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2017 Transfer Pricing CEE Overview

Czech Republic | Hungary | Poland | Romania | Slovakia

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Main requirements	Czech Republic	Hungary	Poland	Romania	Slovakia
Arm´s length principle	Yes	Yes	Yes	Yes	Yes
Legislation	Income Taxes Act No. 586/1992 Coll. (Section 23/7); Double Tax Treaties.	Act LXXXI of 1996 on CIT (Sections: 4/23,18, 31/2); Act XCII on Taxation (Sections: 1/8,132/B-C,172/16,176/A); Act CXXVII on VAT (Section 67) Double Tax Treaties.	CIT Act from February15th, 1992 (Article 9a); Personal Income Tax Act from July 26th, 1991 (Article 25a); Double Tax Treaties.	Romanian Fiscal Code (art. 11(4)) and Methodological Norms Double Tax Treaties OECD TP Guidelines	Income Tax Act No. 595/2003 Coll. (Sections 17/5, 17/6, 17/7, 18); Double Tax Treaties.
Controlled parties	Domestic and cross border related parties; Income Taxes Act No. 586/1992 Coll. (Section 23/7) .	Domestic and cross-border related parties; branches and head offices; as of January 1st, 2015 entities having common directorship determined by Act LXXXI of 1996 on CIT (Section 4/23)	Domestic and cross-border related parties; CIT Act (Article 11) and Personal Income Tax Act (Article 25).	Domestic and cross border related parties Romanian Fiscal Code (Article 7 pct. 26 and Article 11 par. 4)	Domestic and Cross-border related parties; Income Tax Act No. 595/2003 Coll. (Section 2, (n-r)).
Applicable TP methods	Both traditional transaction methods and transactional profit method according to OECD TP Guidelines are applicable	Transaction-based methods are preferred over profit-based methods. Comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split methods are the designated TP methods. Other methods may only be applied if the arm's length price cannot be supported by the designated methods.	Traditional TP methods according to OECD Guidelines (the principle of the best method applies); Comparable uncontrolled price method, resale price method or cost plus method should be applicable. If it is not possible to apply one of these methods, one of the transactional profit methods should be applicable.	Comparable uncontrolled price, cost plus, resale price, transactional net margin, profit split or other TP methods according to OECD TP Guidelines. The principle of the best method applies and choice of method should be justified.	Traditional and other TP methods according to OECD TP Guidelines (the principle of the best method applies)
APA Availability and validity	Up to 3 years (if conditions and law are unchanged)	For 3 to 5 years, possible to extend for another 3 years	Up to 5 years with possibility of extension for another 5 years if conditions remain unchanged	Up to 5 years with possibility of extension in case of long term contracts	Up to 5 years with possibility of extension for another 5 years if conditions remain unchanged
Application for APA	Local Tax Authority	Local Tax Authority	Ministry of Finance	National Agency of Fiscal Administration	Local Tax Authority
Subjects obliged to keep the documentation	All taxpayers engaged in cross-border and domestic transactions with related parties.	Taxpayers engaged in related party transactions with the exception of small and medium sized companies as defined by the Act on CIT (Individuals are outside the scope.)	Entities performing transactions with related parties, under the latest legal requirements; Entities performing transactions with “tax havens”.	Taxpayers engaged in transactions with related parties. The timing of the availability of the TP file depends on the value of the transactions carried out.	Taxpayers engaged in transactions with related parties.
Language	Documentation is required in Czech language.	TP reports are accepted in HU, EN, DE and FR language. If other language is used, the taxpayer is liable to present HU translation upon request of the tax authority.	The documentation has to be prepared in Polish.	Documentation is required in Romanian language.	Documentation is required in Slovak language, however, the tax authority may upon request agree with other language.
Simplified documentation	Yes, simplified documentation as an option but only for selected transactions.	Yes, for low value adding services if certain conditions are met.	Taxpayers with revenues or costs > EUR 10,000,000 are obliged to attach to the tax return a simplified report on transactions carried out.	Not applicable	Yes, as option for selected taxpayers e.g. individuals, SMEs. and if certain conditions are met.

