

SPAIN

LEGISLATION	
Existence of Transfer Pricing Laws/Guidelines	<p>Transfer pricing legislation is based on articles 16, 17, 18 and 20 of the Royal Legislative Decree 4/2004 of the 5th of March on Corporate Income Tax Law (CITL), and it is supplemented by articles 16 to 30 of the Royal Decree 1777/2004 of the 30th of July on Corporate Income Tax Regulations (CITR) as well as by the Double Tax Treaties concluded by the Spain.</p> <p>New proposed transfer pricing legislation is currently being discussed in the Congress. The proposed legislation is expected to be approved and to take effect as from 1 January 2007. The intention is for Spanish transfer pricing regulations to be in line with the OECD Guidelines and the recommendations of the EU Joint Transfer Pricing Forum.</p>
Transfer Pricing Scrutiny	<p>The risk of transfer pricing audits is not very high. However, and due to the fact that new transfer pricing legislation is being currently discussed in the Congress, the interest in transfer pricing issues is increasing.</p> <p>To date, the tax authorities have reviewed transfer pricing only during general tax audits. The transactions more commonly audited have been those of management services and licensing. However, any multinational experiencing a reduction in its profits can expect to be scrutinized by the Tax Authorities at some point.</p>
Transfer Pricing Penalties	<p>There are currently no transfer pricing penalties in Spain but general penalty provisions apply.</p>
Advance Pricing Agreement (APA)	<p>A regime for unilateral, bilateral and multilateral APAs exists. Agreements are valid for a three-year period. Taxpayers may submit requests for APAs to the tax authorities for the valuation of transactions between related parties before they are executed. Such requests may refer to (a) research and development costs, (b) management services costs, (c) thin capitalization and (d) any other transactions between a Spanish entity and a related entity located outside Spain.</p> <p>The APAs must reflect the application of the arm's length standard. The submission of the proposal must be performed following the specifications contained in articles 17-30 of the CITR.</p>
DOCUMENTATION AND DISCLOSURE REQUIREMENTS	
Tax Return Disclosures	<p>There are no explicit disclosures on transfer pricing required in tax returns.</p>
Level of Documentation	<p>There are no explicit rules on minimum documentation requirements. Nevertheless, although the burden of proof is on the tax authorities' side, upon a</p>

	<p>tax, audit tax inspectors will expect documentation to be available.</p> <p>For management services and allocation of R&D expenses a written inter-company agreement is required.</p>
Record keeping	N/A.
Language for documentation	Upon audit, transfer pricing documentation should ideally be presented in Spanish but not specific rules exist on this. However, the tax authorities may request a Spanish translation of documents filed in foreign languages.
Small and medium sized enterprises (SMEs)	There are no special considerations for SMEs.
Deadline to Prepare Documentation	N/A
Deadline to Submit Documentation	Documentation should be available 10-15 days after the taxpayer receives a notification from the local tax authorities.
STATUTE OF LIMITATIONS	
4 years as from the closing date for filing the tax return.	
TRANSFER PRICING METHODS	
In general, the transfer pricing methods specified in the Spanish transfer pricing regulations are the same as in the OECD Guidelines: CUP, resale price, cost plus and profit split. The TNMM is not expressly mentioned in the CITL. However, Spanish Tax Authorities do accept the TNMM as a valid method if adequately justified.	
COMPARABLES	
There is no express reference in the law to local comparables searches. However, Spanish tax authorities usually take a Spanish approach on transfer pricing matters, looking for local comparables and comparing margins and prices so obtained with those applied by the taxpayer. Nevertheless, tax authorities will accept foreign comparables if appropriate considerations are taken.	
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