

Transfer Pricing | 2024

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





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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."

COLOMBIA

2024 TRANSFER PRICING

1. Transfer prices

Transfer prices can be defined as those prices at which a company transfers goods or services to foreign related parties, related parties located in Free Trade Zones or to persons, companies, entities or companies located, resident or domiciled in Tax Havens.

The development of the arm's length principle for tax purposes implies the obligation to treat related parties as separate and totally independent entities in their commercial relations, and to carry out their operations under the same open market conditions that they would expect to find independent companies in similar operations and under similar circumstances, so that the appropriate tax is paid in the place where it is actually generated.

In general terms, taxpayers who meet the following conditions are required to comply with the transfer pricing regime:

- a. Be a taxpayer of income tax and complementary.
- b. Have associates abroad and/or associates located in free zones.
- c. Carry out operations during the taxable year with: (i) Associates from abroad; (ii) People, companies, entities or companies located, resident or domiciled in tax havens; (iii) Related parties located in free zones.

2. Linkage criteria

For income and complementary tax purposes, it is considered that there is a link when a taxpayer is in one or more of the following cases:

- a. Subordinates:
 - i. An entity will be subordinated or controlled when its decision-making power is subject to the will of another or other persons or entities that will be its parent or controlling entity, either directly, in which case it will be called a subsidiary, or with the bankruptcy or by intermediate of the subsidiaries of the parent company, in which case it will be called a subsidiary.
 - ii. A company will be subordinated when more than 50% of its capital belongs to the parent company, directly or through or with the help of its subsidiaries, or their subsidiaries.
- b. Branches, with respect to their main offices.
- c. Agencies, with respect to the companies to which they belong.
- d. Permanent establishments, with respect to the company whose activity they carry out in whole or in part.

3. The principle of free competition

The operations carried out by taxpayers with related parties must be valued in accordance with the principle of free competition, that is, the ordinary and extraordinary income and the costs and deductions necessary to carry out this operation must be determined considering the price or amount that independent parties would have agreed upon, under similar circumstances under conditions of free competition. The value thus determined must be reflected for tax purposes in the income statements submitted by the taxpayer.

<p>4. Transfer pricing formal obligations in Colombia</p>	<p>The formal obligations that must be presented to comply in Colombia are the following:</p> <ul style="list-style-type: none"> a. Informative Return: Must be submitted by income taxpayers and complementary taxpayers who have carried out operations with related parties abroad or with related parties located in a free zone with gross assets equal to or greater than COP\$4,241 million or gross income equal to or greater than COP \$2,587 million. The informative return also applies to taxpayers who have had operations with third parties in non-cooperative jurisdictions, with low or no taxation and preferential tax regimes. b. Local Report: It must be submitted by income taxpayers and complementary taxpayers required to submit the informative return and additionally, for taxpayers who have carried out operations with foreign economic partners or located in a free zone for an amount equal to or greater than COP \$1,908 million. This obligation also applies to taxpayers who have carried out operations with entities located in non-cooperative jurisdictions, with low or no taxation and preferential tax regimes for an amount equal to or greater than COP\$424 million. c. Master Report: Must be submitted by taxpayers required to submit the Local Report and who additionally belong to a multinational group. d. Country-by-Country Report Notification: This obligation applies to multinational groups, regardless of whether or not they have formal transfer pricing obligations. The notification must be made by answering the DIAN questionnaire and it is sent via email. e. Country-by-Country Report: Applies to income taxpayers and complementary taxpayers who are controllers of multinational groups.
<p>5. Expiration dates</p>	<p>The deadlines to declare the previous obligations will be given in the second semester of the 2024 period.</p> <ul style="list-style-type: none"> a. Country by Country Report: December 13, 2024. b. Master Report and Local Report: between September 10 and 23, 2024. c. Informative Report: between September 10 and 23, 2024.

DOMINICAN REPUBLIC

2024 TRANSFER PRICING

The Dominican Tax Code establishes that any action or omission that prevents or hinders the DGII from determining the tax obligation, as well as the inspection and collection of taxes, carries a fine of five (5) to thirty (30) minimum wages.

