



Transfer Pricing
Country Summary

Bulgaria

March 2023



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1. Introduction

Bulgarian TP legislation has its legal basis on the arm's length principle, established in art. 9 OECD MTC 2017. The sources for TP legislation in Bulgaria are the following:

- Corporate Income Tax Act (CITA). It entails the principle of independent market relations
- Article 116 of the TSSPC and pr.1 item 10 of the Additional Provisions of the Tax and Social Security Procedure Code (TSSPC)
- Chapter 8 of the TSSPC. This is a new rule which established TP documentation and entered into force as of 1.1.2020
- Ordinance no.9 of Bulgarian TP Guidelines. This Ordinance was issued by the Minister of Finance and is binding as long as it does not contradict acts of higher rank.
- Double taxation treaties enacted by Bulgaria
- Value Added Tax Act (amended, SG No. 96/1.12.2017, effective 1.01.2018, amended and supplemented, SG No. 97/5.12.2017, effective 1.01.2018)
- Accountancy Act (Prom. SG No. 95 from December 8, 2015, applicable from January 1, 2016 and amended and supplemented, SG No. 97/5.12.2017, effective 1.01.2018).
- Administrative Procedure Code, published in the Official Gazette 30/11 April 2006, last amendment by SG No. 74/20.09.2016.23

2. Laws & Regulations

a) References to OECD/EU/Local Rules

In General, the TP guidelines in Bulgaria follow the OECD rules. The Bulgarian TP guidelines were last updated in 2010 and they now form an integral part of the Bulgarian legislation. It is important to note that they shall be used so as to interpret the arm's length principle. Therefore, it is safe to say that in general, these regulations are in line with both the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD TP Guidelines) and the European Union's Code of Conduct for Transfer Pricing Documentation for Associated Enterprises. Mandatory TP documentation in Bulgaria was also effectuated in 2020.¹

b) Definition of Related Party

The Bulgarian Corporate Income Tax Act refers to the definition of related parties contained in the Tax and Social Security Procedures Code (TSSPC). According, to the TSSPC, related parties are:

- Spouses, lineal relatives, collateral relatives up to the third degree of consanguinity, and a fine up to the second degree of affinity and, for the purposes of Item 2 of Article 123 (1) herein, where included in a common household;
- Employer and employee;
- Shareholders/partners;
- Persons, where one of them participates in the management of the other or its subsidiary; or in whose management or controlling body participates one and the same person (legal or natural person), including cases when the natural person is a representative of another person;

¹ https://research-ibfd-org.mu.idm.oclc.org/#/search?N=3+10+6196&Ne=7487&Nu=global_rollup_key&Np=2&Ntk=Text&Ntt=Bulgaria%20transfer%20pricing&Nty=1&Ntx=mode+matchallpartial

- A company and a person, where the person owns more than 5% of the company's shares with voting rights. Note that according to the Bulgarian regulations, a related party relationship for tax purposes is established not only in case of control, but also in the case where one of the parties holds 5% of the voting shares of the other party. However, the taxpayer should be aware that the definition of related party for Bulgarian tax purposes is significantly different from that used for Bulgarian accounting purposes. The latter requires common control.
- Persons, where one of them exercises "control" over the other;
- Persons whose activity is controlled by a third person or its subsidiary; Persons exercising joint control over a third person or its subsidiary;
- Persons, where one of them is a commercial representative of the other;
- Persons, where one of them has made a donation to the other;
- Persons, who participate (directly or indirectly) in the management, the control or the capital of another person or persons, thus being able to negotiate terms, different from the regular ones.

"Control", under the definition provided by the Bulgarian legislation, is present when the controlling party: owns directly or indirectly, or under an agreement with another person, more than half of the votes at the general meeting of another person, or has the possibility to determine directly or indirectly more than half of the members of the managing or controlling body of another person, or has the possibility to manage, including through or together with a subsidiary, in accordance with a particular statute or contract, the activity of another person, or as a shareholder or a partner in an entity controls independently, in accordance with a deal made with other partners or shareholders of the same entity, more than half of the votes in the general meeting of this entity, or can be by other means exert a decisive influence over the decision-making with respect to the activity of the entity. There is no separate procedure for transfer pricing investigations. In terms of transfer pricing issues, the relevant investigations are performed as a part of the general tax audit procedures.

c) Nature of Transfer Pricing Documentation

Bulgaria based its TP documentation model on the master and local file, in accordance with article the OECD TP Guidelines, and specifically BEPS Action 13. This is the best practice, in accordance with the Bulgarian Tax Authorities. Mandatory TP documentation became effective in the fiscal year 2020 and it comprises of a local file and a master file.

There is no filing requirement. The transfer pricing documentation, including the Local File, does not have to be provided to the tax authorities on a regular basis. However, according to article 71f(1) of the TSIPC, it could be requested within a tax proceeding and should be remitted by the taxpayer upon the request of the tax officer. Upon request, the submission of the transfer pricing documentation, including the Local File, shall be completed within 7 days (the usual deadline for requests in the course of tax check-ups) or 14 days (the usual deadline for requests in the course of tax audits) from the receipt of the request.

