



Austria

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?	2016
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
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	VPDG, BGBl I 77/2016 of 1.8.2016 and VPDG-DV, BGBl II 419/2016 of 21.12.2016.
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general :	VPDG, BGBl I 77/2016 of 1.8.2016 and VPDG-DV, BGBl II 419/2016 of 21.12.2016. Additionally, there is an Administrative Circular on various transfer pricing matters, VPR 2010, which gives the sight of the financial authorities. In light of BEPS, VPR 2010 will be updated likely in 2018.

2. Master File (MF)	
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	Yes
As from which year does this obligation exist?	EUR 50,000,000 (in the previous two financial years).
When does the Master File need to be available?	01.01.2016
When does it need to be submitted?	There is no contemporaneous documentation requirement in Austria. This implies that in theory documentation can be prepared upon request in a tax audit. In practice, it is recommended to prepare TP documentation in advance due to the 30 day time limitation between the submission request and the submission deadline.
Does the MF have to be prepared in the relevant local language ?	Within 30 days after the request by the tax authorities, usually during a tax audit.
Is documentation in English permissible?	No. English is also acceptable.
What are the possible consequences of not having the MF available?	Yes
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
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?	Consistent with OECD requirements.

3. Local File (LF)	Yes
What is the threshold requirement for the obligation to prepare a LF?	EUR 50 million (in the previous two financial years).
As from which year does this obligation exist?	01.01.2016
When does the LF need to be available?	There is no contemporaneous documentation requirement in Austria. This implies that in theory documentation can be prepared upon request in a tax audit. In practice, it is recommended to prepare TP documentation in advance due to the 30 day time limitation between the submission request and the submission deadline.
When does the LF need to be submitted?	30 days upon request, usually in a tax audit.
a. Does the LF have to be prepared in the relevant local language?	No. English is also acceptable.
b. Or is documentation in English permissible?	Yes, according to VPDG.
What are the possible consequences of not having the LF available?	
Penalties?	No
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?	Consistent with OECD requirements.

4. Country-by-Country Reporting	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	EUR 750,000,000
As from which year does this CbCR obligation exist?	01.01.2016
When and how do the tax authorities need to be notified who the reporting entity is?	The Austrian taxpayer has to declare via FinanzOnline if it is a (a) parent company of MNE, (b) designated surrogate parent company or (c) subsidiary of MNE. The subsidiary has to declare the name of the MNE's headquartered entity and the competent authority to which it has submitted the CbCR. Notification is required annually and was already due till 31.12.2016 for regular business year. Failure to provide this information may cause the Austrian subsidiary to be required to submit CbCR by itself.
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	12 months from the end of the fiscal year to which CbCR relates. First submission deadline is therefore 31.12.2017 for regular business year.
Are there any deviating submission deadlines for the secondary mechanism?	No, but first submission deadline for secondary reporting is one year later than for primary reporting, therefore 31.12.2018.
Does your country have a requirement that the financial figures of the group need to be aligned with?	No
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 ?	CbCR is to be submitted electronically via FinanzOnline to the Austrian Tax Office.
How is the CbCR to be submitted, specifically, is there any prescribed standard?	CbCR is to be submitted using the officially prescribed xlm-standard in line with the OECD. Data will be submitted electronically using FinanzOnline.
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes

Imprisonment?	No
Shifting of the burden of proof?	No
Other?	Yes
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 ?	Consistent with OECD requirements.
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.	The EU Directive was implemented in Austria with BGBl I 77/2016.
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?	No (also no CbCR notification requirement in tax return).
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?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime. Legal consequences may range from (monetary) fines to imprisonment.
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?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime. Legal consequences may range from (monetary) fines to imprisonment.
Does a taxpayer need to file TP-specific returns?	No

6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	Yes. TPG 2010 mention some general requirements in respect to databases. As already mentioned TPG 2010 will be updated due to BEPS-project.
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?	Yes. In the past, it has often been sufficient to prepare a new benchmarking study every three years (without any updates of the financial data of the accepted comparable companies in year 2 and 3) as long as there have not been any changes to factors affecting transfer prices or the value chain contribution.

7. Year-end adjustments

Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	Yes. Based on our experience, Austrian tax authorities especially want to see that the adjustments follow a pre-determined mechanism that is laid down and agreed upon in writing between the relevant related parties in advance.

8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	Intercompany financing, especially cash pools, losses, umbrella brand and compliance with OECD BEPS. We also expect that data alignment issues will be further scrutinized.
Based on your experience, are joint or multilateral audits initiated and carried out?	Yes
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	Yes
Are there any restrictions?	No. APA is only based on Double Tax Agreements and no specific procedural Austrian law is available.

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