




TRANSFER

PRICING

UNIFIED TAX AND TECHNOLOGY BUSINESSES



The concept of transfer pricing as defined in Article 13.2.65 of the Tax Code is explained as follows:

Transfer pricing refers to the pricing determined for transactions conducted between related parties (as stated in Article 14-1.2 of the Tax Code). These prices should align with those established in comparable transactions conducted under similar conditions between independent parties.

In other words, transfer pricing applies to transactions (e.g., sale of goods or provision of services) between related parties. The price used should match the one that would have been applied if the transaction had occurred between independent entities with no connection. The goal is to prevent related parties from using prices that deviate from market value, thereby avoiding tax evasion.

Tax Code of the Republic of Azerbaijan (Code 13.2.65)

Reasons for Transfer Pricing:



Reducing tax obligations

Multinational corporations can use these prices to transfer a portion of their income or profit to countries with lower tax burdens.



Gaining artificial competitive advantages

This applies to both international and domestic markets.



Mistakes or inability to determine pricing objectively

This can occur in specific situations.



Between which parties can tax be calculated in transactions involving Transfer Pricing?

Taxes based on transfer pricing can be calculated for transactions conducted between the following parties (Article **14-1.2**):

14-1.2.1

Between a resident of the Republic of Azerbaijan and non-resident persons who are mutually dependent on the resident, as well as any representative office, branch, or division of that resident located in other countries.

14-1.2.2

Between a non-resident's permanent establishment in Azerbaijan and either the non-resident itself or its representative office, branch, or division located in other countries. This also includes persons mutually dependent on the non-resident and located in other countries.

A hand holding a pen over a document with charts and tables. The document features a pie chart at the top left, a line graph in the center, and a table at the bottom. The hand is positioned over the table, which has columns labeled with numbers 1 through 12 and rows with various numerical values. The background is a blurred image of a cityscape.

Between which parties can tax be calculated in transactions involving Transfer Pricing?

14-1.2.3

Between a resident or the permanent establishment of a non-resident in Azerbaijan and entities established (registered) in tax-privileged countries.

14-1.2.4

Between residents of Azerbaijan or permanent establishments of non-residents in Azerbaijan and non-resident persons under the following conditions:

- **14-1.2.4.1:** Transactions involve commodities traded on international exchanges.
- **14-1.2.4.2:** The resident or permanent establishment has an annual income exceeding 30 million AZN, and transactions with each non-resident exceed 30% of their total revenue or expenses.

Taxes are calculated on transactions between these parties that are classified as transfer pricing transactions under the Tax Code.

Tax Code of the Republic of Azerbaijan (Code 14-1.2)

Obligations of the taxpayer under the Tax Code:

According to Article 16 of the Tax Code, taxpayers have the following obligations:

Code 16.1.4

To submit a tax report to the tax authorities in the cases and manner prescribed by this Code, and in cases where an audit is required, to attach the auditor's opinion. Additionally, if the total value of transactions carried out based on transfer pricing exceeds 500,000 manats for the persons specified in Articles 14-1.2.1–14-1.2.3 of this Code, and in cases specified in Article 14-1.2.4 for the persons mentioned therein, to submit a certificate in the form determined by the body (institution) designated by the relevant executive authority within the time limits set for the profit (income) tax declaration.

Tax Code of the Republic of Azerbaijan (Code 16.1.4)

INDEPENDENT DETERMINATION OF TRANSFER PRICING BY THE TAXPAYER:

Independent Determination of Transfer Pricing by the Taxpayer:

1. The taxpayer may voluntarily calculate, declare, and pay taxes on transactions carried out based on the actual contractual price using the transfer price independently determined in accordance with these Rules. In this case, when selecting the appropriate method for determining the transfer price, the principles set out in Clause 5.2 of these Rules must be followed.

(<https://www.taxes.gov.az/az/page/transfer-qiymetlerinin-mueyyen-edilmesi-ve-tetbiqi-qaydalari>, Clause 5.2)

2. If the taxpayer independently determines transfer prices, they must submit all required documents to the tax authority to verify compliance with these Rules. This includes details and conditions of the controlled transaction, all calculation conditions, selected comparable transactions, reasons and justification for selecting the transaction and applied method, as well as supporting documents.

