



# Transfer Pricing **Country Summary**

## **Norway**

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## 1. Introduction

Norway is a member state of the EEA and OECD. Country-by-Country reporting (CbC) rules corresponding to OECD BEPS Action Plan 13 have been implemented in Norway. In terms of the domestic transfer pricing requirements, the taxpayer is required to submit form RF-1123 which covers all documentation requirements.

## 2. Laws & Regulations

### a) References to OECD/EU/Local Rules

The arm's-length standard for related party transactions is incorporated into the General Tax Act (GTA) 1999 Section 13-1. The GTA Section 13-1 (4) makes reference to OECD Transfer Pricing Guidelines (TPG), regarding the arm's-length principle and the transfer pricing methods. It is also assumed that the reference includes the OECD guidance on business restructuring.

Transfer pricing regulation regarding the requirements to prepare Transfer pricing documentation is laid down by the Ministry of Finance on 7 December 2007, pursuant to Section 4-12, of the Tax Administration Act. Section 6-41 in the GTA sets out the new rules on interest deduction limitation.

Norway has specific legislation (in the Petroleum Tax Act) to deal with the pricing of petroleum for tax purposes. Taxation of income from the sale of crude oil produced on the Norwegian Continental Shelf is based on a so-called 'norm price', which shall be equivalent to the price at which it could be sold between unrelated parties in a free market (i.e. the arm's-length price). When establishing the norm price, a number of factors shall be taken into account, including 'the realized and quoted prices for petroleum of the same or a corresponding type with necessary adjustments for quality variations, transport costs, etc. to the North Sea area or other possible markets, delivery time, time allowed for payment and other terms'.

### b) Definition of Related Party

The term associated entities is defined in Section 4-12 (4) of the Tax Administration Act, stating that the following entities are considered associated if:

- One of the entities has direct or indirect ownership or control of at least 50 percent;
- any individual, company or entity that, directly or indirectly, has at least 50 percent ownership of, or control over, the entity obliged to specify or document;
- any company or entity that, directly or indirectly, is at least 50 percent owned or controlled by any entity that is deemed to be an associated party pursuant to Item b; and
- any parent, sibling, child, grandchild, spouse, cohabitant, parent of a spouse and parent of a cohabitant of any individual who is deemed to be an associated party pursuant to Item b, as well as any company or entity that, directly or indirectly, is at least 50 percent owned or controlled by such individuals.

### c) Nature of Transfer Pricing Documentation

In Norway the company can choose to prepare the documentation pursuant to the EU Transfer Pricing Documentation (TPD) concept to document internal pricing. However, the taxpayer must ensure that the information presented fulfils the requirements in the regulations sections 4-13, cf section 16 (3), as listed above. Documentation prepared in line with the OECD Guidelines will generally meet the Norwegian requirements.

### d) Tax Havens & Blacklists

Norwegian tax legislation (Regulation 22 November 1999 No. 1160 stipulated by the Directorate of Taxes for completion and implementation, etc. of the Tax Act of 26 March 1999 No. 14) makes reference to a list of low



### 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

The Norwegian Tax Authorities accept the pricing methods listed in the OECD Guidelines. The traditional transactional methods (CUP, resale price and cost-plus) are generally preferred to the profit-based methods (TNMM and profit split). However, support for applying the profit-based methods under certain circumstances is increasing. The tax authorities generally do not accept the use of Pan-European searches anymore because the tax authorities believe that the Norwegian market, in general, has higher profit margins since Norway has not been affected by the financial crisis in the same way as many other European countries.

There is no specified priority of methods under the Norwegian tax law. As stated by the Norwegian Supreme Court, the Taxation Act (1999) section 13-1 allows for the use of several transfer pricing methods, including methods not described in the OECD Guidelines, provided those methods provide arm's-length results.

### f) Economic Analysis – Benchmark Study

Norway follows the guidance on comparability analysis outlined in Chapter III of the OECD TP Guidelines.

It is recommended to make use of Nordic comparables when conducting benchmarking studies. Although Pan-European benchmarks are accepted, they are usually scrutinized by the NTA. If the above information is not available, the taxpayer may rely on foreign comparables.

