

Japan

Transfer Pricing Country Profile

July 2021

		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	Para 1 Article 66-4 of Act on Special Measures concerning Taxation ("ASMT")
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The Commissioner's Directive on the Operation of Transfer Pricing ("CDOTP") prescribes that the OECD Transfer Pricing Guidelines shall be referred to in the course of examination or APA.	1-2(3) of Commissioner's Directive on the Operation of Transfer Pricing ("CDOTP").
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 "A foreign-related party" is defined as a foreign corporation having an "associated relationship" with another corporation. A corporation is treated as "associated" with the other if either of them holds 50 percent or more of the total number of issued stocks or the amount of investment of the other corporation. The Order for Enforcement of ASMT prescribes the other cases to be treated as having an "associated relationship".	Para 1 Article 66-4 of ASMT Para 1 to 4 Article 39-12 of Order for Enforcement of ASMT
Transfer Pricing Methods			
4	Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If affirmative, please check those provided for in your legislation:	Para. 2 Article 66-4 of ASMT Para. 6 to 8 Article 39-12 of Order for Enforcement of ASMT

		<table border="1"> <tr> <td>CUP</td> <td>Resale Price</td> <td>Cost Plus</td> <td>TNMM</td> <td>Profit Split</td> <td>Other (If so, please describe)</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </table>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Chapter 4-1, CDOTP</p> <p>66-4(2)-1 of Commissioner’s Directive on Interpretation of ASMT</p> <p>66-4(3)-3 of Commissioner’s Directive on Interpretation of ASMT</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										
		<p>In respect of “Other”, the Order for Enforcement of ASMT provides for the valuation technique based on projected cash flows.</p> <p>The Commissioner’s Directive on Interpretation of ASMT and the CDOTP provide guidance on the selection of the most appropriate method, which is basically consistent with the TPG.</p>													
5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (if so, please explain)</p>	<p>Para. 2 Article 66-4 of ASMT</p>												
		<p>From the above methods, the most appropriate method should be selected, considering the facts and circumstances of each controlled transaction, including functions performed and risks assumed.</p>													
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<p><input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain)</p> <p><input type="checkbox"/> Other (if so, please explain)</p>	<p>Para 2 Article 66-4 of ASMT</p>												
Comparability Analysis															
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>66-4(3)-3 of Commissioner’s Directive on Interpretation of ASMT</p>												
		<p>The Commissioner’s Directive on Interpretation of ASMT is basically consistent with the TPG.</p>													

8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The Commissioner's Directive on Interpretation of ASMT prescribes that market conditions shall be taken into consideration in performing the comparability analysis.</p>	<p>66-4(3)-3 of Commissioner's Directive on Interpretation of ASMT</p>
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the Local File is not presented or submitted by a certain appointed date, the tax authorities can inspect persons engaged in similar businesses by asking questions. Information obtained through such inspections may be used to determine the arm's length price.</p>	<p>Para. 17, 18 Article 66-4 of ASMT</p>
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The Commissioner's Directive on Interpretation of ASMT provides that no correction shall be made if the arm's length price of the transaction to be verified is within the range of several comparable transactions.</p>	<p>66-4(3)-4 of Commissioner's Directive on Interpretation of ASMT</p>
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The CDOTP prescribes differences such as trade terms and settlement terms as a case where comparability adjustment is required.</p>	<p>Para. 2 Article 66-4 of ASMT. Para. 6 to 8 Article 39-12 of Order for Enforcement of ASMT Chapter 4-4, CDOTP</p>
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The Commissioner's Directive on Interpretation of ASMT and the CDOTP provide guidance on transactions involving intangibles addressing issues such as activities that contribute to the value of the intangibles, ownership of intangible property and licensing transactions.</p>	<p>66-4 (8)-2 and 7 of Commissioner's Directive on Interpretation of ASMT Chapter 3-12 to 3-14, CDOTP</p>

13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Basically, the approach as a whole is designed based on the guidance included in the TPG.	Para. 8 to 10 Article 66-4 of ASMT. 66-4 (9)-1 to 4 of Commissioner's Directive on Interpretation of ASMT Chapter 3-6 and 4-15 , CDOTP 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No The Commissioner's Directive on Interpretation of ASMT and the CDOTP provide guidance on IGS addressing issues such as the relationships between services and intangibles, benefit tests and the TPMs to be applied.	66-4(8)-6 of Commissioner's Directive on Interpretation of ASMT Chapter 3-9 to 3-11 , CDOTP
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The CDOTP provides guidance on the simplified approach for low value-adding intra-group services, which is basically consistent with the TPG.	Chapter 3-11 , CDOTP
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No The Commissioner's Directive on Interpretation of ASMT and the CDOTP provide guidance on intra-group loans, which is basically consistent with the TPG.	66-4(8)-5 of Commissioner's Directive on Interpretation of ASMT Chapter 3-7 to 3-8 , CDOTP

