

Transfer Pricing Country Summary

Estonia

May 2022

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1. Introduction

Within the Estonian tax system, the OECD Transfer Pricing Guidelines (OECD TPG) have no legal standing. They have, however, been translated into Estonian, and taxpayers and tax administrations are encouraged to use the OECD TPG for those situations not covered by the Regulation, as long as the guidance in the OECD TPG does not contradict the Regulation, according to Article 20 of the Regulation no. 53 drafted by MoF (in force since 1.01.2007).¹

2. Laws & Regulations

a) References to OECD/EU/Local Rules

The Income Tax Act (section 8) establishes the arm's length rule, which applies to a taxpayer's dealings with both resident and non-resident affiliated firms.

The complete legal foundation of transfer pricing and documentation of transactions between related parties is provided by Ministry of Finance Regulation No. 53, titled "Methods for determining the value of transactions conducted between associated persons."

When applying this Regulation, it is advised that you follow the OECD Transfer Pricing Rules for Multinational Enterprises and Tax Administrations, as long as these guidelines do not conflict with the Regulation.

Documentation must be submitted within 60 days of the tax authority's request.

The difference between transaction and arm's length value is taxed as income (effective tax rate at time of survey was 20/80), plus 0.06 percent interest per day calculated from the day the tax obligation became due.

The CbC reporting guidelines have been implemented.

Concluding, the Estonian tax authority recommends following the OECD Guidelines as long as it does not conflict with effective Estonian law.²

b) Definition of Related Party

. Related parties are defined in Article 8 of the Income Tax Act, and parties are assumed to be connected if they have a common business interest or if one party has a dominant influence over the other. This article also includes an illustrative list of associated persons:

¹ [transfer-pricing-country-profile-estonia.pdf \(oecd.org\)](#), p. 1

² [Estonia transfer pricing | Grant Thornton insights](#)

- (1) Persons are deemed to be associated if they have a common commercial interest or if one person has dominant influence over the other. The following persons are always deemed to be associated:
1. spouses, civil partners, direct or in-law relatives;
 2. companies belonging to one group as defined in § 6 of the Commercial Code;
 3. a legal person and a natural person who owns more than 10 per cent of the share capital, total number of votes or rights to the profits of the legal person;
 4. a legal person and a person who owns, together with other associated persons, more than 50 per cent of the share capital, total number of votes or rights to the profits of the legal person;
 5. legal persons if more than 50 per cent of their share capital, total number of votes or rights to the profits belongs to one and the same person or associated persons;
 6. persons who own more than 25 per cent of the share capital, total number of votes or rights to the profits of one and the same legal person;
 7. legal persons whose management board members or bodies substituting the management board are the same persons;
 8. an employer and an employee, the employee's spouse, civil partner or direct blood relative;
 9. a legal person and a member of its management board or controlling body (§ 9), the spouse, civil partner or a direct blood relative of a member of the management or controlling body

Transactions between resident legal persons, non-resident legal persons operating in Estonia through a permanent establishment, and sole proprietors with any related people are all subject to transfer pricing restrictions³

c) Nature of Transfer Pricing Documentation

Starting on January 1, 2007, the Estonian transfer pricing regulation imposes documentation requirements. As a general rule, all Estonian group businesses and permanent establishments must prepare transfer pricing documentation to demonstrate that intercompany transactions are conducted at arm's length.⁴

³ [transfer-pricing-country-profile-estonia.pdf \(oecd.org\)](#), p. 1

⁴ [estonia.pdf \(pwc.com\)](#)

d) Tax Havens & Blacklists

Estonia is a dynamic financial center that qualifies as a tax haven due to its low tax rates for non-resident companies. Since its 1991 independence from the Soviet Union, it has become one of Eastern Europe's most prosperous countries. It occupies a unique position in that it is both a member of the EU and a gateway to Russian and Eastern markets.

Despite being fully submerged in EU laws, the country has managed to retain a great deal of autonomy in its corporate policy-making, thanks to one of the lowest tax regimes in the EU, with 0% taxation on all reinvested profits. The country has a solid banking system that provides accounts to people and businesses interested in entering the European market.⁵

e) Advance Pricing Agreement (APA)

Not applicable. There is no possibility to file a request for an APA in Estonia.⁶

f) Audit Practice

The TCB is responsible for performing audits on taxpayers.

When auditing enterprises in Estonia, the tax authorities' major focus is still on VAT-related fraud and other cases where the taxpayer has deducted VAT but the tax authorities disagree with the deduction. CIT-related audits are uncommon, and transfer pricing is normally addressed as part of a larger audit.⁷

The same timelines apply to transfer price audits as they do to ordinary audits. According to Article 10, section 3 of the TA, the tax authorities must conduct proceedings in a straightforward and efficient manner without undue delay, avoiding unnecessary costs and inconveniences, while adhering to the general principles of administrative proceedings and safeguarding the rights of those involved in the proceedings.