<p>1. Transfer prices</p>	<p>Transfer pricing can be defined as the value assigned to transactions made between related companies. These transactions include the transfer of physical goods, intangible property, and/or provision of services to its related parties.</p> <p>In the Dominican Republic, transactions carried out between related parties are regulated by Articles 281, 281 bis, 281 quarter and 281 quarter of the Dominican Tax Code and Regulation 78-14 on Transfer Pricing. It also considers the assumptions established in Decree 256-21.</p> <p>For these purposes, natural persons, legal entities or entities are considered related parties, provided that one of them resides or is located in the Dominican Republic and with respect to which any of the cases of relationship defined in Paragraph IV of Article 281 of the Dominican Tax Code are verified.</p>
<p>2. Related parties</p>	<p>The taxpayers covered by the transfer pricing regulations are individuals, legal entities or resident entities that carry out commercial or financial transactions with:</p> <ul style="list-style-type: none"> • Their 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.
<p>3. Transfer pricing methods</p>	<p>For the purposes of the provisions of Paragraph VII of Article 281 of the Dominican Tax Code, the applicable methods for determining the price of effective independence of transactions between related parties are established:</p> <ul style="list-style-type: none"> • Uncontrolled Comparable Price Method. • Resale Price Method. • Added Cost Method. • Profit Sharing Method – Contribution Analysis and Residual Analysis. • Net Transaction Margin Method.
<p>4. Comparability analysis in the Dominican Republic</p>	<p>The precise delineation of the actual transaction between related parties requires establishing the economically relevant characteristics of the transaction. In accordance with paragraph VII of Article 281 of the Dominican Tax Code, in order to analyze whether two transactions are comparable, they are categorized into the following comparability factors:</p> <ul style="list-style-type: none"> • Contractual terms of the transaction.

<p>4. Comparability analysis in the Dominican Republic (cont.)</p>	<ul style="list-style-type: none"> • Functions performed, assets used and risks assumed by the parties, considering the control, management and financial capacity to assume such risks. • Characteristics of goods, services, or intangible property used or transferred. • Business and economic circumstances. • Business strategies.
<p>5. Advance pricing agreements (APAs)</p>	<p>Advance Price Agreements (APAs) are a transfer pricing agreement between the General Directorate of Internal Taxes (DGII) and 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 their completion and for a certain period of time.</p> <p>Based on the provisions of Article 281 Bis of the Dominican Tax Code, the application must be accompanied by a proposal that must describe the relevant comparability factors based on the characteristics of the transaction, the selection of the most appropriate method, among others.</p> <p>Taxpayers who carry out transactions with their related parties may request an APA within the first three (3) months of the fiscal year.</p>
<p>6. Annual transfer pricing information returns</p>	<p>Informative Declaration of Transactions between Related Parties (DIOR) - taxpayers covered by Regulation 78-14 must submit a DIOR to the DGII.</p> <p>The DIOR is a formal duty of the taxpayer obliged to do so and must be filed annually at the time of filing the Income Tax Affidavit (i.e., within 180 days of the closing date) and includes the details of each transaction and the identification of the related parties, among others:</p> <ul style="list-style-type: none"> • Taxpayer identification. • Name or business name of the natural person, legal entity or foreign entity not domiciled in the Dominican Republic, when applicable. • Details of the operations carried out with each related company. • The valuation method and the price ranges or margins.
<p>7. Information and documentation obligations</p>	<p>In accordance with the provisions of Article 281 of the Dominican Tax Code and Decree 256-21 on Transfer Pricing, the following reporting and documentation obligations are established for transactions between related parties:</p> <ul style="list-style-type: none"> • Country-by-Country Report: This is a statement where the tax information of each entity of the Multinational Group is reported with regard to the worldwide distribution of profits and profits taxes paid, indicators of the location of economic activities in the jurisdictions where the Multinational Group operates. • Master File: This is the document that provides an overview of the Multinational Group's business, in terms of economic activities, transfer pricing policies, the distribution of its profits and economic activities worldwide. • Transfer Pricing Study (Local File): This is the document that verifies the application of the principle of effective independence in transactions with related companies. This report must contain the information specified in paragraph V of Article 18 of Regulation 78-14, as amended by Article 4 of Decree 256-21.

