed by the parties when it determines in the country a lower tax than it would correspond by application of the transfer pricing rules. The Tax Administration may adjust the agreed value even if the above assumption is not met, if said adjustment affects the determination of a higher tax in the country with respect to transactions with other related parties.</p> <p>In order to assess whether the agreed value determines a lower tax, the effect that, independently, each transaction or set of transactions, either individually or together, at the time of applying the respective method, generates for Income Tax.</p>
8. Information Retention Term for Transfer Pricing	<p>The documentation and information supporting the informative affidavits, as appropriate, must be kept by the taxpayers, duly translated into Spanish, if applicable, for a period of five years or during the limitation period, whichever is greater (the longest period of prescription is five years).</p>
9. Sources of interpretation	<p>For interpretation on transfer pricing issues, the Law of 822 and 922 published in the gazette shall apply from 2017.</p>
10. Penalties	<p>The LCT does not provide for a specific penalty for determining transfer price adjustments, however, the penalties set out in the Tax Code will apply.</p> <p>The Tax Code imposes fines for non-compliance with the duties and obligations of responsible taxpayers of up to 25% of the adjusted amount, plus default interest ranging from 2.5% to 5.0% per month. • For non-compliance with the obligation, the penalties set out in Articles 124 and 135 of the Tax Code shall apply.</p>

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PANAMA

2021 TRANSFER PRICING

1. Transfer Pricing

The principle of free competition

Transactions carried out by taxpayers with related parties shall be valued in accordance with the principle of free competition, i.e. ordinary and extraordinary income and the costs and deductions necessary to carry out that transaction shall determine in the recital the price or amount agreed by independent parties under similar circumstances under conditions of free competition. The value thus determined shall be reflected for tax purposes in the income returns presented by the taxpayer.

Faculties of the Directorate General of Revenue

The Regional Revenue Directorate may verify that transactions carried out between related parties have been assessed in accordance with the provisions of the previous article and shall make the corresponding adjustments where the stipulated price or amount does not correspond to what had been agreed between independent parties in comparable transactions, resulting in lower taxation in the country or deferral of taxation.

2. Linked Entities

Definition of related parts

Two or more persons are considered related parties when one of them participates directly or indirectly in the administration, control or capital of the other, or where a person or group of persons participates directly or indirectly in the administration, control or capital of such persons.

They are also considered related parts of a permanent establishment, the main office or other permanent establishments thereof, as well as the persons scribed in the preceding paragraph and its permanent establishments.

As a permanent establishment understand the definition contained in Article 762-M of this Chapter, or, depending on the country concerned, in the text of the treaties or Convention to Avoid Double International Taxation concluded by the Republic of Panama.

3. Methods for Transfer Pricing

A. In order to determine whether the transactions are in accordance with the principle of free competition, one of the following methods shall apply:

1. Comparable price method not controlled. It consists in assessing the price of the good or service in a transaction between persons relating to the price of the identical good or service or of similar characteristics in an independent transaction in comparable circumstances, making, if necessary, the corrections necessary to obtain equivalence, taking into account the particularities of the transaction.

3. Methods for Transfer Pricing (cont.)

2. Method of cost of production of a good or service in the usual margin obtained by the taxpayer in identical or similar transactions with independent persons or entities or, if not, in the margin that independent persons or entities apply to comparable transactions making, if price, the corrections necessary to obtain equivalence, taking into account the particularities of the transaction. The percentage representing gross profit relative to sales costs is considered the usual margin.
 3. Resale price method. It consists in subtracting from the sale price of a good or service, the margin applied by the reseller itself in identical or similar transactions with independent persons or entities or, if not, the margin that independent persons or entities applies to comparable transactions, making, if necessary, the corrections necessary to obtain equivalence, taking into account the particularities of the transaction. The percentage representing gross profit for net sales is considered the usual margin.
- B. When, due to the complexity of operations or lack of information, some of the methods in literal A cannot be properly applied, some of the methods described in this literal will apply:
1. Utility partitioning method.
 2. Transaction net margin method.