19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Articles 66-5 to 66-5-3 of ASMT provide rules to limit interest deductions that are in line with BEPS Action 4.	Articles 66-5 to 66-5-3 of ASMT
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The CDOTP provides guidance on CCA addressing issues such as the definition, treatment of CCA including the treatment of pre-existing intangibles and documentation.	Chapter 3-15 to 3-19 , CDOTP
Transfer Pricing Documentation			
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <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 type="checkbox"/> Other (specify): 	Master file Para. 1 Article 66-4-5 of ASMT Local file Para. 6 Article 66-4 of ASMT CbCR Para. 1 Article 66-4-4 of ASMT
22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	Master file (Submitted in Japanese or English) To be submitted to the competent District Director within one year of the day following the one when the Ultimate Parent Entity's fiscal year ends Local file (no language requirement) Deadline for preparation: To be prepared by final return filing due to date, and to be maintained for seven years. Deadline for submission: To be presented or submitted within a certain appointed period if requested during the course of a tax examination.	Master file Para. 1 Article 66-4-5 of ASMT. Article 22-10-5 of Ordinance for Enforcement of ASMT Local file Para. 6, 12 to 15 Article 66-4 of ASMT Para 6 to 8, 11, 12 Article 22-10 of Ordinance for Enforcement of ASMT CbCR

		<p>CbCR (in English)</p> <p>Deadline for submission: To be submitted to the competent District Director within one year of the day following the one when the Ultimate Parent Entity's fiscal year ends.</p> <p>Deadline for notification: To be notified to the competent District Director no later than the last day of the Ultimate Parent Entity's fiscal year.</p>	<p>Para. 1, 5 Article 66-4-4 of ASMT.</p> <p>Article 22-10-4 of Ordinance for Enforcement of ASMT</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>Master file and CbCR - Fine of up to JPY 300,000 if corporations fail to submit a Master file/CbC Report to the District Director by the deadline without good reason</p> <p>Local file - For ensuring the duty of transfer pricing documentation, if the local file is not presented or submitted by a certain appointed date, the tax authorities can impose tax by estimation.</p>	<p>Master file Para. 3 Article 66-4-5 of ASMT</p> <p>CbCR Para. 7 Article 66-4-4 of ASMT</p> <p>Local file Para. 12, 14 Article 66-4 of ASMT</p>
24	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>Master file and CbCR - MNE Groups with total consolidated revenue for the Ultimate Parent Entity's preceding fiscal year of less than 100 billion yen</p> <p>Local file - Corporations are exempted from the duty of contemporaneous documentation for Controlled Transactions with one foreign-related party during the current business year, if:</p> <p>(1) the amount of transactions (total of receipts and payments) with the foreign-related party during the previous business year (the current business year if there was not the previous one) was less than five billion yen, and</p> <p>(2) the amount of transactions of intangibles (total of receipts and payments) with the foreign-related party during the previous business year (the current business year if there was not the previous one) was less than 300 million yen.</p>	<p>Master file Para. 1 Article 66-4-5 of ASMT Para. 4 Article 66-4-4 of ASMT</p> <p>Local file Para. 7 Article 66-4 of ASMT</p> <p>CbCR Para. 1 Article 66-4-4 of ASMT Para. 4 Article 66-4-4 of ASMT</p>
Administrative Approaches to Avoiding and Resolving Disputes			
25	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<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>Japan's MAP Profile</p>

		<input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input checked="" type="checkbox"/> Other (<i>please specify</i>):	
		<p>Japan has in place a bilateral APA programme that enables taxpayers to request rollbacks. Japan publishes clear rules, guidelines and procedures on access to and use of the MAPs.</p> <p>All the relevant information is available on the published Japan's MAP profile as well as in the elements B.8 – B.10 of Japan's Peer review report (Stage 2).</p>	
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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Legislative Aspects or Administrative Procedures			
28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The CDOTP provides guidance on year-end adjustments requiring reasonable grounds to be treated as acceptable under the ALP.</p>	Chapter 3-21 , CDOTP
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

30	<p>[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><i>In how many tax treaties?</i></p> <p>In 10 tax treaties as of 1 May 2021.</p> <p><i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i></p> <p>Where the old tax treaties do not contain the new version of Article 7, the approach in OECD MTC 2008 applies.</p>	
		<p><input type="checkbox"/> No</p>	
31	<p>[NEW] Does your jurisdiction follow also another approach?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

Other Relevant Information

32	<p>Other legislative aspects or administrative procedures regarding transfer pricing</p>	<p>N/A</p>	
33	<p>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>)</p>	<p>N/A</p>	

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