3. If, based on Clauses 1 and 2 of these Rules, the taxpayer calculates tax using the transfer price, Section 3 of the "Report on Controlled Transactions," titled "Information on Transfer Pricing Applied to Controlled Transactions," must also be completed. If the taxpayer calculates and declares tax on a controlled transaction based on the actual contractual price without any adjustment, this section is not completed.

4. If the tax authority agrees with the transfer price independently determined by the taxpayer, tax on the controlled transaction is calculated based on that price.

4-1. If the tax authority concludes that the justifications provided by the taxpayer are incorrect (insufficient) and that the transfer price should be calculated using another method or different comparable transactions, the tax is calculated based on the transfer price determined by the tax authority's calculations.

Dispute Resolution

- If the taxpayer does not agree with the transfer price determined by the tax authority, they may submit evidence to the tax authority that the transfer price should be determined differently.
- If the tax authority concludes, with justification, that the evidence submitted by the taxpayer is not sufficient to change the determined transfer price, taxes shall be calculated and paid based on the transfer price determined by the tax authority.
- The provisions of clause 11.2 of these Rules do not limit the taxpayer's right to file an administrative complaint and apply to the court as provided by law.

Rules for determination and application of transfer prices (Code 11)

Elimination of Double Taxation

- If the determination and application of the transfer price in a controlled transaction result in changes to the taxpayer's taxable base, and as a result, double taxation of profits from that transaction could arise in both the Republic of Azerbaijan and the other party's state, the taxpayer or the other party to the transaction may apply to the tax authority. Based on this application, the tax authority may provide the applicant with explanatory information regarding taxes paid in the Republic of Azerbaijan on the transaction, for consideration by the other state.
- If the competent authority of the other state does not agree with the conclusions and calculated taxes of the tax authority of the Republic of Azerbaijan, a mutual agreement procedure is carried out based on the provisions of the international treaty on the elimination of double taxation in force between the Republic of Azerbaijan and that state.
- If there is no international treaty on the elimination of double taxation in force between the other state and the Republic of Azerbaijan, the position of the tax authority of the other state regarding the determined transfer price and calculated tax is not considered, and the legislation of the Republic of Azerbaijan is applied.

Rules for determination and application of transfer prices (Code 12)



Comparison Methods and Relevant Objects



Determining Transfer Prices:

Price comparing method

Resale price method

Value accumulation method

Profitability method

Profit-split method

Price comparing method	Price
Resale price method	Resale margin
Value accumulation method	Incremental profit margin
Profitability method	Proportion (the share of the obtained profit in total revenue, total expenses, or the total value of assets)
Profit-split method	Proportion (the proportion of each party's profit from a transaction between enterprises that are part of the same group in the total group profit)

Rules for determination and application of transfer prices (Code 5)

The Three-Tiered Approach to Transfer Pricing Documentation.

- 5.16. Section B describes that, in order to achieve the goals outlined, countries must apply a standardized approach to transfer pricing documentation. This section outlines a three-tiered structure consisting of: (i) a master file containing standardized information for all members of the multinational enterprise group; (ii) a local file related to the local taxpayer's material transactions; and (iii) a Country-by-Country Report containing certain information regarding the global distribution of multinational companies' income and taxes paid, along with key indicators of economic activity locations within the multinational group.
- 5.17. This approach to transfer pricing documentation will provide tax authorities with relevant and reliable information to effectively and soundly assess transfer pricing risks. It will also provide a platform to prepare the necessary information for audit purposes, and offer taxpayers the means and incentive to significantly reconsider and describe compliance with the arm's length principle in material transactions.

