

Chile

Transfer Pricing Country Profile

February 2022

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 41 E of the Chilean Income Tax Law ;
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>Circular No. 29 of June 14, 2013, which instructs on transfer pricing rules contained in the Income Tax Law, include references to the transfer pricing guidelines: methods, comparability analysis, and use of ranges and definition of transfer prices.</p> <p>However, OECD TPG do not have any administrative or legal status over domestic law.</p>	Circular 29/2013 ;
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The taxpayer domiciled and resident in Chile will be considered related to its counterpart in the following cases:</p> <p>a) When one of the parties participates directly or indirectly in the direction, control, capital, profits or income of the other party;</p> <p>b) When the same person or persons participate directly or indirectly in the direction, control, capital, profits or income of both parties, all of them being related to each other;</p> <p>c) When the operations are carried out between an agency, branch or any other form of permanent establishment with its parent company; with other permanent</p>	Article 41 E, Number 1, of the Chilean Income Tax Law ; Circular 29/2013 ;

establishments of the same parent company; with related parties of the latter and permanent establishments of those;

d) When, **whether exists or not** a direct or indirect relationship between the parties, the operations are carried out with resident, domiciled, established or incorporated parties in a listed country or territory, unless said country or territory signs with Chile an agreement that allows the exchange of relevant information for the purposes of applying the tax provisions, which are in force;

e) The natural persons will be understood related to each other, when they are married or there is relationship by consanguinity or affinity up to the fourth degree;

f) Among the parties involved, when a party carries out one or more transactions with a third party which carries out, directly or indirectly, with a related party, one or more operations similar or identical to those carried out with the first, whatever the quality in which said third party and the parties intervene in such operations.

Transfer Pricing Methods

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Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?

Yes

No

If affirmative, please check those provided for in your legislation:

CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

When the characteristics and circumstances of the case are met, it is not possible to apply any of the aforementioned methods (CUP, Resale Price, Cost Plus, TNMM or Profit Split), the taxpayer may determine the prices or values of his operations using other methods that reasonably allow to determine or estimate the prices or normal values of market that have or would have agreed to independent parties in comparable transactions and circumstances. In such qualified cases, the taxpayer must justify that the characteristics and special circumstances of the operations do not allow applying the foregoing methods.

Article 41 E, Number 2, of the [Chilean Income Tax Law](#);

5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) In Chilean legislation, the taxpayer must use the most appropriate method considering the characteristics and circumstances of the particular case.	Article 41 E, Number 2, of the Chilean Income Tax Law ; Circular 29/2013 ;
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In part of Chilean Circular 29/2013 can be found: “In order to carry out a comparability analysis that allows the determination of normal market prices, values or returns, that is, those that independent parties have agreed or obtained with respect to a certain operation or group of operations (when applicable), it is useful to bear in mind the comparability factors that are indicated in the OECD Guidelines on Transfer Pricing (OECD Guidelines) and that represent international practice in transfer pricing matters”.	Circular 29/2013 , Paragraph 3.2: Comparability analysis.
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Circular 29/2013 , Paragraph 3.4: <i>Range of prices, values or normal market profits</i> ;
		Chilean legislation allows the use of an arm's length range and statistical measures for determining arm's length remuneration through Circular 29/2013, Paragraph 3.4: Range of prices, values or normal market profits.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		The use of comparability adjustments is allowed if they improve comparability.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Chile follows the recommendations of Chapter 6 of the OECD Guidelines.	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	HTVI Implementation Questionnaire
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intra-Group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Chile follows the recommendations of Chapter 7 of the OECD Guidelines.	

16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Financial Transactions			
18	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Chile follows the recommendations of Chapter 10 of the OECD Guidelines.	
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions? <i>(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No A reduced withholding tax rate of 4% applies to interest paid on loans granted by foreign banks or financial institutions to be the “final beneficiary” of the owing interest or paid with respect to import operations. A 35% withholding tax normally applies to the gross interest payment, i.e. without any deductions allowed. However, under Article 59 of the LIR, a 4% rate is applicable in the case of loans granted from abroad by foreign or international banking or financial institutions. The Chilean taxpayer is required to maintain a threshold of debt to equity of 3:1.	Article 59 of the Chilean Income Tax Law ; Article 41 F of the Chilean Income Tax Law ;
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Transfer Pricing Documentation