7. Information and documentation obligations (cont.)	<p>Taxpayers subject to the transfer pricing regime must submit in electronic format, within one hundred and eighty (180) days after the date of filing the DIOR, the Transfer Pricing Study and the Master Report (if part of a Multinational Group).</p>
8. Exclusions relating to the reporting obligation	<p>The following taxpayers will be excluded from the obligation to prepare the Master Report and Transfer Pricing Study:</p> <ul style="list-style-type: none"> • Those whose transactions with related parties do not jointly exceed, in the fiscal year in question, the sum of twelve million one hundred ninety-three thousand nine hundred and eighty-one pesos and 70/100 (RD\$ 12,193,981.70), adjusted annually for inflation published by the Central Bank of the Dominican Republic. • Those who do not carry out operations with residents in States or territories with preferential tax regimes of low or no taxation, non-cooperative jurisdictions or tax havens, in accordance with the provisions of Article 281 quarter of the Dominican Tax Code. • Those who carry out transactions with resident related parties, for the part of the transactions carried out with them exclusively, and provided that the provisions of paragraph 1 of Article 1 of Regulation 78-14 are not complied with. <p>Taxpayers who have carried out transactions with related parties and are excluded in accordance with the provisions of the previous comments, must submit the DIOR to the DGII within the period established by law.</p>
9. Transfer pricing information retention period	<p>The Dominican Tax Code, in Article 44 (f) and Article 55 (h), mentions the requirement to maintain in an orderly manner and show as a means of control its tax compliance for a period of no less than ten (10) years.</p>
10. Penalties	<p>The Dominican Tax Code establishes that any action or omission that prevents or hinders the DGII from determining the tax obligation, as well as the inspection and collection of taxes, carries a fine of five (5) to thirty (30) minimum wages.</p> <p>In the event of non-compliance with the duty to submit information to the DGII, a penalty of about zero points twenty-five percent (0.25%) of the income declared in the previous fiscal period may also be applied.</p>



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ECUADOR

2024 TRANSFER PRICING

1. Transfer prices

Transfer prices are the prices at which transactions are carried out between related companies, such as the parent company and the subsidiary, or between companies that are part of the same business group. The objective is to ensure that transactions are carried out at market prices, to avoid tax evasion through artificial routing of operations. Transfer pricing seeks to prevent companies from carrying out transactions with their related parties at artificially low or high prices to reduce their tax burden.

Powers of the Tax Administration (Internal Revenue Service)

The Tax Administration, in the exercise of its legal powers, may request - through information requirements - taxpayers who carry out operations with related parties within the country or abroad, the presentation of information leading to determining whether in said operations applied the arm's length principle, in accordance with the law.

2. Linked parties

Definition of related parties

In order to establish related parties, in addition to those referred to in the Law, the Tax Administration, in order to establish some type of link by percentage of capital or proportion of transactions, will consider, among others, the following cases:

1. When a natural person or company is the direct or indirect owner of 25% or more of the share capital or owns funds in another company.
2. Companies in which the same partners, shareholders or their spouses, or their relatives up to the fourth degree of consanguinity or second degree of affinity, participate directly or indirectly in at least 25% of the share capital or own funds or maintain commercial transactions, provide services or are in a dependency relationship.
3. When a natural person or company is the direct or indirect owner of 25% or more of the share capital or equity in two or more companies.
4. When a natural person or company, domiciled or not in Ecuador, carries out 50% or more of its sales or purchases of goods, services, or other types of operations, with a natural person or company, domiciled or not in the country. For the consideration of related parties under this section, the Tax Administration must notify the taxpayer, who, if applicable, may demonstrate that there is no relationship by management, administration, control or capital.

Taxpayers who comply with the precepts established in this standard will be subject to the transfer pricing regime and must present annexes, reports and other documentation related to transfer pricing, in the manner established in this regulation, without the need to be notified by the Tax Administration.

To establish related parties when the transactions carried out between them do not comply with the arm's length principle, the Administration will apply the methods described in this regulation.

