

Transfer Pricing Country Summary

Haiti

May 2022

1. Introduction	3
2. Laws & Regulations	3
a) References to OECD/EU/Local Rules	3
b) Definition of Related Party	3
c) Nature of Transfer Pricing Documentation	3
d) Tax Havens & Blacklists	3
e) Advance Pricing Agreement (APA)	3
f) Audit Practice	3
3. Transfer Pricing Documentation.....	4
a) Level of Documentation	4
b) Industry Analysis	4
c) Company Analysis	4
d) Functional Analysis	4
e) Choice of Transfer Pricing Method.....	4
f) Economic Analysis – Benchmark Study.....	4
g) Inter-company (IC) Legal Agreement.....	5
h) Financial Statements.....	5
i) Production Process for TP Relevant Returns, Documents, Forms and Financials	5
j) Mandatory Language	6
k) Notification Requirement	6
l) Record Keeping	6
m) Penalties and Interest Charges	6

1. Introduction

Any explicit laws in Haiti do not govern Transfer Pricing. However, the country did sign the Multilateral Competent Authority Agreement (MCAA), which is based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters, and allows for the automatic exchange of Country-by-Country reports. On 22 June 2017, the agreement was signed during a signing ceremony conducted during the third meeting of the Inclusive Framework on BEPS. The agreement, which was created as part of the OECD's BEPS programme on corporate taxes, has now been signed by 64 countries.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

The legal framework for transfer pricing includes:

- Decree of 29 September 2005 as an amendment to that of 29 September 1986, relative to Income Tax Law (l'Impôt sur le Revenu 2005);
- Decree of 29 September 2005 relative to the tax identification card (Décret du 29 September 2005 relatif à la Carte d'Identification Fiscale).

b) Definition of Related Party

There is no statutory definition of "related party" in the Decree of Income Tax.

c) Nature of Transfer Pricing Documentation

Taxpayers must disclose the amounts paid during the previous fiscal year to members and beneficiaries named as interest, fees, arrears, directors' fees, commissions, brokerage fees, wages, salaries, allowances, lump-sum grants, fees and all values with the aim of transferring the company's heritage of income to that of shareholders or members and all persons having any obligation, productive income in business. Tax return disclosures must be submitted from 01 October to 31 October of each fiscal year for the previous fiscal year.

d) Tax Havens & Blacklists

There is no set of rules issued by Haiti determining the Tax Havens.

e) Advance Pricing Agreement (APA)

There is no rule and practice on APA in Haiti.

f) Audit Practice

According to Art. 66 of the Income Tax Law, for the establishment of the income tax due by companies that are under dependency or that have the legal or de facto control of companies located outside Haiti, the profits indirectly transferred to the latter by way of increase or decrease purchase and sale prices, or by any other means, will be incorporated into the results as the accounts. The same applies

with respect to companies that are under the dependence of another, which also controls companies located outside Haiti.

In the absence of specific evidence to make the adjustments provided for in the preceding paragraph, the taxable income shall be determined by comparison with similar businesses operated normally. The assessment shall be notified to the taxpayer, which has a period of thirty days from receiving such notification to send its acceptance or make observations.

3. Transfer Pricing Documentation

a) Level of Documentation

There are no specific requirements to submit transfer pricing documentation, but contemporaneous documentation is encouraged.

b) Industry Analysis

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

c) Company Analysis

A description of the management structure of the local entity, a local organization 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 of 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 in paragraph 1.51.

e) Choice of Transfer Pricing Method

There is no set of rules issued by Haiti determining the methods of TP.

f) Economic Analysis – Benchmark Study

Haiti does not have an official database of comparable information.

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

There is no information Financial Statements.

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. These information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentation.

	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	N/A	N/A	N/A	N/A
Master File	N/A	N/A	N/A	N/A	N/A	N/A
Local File	N/A	N/A	N/A	N/A	N/A	N/A
CbCR	N/A	N/A	N/A	N/A	N/A	N/A
Annual Accounts	N/A	N/A	N/A	N/A	N/A	N/A
Segmented P&L	N/A	N/A	N/A	N/A	N/A	N/A

* Haiti has signed the MCAA agreement for the filing of CbCR on 22 June 2017.

* Haiti does not have special rules for SMEs.

According to the release from DGI, companies pay the turnover tax levied on sales of subject products to the DGI on the 15th of each month.

Upon request by the tax authorities, documentation must be submitted within 1 month.

According to Article 184 of the Income Tax Law, the limit is 5 years from the end of the tax year for auditing.

j) Mandatory Language

Documentation to be submitted to the tax authorities should be in French.

k) Notification Requirement

Although Haiti has signed MCAA, there is no information related to CbC Reporting notification.

l) Record Keeping

Again based on the inference from Article 184 of the Income Tax Law, enterprises should keep their records at least for 5 years.

m) Penalties and Interest Charges

There are no specific transfer pricing penalties. However, corporate tax penalties and interests apply. The taxpayer is obliged to pay a fine of HTG 1,000 per month or part of the month of delay, but not exceeding HTG 10,000, of the declaration to the Directorate General of Taxes if it misses that deadline of 01 October to 30 October.