



## South Korea

### WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	Yes
Since when does a TP documentation requirement exist in your country?	1995
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Which TP methods may be applied?	CUP, Resale Price Method, Cost Plus Method, Profit Split Method, Transactional Net Margin Method and other methods not specified in the law.
Are any TP methods preferred over others?	No. Best transfer pricing method principle. However, other methods can be used in the situation where the above listed five methods cannot be applied.
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR/MF/LF implemented
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	Article 11 of the LCITA, Article 21-2 of the PED of the LCITA and Article 6-2 of Supplementary Regulation of the LCITA in relation to the documentation requirements of OECD BEPS Action 13.
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.	Article 11 of the LCITA, Article 19 of the PED of the LCITA and Article 6-3 of Supplementary Regulation of the LCITA in relation to the general transfer pricing documentation requirement.

2. Master File (MF)	
	Yes
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	International related-party transactions in excess of KRW 50 billion (EUR 38,766,500.) and total sales revenue in excess of KRW 100 billion (EUR 77,533,000) during the corresponding taxable year (i.e., same as the Local File requirement).
Euro Equivalent	EUR 77,533,000
As from which year does this obligation exist?	From 2017 (Starting the fiscal year of 2016, if the taxpayer meets the thresholds, the master file should be submitted within 12 months from the end of fiscal year of 2016).
When does the Master File need to be available?	To be prepared within 12 months after the end of the fiscal year.
When does it need to be submitted?	To be submitted within 12 months after the end of the fiscal year.
How and where should the MF be filed?	The master file should be submitted to the tax office the hardcopy of the report with electronic filing of the report.
Does the MF have to be prepared in the relevant local language ?	No
Is documentation in English permissible?	Yes, but it should be accompanied by the Korean translation within 1 month from the date of submission.
What are the possible consequences of not having the MF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes

To which extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?	Generally, the Korean transfer pricing rules are the same as the guideline of OECD. The Korean tax authority has provided a more detailed guideline in line with the OECD requirements to assist taxpayers to prepare the Master File more efficiently.
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<b>3. Local File (LF)</b>	Yes
What is the threshold requirement for the obligation to prepare a LF?	International related-party transactions in excess of KRW 50 billion and total sales revenue in excess of KRW 100 billion during the corresponding taxable year (i.e., same as the Master File requirement).
Euro Equivalent	EUR 75,685,600
As from which year does this obligation exist?	From 2017 (Starting the fiscal year of 2016, if the taxpayer meets the thresholds, the master file should be submitted within 12 months from the end of fiscal year 2016).
When does the LF need to be available?	To be prepared within 12 months after the end of the previous fiscal year.
When does the LF need to be submitted?	To be submitted within 12 months after the end of the previous fiscal year.
How and where should the LF be filed?	The master file should be submitted to the tax office the hardcopy of report with electronic filing of the report.
Does the LF have to be prepared in the relevant local language?	Yes
Or is documentation in English permissible?	No
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes
To which extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?	Generally, the Korean transfer pricing rules are the same as the guideline of OECD. The Korean tax authority has provided a more detailed guideline in line with the OECD requirements to assist taxpayers to prepare the Local File more efficiently.

<b>4. Country-by-Country Reporting</b>	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	For Korean multinational companies, if the sales revenue of the ultimate parent company on the consolidated financial statement for the prior year is more than 1 trillion Won, they should submit the CbCR. For the foreign multinational companies located in the country where there is a domestic regulation for submission of CbCR, the same thresholds of such foreign regulation is applied for submission to the Korean tax authority. However, for the ultimate parent company of the foreign multinational companies located in the country where there is no such thresholds of submission of the CbCR, the thresholds will be EUR 750 million under the OECD guideline for submission to the Korean tax authority.
Euro Equivalent	EUR 756,856,000
As from which year does this CbCR obligation exist?	From 2017 (Starting the fiscal year of 2016, if the taxpayer meets the thresholds, the CbCR should be submitted within 12 months from the end of fiscal year of 2016).