<p>3. Area of application</p>	<p>Taxpayers of Income Tax who have carried out operations with related parties local and/or domiciled abroad, within the same fiscal period in a cumulative amount greater than three million dollars of the United States of America (USD 3,000,000.00), they must present the Annex of Operations with Related Parties to the Internal Revenue Service.</p> <p>Those taxable persons who have carried out operations with local and/or related parties domiciled abroad, within the same fiscal period, in a cumulative amount greater than six million dollars of the United States of America (USD 6,000,000.00) In addition to the Annex, they must submit the Comprehensive Transfer Pricing Report.</p> <p>International transportation companies for passengers, cargo, express air companies, couriers or parallel couriers established under foreign laws and that operate in the country through branches, permanent establishments, agents, or representatives, indicated in article 31 of the Law Organic Internal Tax Regime, they do not have the obligation to present the Annex and Transfer Pricing Report on their usual transportation operations.</p>
<p>4. Methods for transfer pricing</p>	<p><u>Methods to apply the principle of free competition</u></p> <p>To determine the price of operations carried out between related parties, any of the following methods may be used, in such a way that it reflects the principle of arm's length competition, in accordance with the provisions of the Internal Tax Regime Law:</p> <ol style="list-style-type: none"> 1. Uncontrolled Comparable Price Method. 2. Resale Price Method. 3. Added Cost Method. 4. Utility Distribution Method. 5. Transactional Operating Profit Margins Method. <p>For the use of these methods, the technical standards and the priority that may be established by the Internal Revenue Service will be considered.</p>
<p>5. Arm's length principle</p>	<p>For tax purposes, the arm's length principle is understood to mean that, when conditions are established or imposed between related parties in their commercial or financial transactions, which differ from those that have been stipulated with or between independent parties, the profits that would have been obtained by one of the parties in the absence of such conditions but which, due to the application of those conditions, were not obtained, will be subject to taxation.</p> <p><u>Comparability Criteria:</u> Transactions are comparable when there are no differences between the relevant economic characteristics of these, which significantly affect the price or value of the consideration or the profit margin referred to in the methods established in this section, and if they exist differences, that their effect can be eliminated by reasonable technical adjustments.</p> <p>To determine whether the operations are comparable or whether there are significant differences, the following elements will be taken into account, depending on the method of application of the arm's length principle selected:</p>

<p>5. Arm's length principle (cont.)</p>	<ol style="list-style-type: none"> 1. The characteristics of the operations, including: <ol style="list-style-type: none"> a. In the case of provision of services, elements such as the nature of the service, and whether or not the service involves technical experience or knowledge. b. In the case of use, enjoyment or disposal of tangible assets, elements such as the physical characteristics, quality and availability of the asset. c. In the event that the exploitation or transfer of an intangible asset is granted, the form of the operation, such as the granting of a license or its sale; the type of asset, whether patent, trademark, know-how, among others; the duration and degree of protection and the expected benefits derived from the use of the asset in question. d. In case of sale of shares, the updated stockholders' capital of the issuing company, the equity, the present value of the projected profits or cash flows or the stock market price recorded in the last transaction carried out with these shares; and, e. In the case of financing operations, the amount of the loan, term, guarantees, solvency of the debtor, interest rate and the economic essence of the operation rather than its form. 2. The analysis of the functions or activities performed, including the assets used and risks assumed in the operations, by related parties in related operations and by independent parties in unrelated operations. 3. The contractual terms or not, with which transactions between related and independent parties are actually fulfilled. 4. Economic or market circumstances, such as geographical location, market size, level of market, wholesale or retail, level of competition in the market, competitive position of buyers and sellers, availability of goods and services substitutes, the levels of supply and demand in the market, consumer purchasing power, government regulations, production costs, transportation costs and the date and time of the operation. 5. Business strategies, including those related to market penetration, permanence, and expansion, among others.
<p>6. Annual informative transfer pricing statements</p>	<p><u>Transfer pricing report</u></p> <p>Taxpayers must submit, annually, the Transfer Pricing report, within six months following the closing date of the corresponding fiscal period.</p>
<p>7. Technical reference on transfer pricing</p>	<p>As a technical reference for the provisions of this Chapter, the "Guidelines on Transfer Pricing for Multinational Companies and Tax Administrations" will be used, approved by the Council of the Organization for Economic Cooperation and Development (OECD).</p>

<p>7. Technical reference on transfer pricing (cont.)</p>	<p>Use of secret comparable. - For the application of the arm's length principle, the Tax Administration may use all information, both its own and that of third parties, in accordance with the provisions of the Tax Code and the Internal Tax Regime Law.</p> <p>Reservation of Information. - The information contained in the comprehensive transfer pricing report will be used solely for tax purposes and may not be disclosed or published.</p>
<p>8. Sources of interpretation</p>	<p>For the interpretation of transfer pricing issues, the Internal Tax Regime Law and the Regulations for the Internal Tax Regime Law will apply.</p>
<p>9. Sanctions</p>	<p>Failure to submit the report will be punishable by fines of up to US\$15,000.</p>



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GUATEMALA

2024 TRANSFER PRICING

<p>1. Transfer pricing</p>	<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>
<p>2. Linked entities</p>	<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>
<p>3. Methods for transfer pricing</p>	<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>
<p>4. Comparability analysis</p>	<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.