TP = Transfer pricing; APA = Advance pricing agreement; CIT = Corporate Income Tax; VAT = Value Added Tax
HU, EN, DE and FR = Hungarian, English, German and French

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Other aspects	Czech Republic	Hungary	Poland	Romania	Slovakia
Applicable regulations or administrative guidance	Although the OECD TP Guidelines are not a legally binding document in regard to domestic tax law, the basic procedures are applicable. Therefore, the tax administration issued the guidelines D-332, D-333, D-334 and D-10 based on the OECD Guidelines aiming to ensure a unified procedure.	Decree No. 22/2009 of the Ministry of National Economy on TP Documentation Requirements; Decree No. 38/2006 of the Ministry of Finance on Advance Pricing Agreements.	Decree of Minister of Finance on: Corporate / personal income through evaluation and on manner and procedure of corporate double taxation elimination in case of adjustment of income of related entities; Decree of Minister of Finance on determination of countries and territories applying harmful tax competition in respect to corporate / personal income tax.	Order No. 222/2008 on: content of TP documentation (for transactions until January 1st. 2016); Order 442/2016 on: TP thresholds, deadline and TP file content and adjustment procedure (transactions after January 1st. 2016); Order 3735/2015 on: the issuance and amendment of APA; Fiscal Procedure Code (Law 207/2015)	Financial Reporters No. 14/1997, 20/1999, 3/2002 where OECD TP Guidelines from 1995 and 1997 were published in Slovak language Financial Reporters No. 1/2009, 8/2014, 5/2015, 7/2016 where administrative guidance of the Slovak Ministry of Finance on content of the TP documentation were published.
NEW: Country-by-Country Reporting legislation	The legislation is currently in the legislation process and is proposed to become effective as of June 5th, 2017.	Not applicable	The CbCR report should be provided within 12 months from the end of the financial year (regulation effective from January 1st, 2016 – thus, the first reports should be filed for financial year 2016). Presently, a draft of Regulation on the detailed scope of data to be included in CbCR is being prepared (will reflect the guidelines contained in BEPS Action 13).	Country by Country Reporting has not been yet implemented into the Romanian legislation. However, Romanian Companies which are part of an international Group may be requested to submit some information in order to be included in the Reporting prepared by the Group.	Rules implemented with effect from March 1st, 2017 and are based on the OECD Model Legislation for CbCR.
Fees for APA	CZK 10,000 (approx. EUR 370) for one transaction	**1.** Unilateral APA - min. HUF 500,000 (approx. EUR 1,613), max. HUF 7,000,000 (approx. EUR 22,580); **2.** Bilateral APA - min. HUF 3,000,000 (approx. EUR 9,677), max. HUF 8,000,000 (approx. EUR 25,806); **3.** Multilateral APA - min. HUF 5,000,000 (approx. EUR 16,129), max. HUF 10,000,000 (approx. EUR 32,258)	1% of the value of the transaction, however, in the case of:**1.** Unilateral APA: *that refers only to domestic entities* - min. PLN 5,000 (approx. EUR 1,158), max. PLN 50,000 (approx. EUR 11,584); *referring to a foreign entity* - min. PLN 20,000(approx. EUR 4,634), max. PLN 100,000 (EUR 23,168); **2.** Bilateral or Multilateral APA - min. PLN 50,000 (approx. EUR 11,584) and max. PLN 200,000 (approx. EUR 46,336).	**1.** For large taxpayers and other taxpayers with consolidated value of transactions higher than EUR 4,000,000 the fee is EUR 20,000 for the initial APA and EUR 15,000 for amending the initial APA. **2.** For other taxpayers and consolidated value of transactions lower than EUR 4,000,000 the fee is EUR 10,000 for the initial APA and EUR 6,000 for amending the initial APA.	**1.** Unilateral APA: EUR 10,000; **2.** Bilateral and multilateral APAs: EUR 30,000.
Penalties	No specific TP penalties, but adjustment of tax base plus penalties (20 %) and interest for late payment (currently 14.05 % p.a.).	If the TP modification results in tax shortage: 50% tax penalty and late payment interest penalty. Failure to present appropriate TP documentation: penalty up to HUF 2,000,000 (approx. EUR 6,452) per transaction, increased up to HUF 4,000,000 (approx. EUR 12,903) in case of repeated violation of requirements and up to HUF 16,000,000 (approx. EUR 51,613) if repeated default.	If the revenue is evaluated by tax authorities in the amount higher (the loss in the amount lower) than declared by the taxpayer, and the taxpayer does not submit the required TP documentation - the difference between previous and evaluated amount is taxed 50% tax rate. Possible responsibility under penal-fiscal code.	For non-compliance regarding the preparation and presentation of the TP documentation, penalties are applicable: (i) for large and medium tax payers RON 12,000 - 14,000 (approx. EUR 2,700 – 3,100); (ii) other tax payers RON 2,000 – 3,500 (EUR 450 – 800). Separately, adjustment of tax base plus late payment interest and penalties may be applicable.	No specific TP penalties, but adjustment of tax base plus penalties (in the case of wilful decrease of the tax base the penalties may be doubled). For non-compliance with the transfer pricing documentation obligations a penalty up to EUR 3,000 for breach of a non-monetary obligation can be levied.

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Contact us for more information about transfer pricing in CEE!

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Accace offices are located in Czech Republic, Hungary, Romania, Slovakia, Poland, Ukraine and Germany. Locations in other European countries and globally are covered via Accace’s trusted network of partners.

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