4. Comparability Analysis

For the purpose of determining the price or amount that independent parties would have agreed in circumstances similar under conditions of free competition referred to in Article 762-A, the conditions of transactions between persons relating to other comparable transactions carried out between independent parties shall be compared.

Two or more trades are comparable where there are no differences between them that significantly affect the price or amount, and where such differences exist, they can be eliminated by reasonable adjustments.

In determining whether two or more transactions are comparable, the following elements shall be taken into account respectively in so far as they are economically relevant:

1. Specific characteristics of operations, including:
 - a. In the case of financing operations, elements such as principal amount, term, risk rating, guarantee, debtor solvency and interest rate.
 - b. In the case of the provision of services, elements such as the nature of the service and whether or not the service involves an experience or technical knowledge.
 - c. In the case of granting rights of use or disposal of tangible goods, elements such as physical characteristics, quality, reliability, availability of the good and volume of the offer.
 - d. In the event that the exploitation is granted or an intangible good is transmitted, elements such as the class of the good, patent, trademark, trade name, transfer of technology or know-how, the duration and degree of protection and the benefits that are expected to be obtained from its use.

4. Comparability Analysis (cont.)	<p>e. In the case of transfer of shares, the liquid assets of the issuer, the present value of the projected profits or cash flows, or the trading price of the issuer of the last fact of the day of disposal.</p> <p>2. The significant economic functions or activities assumed by the parties in relation to the transactions under analysis, including the risks assumed and weighing, where appropriate, the assets used.</p> <p>The actual contractual terms from which, where appropriate, transactions are derived taking into account the responsibilities, risks and benefits assumed by each contracting party. Market characteristics or other economic factors that may affect operations. Business and business strategies, such as market penetration, permanence or expansion policies, as well as any other circumstances that may be relevant in each case.</p>
5. Informative Annual Declarations of Transfer Pricing	<p>Taxpayers must submit, annually, a report of transactions carried out with related parties, within six months of the date of closure of the relevant tax period, in the terms laid down by the regulations to be drawn up for this purpose.</p>
6. Presentation of the Transfer Pricing Statements	<p>Taxpayers must submit each of the transfer pricing returns based on the last digit of their NIT number and according to the schedule established by the tax administration.</p>
7. Sources of Interpretation	<p>For interpretation on transfer pricing issues, the Tax Code of the Republic of Panama shall apply in chapter IX, Standard of Adequacy to The Treaties or Conventions to Avoid Double International Taxation.</p>
8. Penalties	<p>Failure to file the report shall be punished with a fine equivalent to 1% of the total amount of transactions with related parties.</p> <p>For the calculation of the fine, the gross amount of operations shall be considered regardless of whether they are representative of income, costs or deductions. The fine referred to in this paragraph shall not exceed one million balboas (B/.1,000,000.00). Data relating to transactions with related parties, as well as their nature or other relevant information, shall be included in the income tax affidavit in the terms available to it.</p>



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PERU

2021 TRANSFER PRICING (IN SOLES)

1. Transfer Pricing	<p>The valuation of transactions between related parties, or that are made from, to, or through tax must be in accordance with the Arm's Length principle; that is, that the agreed prices are within the price that independent parties in comparable transactions, similar terms and conditions would have agreed.</p> <p>The Tax Administration has the power to adjust the valuation granted for income tax purposes, only when it observes that due to the non-application of the transfer pricing rules, a lower tax payable in Peru is determined.</p>
2. Linked Entities	<p>Two or more persons, companies or entities are considered to be related parties when:</p> <ul style="list-style-type: none"> ✓ One of them participates directly or indirectly in the administration, control or capital of the other party, or, ✓ This same person or group of people participate directly or indirectly in the administration, control or capital of the entities that take part in the transaction. ✓ The linking will also operate when the transaction is made using interposed persons whose purpose is to cover up a transaction between related parties. <p>Additionally, transfer pricing rules establish additional situations in which the parties are considered as related entities.</p>
3. Methods for Transfer Pricing	<p>The Income Tax Law establishes six methods to determine the price of transactions, as follows:</p> <ul style="list-style-type: none"> • Uncontrolled comparable price method. • Resale price method. • Increased cost method. • Utility partition method. • Residual method of profit sharing. • Transaction net margin method. <p>Companies must apply the most appropriate method with respect to the particular transaction, to determine the market value for income tax purposes.</p>
4. Comparability Analysis	<p>Transactions between related parties are comparable to a performance between independent parties, under the same or similar conditions, when at least one of the following two conditions is met:</p>