<p>4. Comparability analysis (cont.)</p>	<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>
<p>5. Advance pricing agreements (APA)</p>	<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.
<p>6. Informative annual declarations of transfer pricing</p>	<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>
<p>7. Presentation of the transfer pricing statements</p>	<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>
<p>8. Adjustments to transfer pricing</p>	<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.

MEXICO

2024 TRANSFER PRICING

<p>1. Transfer price study (TPS)</p>	<p>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.</p> <p>The following legal entities should not comply with this obligation:</p> <ol style="list-style-type: none"> 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). <p>B. When legal entities should file financial statements audited by a CPA or must submit the tax situation return, they also must prepare and file the following tax returns:</p> <ul style="list-style-type: none"> • Master information must be no later than December 31 of next year. • Local information on related parties should be provided no later than May 15 of the following year. • Informative return (country-by-country) of the multinational business group no later than December 31 of the following year.
<p>2. Related parties</p>	<p>Two or more persons are considered to be related parties when:</p> <ol style="list-style-type: none"> 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.
<p>3. Comparable operations</p>	<p>Transactions between related parties are comparable to independent parties when no differences significantly affect the price, amount of consideration, or profit margin; if there are significant differences, they should be eliminated by reasonable adjustments.</p> <p>In determining these differences, the following elements must be taken into account:</p>

<p>3. Comparable operations (cont.)</p>	<p>A. The characteristics of the operations, as follows:</p> <ul style="list-style-type: none"> • Capital amount, term, guarantees, debtor solvency, and interest rate are considered in financing operations. • In providing services, elements such as the nature of the service and whether or not it includes experience or technical knowledge are essential. • Consider the good's physical characteristics, quality, and availability in use or temporary enjoyment of goods and disposal. • Where exploitation is granted, or an intangible good is transmitted, consider whether it is a patent, trademark, trade name, technology transfer, 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. <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>
<p>4. Applicable methods</p>	<p>a. Comparable price not <u>controlled</u>.</p> <p>b. Resale price.</p> <p>c. Added cost.</p> <p>d. Partitioning utilities.</p> <p>e. Utility partition residual.</p> <p>f. Transactional margins of operating profit.</p>
<p>5. Implementation of the TPS</p>	<p>The TPS development aims to generate the necessary documentation supporting compliance with the market value principle of transactions 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, the main objective of which is to determine whether the operation under study was carried out under the market value principle. The first step in this phase is the search and identification of comparables. Then, a detailed review of comparable companies' financial and descriptive information or transactions is carried out accordingly to make the necessary adjustments to increase the analysis's reliability and determine market value compensation for the operation under study.

The resulting TPS includes the following documents:

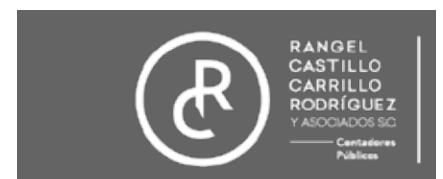
- Description of the company's activities;
- Summary of functional analysis;
- Valuation of comparable operations or companies;
- Explanation of reasons to select a particular method;
- Description of the method applied;
- Compliance in terms of the law;
- Conclusions.

The TPS developed in this way allows:

- To have the possibility of a penalty reduction up to 50%, when applicable.
- To know the margins range or prices in which trades can be agreed upon.
- 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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PANAMA

2024 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.

Free Zones, Free Trade Zones, Special Economic Areas, and Special Regimes. Natural or legal persons engaged in operations with related parties established in the Colon Free Zone, operating in the Free Zones of Petroleum under Cabinet Decree 36 of 2003, the Panama Pacific Special Economic Area, Multinational Company Headquarters at Ciudad del Saber, or any other free trade zones or special economic areas established or to be established in the future, shall be subject to the transfer pricing regime as established in this Chapter, except as provided in Article 762-D.

