



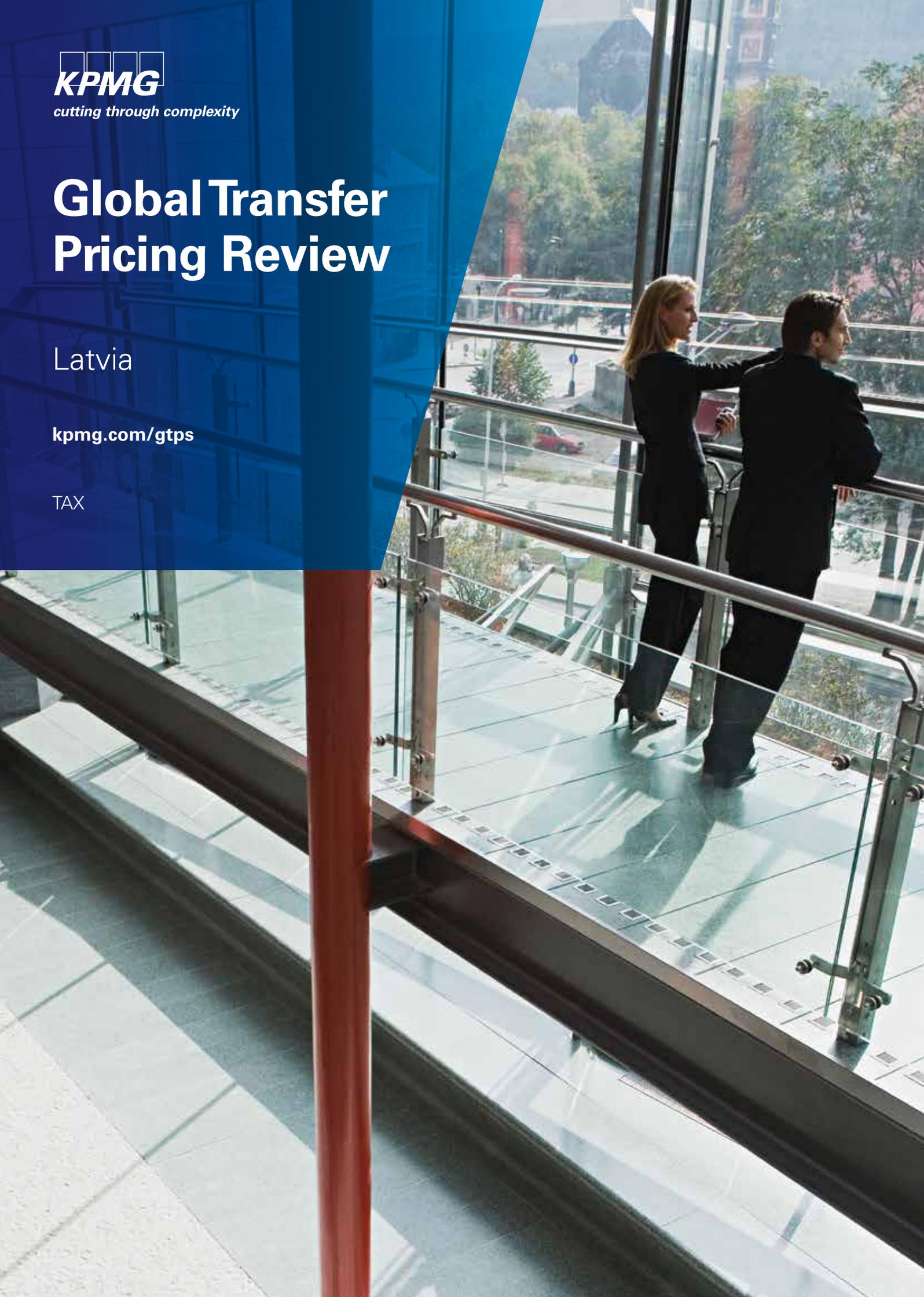
*cutting through complexity*

# Global Transfer Pricing Review

Latvia

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TAX



# Latvia



## KPMG observation

Latvian legislation requires a written transfer pricing study if a taxpayer's annual net turnover exceeds 1.43 million euros (EUR) and intra-group transactions undertaken exceed EUR14,300.

Latvian transfer pricing regulations generally follow the Organisation for Economic Co-operation and Development (OECD) approach.

## Transfer pricing study snapshot

### The purpose of a transfer pricing study

	Applicable	Required to be contemporaneous	Not applicable	Thresholds apply/exist
Legal requirements	●			●
Protection from penalties			●	
Reduce risk of adjustment	●	●		
Shifts burden of proof	●	●		

## Basic information

### Tax authority name

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### Citation for transfer pricing rules

General transfer pricing requirements to carry out related party transactions at arm's length prices are set out in the Latvian Law on Corporate Income Tax.

The Latvian Law on Taxes and Duties sets the requirement for particular taxpayers in preparing transfer pricing documentation. It lists the information that must be included in the transfer pricing documentation.