In practice, these rules are generally followed, and audits are completed quickly, but tax audits can take years and drag on for no obvious reason. There are no set deadlines for when a tax audit must be completed.⁸

⁵ [Estonia Tax Haven: Is Estonia an Offshore Jurisdiction? \(offshore-protection.com\)](https://www.offshore-protection.com/estonia-tax-haven/)

⁶ [Document - Estonia - Transfer Pricing - 17. Dispute Resolution - Tax Research Platform - IBFD](#), para. 17.3.1.

⁷ [Document - Estonia - Transfer Pricing - 14. Compliance - Tax Research Platform - IBFD](#), para. 14.4.2.

⁸ [Document - Estonia - Transfer Pricing - 14. Compliance - Tax Research Platform - IBFD](#), para. 14.4.3

If the taxpayer fails to comply with the tax authorities during the audit, it may be considered obstruction of the tax authority's actions, which is punished by a fine of up to EUR 3,200 under article 154 of the TA.⁹

3. Transfer Pricing Documentation

a) Level of Documentation

The transfer pricing documentation has been divided into three sections since 2017: the master file, the local file, and the country-by-country report.

All persons transacting with intra-group entities are required to have paperwork regarding TP.

The following additional documentation requirements apply:

- for resident credit institution, insurance undertaking and business association registered in a securities market
- if one transaction party is a person situated in a low tax rate territory
- for a resident business association having together with associated persons 250 or more employees, or turnover of €50 million or more, or having a consolidated balance sheet total of €43 million or more
- for a non-resident being active in Estonia via a permanent establishment and having together with associated persons 250 or more employees, or turnover of €50 million or more, or having a consolidated balance sheet total of €43 million or more.¹⁰

Article 18(5) of Ministry of Finance Regulation No. 53 establishes the standards for the Master File and specifies the information that must be included.¹¹

Article 18(6) of Ministry of Finance Regulation No. 53 establishes the standards for the Local File and specifies the information that must be contained.¹²

There are no specific guidelines for composing and presenting the Master File or Local File to the IRS.

The Estonian Parliament passed legislation in 2017 requiring multinational corporations with consolidated turnover of more than EUR 750 million to file CbC reports. Articles 41, 6, 203 to 207, and

⁹ [Document - Estonia - Transfer Pricing - 14. Compliance - Tax Research Platform - IBFD](#), para. 14.4.9.

¹⁰ [Estonia transfer pricing | Grant Thornton insights](#)

¹¹ [Document - Tax Research Platform - IBFD](#), para. 13.3.1.

¹² [Document - Tax Research Platform - IBFD](#), para. 13.4.1.

234 of the Tax Information Exchange Act and article 1553 of the Taxation Act, as well as Ministry of Finance Regulation No. 16 govern the CbC reporting obligations. The completing instructions for the CbC reporting form ("Country-by-Country report" form of declaration) relate to Annex 15 of Ministry of Finance Regulation No. 16.

The e-Taxboard system should be used for CbC reporting. The report can be submitted by either uploading an XML file or manually entering the data.¹³

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines at paragraph 1.51.

e) Choice of Transfer Pricing Method

Five acceptable transfer pricing methods are listed in Article 11 of Ministry of Finance Regulation No. 53, including three traditional transactional methods: the comparable uncontrolled price (CUP)

¹³ [Document - Estonia - Transfer Pricing - 13. Documentation Requirements - Tax Research Platform - IBFD](#), para. 13.2.1.

method, the resale price method, and the cost-plus method; and two profit-based methods: the profit split method and the transactional net margin (TNMM) method.

If the circumstances surrounding the transaction prevent the use of the procedures specified above, any alternative method may be used to estimate the market value of the transfer price, according to Article 11(3) of Ministry of Finance Regulation No. 53. Justifications for using another method must be provided.¹⁴

f) Economic Analysis – Benchmark Study

The elements impacting the price of the examined transaction must be compared to the factors determining the price of the comparable transaction, according to Article 3(1) of Ministry of Finance Regulation No. 53. According to Article 3(2) of Ministry of Finance Regulation No. 53, while determining transaction comparability, all elements of the transaction, the transaction parties, and the environment that potentially affect the transaction's value must be examined.

