



cutting through complexity

Global Transfer Pricing Review

Finland

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TAX



Finland

KPMG observation

The Finnish tax authority continues to pay attention to transfer pricing matters and audit activity has remained high. From the beginning of 2015, the formerly temporary transfer pricing project has been established as a permanent body of the Large Taxpayers' Office. In addition, the Finnish tax authority has announced plans to develop its auditing of taxpayers' transfer pricing into a more real time and proactive process.

Transfer pricing study snapshot

The purpose of a transfer pricing study

	Applicable	Thresholds apply/exits
Legal requirements	●	●
Protection from penalties	●	
Reduce risk of adjustment	●	
Shifts burden of proof	●	

Basic information

Tax authority name

Konserniverokeskus (KOVE, Large Taxpayers' Office).

Citation for transfer pricing rules

Sections 14 a-c, 31, and 32 of the Taxation Procedure Act.

Effective date of transfer pricing rules

The arm's length principle was implemented in 1965. The transfer pricing documentation requirements came into force on 1 January 2007.

What is the relationship threshold for transfer pricing rules to apply between parties?

A company controls another company if it has:

- direct or indirect ownership of more than 50 percent of the share capital

- direct or indirect ownership of more than 50 percent of the voting power
- direct or indirect right to choose over half of the members of the board or members of other corresponding body; and
- other control.

What is the statute of limitations on assessment of transfer pricing adjustments?

Five years from tax year-end.

Transfer pricing disclosure overview

Are disclosures related to transfer pricing required to be submitted to the revenue authority on an annual basis (e.g. with the tax return)?

Yes. Transfer pricing explanation form to be submitted together with the corporate income tax return.

What types of transfer pricing information must be disclosed?

All companies must disclose whether they are obliged to prepare transfer pricing documentation. Entities that are required to prepare transfer pricing documentation under Section 14a of the Taxation Procedure Act are required to file a specific tax form detailing the main functions of the entity, profitability of the entity and the group it belongs to, and its related party transaction volumes during the tax year by transaction type.

What are the consequences of failure to submit disclosures?

Small penalty fees are possible. The tax form is mainly for information collection and tax audit target selection purposes.

Transfer pricing study overview

Can documentation be filed in a language other than the local language? If yes, which ones?

Yes. Finnish, Swedish, English.

When a transfer pricing study is prepared, should its content follow Chapter V of the Organisation for Economic Co-operation and Development (OECD) Guidelines?

Yes, with some exceptions. The documentation requirements are based on the Organisation for Economic and Co-operation Development (OECD) Guidelines but the Finnish tax authorities have published more detailed instructions on the different parts of transfer pricing documentations. If the transactions per counterparty amount to less than 500,000 euros (EUR) during the tax year, functional analysis and comparables analysis are not required.

Does the tax authority require an advisor/tax practitioner to have specific designation in order to prepare or submit a transfer pricing study?

No.

Transfer pricing methods

Does your country follow the transfer pricing methods outlined in Chapter II of the OECD Guidelines? If exceptions apply, please describe.

Yes.

Transfer pricing audit and penalties

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? And if so, how many days?

Yes, 60 days.

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? Please explain.

The transfer pricing documentation must be submitted within 60 days of the request. If any further clarification

is needed, it has to be given within 90 days. Despite of the time limits, the tax authorities allow six months after end of fiscal year to respond to any requests to provide transfer pricing documentation.

If an adjustment is proposed by the tax authority, what dispute resolution options are available?

National appeal process to the Adjustment Assessment Board with subsequent possibilities to appeal to Administrative Court and Supreme Administrative Court. MAP process based on Double Tax Treaty or Arbitration process based on EU Arbitration Convention.

If an adjustment is sustained, can penalties be assessed? If so, what rates are applied and under what conditions?

Yes, a maximum penalty of EUR25,000 per negligence may be imposed on a company failing to show complete transfer pricing documentation. In addition, a tax increase (maximum 30 percent of adjusted income) is possible, according to the regulations on general tax penalties. Additionally, a penalty interest will be collected for the taxes due.