### 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

The purpose of the annual accounts is to give useful and relevant information about the enterprise's financial development and position. The annual accounts must be prepared according to the provisions in the Accounting Act including its regulations and generally accepted bookkeeping practices.

Complete annual accounts must contain the following:

- income statement (operating revenues, operating expenses, financial income and financial expenses);
- balance sheet (assets, debts and equity);

- notes (explaining the different items of the statement);
- if relevant, a cash flow statement (overview of the enterprise's cash flows);

#### 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)
<b>Corporate Income Tax</b>	File	IFRS/Local GAAP	May, 31 <sup>st</sup> .	No	No	Yes
<b>Master File</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local File</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>CbCR</b>	File	Submitted as an attachment in XML-format to RF-I352	12 months after the financial year end.	Yes	Yes	No
<b>Form RF-I123</b>	File (annex to annual tax return)	XML-format to RF-I352	May, 31 <sup>st</sup> .	No	Yes	No
<b>Annual<sup>2</sup> Accounts</b>	File	NRS 21	Within 6 months from the end of the financial year.	No	Yes	No
<b>Segmented P&amp;L</b>	Request	N/A	N/A	N/A	N/A	N/A
* Norway has signed the MCAA agreement for the filing of CBCR.						
* Norway does not request as much and detailed information from smaller and less complex enterprises (SMEs included) than it does from large and complex enterprises.						

<sup>2</sup> [Annual accounts – The Norwegian Tax Administration \(skatteetaten.no\)](https://skatteetaten.no/).

In Norway the company can choose to prepare the documentation pursuant to the EU Transfer Pricing Documentation (TPD) concept to document internal pricing. However, the taxpayer must ensure that the information presented fulfils the requirements in the regulations sections 4-13, cf section 16 (3), as listed above. Documentation prepared in line with the OECD Guidelines will generally meet the Norwegian requirements.

There are specific transfer pricing documentation regulations which must be adhered to. The documentation must include:

- a company overview;
- financial overview;
- information about type and scope of controlled transactions;
- industry analysis;
- functional analysis;
- selection of transfer pricing method;
- comparability analysis;
- Information about agreements;
- Overview of immaterial transactions (if the transactions take place on a stand alone basis, are of limited economic significance and do not form part of the core business of the enterprise.);
- Information about centralized services;
- Information about intellectual property.

Note that the taxpayer is not initially obliged to prepare a database-analysis. Under certain conditions the documentation may initially be submitted without containing a comparability analysis at all. In such cases the enterprise shall explain why no such analysis has been prepared, as well as explain what financial evaluations and analyses form the basis for the price setting that has actually taken place, and why this is deemed to be in conformity with the arm's length principle.

Following an evaluation of the documentation received in the first hand, the tax authorities may request, however, the enterprise to prepare and submit a comparability analysis, hereunder a database analysis. The taxpayer shall be granted a time limit of 60-90 days for complying with such requests.

#### j) Mandatory Language

Transfer pricing documentation may be submitted in English, Norwegian, Swedish, or Danish. The Country-by-Country Report must be filled in English.

#### k) Notification Requirement

Every Norwegian group entity, which is obliged to file a country-by-country report, should file the country-by-country reporting notification form. It should specify whether the Norwegian entity is the ultimate parent entity, the surrogate parent entity, or if none of these, who will be the filing company within the group. The Country-by-Country reporting notification form must be filed ultimately before 31 May.

#### l) Record Keeping

The record keeping regulation states that Transfer pricing documentation must be kept on file for 10 years.

#### m) Penalties and Interest Charges

On the first page of the annual tax return, the taxpayers have to confirm whether they are covered by the formal transfer pricing documentation requirements and/or reporting requirements (RF-1123). There is no requirement to file the transfer pricing documentation before the tax authorities request this.



If the taxpayers do not file the required form RF 1123, the tax filings may be deemed as incomplete. When incomplete or incorrect information have been provided to the tax authorities, this may lead to penalty taxes being imposed on adjusted transfer pricing amounts in tax audits.

A penalty in the range of 20-60 percent of the tax avoided, may be levied for transfer pricing adjustments. Note that the rate of penalty tax of 60 percent may be imposed in cases of gross negligence by the taxpayer.

Where additional corporation tax becomes due following a transfer pricing adjustment, any corporation tax paid late will carry interest.