This also applies to any operation that a natural or legal person established in the Colon Free Zone, or operating in the Free Zones of Petroleum under Cabinet Decree 36 of 2003, the Panama Pacific Special Economic Area, Multinational Company Headquarters, Ciudad del Saber, or any other free trade zones or special economic areas established or to be established in the future, carries out with related parties established in the Republic of Panama, or residents of other tax jurisdictions, or established in any other zone or special economic area subject to a special regime as mentioned.

<p>2. Linked entities (cont)</p>	<p>Natural or legal persons operating in a zone or areas or under a special regime or to be created in the future, even if they are exempt from income tax or subject to a reduced rate of such tax by provision of their special laws, shall be subject to the transfer pricing regime as established in this Chapter, without the provisions of Article 762-D of the Fiscal Code being applicable.</p>
<p>3. Methods for transfer pricing</p>	<p>A. In order to determine whether the transactions are in accordance with the principle of free competition, one of the following methods shall apply:</p> <ol style="list-style-type: none"> 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, considering the particularities of the transaction. 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. <p>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:</p> <ol style="list-style-type: none"> 1. Utility partitioning method. 2. Transaction net margin method.
<p>4. Comparability analysis</p>	<p>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.</p> <p>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.</p> <p>In determining whether two or more transactions are comparable, the following elements shall be considered respectively in so far as they are economically relevant:</p>

<p>4. Comparability analysis</p>	<ol style="list-style-type: none"> 1. Specific characteristics of operations, including: <ol style="list-style-type: none"> 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. 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. 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>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>
<p>5. Informative annual declarations of transfer pricing</p>	<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>
<p>6. Presentation of the transfer pricing statements</p>	<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>
<p>7. Sources of interpretation</p>	<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

Failure to file the report shall be punished with a fine equivalent to 1% of the total amount of transactions with related parties.

For the calculation of the fine, the gross number 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.



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PERU

2024 TRANSFER PRICING

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.

<p>6. Informative annual declarations of transfer pricing</p>	<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 \$ 2,996,053. • Informative Affidavit Master Report: If the income accrued in the year by taxpayers who are part of an economic group exceeds US \$ 26,052,632. • Informative Affidavit Country-by-Country Report: If taxpayers are part of a multinational group and their income earned during the year exceeds US \$ 710,526,316 <p>Take note that to determine the income indicated above, the UIT in force in 2023 (S/ 4,950) has been considered because during the year 2024 the Transfer Pricing Returns for said taxable year will be submitted.</p> <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>
<p>7. Presentation of the transfer pricing statements</p>	<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>
<p>8. Adjustments to transfer pricing</p>	<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>
<p>9. Information retention term for transfer pricing</p>	<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>
<p>10. High and low added value services</p>	<p>In the case of received service operations, it is important to define whether they are low or high added value services. In the case of low added value services, the profit margin cannot exceed 5% of the costs and expenses incurred by the provider, on the other hand, for high added value services the profit margin is not subject to a limit.</p>

<p>10. High and low added value services (cont.)</p>	<p>In accordance with current transfer pricing regulations, it is established that low added value services are those that:</p> <ul style="list-style-type: none"> • They have an auxiliary or support nature; • They do not constitute the taxpayer's main activities; • They do not involve the use or creation of unique and valuable intangibles; • They do not involve assuming or generating a high level of risk.
<p>11. Services received and the principle of causality</p>	<p>It must be taken into consideration that the services received from related entities from abroad must comply with the Principle of Causality, that is, all expenses originated by an activity must have a direct relationship with it. This principle is one of the substantial requirements for the service received to be 100% deductible of costs and expenses.</p> <p>In that sense, for income tax purposes, the expense generated by the services received from related entities abroad to be considered necessary, it is required that there be a causal relationship between the expenses produced and the income generated, and the need must be evaluated in each case.</p>
<p>12. Profit test</p>	<p>Taxpayers who present operations for services received by related entities from abroad must not only have the benefit test, but must also have documentary support for it, such as: Accounting books and records, segmented financial statements, signed contracts and/or addendums to the services provided.</p>
<p>13. Need for the service received</p>	<p>In accordance with current legislation, it is understood that a service provided provides economic and/or commercial value for the recipient of the service, by improving or maintaining its commercial position.</p> <p>The real need for the provision can be verified if independent parties have carried out the service, executing it themselves or through a third party, and have documentation such as payment receipts that prove that the linked party has personnel who provide the service, organizational chart from the company's affiliate where it can be evidenced that there is no area in the company that can perform the service, reports on the execution of the service, among other documents.</p>
<p>14. Sources of interpretation</p>	<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>
<p>15. Penalties</p>	<p>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 \$ 32,566.</p>