Section B discusses the purpose of transfer pricing documentation requirements. Refer to the document for more details.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (C: 5.16-5.17)



The Master File

- 5.18. The master file should reflect the nature of the multinational enterprise group's business, including its global business operations, its overall transfer pricing policies, and the global distribution of income and economic activities to assist tax authorities in evaluating the existence of significant transfer pricing risks. Generally, the master file aims to provide high-level information to place the transfer pricing practices of the multinational enterprise group in the context of global economic, legal, financial, and tax considerations. It is not intended to require detailed lists (such as a list of every patent owned by members of the multinational enterprise group), as this would be both burdensome and contrary to the purposes of the master file. In preparing the master file, taxpayers should exercise caution in determining the appropriate level of detail, taking into account the purpose of the master file, which is to ensure that tax authorities are provided with a high-level overview of the multinational enterprise group's global operations and policies. When the master file requirements can be met by specific cross-references to other existing documents, such cross-references should be considered as fulfilling the relevant requirements when accompanied by copies of the relevant documents. For the purposes of preparing the master file, the failure to provide information considered necessary for the reliability of transfer pricing outcomes should be viewed as significant.
- 5.19. The information required in the master file presents the plan of the multinational enterprise group and includes relevant information that can be grouped into five categories: (a) the organizational structure of the multinational enterprise group; (b) a description of the business or businesses of the multinational enterprise; (c) intangible assets of the multinational enterprise; (d) intercompany financial activities of the multinational enterprise; and (e) the financial and tax position of the multinational enterprise.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (C1: 5.18-5.21)

The Master File

- 5.20. Taxpayers must provide the information in the master file for the multinational enterprise group as a whole. However, the organization of the information presented by business line is permitted if it is well-supported by facts, for example, if the structure of the multinational enterprise group reflects that certain significant business lines operate with significant autonomy or were recently acquired. When the business line presentation is used, care must be taken to ensure that the centralized group functions and operations between business lines are properly described in the master file. Even when the presentation by business line is chosen, the entire master file, covering all business lines, must be provided to each country to ensure that a comprehensive overview of the multinational enterprise group's business activities is provided appropriately.
- 5.21. Annex I of Chapter V of this Guideline specifies the information that must be included in the master file.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (C1: 5.18-5.21)



Annex I of Chapter V

The master file should include the following information:

Organizational Structure:

- A diagram showing the organizational and legal form of the MNE group, its shareholders, and the geographical location of the operating entities.

Description of MNE Activities:

- The general description of the MNE's business activities includes:
 - The main sources of business profits;
 - A description of the supply chain, including turnover, for the group's five largest products/services, as well as other products and services constituting more than 5% of the group's total turnover. This description may be presented in the form of a chart or diagram;
 - A list and brief description of significant service agreements among the MNE group members, excluding research and development services, including a description of the transfer pricing policies related to the determination of the potential of entities providing key services, allocation of costs for services, and intercompany payments for services;
 - A description of the key geographical markets for the products and services referenced in the second bullet point above.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex I of Chapter V)



Annex I of Chapter V

- A functional analysis summary describing the key contributions of the companies within the group to value creation; i.e., the main functions performed, the potential significant risks, and the key assets utilized.
- A description of business restructuring, asset acquisitions, and disposals during the financial year.

Intangible assets of the multinational enterprise (as defined in Section VI of these Guidelines)

- The overall strategy for the development, ownership, and exploitation of intangible assets, including the locations of key intangible asset centers within the MNE group and their management.
- A list of intangible assets or groups of intangible assets that are significant for transfer pricing purposes, including information on their legal owners.
- A list of key agreements between associated enterprises related to intangible assets, including cost-sharing agreements, key research service agreements, and licensing agreements.
- An overall description of the MNE group's transfer pricing policy regarding research and development and intangible assets.
- A general description of significant transfers of intangible assets between related enterprises within the relevant financial year, including entities, countries, and related compensations.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex I of Chapter V)



Annex I of Chapter V

Intra-group financial activities of the MNE

- A general description of how the group is financed, including key financial agreements with unrelated creditors.
- Identification of any MNE group members providing central financing functions, including the country where the laws governing their operations are based and the location of the country where such entities are managed.
- A general description of the MNE group's transfer pricing policies related to the financing of related entities.