4. Comparability Analysis. (cont.)

- That none of the differences exist between the operations object of comparison or between the characteristics of the parties that the operations may materially affect the price, amount of consideration or profit margin; or,
- That even when there are differences between the operations object of comparison or between the characteristics of the parties that the operations, which may materially affect the price, amount of consideration or profit margin, differences can be eliminated through reasonable adjustments.

In order to determine whether the transactions are comparable, those elements or circumstances that more closely reflect the economic reality of the transactions will be taken into account, depending on the method selected, considering, among others, the following elements:

- ✓ The characteristics of the operations.
- ✓ The functions or economic activities, including the assets used and risks assumed in the operations, of each of the parties involved in the operation.
- ✓ The contractual terms.
- ✓ Economic or market circumstances.
- ✓ Business strategies, including those related to market penetration, permanence and expansion.

When, for purposes of determining comparable transactions, local information is not available, taxpayers may use information from foreign companies, having to make the necessary adjustments to reflect the differences in the markets.

5. Advance Pricing Agreements (APA)

Advance Pricing Agreements are civil law agreements concluded between the Tax Administration and domiciled taxpayers that carry out operations with their related parties or from, to or through countries or territories of low or no taxation.

These agreements are intended to determine the methodology and, if applicable, the price that supports the different transactions that the taxpayer carries out with related parties or from, to or through countries or territories with low or no taxation.

Taxpayers who decide to conclude the aforementioned agreement must submit to the Tax Administration, prior to carrying out operations, a proposal for the valuation of future transactions they carry out with their related parties or from, to or through countries or territories of low or no taxation.

The proposal must provide the necessary information and documentation to explain the relevant facts of the methodology to be used and if it is the case of the determined price and to prove that said transaction or transactions will be carried out under the conditions that independent parties would have used in comparable transactions. . The valuation proposal must be signed by all of the related parties involved in the operation.

The APA will apply to the current taxable year in which they have been approved and during the three subsequent taxable years.

6. Informative Annual Declarations of Transfer Pricing	<p>Taxpayers whose transactions are subject to transfer pricing rules are also subject to the formal obligation to submit the following annual returns:</p> <ul style="list-style-type: none"> ✓ Informative Affidavit Local Report: If the income earned in the year exceeds US \$ 2,672,972. ✓ Informative Affidavit Master Report: If the income accrued in the year by taxpayers who are part of an economic group exceeds US \$ 23,243,243 ✓ Informative Affidavit Country-by-Country Report: If taxpayers are part of a multinational group and their income earned during the year exceeds US \$ 729,729,729. <p>The information contained in the informative affidavits may be used by the Tax Administration for the exercise of its functions and for the exchange of tax information with the competent authority of another State provided for in international treaties or in the decisions of the Community Commission Andean observing the rules of confidentiality and computer security indicated in them.</p>
7. Presentation of the Transfer Pricing Statements	<p>Taxpayers must submit each of the transfer pricing returns based on the last digit of their RUC number and according to the schedule established by the tax administration.</p>
8. Adjustments to Transfer Pricing	<p>It will only be necessary to adjust the value agreed by the parties when it determines in the country a lower tax than it would correspond by application of the transfer pricing rules. The Tax Administration may adjust the agreed value even if the above assumption is not met, if said adjustment affects the determination of a higher tax in the country with respect to transactions with other related parties.</p> <p>In order to assess whether the agreed value determines a lower tax, the effect that, independently, each transaction or set of transactions, either individually or together, at the time of applying the respective method, generates for Income Tax.</p>
9. Information Retention Term for Transfer Pricing	<p>The documentation and information supporting the informative affidavits, as appropriate, must be kept by the taxpayers, duly translated into Spanish, if applicable, for a period of five years or during the limitation period, whichever is greater (the longest period of prescription is ten years).</p>
10. Sources of Interpretation	<p>For the interpretation on transfer pricing issues, the Transfer Pricing Guidelines for Multinational Companies and Fiscal Administrations, approved by the Council of the Organization for Economic Cooperation and Development - OECD, will apply as long as they are not opposed to the approved provisions that regulate this issue.</p>

**11.
Penalties**

Failure to submit the informative affidavits Local Report is subject to a fine equivalent to 0.6% of total net income but not exceeding US \$ 29,054.