These comparability factors are:

- the characteristics of the transaction;
- the duties performed in the transaction and identified in the course of the activity analysis;
- the conditions of the transaction;
- the economic conditions affecting the conduct of the transaction;
- and the business strategies of the parties to the transaction.¹⁵

The obligation of detailed documentation in accordance with thorough requirements is primarily imposed on large corporate groups in Estonia – persons whose annual turnover for all related persons is at least 50 million euros and have 250 or more employees, or a balance sheet volume of 43 million euros or more.

All companies must, however, undertake transactions with related people in accordance with the arm's length principle, and corporations must be able to substantiate transactions based on the criteria set forth in Minister of Finance regulation no. 53 if prompted by the tax authority.¹⁶

¹⁴ [Document - Estonia - Transfer Pricing - 4. Transfer Pricing Methods - Tax Research Platform - IBFD](#), para. 4.1.

¹⁵ [Document - Estonia - Transfer Pricing - 3. Comparability Analysis - Tax Research Platform - IBFD](#), para. 3.1.

¹⁶ [Estonia transfer pricing | Grant Thornton insights](#)

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the “conduct of parties” the prevailing concept.

h) Financial Statements

Not applicable.

i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

| | Prepare or File? | Format | Deadline | Notification Deadline* | Threshold* (Yes/No) | Local Language (Yes/No)*(If “No”, it can be filed in English) |
|-----------------------------|------------------|------------------------------|--|------------------------|---------------------|---|
| Corporate Income Tax | N/A | N/A | must be paid by the tenth day of the month following a taxable distribution or payment ¹⁷ . | N/A | N/A | No |
| Master File | Prepare | no strict requirements about | There is no requirement in Estonia to file the Master File | N/A | Yes | No |

¹⁷ [estonia.pdf \(pwc.com\)](#)

| | | | | | | |
|---|---------|---|---|--|-----|-----|
| | | the format | at any certain date | | | |
| Local File | Prepare | no strict requirements about the format | no requirement in Estonia to file the Local File on any specific date | N/A | Yes | No |
| CbCR | File | XML file or by inserting the information manually | 31 December of the calendar year following the financial year that is a reporting year. | within six months after the end of the financial year that serves as the group's reporting year. | No | No |
| Annual Accounts | File | public e-accounting system | June 30 ¹⁸ | N/A | n/a | n/a |
| Segmented P&L | N/A | N/A | N/A | N/A | N/A | N/A |
| * Azerbaijan has signed the MCAA agreement for the filing of CbCR. | | | | | | |
| * Azerbaijan try does not request as much and detailed information from smaller and less complex enterprises (SME's included) than it does from large and complex enterprises.??? | | | | | | |

¹⁸ [Annual report info and requirements | Company in Estonia | WISOR \(estoniancompanyregistration.com\)](http://Annual_report_info_and_requirements|Company_in_Estonia|WISOR(estoniancompanyregistration.com))

j) Mandatory Language

There are no specific language requirements, and reporting can be done in English in most cases. The tax authorities have the general authority to request that any document presented be translated into Estonian.¹⁹

k) Notification Requirement

The group's notification requirement must be fulfilled within six months after the end of the financial year that serves as the group's reporting year.

The notification should be sent to the tax authorities by the e-Taxboard system.²⁰

l) Record Keeping

A taxable person must keep documents related to transactions and payments, as well as other documents relevant to taxation, for at least seven years, beginning on January 1 of the year following the preparation or receipt of the document, or the making of the last entry in the case of files or dossiers.²¹

m) Penalties and Interest Charges

In the event that the taxpayer fails to file the CbC report, the tax authorities have the authority to compel compliance by levying a penalty payment. In the first case, the penalty payment cannot exceed EUR 1,300, and in the second case, it cannot exceed EUR 2,000. Article 22 of the Tax Information Exchange Act provides the legal foundation for the penalty payment.

Furthermore, under article 154 of the Taxation Act, the tax authorities have the jurisdiction to impose a punishment of up to EUR 3,200 for obstructing their work.²²

¹⁹ [Document - Estonia - Transfer Pricing - 13. Documentation Requirements - Tax Research Platform - IBFD](#)

²⁰ [Document - Estonia - Transfer Pricing - 13. Documentation Requirements - Tax Research Platform - IBFD](#), para. 13.2.4.

²¹ [Taxation Act - Riigi Teataja](#), Article 58.

²² [Document - Estonia - Transfer Pricing - 13. Documentation Requirements - Tax Research Platform - IBFD](#), para. 13.2.7.

If the TCB requests the Master File or Local File and the taxpayer fails to submit it on time, it may be considered obstruction of the tax authority's activities under article 154 of the TA, which carries a fine of up to EUR 3,200.²³

²³ [Document - Estonia - Transfer Pricing - 13. Documentation Requirements - Tax Research Platform - IBFD](#), para. 13.3.5.