

# United Kingdom

## Transfer Pricing Country Profile

February 2022

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> 147 Tax calculations to be based on arm's length, not actual, provision (3) The profits and losses of the potentially advantaged person are to be calculated for tax purposes as if the arm's length provision had been made or imposed instead of the actual provision.	<a href="#">Section 147 Taxation</a> (International and Other Provisions) Act 2010 <a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
2	<b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b>	UK's transfer pricing legislation incorporates a requirement that it be interpreted as "best secures consistency" with the OECD TPG.	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
3	<b>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.</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <b>147 Tax calculations to be based on arm's length, not actual, provision</b> (1) For the purposes of this section "the basic pre-condition" is that— (a) provision ("the actual provision") has been made or imposed as between any two persons ("the affected persons") by means of a transaction or series of transactions, (b) the participation condition is met (see section 148), (...)	<a href="#">Section 148 Taxation</a> (International and Other Provisions) Act 2010 <a href="#">Sections 157 – 163 Taxation</a> (International and Other Provisions) Act 2010
		<b>148 The "participation condition"</b> (1) For the purposes of section 147(1)(b), the participation condition is met if—	

(a) condition A is met in relation to the actual provision so far as the actual provision is provision relating to financing arrangements, and

(b) condition B is met in relation to the actual provision so far as the actual provision is not provision relating to financing arrangements.

(2) Condition A is that, at the time of the making or imposition of the actual provision or within the period of six months beginning with the day on which the actual provision was made or imposed—

(a) one of the affected persons was directly or indirectly participating in the management, control or capital of the other, or

(b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the affected persons.

(3) Condition B is that, at the time of the making or imposition of the actual provision—

(a) one of the affected persons was directly or indirectly participating in the management, control or capital of the other, or

(b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the affected persons.

(4) In this section “financing arrangements” means arrangements made for providing or guaranteeing, or otherwise in connection with, any debt, capital or other form of finance.

(5) For the interpretation of subsections (2) and (3) see sections 157 to 163.

Sections 157 to 163 of the UK legislation define direct and indirect participation in the management, control or capital of a person by reference to the definition of control at section 1124 Corporation Tax Act 2010. The TP provisions set out rules regarding the attribution of rights and powers to a person when considering whether that person controls a company or partnership.

**Transfer Pricing Methods**

4 **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 type="checkbox"/>

[Section 164 Taxation](#) (International and Other Provisions) Act 2010

		Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on transfer pricing methods contained in the OECD TPG is effectively incorporated within UK's legislation.	
5	<b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b>	<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 (<i>if so, please explain</i>)</p>	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
		Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on transfer pricing methods contained in the OECD TPG is effectively incorporated within UK's legislation.	
6	<b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b>	<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 checked="" type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	<a href="#">Section 147 Taxation</a> (International and Other Provisions) Act 2010  <a href="#">Chapter 4, Part 8 Corporation Tax Act</a> 2010
		<p>Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on controlled transactions involving commodities contained in the OECD TPG is effectively incorporated within UK's legislation in relation to transactions involving commodities other than oil won from an oil field in the UK.</p> <p>In the case of oil won from an oil field in the UK, there is a requirement that its disposal is priced at market value on a specified date rather than the arm's length price.</p>	
<b>Comparability Analysis</b>			
7	<b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
		Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on comparability analysis contained in the OECD TPG is effectively incorporated within UK's legislation.	

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  Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on comparability analysis contained in the OECD TPG is effectively incorporated within UK's legislation.	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on comparability adjustments contained in the OECD TPG is effectively incorporated within UK's legislation.	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
<b>Intangible Property</b>			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on intangibles contained in the OECD TPG is effectively incorporated within UK's legislation.	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
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  Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on hard-to-value intangibles contained in the OECD TPG is effectively incorporated within UK's legislation.	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010  <a href="#">HTVI Implementation Questionnaire</a>