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VENEZUELA

2021 PRECIOS DE TRANSFERENCIA (EN SOLES)

1. Transfer Prices

The valuation of the transactions carried out between related parties, or that are carried out from, to, or through tax havens must be in accordance with the Arm's Length principle; in other words, that the agreed prices are within the price that independent parties in comparable transactions, similar terms and conditions would have agreed upon.

The Tax Administration has the power to adjust the valuation granted for Income Tax purposes, only when it observes that a lower tax to be paid in the Bolivarian Republic of Venezuela is determined due to the non-application of the transfer pricing regulations.

2. Related Parties

Two or more people, companies or entities are considered related parties when:

- ✓ One of them participates directly or indirectly in the administration, control or capital of the other party, or,
- ✓ This same person or group of people participate directly or indirectly in the administration, control or capital of the entities that take part in the transaction.
- ✓ The relationship will also operate when the transaction is carried out using interposed persons whose purpose is to conceal a transaction between related parties.

Additionally, the transfer pricing rules establish additional situations in which the parties are considered related.

3. Methods for Transfer Pricing

The Income Tax Law establishes the following methods to determine the price of transactions, as follows:

- The uncontrolled comparable price method,
- The resale price method,
- The added cost method,
- The profit division method and
- The transnational net margin method.

The taxpayer must consider the uncontrolled comparable price method as the first option in order to determine the price or amount of the considerations that they would have used with or between independent parties in transactions comparable to the operations of transfer of goods, services or rights carried out between parties. linked.

The Tax Administration will evaluate whether the method applied by the taxpayer is the most appropriate according to the characteristics of the transaction and the economic activity carried out.

4. Comparability Analysis	<p>Transactions between related parties are comparable to one carried out between independent parties, under the same or similar conditions, when at least one of the following two conditions is met:</p> <ul style="list-style-type: none"> • That none of the differences that exist between the transactions being compared or between the characteristics of the parties that carry them out may materially affect the price, amount of consideration or profit margin; or, • That even when there are differences between the transactions being compared or between the characteristics of the parties that carry them out, which may materially affect the price, amount of consideration or profit margin, such differences may be eliminated through reasonable adjustments. <p>In order to determine whether the transactions are comparable, those elements or circumstances that more reflect the economic reality of the transactions will be taken into account, depending on the method selected, considering, among others, the following elements:</p> <ul style="list-style-type: none"> ✓ The characteristics of the operations. ✓ The functions or economic activities, including the assets used and risks assumed in the operations, of each of the parties involved in the operation. ✓ The contractual terms. ✓ Economic or market circumstances. ✓ Business strategies, including those related to market penetration, permanence and expansion. <p>When, for purposes of determining comparable transactions, local information is not available, taxpayers may use information from foreign companies, having to make the necessary adjustments to reflect the differences in the markets.</p>
5. Advance Transfer Pricing Agreements (APA)	<p>The taxpayers of income tax, prior to carrying out the operations, may make a proposal for the valuation of the operations carried out with related parties.</p> <p>The proposal must refer to the valuation of one or more transactions individually considered, with the demonstration that they will be carried out at the prices or amounts that independent parties would have used in comparable operations. Proposals may also be made by natural persons, legal entities or non-resident or non-domiciled entities in Venezuelan territory, who plan to operate in it through a permanent establishment or entities with which they are related. The valuation proposal must be signed by all of the related parties that are going to carry out the operations that are the subject of it.</p>
6. Annual Informative Returns of Transfer Pricing	<p>Taxpayers whose transactions are subject to transfer pricing regulations are also subject to the formal obligation to submit the following annual returns:</p>

