



Luxembourg

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 implemented; No MF/LF
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.	The arm's length principle has been codified into Luxembourgish tax laws as of 1 January 2015 (art 56 LIR). On 27 December 2016, Bill No. 7031 on country-by-country reporting was published in Official Gazette No. 280. With respect to specific transfer pricing regulations in respect of intragroup financing transactions, the relevant legal basis can be found in Circular L.I.R. no. 56/1 – 56bis/1 (27 December 2016). As per 1 January 2017 further clarification in respect of art 56 LIR (codification of the arm's length principle)'s goal and scope has been provided (art 56bis LIR).
2. Master File (MF)	
	Not implemented
3. Local File (LF)	
	Not implemented
4. Country-by-Country Reporting	
	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	Ultimate Parent of the Group with consolidated revenue of EUR 750 million or greater in the previous financial year. When Luxembourg taxpayer is part of such group a CbCR obligation exists (whether as reporting and/or notifying party)
Euro Equivalent	EUR 750,000,000
As from which year does this CbCR obligation exist?	CbCR applies to financial years beginning on or after 1 January 2016 (effective reporting: first deadline 31.12.2017 for financial years 2016 that coincide with calendar year 2016).
When and how do the tax authorities need to be notified who the reporting entity is?	By the end of the fiscal year (deadline exceptionally extended to March 31, 2017 instead of December 31, 2016) notification is to be made via e-notification through "guichet.lu".
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	No later than 12 months after the last day of the reporting fiscal year of the MNE Group.
Are there any deviating submission deadlines for the secondary mechanism?	No
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 ?	www.guichet.lu
How is the CbCR to be submitted, specifically, is there any prescribed standard?	Not adopted the OECD's XML Schema standardized electronic format yet.
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
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?	No
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.	Automatic exchange of rulings/APAs in accordance with EU Directive.
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
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?	May result in the existence of a "deemed dividend" (non-deductibility of excess costs and likelihood of secondary taxation) or "informal capital contribution" (in case of excess income). Also, there may be issues with the deliberate submission of an incorrect tax return in view of director's liability.
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?	May result in the existence of a "deemed dividend" (non-deductibility of excess costs and likelihood of secondary taxation) or "informal capital contribution" (in case of excess income). Also, there may be issues with the deliberate submission of an incorrect tax return in view of director's liability.
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?	No. In general not, however, for intragroup financing arrangements reference should be made to Circular 56bis/1 LIR of 27 December 2016.
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. In practice, however, reference should be made to the OECD TP Guidelines.
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7. Year-end adjustments

Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	No

8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	Intragroup financing transactions, IP-related matters.
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

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