



Peru

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? | 2006 |
| 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 | <ul style="list-style-type: none"> • Local File: Section g) Para. 1 of Article 32-A of the Income Tax Law, modified by LD 1312 published on 31 December 2016. • Master File: Section g) Para. 3 of Article 32-A of the Income Tax Law, modified by LD 1312 published on 31 December 2016. • CbCR: Section g) Para. 4 of Article 32-A of the Income Tax Law, modified by LD 1312 published on 31 December, 2016. |
| Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general. | <p>Since the publication of LD 1312, a major change has been introduced in transfer pricing documentation requirements. As stated in 1.7, the rulings applicable to LD 1312 have not been published yet.</p> <p>In fact, a whole legal package related to transfer pricing documentation is expected to be published soon, whereby: (i) the content of the local file, master file and CbCR is respectively specified; (ii) complimentary thresholds to the ones established in LD 1312 -in order to be obliged to prepare either of the transfer pricing reports- are introduced; (iii) the deadlines to submit these reports are proposed; (iv) the format of the transfer pricing informative returns is described; and (v) complimentary instructions to file the CbCR are introduced.</p> |

| 2. Master File (MF) | |
|--|--|
| What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF? | Yes |
| Euro Equivalent | Taxpayers that are members of a group whose annual revenue for the fiscal year exceeds 20,000 Tax Units (approximately USD 24.55 million). |
| As from which year does this obligation exist? | EUR 20,067,928 |
| When does the Master File need to be available? | As from January 1st, 2017. |
| When does it need to be submitted? | If the threshold is met in 2017, the Master File will be prepared for such fiscal year but will be filed in 2018 (according to the deadlines which will be published soon) |
| Does the MF have to be prepared in the relevant local language ? | See answer above |
| Is documentation in English permissible? | Yes |
| | No |

| | |
|---|--|
| What are the possible consequences of not having the MF available? | |
| Penalties? | Yes |
| Imprisonment? | No |
| 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 speaking the provisions of LD 1312 are consistent with the OECD requirements. However, we need to wait until the rulings are published to have the complete framework. |

| | |
|--|--|
| 3. Local File (LF) | Yes |
| What is the threshold requirement for the obligation to prepare a LF? | Taxpayers whose annual revenue for the fiscal year exceed 2,300 Tax Units (approximately USD 2.822 million). |
| Euro Equivalent | EUR 2.295.630 |
| As from which year does this obligation exist? | As from January 1st, 2016. |
| When does the LF need to be available? | If the threshold is met in 2016, the Local File will be prepared for such fiscal year but will be filed in 2017 (according to the deadlines which will be published soon) |
| When does the LF need to be submitted? | If the threshold is met in 2016, the Local File will be prepared for such fiscal year but will be filed in 2017 (according to the deadlines which will be published soon) |
| 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 |
| 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 speaking the provisions of LD 1312 are consistent with the OECD requirements. However, we need to wait until the rulings are published to have the complete framework. |

| | |
|--|--|
| 4. Country-by-Country Reporting | Yes |
| What is the threshold requirement for the obligation to prepare Country-by-Country Reporting? | No threshold has been defined yet. "Taxpayers that are members of a multinational group" is the only reference in the Law to whom may need to prepare a CbCR. |
| What is the threshold requirement for the obligation to prepare CbCR? | No threshold |
| As from which year does this CbCR obligation exist? | As from January 1st, 2017. |
| If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline? | If the threshold is met in 2016, the CbCR will be prepared for such fiscal year but will be filed in 2017 (according to the deadlines which will be published soon) |
| 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? | Generally speaking the provisions of LD 1312 are consistent with the OECD requirements. However, we need to wait until the rulings are published to have the framework complete. |
| Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")? | No |
| Did your country enter into other information exchange agreements, such as on a bilateral basis? | No |

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? | Our Tax Administration would have to prove the fraud intention. Legal consequences are imprisonment of up to eight years (serious cases up to 12 years) and (monetary) fines. |
| 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? | He/she could be considered as an accomplice of the tax offence. |
| What would be the penalties for non-compliance? | <ul style="list-style-type: none"> • Not submitting the local file, master file or CbCR informative return within the legal deadlines is penalized with a fine equivalent to 0.6% of the taxpayer's net income of the preceding year to the one under scrutiny. The penalty cannot be less than 10% of one Tax Unit nor be more than 25 Tax Units. • 1 Tax Unit = PEN 4,050 = USD 1,227.3, approximately |

6. Benchmarking

| | |
|--|----|
| Is there any local guidance or requirement with regard to the preparation of a benchmark study? | No |
| 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? | 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? | Export and import of extractive industries (mining, fish oil & fish meal, oil & gas, agroindustry). |
| 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:

Karen Temoche
 ktemoche@rubio.pe
 T: +511 2083000