To what extent are transfer pricing penalties enforced?

More commonly than in the past. The penalties relating to the submission and quality of transfer pricing documentation have not been used regularly but this is expected to increase. The general tax penalty on adjusted income has been imposed in almost all cases, usually in the range of five to ten percent of the adjusted income. However, the Supreme Administrative Court held in a decision published in February 2014 that if the taxpayer can show that it has acted in good faith and sought to comply with the arm's length principle with reasonable care, it is not as a rule considered to have met the gross negligence standard as stipulated in the tax assessment procedure act. This means that no tax penalty or only minor (up to EUR800) penalties could be imposed in reassessments per tax year.

What defenses are available with respect to penalties?

Documentation, reasonable cause.

What trends are being observed currently?

The focus is on business restructurings, intangibles and intra-group financing. However, other transfer pricing issues also surface in audits. The audits are focused on all industries.

Special considerations

Are secret comparables used by tax authorities?

No.

Is there a preference, or requirement, by the tax authorities for local comparables in a benchmarking set?

No, European comparables are typically accepted.

Do tax authorities have requirements or preferences regarding databases for comparables?

There are no such requirements.

Does the tax authority generally focus on the interquartile range in a TNMM analysis?

Yes, always.

Does the tax authority have other preferences in benchmarking? If so, please describe.

The Tax Authorities follow the OECD Transfer Pricing Guidelines in this respect.

What level of interaction do tax authorities have with customs authorities?

Low.

Are there limitations on deductibility of management fees beyond the arm's length principle?

No.

Are management fees subject to withholding?

No.

Are there limitations on the deductibility of royalties beyond the arm's length principle?

No.

Are royalties subject to withholding?

Yes.

Are taxpayers allowed to file tax return numbers that differ from book numbers?

Yes. Year-end adjustments are possible, provided that they result in arm's length pricing. Upward adjustments can be made in the corporate income tax return, downward adjustments are allowed only if they have been made in the financial statements.

Other unique attributes?

The interest limitation regulations are effective from 1 January 2014 onwards. Net interest expenses paid to affiliate companies are deductible up to 25 percent of the taxpayer's EBITDA (business profits before interest, depreciations and group contributions received, deducted with group contributions granted).

Limitations are not applied if the total sum of net interest expenses does not exceed EUR500,000. Both the external and intra-group net interest expenses are taken into consideration in calculating the threshold, but the limitations do not affect deductibility of interest expenses paid to entities other than affiliated companies. If the equity ratio of Finnish group companies are higher or equal to the equivalent ratio of the entire group, the intra-group net interest expenses are deductible without limitations.

Non-deductible interest payments are carried forward and can be deducted in the following fiscal years without time limits, taking into account the same annual tax EBITDA limitations

as in the tax year of interest expenses incurred. Applicability of the limitations does not require a purpose of tax avoidance. The intra-group loans should always meet the requirements of arm's length principle for the interests to be deductible.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

Extensive.

If extensive, is the competent authority effective in obtaining double tax relief?

Frequently.

When may a taxpayer submit an adjustment to competent authority?

After an adjustment is proposed to the taxpayer.

May a taxpayer go to competent authority before paying tax?

Yes.

Advance pricing agreements

What APA options are available, if any?

Unilateral, bilateral, multilateral.

Is there a filing fee for APAs?

Yes. No fees for APAs. For advance rulings ("unilateral APA") the fee is determined based on the complexity of the case and actual time needed to

conclude the advance ruling, ranging from EUR1,480 to EUR2,200.

Does the tax authority publish APA data either in the form of an annual report or through the disclosure of data in public forums?

No.

Are there any difficulties or limitations on the availability or effectiveness of APAs?

Not applicable. The Finnish tax authorities are in favor of APAs and it is recommended especially for intra-group transactions with high values. However, there are only few concluded APAs.

There is currently no specific APA legislation in place. However, the APAs are possible based on the MAP paragraph of the Double Tax Treaties.

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