14	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<a href="#">Part 8 Corporation Tax Act 2009</a> <a href="#">Part 9 Corporation Tax Act 2009</a>
		<p>Part 8 Corporation Tax Act 2009 contains provisions regarding the tax treatment of intangible fixed assets.</p> <p>Part 9 Corporation Tax Act 2009 contains provisions regarding the tax treatment of transactions involving know how and patents.</p> <p>These rules set out a self contained regime for the corporation tax treatment of transactions involving certain intangible fixed assets and may require the application of valuation standards different to the arm's length principle where relevant intangible assets are transferred between related parties and certain conditions are met.</p>	

### Intra-Group Services

15	<b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
		<p>Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on intra-group services contained in the OECD TPG is effectively incorporated within UK's legislation.</p>	
16	<b>Do you have any simplified approach for low value-adding intra-group services?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010
		<p>Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on low value-adding intra-group services, including the simplified determination of arm's length charges for these services, contained in the OECD TPG is effectively incorporated within UK's legislation.</p>	
17	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	

### Financial Transactions

18	<p><b>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Any guidance incorporated within the OECD TPG is effectively incorporated within UK's legislation by the requirement to interpret that legislation as best secures consistency with those Guidelines. Consequently, the guidance on financial transactions within the amendments to the TPG made by the Report on Transfer Pricing Guidance on Financial Transactions (BEPS Actions 4 and 8-10) are indirectly incorporated within UK's legislation.</p> <p>In addition, UK domestic legislation contains specific provisions regarding transactions involving the giving of a security and a series of transactions involving the provision of a guarantee in respect of a security (sections 152 to 154); definitions of related parties in cases involving financing arrangements (sections 161 and 162); alternative methods for claiming a corresponding adjustment if a security is involved (sections 182 to 184); tax treatment of excessive interest (sections 187 and 187A) and the position of a guarantor of an affected person's liabilities under a security issued by the person (sections 191 to 194). All references are to Taxation (International and Other Provisions) Act 2010.</p>	<p><a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010</p> <p><a href="#">Chapter 2</a>, <a href="#">Chapter 4</a> and <a href="#">Chapter 5</a> Part 4 Taxation (International and Other Provisions) Act 2010</p>
19	<p><b>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>In 2017, the UK introduced corporate interest restriction rules to combat attempts by multinational enterprises and other companies to obtain excessive tax relief for net interest and similar financing costs in line with the Final Report on Action 4 of the OECD's work on Base Erosion and Profit Shifting.</p>	<p><a href="#">Part 10 Taxation</a> (International and Other Provisions) Act 2010</p> <p><a href="#">Schedule 7A Taxation</a> (International and Other Provisions) Act 2010</p>

### Cost Contribution Agreements

20	<p><b>Does your jurisdiction have legislation or regulations on cost contribution agreements?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Given the requirement for interpretation of UK's legislation as best secures consistency with the OECD TPG, the guidance on cost contribution arrangements contained in the OECD TPG is effectively incorporated within UK's legislation.</p>	<p><a href="#">Section 164 Taxation</a> (International and Other Provisions) Act 2010</p>
----	---	---	---

### Transfer Pricing Documentation

21	<p><b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p><i>If affirmative, please check all that apply:</i></p> <p><input type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input type="checkbox"/> Other (specify):</p>	<p><a href="#">The Taxes (Base Erosion and Profit Shifting) (Country-by-Country) Reporting Regulations 2016</a></p> <p><a href="#">The Taxes (Base Erosion and Profit Shifting) (Country-by-Country) (Amendment) Reporting Regulations 2017</a></p>
22	<p><b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b></p>	<p>MNE groups with consolidated group revenue of at least EUR 750 million in the previous period need to file a CbC report in the UK. The CbC report has to be filed with HMRC within 12 months following the end of the period it relates to.</p> <p>The UK does not require either a master or local file to be filed with HMRC. HMRC requires that transfer pricing documentation should be retained to support the arm's length pricing. Such documentation should be proportionate to the size and complexity of the transactions or business involved and should be the same as that specified in Annexes I and II of the Action 13 report.</p> <p>The UK government has recently announced its intention to legislate in 2022 to require the largest businesses to maintain a master file and local file to take effect from April 2023.</p>	
23	<p><b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>There are penalties for not filing a CbC report and also for inaccurate information when filing a CbC report.</p> <p>Additionally, a penalty may be charged for false or misleading statements made in connection with an application for an Advance Pricing Agreement.</p>	<p><a href="#">The Taxes (Base Erosion and Profit Shifting) (Country-by-Country) Reporting Regulations 2016</a></p> <p><a href="#">The Taxes (Base Erosion and Profit Shifting) (Country-by-Country) (Amendment) Reporting Regulations 2017</a></p> <p><a href="#">Section 227 Taxation (International and Other Provisions) Act 2010</a></p>
24	<p><b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b></p>	<p>N/A</p>	