The required information for the documentation is explicitly stated in the Tax and Social Security Procedure Code and the deadline for the preparation of the local file is 30/06/2021. It is the same deadline as for the submission of the annual tax return according to the CITL.

d) Tax Havens & Blacklists

Even though Bulgaria is not a tax haven per se, it has the lowest CIT and PIT tax rates within the EU. More specifically, the tax rates in Bulgaria are 10%.

e) Advance Pricing Agreement (APA)

The Bulgarian legislation does not provide for APA opportunities in case of a bidding ruling from the tax authorities. However, taxpayers are allowed to request a written opinion from either the National Revenue Authority (NRA) or the Ministry of Finance for an interpretation of a ruling and the application of tax law, concerning a specific issue. Such position does not always have value, since in most cases the Bulgarian tax authorities decline to issue an opinion on unstructured or undocumented transactions.

There may be opportunities for Mutual Agreement Procedure but this is assessed in a case-by-case basis.

f) Audit Practice

The BTA may initiate an audit in a case-by-case basis. Consequently, the taxpayer will have to provide all the requested information within 14 days and failure to do so may lead to the imposition of a fine.

3. Transfer Pricing Documentation

a) Level of Documentation

As previously mentioned, mandatory documentation in Bulgaria became effective as of 2020. The following thresholds are applicable:

- Net book value of assets must be equal of 38M BGN
- Net sales revenue of 76M BGN
- More than 250 employees in average

MNEs must also have a Master file available that will be examined by the Bulgarian Tax Authorities. Such rules are aimed for the assessment of the scope of controlled transactions and they must be stipulated clearly in the local file. All taxpayers shall be able to prove the arm's length nature of their related-party transactions. The TP documentation is not to be submitted in the Bulgarian Tax Authorities. Rather, the taxpayer must keep the file, in order to be able to present in the course of a tax audit. There are administrative fines that can be imposed in case of inaccurate filing, or in case the taxpayer fails to present the TP documentation upon request.

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

Bulgaria chooses the OECD transfer pricing documentation model based on the Master file and the Local file. This is the method proposed in BEPS action 13 and it is considered to be the most efficient method in Bulgaria.

f) Economic Analysis – Benchmark Study

Benchmark studies in Bulgaria are mandatory and they shall be updated on the minimum every three years. Nonetheless, the data on the identified comparable transactions need to be updated annually. The Bulgarian Tax Authorities require that the benchmarking study is to start from the Bulgarian Market.

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 taxpayer is obliged to provide annual local entity financial statements for the fiscal year in which documentation is required.

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	File	Electronic	June, 30 th ,	Yes	No	Yes
Master File	Prepare	Action 13 minimum standard	June, 30 th .	N/A	Yes	Yes
Local File	Prepare	Action 13 minimum standard	June, 30 th .	N/A	Yes	Yes

CbCR	File	Action 13 minimum standard	December,31 st .	Yes	Yes	Yes
Local form	File	CITR form for declaring aggregate information for transactions with related parties	June, 30 th .	N/A	No	Yes
Annual Accounts	File	IFRS	June, 30 th .	No	No	No
Segmented P&L	Prepare	Excel	June, 30 th .	No	No	No
* Bulgaria has signed the MCAA agreement for the filing of CbCR.						
* Bulgaria 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.						

j) Mandatory Language

The documentation should be prepared in Bulgarian. However, the aforementioned file may contain documentation in other languages but the NRA may require certified translations to be made of all or any part of it at the expense of the taxpayer.²

k) Notification Requirement

The deadline for submitting the documents is 30/06 of the year following the year for which the TP documentation is applicable. It is necessary to mention that in case there is a CIT amendment, then Local file is to be updated within 14 days following the submission of the amendment return. Nonetheless, the amended return shall be submitted no later than 30/09 of the current fiscal year.

l) Record Keeping

The taxpayer is obliged to keep records for a period of five years after the expiry of the statute of limitations for the relevant tax year, i.e., for a period of 5 years from the end of the calendar year in which the tax for a given tax year is due. In practice, as the tax return should be submitted (and the tax due should be paid) three months after the end of the tax year, the tax liability for e.g., the tax year 2009 expires at the end of December

² https://research-ibfd-org.mu.idm.oclc.org/#/doc?url=/collections/tpdoc/html/tpdoc_bg.html

2015 (provided the tax year is equal to the calendar year, which is the most common case). The records should be kept during this period.

m) Penalties and Interest Charges

As an incentive, it may be considered that, if during a tax audit, a taxpayer presents TP documentation (that meets certain requirements) to the revenue authorities, then they should start their analysis from the method chosen by the taxpayer, and only if it is deemed inappropriate, use another one. If, a reporting entity, that has an obligation to file Country by Country report in Bulgaria, but doesn't do it, within the stipulated deadline, should be subject to a fine of BGN 100,000 to BGN 200,000. If, a reporting entity, files a CbC report, but omits, or declares false or incomplete data in it, the reporting entity should be subject to a fine of BGN 50,000 to BGN 150,000. The same fine should be applied if the incomplete or wrong data are due to a refusal of the ultimate parent entity to present the required data. If, a constituent entity, that has an obligation to file a CbC report and does not notify the Bulgarian tax authorities if the ultimate parent entity has refused to provide the requested information, that constituent entity should be subject to a fine of BGN 10,000. If, a constituent entity, fails to notify the revenue authorities whether it, or some other group entity, will file the CbC report, it should be subject to a fine of BGN 50,000 to BGN 150,000. In case of a repeated violation of the rules higher fines apply.