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VENEZUELA

2024 TRANSFER PRICING

<p>1. Transfer prices</p>	<p>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.</p> <p>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.</p>
<p>2. Related parties</p>	<p>Two or more people, companies or entities are considered 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 relationship will also operate when the transaction is carried out using interposed persons whose purpose is to conceal a transaction between related parties. <p>Additionally, the transfer pricing rules establish additional situations in which the parties are considered related.</p>
<p>3. Methods for transfer pricing</p>	<p>The Income Tax Law establishes the following methods to determine the price of transactions, as follows:</p> <ul style="list-style-type: none"> • The uncontrolled comparable price method, • The resale price method, • The added cost method, • The profit division method and • The transnational net margin method. <p>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.</p> <p>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.</p>

<p>4. Comparability analysis</p>	<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>
<p>5. Advance transfer pricing agreements (APA)</p>	<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.</p> <p>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>
<p>6. Annual informative returns of transfer pricing</p>	<p>Taxpayers whose transactions are subject to transfer pricing regulations are also subject to the formal obligation to submit the following annual returns:</p>

<p>6. Annual informative returns of transfer pricing (cont.)</p>	<ol style="list-style-type: none"> 1. <u>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). 2. <u>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.
<p>7. Presentation of the transfer pricing statements</p>	<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.
<p>8. Transfer pricing adjustments</p>	<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>
<p>9. Period of conservation of information for transfer pricing</p>	<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*	Closure**
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."

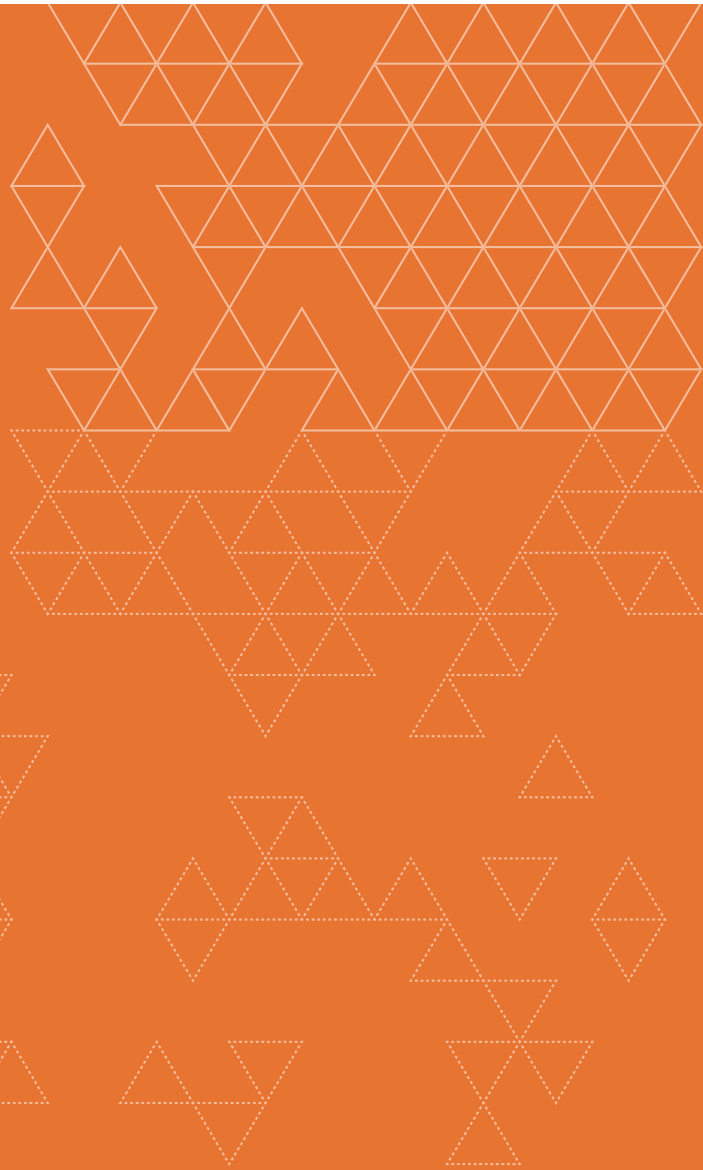
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