When and how do the tax authorities need to be notified who the reporting entity is?	Multinational enterprise groups (i.e., both domestic corporations and foreign corporations with a domestic place of business) in Korea is required to submit a reporting entity notification form of the CbCR within 6 months after the close of the relevant fiscal year.
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	To be submitted within 12 months after the end of the previous fiscal year.
Are there any deviating submission deadlines for the secondary mechanism?	No. If the CbCR will be exchanged under the automation exchange of the information with the Korean tax authority and the relevant foreign tax authority, the taxpayer is not required to submit the CbCR to the Korean tax authority.
Does your country have a requirement that the financial figures of the group need to be aligned with?	No, but the fiscal years of the group need to be specified in the remarks section on the CbCR.
Does your country have a requirement that the financial years of the group need to be aligned with?	No
Where is the CbCR to be submitted ?	By electronic filing only (www.hometax.go.kr of the National Tax Service).
How is the CbCR to be submitted, specifically, is there any prescribed standard?	By uploading Excel data to the website (www.hometax.go.kr of the National Tax Service).
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	No
To which extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?	The Korean tax authority has adopted the OECD standard regarding the content requirements for the CbCR.
Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	Yes
Did your country enter into other information exchange agreements, such as on a bilateral basis?	Yes
Please specify the country involved and date the agreement came into force.	Korea has concluded the multilateral agreement on exchange of CbCR with OECD member countries (37 countries) and Non-OECD member countries (25 countries) in June 2016. In addition, recently, Korea has signed on the agreement of exchange of the CbCR with the United States on June 22, 2017.
Can a taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?	Yes

5. TP disclosure in tax return or transfer pricing specific returns	
Does a taxpayer need to disclose information regarding TP documentation in his tax return?	Yes
What would be the filing deadline?	By the tax return filling due date, which is within 3 months after the end of the previous fiscal year.
When a taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect transfer pricing, what could be the legal consequences?	It may be subject to the penalty taxes. If the taxpayer intentionally reports the lower taxable income and the under-reported amount is significant by fraud or wrongful actions, they may be subject to imprisonment (up to 3 years) or significant penalty (up to 3 times of the taxes avoided) under the Punishment of Tax Evaders Act.
What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?	If tax advisor files the tax return for the tax taxpayer in false in order to avoid the taxes payable, he may be subject to imprisonment (up to 2 years) or the penalty (KRW 20 million).
Does a taxpayer need to file TP-specific returns?	Yes
Please state the filing form number and name.	(i) Detailed statement of the overseas related-party transactions ("SORPT"), (ii) Summarised income statements of the foreign related parties, and (iii) Declaration of Transfer Pricing Method and Reasons for the Selection.
What would be the filing deadline?	By the tax return filling due date, which is within 3 months after the end of the previous fiscal year.
What would be the penalties for non-compliance?	The failure for submission of the SORPT within due date will be subject to the penalties KRW 5 million per a overseas related party.

6. Benchmarking	
Is there any local guidance or requirement with regard to the preparation of a benchmark study?	Yes. Generally no, but the Korean tax authority prefers the use of local comparables.
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	No
Does your country apply the general guidance by the OECD to prepare a new benchmarking search every three years and an update of the financial data of the accepted comparable in year 2 or 3?	No
Or is a new search every three years without any financial updates in year 2 and 3 sufficient?	No

7. Year-end adjustments	
Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	Yes. If year-end adjustment is not made on the accounting book, taxpayer can file the corporate income tax return by adjusting the taxable income based on such adjustment with submission of the from on report of the transfer price adjustment within due date of filing the corporate income tax return. In such case, the transfer pricing report supporting the adjustment would be necessary to be prepared for submission to the tax authority upon their request.

## 8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	All of areas under scrutiny but I think the management service fees (cross-border intercompany charges) are frequently challenged recently.
Based on your experience, are joint or multilateral audits initiated and carried out?	No
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	Yes
Are there any restrictions?	No

**Your contact person:**

Mr. Shin-Jong Kang  
 shinjong.kang@ynjac.co.kr  
 T: +82 10 7176 4790