Financial and tax positions of the MNE

- The annual consolidated financial statements of the MNE for the relevant financial year, prepared exclusively for financial reporting, legislation, internal management, tax, and other purposes, except for the specific exclusions.
- A list and brief description of the MNE group's existing unilateral transfer pricing advance pricing agreements (APAs) concerning the allocation of income between countries.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex I of Chapter V)



The Local File

- 5.22. Unlike the master file, which provides a high-level overview as described in paragraph 5.18, the local file provides more detailed information on specific intercompany transactions. The information required in the local file supplements the master file and helps ensure that the taxpayer complies with the arm's length principle in their key transfer pricing positions affecting a specific jurisdiction. The local file focuses on transfer pricing analysis related to transactions between the local country branch and associated enterprises in different countries that are significant within the context of the local country's tax system. This information includes relevant financial data related to the specific transactions, a comparative analysis, and the selection and application of the most appropriate transfer pricing method. If the requirements for the local file can be satisfied through specific cross-references to information in the master file, these cross-references should be sufficient.
- 5.23. Annex II of Chapter V of this Guideline specifies the information that must be included in the local file.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (C2: 5.22-5.23)

The Local File - Annex II of Chapter V

Local File should include the following information:

Local Entity

- A description of the management structure of the local entity, its organizational structure, and the country(ies) in which the individuals to whom local management reports are based.
- A description of the business activities and business strategy pursued by the local entity, including indicators of whether the entity has been involved in or affected by business restructurings or the transfer of intangible assets in the current or previous year, along with an explanation of the relevant aspects of these transactions impacting the local entity.
- Key competitors.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex II of Chapter V)

The Local File - Annex II of Chapter V

Controlled Transactions

For each material category of controlled transactions in which the entity is involved, include the following information:

- A description of the controlled transactions (e.g., procurement of manufacturing services, purchase of goods, provision of services, lending, financial and performance guarantees, licenses of intangibles, etc.) and the conditions under which these transactions are conducted.
- The amounts of intercompany payments and corresponding receipts for each category of controlled transactions in which the local entity is engaged, based on the classification carried out by the foreign tax authority where the paying or receiving entity is located (i.e., payments and receipts for goods, services, royalties, interest, etc.).
- Identification of related entities involved in each category of controlled transactions and their interrelations.
- Copies of all intercompany agreements signed by the local entity.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex II of Chapter V)

The Local File - Annex II of Chapter V

- A detailed comparability and functional analysis concerning each documented category of controlled transactions, including any changes compared to previous years for the taxpayer and relevant related entities.
- Justification for selecting the most appropriate transfer pricing method for the transaction category and the reasoning behind the selection.
- The related entity chosen as the tested party, along with the rationale for its selection, if applicable.
- A summary of key assumptions used in applying the transfer pricing methodology.
- Justification for performing a multi-year analysis, if necessary.
- A list and description of comparable uncontrolled transactions (internal or external), including relevant financial indicators of independent enterprises referenced in the transfer pricing analysis where possible, along with the methodology for selecting comparables and data sources used.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex II of Chapter V)

The Local File - Annex II of Chapter V

- A description of comparability adjustments made, indicating whether the adjustments were applied to the tested party's results, comparable uncontrolled transactions, or both.
- Explanation of why the related-party transactions were conducted at arm's length prices based on the selected transfer pricing method.
- A summary of the financial data used in applying the transfer pricing methodology.
- Copies of existing bilateral/multilateral advance pricing agreements (APAs) and other tax rulings exchanged with foreign tax authorities regarding the controlled transactions described above, if applicable.

Financial Information

- The local entity's annual financial statements for the relevant fiscal year. If audited financial statements are available, they should be provided; otherwise, unaudited financial statements must be submitted.
- Data and allocation schedules that reconcile the financial information used in applying the transfer pricing method with the annual financial statements.
- Summary schedules of financial data for comparable entities used in the analyses, along with the sources from which the data was obtained.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (Annex II of Chapter V)



Country-by-Country Report

- 5.24. The Country-by-Country Report requires information on the global distribution of income, taxes paid, and certain indicators of the location of economic activities within the tax jurisdictions where the multinational enterprise group operates. The report also requires a list of all Constituent Entities where financial information is provided, including the jurisdiction of incorporation that differs from the tax jurisdiction of the registration, as well as information on the nature of the primary business activities carried out by these Constituent Entities.
- 5.25. The Country-by-Country Report will be useful for assessing high transfer pricing risks. The report may also be used by tax authorities in evaluating other BEPS-related risks and for economic and statistical analysis, where appropriate. However, the information in the Country-by-Country Report should not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on full functional and comparability analyses. The information in the Country-by-Country Report, by itself, is not a conclusive factor in determining whether the transfer pricing is appropriate. It should not be used as a basis for proposing transfer pricing adjustments based on global proportional allocation formulas.
- 5.26. Annex III of Chapter V of this Guideline provides a sample template for the Country-by-Country Report, along with accompanying instructions.

The Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. (C3: 5.24- 5.26)

CbC Report

Resident enterprises that are part of a multinational corporate group are required to submit the relevant reports to the tax authorities:

Under a presidential decree issued on February 16, 2021, Azerbaijan joined the **'Multilateral Agreement on the Exchange of Country-by-Country Reports'** on March 12, 2021. To fulfill the obligations under this agreement, the Tax Code was amended to include the concept of multinational corporate groups and the obligation for such groups to submit reports to the tax authorities.

According to **Article 16.9 of the Tax Code**, when the total revenue of a multinational corporate group exceeds **750 million euros** (or its equivalent in Azerbaijani manats) in a financial year, the resident enterprise of Azerbaijan, which is part of the multinational group, is required to submit the report to the tax authorities within a specified period, format, and rules for automated data exchange with the competent authorities of other countries under international agreements to which Azerbaijan is a party.

The submission deadline, form, and procedure for the report of a resident enterprise of Azerbaijan within a multinational group are regulated by the decision of the **Economic Ministry's Collegium on April 28, 2020**. The rule on the submission of country-by-country reports follows the international standards, the multilateral agreement Azerbaijan is a part of, and national legislation.

As a source, we can refer to Article 16.9 and Article 57.1-2 of the Tax Code.

[CbC Report](#)



Submission Deadlines

As of January 1, 2020, Azerbaijan's requirements for country-by-country reporting have come into force. A "**Country-by-Country Report**" is a report submitted by a resident enterprise of Azerbaijan, which is part of a multinational group, to facilitate the automatic exchange of information with competent authorities of other countries under international agreements Azerbaijan has signed.

For the exchange to take place, legal amendments were made to improve the legislative framework. After these amendments, the Azerbaijani Economic Ministry's Collegium approved the submission rules for the reports from a resident enterprise of Azerbaijan that is part of a multinational group through decision **No. 1 dated April 28, 2020**. A change to these rules was made through decision **No. 14 on June 13, 2023**.

According to the new rule, if the total revenue of the multinational group in the previous fiscal year exceeds **750 million euros** (or its manat equivalent), the resident enterprise of Azerbaijan that is part of the multinational group submits the country-by-country report to the tax authorities within **12 months** after the end of the financial year of the group.

Moreover, the primary, authorized, or group-affiliated enterprise of the multinational group must submit the notification to the tax authorities by **June 30** of the year following the reporting year.

The authorized person designated by the head of the multinational group can submit the report and notification using the **ASAN signature** through the Financial Institutions' portal for tax monitoring and country-by-country reporting (<https://cbcr.tmfi.gov.az/login>).

[CbC Report](#)

Tap for link: English/French version

Sanctions

Sanctions for Non-Submission of Reports

Failure to submit the Country-by-Country Report (CbC Report) by the required deadline will result in a financial **penalty of 10,000 AZN**. Additionally, **starting in 2025**, failure to submit the notification **by June 30** will also lead to this penalty.

Starting in 2025, financial penalties for failing to submit transfer pricing reports and information on controlled foreign companies, or for providing incorrect information, will increase from **2,000 AZN to 6,000 AZN**.

If documents required by tax authorities under the "Transfer Pricing Application Rules," such as the Master File and Local File, are not submitted within **60 days**, an additional financial penalty will be imposed. For this violation, **a penalty of 6,000 AZN** will apply starting in 2025.

As a source, we can refer to Article 57.4 of the Tax Code.



Thank You!

We hope that this Transfer Pricing guideline has provided you with valuable advice on developing your strategy and helped you make the best choice. Additionally, if you wish to start a business activity in Azerbaijan, we recommend working with consulting companies that are professionals in their field to achieve the best results. As Unified Tax and Technology Businesses, we would be pleased to provide these services at the highest professional level with our team of experts who have over 20 years of experience. We look forward to discussing and presenting any services that would align with your or your clients' interests. Should you have any questions, please feel free to share them with us. Do not hesitate to contact us. We wish you success in your professional endeavors.



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