6. Annual Informative Returns of Transfer Pricing (cont.)	<ol style="list-style-type: none"> <u>1. Preparation of the Informative Declaration of Operations carried out with Related Parties Abroad (Form PT-99)</u>, which must be presented annually in the month of June following the closing date of the fiscal year. Taxpayers who have a fiscal year other than the calendar year, must submit the return within six (06) months following the close of their fiscal year. As part of this point, the special report that supports the presentation of the transfer pricing information statement is included, if required by SENIAT (Integrated National Service of Customs and Tax Administration). <u>2. Preparation of the Study of Local Transfer Prices</u>, for any industrial, commercial or service sector. The Firm's professionals carry out the studies stipulated in the Venezuelan Income Tax Law, applying the basic aspects of comparison and the transfer pricing methods authorized in said Law, according to the specific situation of each company. This allows your company to reduce the risk of a possible tax contingency with the SENIAT Authorities. The transfer pricing study is the ideal document to demonstrate that inter-company operations are agreed at market prices (arm's length). Based on the above, we highly recommend having a Transfer Pricing Study with the following characteristics: <ul style="list-style-type: none"> • That it be developed annually. • That it includes all inter-company operations. • That it be written in Spanish. • That it uses the transfer pricing methodologies established in the LISLR.
7. Presentation of the Transfer Pricing Statements	<p>Taxpayers must submit each of the transfer pricing returns based on the last digit of their RUC number and according to the schedule established by the tax administration.</p> <ul style="list-style-type: none"> • Taxpayers must annually submit an Informative Declaration of Operations carried out with Related Parties Abroad. Said declaration must be filed with SENIAT in the month of June following the close of the fiscal year, or six months after the close of the fiscal year if it does not coincide with the calendar year.
8. Transfer Pricing Adjustments	<p>It will only proceed to adjust the value agreed by the parties when it determines in the country a lower tax than would correspond by application of the transfer pricing rules. The Tax Administration may adjust the agreed value even when the previous assumption is not met, if said adjustment affects the determination of a higher tax in the country with respect to transactions with other related parties.</p> <p>In order to evaluate whether the agreed value determines a lower tax, the effect that, independently, each transaction or set of transactions, either individually or together, at the time of applying the respective method, will be taken into account for Income Tax.</p>
9. Period of Conservation of Information for Transfer Pricing	<p>The documentation and information that supports the informative sworn statements, as appropriate, must be kept by the taxpayers, duly translated into Spanish, if applicable, for a period of five years or during the statute of limitations, whichever is longer (the longest limitation period is ten years).</p>

10. Sources of Interpretation

For the interpretation of transfer pricing issues, the Transfer Pricing Guidelines for Multinational Companies and Tax Administrations, approved by the Council of the Organization for Economic Cooperation and Development - OECD, will be applicable, as long as they are not opposed. to the approved provisions that regulate this issue.

11. Sanctions

The following table summarizes the applicable sanctions and offenses:

Illicit Tax				
Description	Article COT	Number	Sancción*	
Not submitting the returns or submitting them with a delay of more than one (1) year.	103	1	150 times the exchange rate	10 days
Failure to present the communications established by the laws, regulations or other administrative acts of general character.	103	2	50 times the exchange rate	-
Submit the returns incompletely or with a delay of less than or equal to one (1) year.	103	3	100 times the exchange rate	-
Submit other communications incompletely or after the deadline.	103	4	50 times the exchange rate	-
Submit more than one replacement return, or the first replacement return after the deadline established in the respective standard.	103	5	50 times the exchange rate	-
Present the declarations in forms, media, formats or places, not authorized by the Administration Tax.	103	6	50 times the exchange rate	-
Failure to submit or submit late the informative return of investments in low tax jurisdictions.	103	7	2000 times the exchange rate	10 days
Failure to submit or submit late the informative return of investments in low tax jurisdictions.	103	7	1000 times the exchange rate	-
Failure to maintain or preserve the documentation and information that supports the calculation of the prices of transfer.	104	12	1000 times the exchange rate	10 days

* "The pecuniary sanctions are applied by the official exchange rate (T / C) of the currency with the highest value, published by the Central Bank of Venezuela"

** "The closure penalty provided for in this article will be applied to all establishments or branches owned by the taxpayer"

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