21	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): <p>In Chilean legislation is required a specific transfer pricing affidavit, Form 1907.</p>	<p>Article 41 E, Number 6, of the Chilean Income Tax Law;</p> <p>Resolución Exenta N° 101 of 2020;</p> <p>Form 1907 Instructions as of 2020;</p>
	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>Master File</p> <p>- Scope/Threshold: a) if the revenues of entities of an MNE Group that are part of said group in Chile and abroad, exceeded the amount of EUR 750 million at the time of closing the consolidated financial statements according to the exchange rate observed as of January 1, 2015, determined by the Central Bank of Chile in accordance with No. 6 of Chapter I of the Compendium of International Exchange Rules; or b) to the entity that integrates or belongs to the MNE Group, that has residence in Chile for tax purposes, and that has been designated by the parent or controlling entity of said group as the only substitute for it for purposes of presenting "Country by Country Report" in its country of tax residence, on behalf of the parent or controlling entity.</p> <p>Local File</p> <p>- Scope/Threshold: must be submitted by the taxpayers who, as of December 31 of the reporting year, meet the following copulative conditions: a) Belong to the Large Companies segment; b) Its parent or controlling entity of the GEM has had to submit the Country-by-Country Report to the Internal Revenue Service or other Tax Administration for the respective year; and, c) That in said year they have carried out one or more operations with related parties that do not have domicile or residence in Chile, in accordance with the regulations established in Article 41 E of the Income Tax Law, for amounts greater than \$200.000.000 (two hundred</p>	<p>Resolución Exenta N° 101, 2020;</p> <p>Local File Instructions as of 2020;</p> <p>Master File Instructions as of 2020;</p> <p>CbC File Instructions as of 2020;</p>

		<p>million Chilean pesos) or its equivalent according to the exchange parity between the national currency and the foreign currency in which said operations were carried out, in force on the last day of December of the reported fiscal year, according to the publication made by the Central Bank of Chile.</p> <p>CbC</p> <p>- Scope/Threshold: a) if the revenues of the set of entities of an MNE Group that are part of said group in Chile, exceeded the amount of EUR 750 million at the time of closing the consolidated financial statements according to the exchange rate observed as of January 1, 2015, determined by the Central Bank of Chile in accordance with No. 6 of Chapter I of the Compendium of International Exchange Rules; or b) to the entity that integrates or belongs to the MNE Group that has residence in Chile for tax purposes, and that has been designated by the parent or controlling entity of said group as the only substitute for it for purposes of presenting "Country by Country Report" in its country of tax residence, on behalf of the parent or controlling entity.</p> <p>Master/Local/CbC</p> <p>- Timing: the timing to submit the Master/Local/CbC file sworn statements and their annexes, will expire on the last business day of the month of June of each year, with respect to the operations carried out during the immediately preceding business year, a term that may be extended for a single once, for up to three months, in accordance with the provisions of number 6 of Article 41 E of the Chilean Income Tax Law.</p> <p>- Language: the documentation must be submitted in Spanish or English, and the Internal Revenue Service may expressly require their translation into Spanish, when so determined in one or more particular cases, in accordance with what is indicated in the final part of letter e), of No. 4, of the Article 8 bis of the Tax Code.</p>	
23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>In Chilean legislation, there are specific penalties regarding transfer pricing documentation. The specific penalties can be found in Circular 32/2021.</p>	<p>Circular N° 32/2021</p>
24	<p>If your legislation provides for exemption from transfer pricing</p>	<p>N/A</p>	

	documentation obligations, please explain.		
Administrative Approaches to Avoiding and Resolving Disputes			
25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Article 41 E, Number 7, of the Chilean Income Tax Law;</p> <p>Resolución Exenta N°68 of 2013;</p> <p>Chile MAP Profile</p>
		Specific information about APA programme is published in Chile MAP profile.	
Safe Harbours and Other Simplification Measures			
26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
Other Legislative Aspects or Administrative Procedures			
28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	

29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Attribution of Profits to Permanent Establishments			
30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Chile follows the AOA to the extent that it is compatible with the wording of Article 7 OECD MTC prior to the changes in 2010. Chile has reserved its right to use the previous version of Article 7. All Chilean tax treaties thus include rules for the allocation of business profits based on the “old” Article 7 OECD MTC. The domestic regulation for permanent establishments is mainly contained in the Articles 2 and 38 of the Chilean Income Tax Law (LIR) and in Circular No. 40 of 2021 of the Internal Revenue Service.	Articles 2 and 38 of the Chilean Income Tax Law ; Decreto Ley-824 31-DIC-1974 MINISTERIO DE HACIENDA - Ley Chile - Biblioteca del Congreso Nacional (bcn.cl) Circular N° 40 of 2021 ; Chile International Tax Conventions ;
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)	N/A	

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>