## Administrative Approaches to Avoiding and Resolving Disputes

25	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	<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><a href="#">Part 5, Taxation (International and Other Provisions) Act 2010</a></p> <p><a href="http://www.legislation.gov.uk/ukpga/2010/8/part/5">http://www.legislation.gov.uk/ukpga/2010/8/part/5</a></p> <p>Statement of Practice <a href="#">2/10</a></p> <p>Statement of Practice <a href="#">1/18</a></p> <p><a href="#">Section 124, Taxation (International and Other Provisions) Act 2010</a></p> <p><a href="#">United Kingdom's MAP Profile</a></p>
		For further information on MAPs and APAs, please refer to UK's MAP Profile.	

## Safe Harbours and Other Simplification Measures

26	<b>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
27	<b>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>UK has an exemption from transfer pricing legislation for small or medium-sized enterprises.</p> <p>The definition of “small” and “medium-sized” enterprises is given in UK’s legislation linked to that in the Annex to the EU Commission Recommendation 2003/361/EC of 6 May 2003.</p>	<p><a href="#">Section 166 Taxation</a> (International and Other Provisions) Act 2010</p> <p><a href="#">Section 172 Taxation</a> (International and Other Provisions) Act 2010</p>

## Other Legislative Aspects or Administrative Procedures

28		<p><input checked="" type="checkbox"/> Yes</p>	
----	--	--	--

	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input type="checkbox"/> No  The statutory requirement is that “ <i>The profits and losses of the potentially advantaged person are to be calculate for tax purposes as if the arm’s length provision had been made or imposed instead of the actual provision</i> ” which only requires that the profits returned for tax purposes reflect those which would have been achieved at arm’s length during the relevant period. There is no requirement that each separate transaction throughout the period be at an arm’s length price.	<a href="#">Section 147 Taxation</a> (International and Other Provisions) Act 2010
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Attribution of Profits to Permanent Establishments</b>			
30	<b>[NEW]</b> Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> <b>Yes (with caveat below)</b> <i>In how many tax treaties?</i> Currently, the UK has 17 double tax treaties in force incorporating the new version of Article 7. <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> Under UK domestic legislation, profits attributable to a non-resident are to be determined under the ‘separate entity principle’ which is equivalent with the attribution requirements under old Article 7 of the OECD model treaty. The UK sees the AOA as informative for cases where the tax treaty contains the pre-2010 version of Art 7. Therefore, the UK would consider the application of the AOA in practice but we would look to the earlier guidance on any areas where Article 7 conflicts with the AOA. UK domestic rules on profit attribution are not completely in line with the new Article 7, particularly in respect of the marking-up (or not) of internal dealings. As with the old Article 7, UK domestic rules only allow for dealings to be passed on at actual cost. This can cause some conflict with the AOA even in cases with a new Article 7 treaty. In such cases, we apply the AOA to the extent that the Treaty overrides the domestic position but there can be situations where the UK position is not aligned with the AOA.  <input type="checkbox"/> No	<a href="#">UK Tax Treaties</a>

31	<b>[NEW] Does your jurisdiction follow also another approach?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Other Relevant Information</b>			
32	<b>Other legislative aspects or administrative procedures regarding transfer pricing</b>	N/A	
33	<b>Other relevant information</b> (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>