The Cabinet of Ministers regulation No. 556 as of 1 July 2006 provides the methods to be used when determining arm's length prices. The tax legislation in Latvia allows the use of Organisation for Economic Co-operation and

Development (OECD) Guidelines when choosing a transfer pricing method.

### Effective date of transfer pricing rules

1 April 1995 in general. 1 July 2006 for transactional net margin method (TNMM) and profit split. 1 January 2013 for transfer pricing documentation requirements and Advance Pricing Agreements (APAs).

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

Any transaction between foreign related companies (20 percent ownership and above) or Latvian companies belonging to the same group of companies (at least 90 percent ownership or voting rights) must be carried out on an arm's length basis, i.e. market value.

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

Transfer pricing adjustments and a penalty can be applied by the tax authority for the previous five years for transactions with foreign related parties and three years for local related party transactions — starting from the corporate income tax payment date.

## 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. An entity is required to disclose related party transactions to the tax authority in the annual corporate income tax return.

## What types of transfer pricing information must be disclosed?

Along with the annual corporate income tax return, the following information must be submitted:

- the name of the related party to the transaction
- the registration number and country of registration
- the transaction type and amount;
- the transfer pricing method applied; and
- the amount for which taxable income is increased (the amount of transfer pricing adjustment), if any.

The taxpayer also must show in the corporate income tax return the amount by which its Latvian related party has increased its taxable income for non-compliance with the arm's length principle, if any.

## What are the consequences of failure to submit disclosures?

A penalty can be applied for late filing of a tax return varying from EUR70 — EUR700. If no return is filed, the maximum penalty can be applied EUR700.

## Transfer pricing study overview

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

No.

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, for all transactions.

Latvia is not a member of the OECD, thus the OECD Guidelines are not applicable. However, Latvian legislation is based on the OECD Guidelines, and the court practice shows that the taxpayer and tax authorities should take into consideration the provisions of the OECD Guidelines.

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. All five methods are acceptable.

## 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, 30 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.

A month, if the taxpayer is required to prepare full transfer pricing documentation.

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

The only option available is appealing the audit decision to General Director and then to the court.

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

Yes. A penalty of 20 percent or 30 percent is applied. It can be halved i.e. 10 percent or 15 percent if the tax infringement is not considered as a repeated tax infringement and the taxpayer has complied with the statutory due dates for submitting tax declarations and tax payments, as well as has been cooperative with the tax administration.

To what extent are transfer pricing penalties enforced?

Always.

What defenses are available with respect to penalties?

No penalties are assessed in a loss position, where no additional tax is assessed. Furthermore, the taxpayer can enter into an agreement with the tax authorities whereby the taxpayer agrees with the assessment and as a result part

of the late payment fees and penalties are cancelled.

What trends are being observed currently?

The tax authority's interest in transfer pricing has increased and as a result more transfer pricing audits are performed by the tax authority.

## Special considerations

Are secret comparables used by tax authorities?

KPMG in Latvia has no information about the use of any secret comparables.

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

Yes, if local comparables can be found. If local comparables are not available, a European benchmarking study is acceptable.

If local comparables are found by the tax authority but they are not included in the entity's benchmarking study, the tax authority could use that as an argument to challenge the entity's results.

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

No. The tax authority itself uses the Amadeus database. However, there are no requirements or recommendations on the use of any specific database. Some entities prefer to use the Amadeus database because it is more likely that the tax authority would obtain the same, or at least similar, benchmarking study results.

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 authority's approach is not officially documented and published. KPMG is aware that the tax authorities have their reservations with respect to three-year averages, especially where the tested party's price or profitability levels fall into interquartile range of average profitability, but not within the range of a particular year.

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

High. The audit is combined and as such, customs and transfer pricing audit specialists work side by side in the audit team.

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

No, provided the benefit can be demonstrated.

### Are management fees subject to withholding?

Yes.

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

No.

### Are royalties subject to withholding?

No.

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

Yes. The taxpayer may reduce its corporate income tax base by the difference between intragroup prices and market prices by which its qualified related party has increased its corporate income tax base.

Furthermore, the taxpayer is in certain cases even required to make period (e.g. year-end) adjustment for ongoing related party transactions if actual payments over the year are not arm's length.

If the transfer pricing adjustment is made in the tax return and one of the parties is engaged in VAT exempt transactions, VAT adjustments for the transactions might be required.

### Other unique attributes?

None.

## 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?

KPMG in Latvia has no experience with double tax relief being requested for transfer pricing adjustments under the double tax treaty.

### When may a taxpayer submit an adjustment to competent authority?

No formal rules exist in this area.

### May a taxpayer go to competent authority before paying tax?

Yes.

## Advance pricing agreements

### What APA options are available, if any?

Unilateral.

### Is there a filing fee for APAs?

Yes. The fee per APA is EUR7,114.

### 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. APAs were introduced only few years ago, thus there is no established practice or trend yet.

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