

TRANSFER PRICING IN THE V4 – A COMPREHENSIVE COMPLIANCE GUIDE

Visegrad 4 is the cultural and political alliance of 4 EU countries (Czech Republic, Hungary, Poland, and Slovakia). The shared historical, economic, cultural, and social development is a definite advantage of the members, which the multinational groups are keen to prioritize when expanding their operations.

However, a shared history and similar level of development do not guarantee uniformity in legislation and tax regulations.

Transfer pricing is a cornerstone of the V4 economy.

The countries of the V4 region are often characterized as capital importers. The headquarters are usually located abroad (Western European region) and the subsidiaries in V4. Consequently, local Tax Advisors will mainly focus on the Local Files and CbC notifications, while the rest is to be fulfilled by the headquarters.

The V4 countries, like all OECD-members, have implemented the framework of the OECD Transfer Pricing Guidelines, together with the BEPS-proposed concept of three-tier transfer pricing documentation, into their own legislation, and acknowledge them as soft-law instruments. Nevertheless, there are significant differences in their interpretation and the requirements also differ by each Tax Authority.

Transfer pricing has also become a hot topic.

In the post-COVID era several changes were implemented in the V4 countries' TP regulations, and with these recent developments in the legislations, the regional taxpayers face an even stronger pressure to adjust their compliance to the new variations. The different variations can easily expose unaware multinational entrants and local players to taxation risk in the rapidly changing environment.

In this article, we provide a guide of the V4 region's transfer pricing environment with specific focus on the country-level differences and the key areas, which Companies and Tax Advisors should consider when dealing with transfer prices in the V4 countries.

As further guidance, we will also provide a 2024-year review of the local Ecovis offices' experts and our predictions of the upcoming challenges.

CZECH REPUBLIC

The transfer pricing in the Czech Republic generally aligns with the OECD Guidelines and governed by the Income Tax Law.

The Ministry of Finance offers non-binding guidance (D-334) on the contents of the transfer pricing documentation. The Czech General Financial Directorate (D-34) also published an OECD-based non-binding guidance, by implementing the transfer pricing concept to the Czech legislation.

It is to-be-noted, that although the guidance is non-binding, but still both the taxpayers and the Tax Authority will follow.

DEFINITION OF A RELATED PARTY

The Czech regulation defines related parties primarily through capital ownership. The concept of 25% of voting rights / direct or indirect ownership will result in major influence.

Furthermore, participation in company management or being a closely related person will also set up related party connections even without capital ownership.

DOCUMENTATION CONCEPT

Tax Authority will request the local files in Czech language. Companies preparing the local files in foreign languages must also count on the translation timing beyond the pressure of a tax audit. However, we note that some tax audits may also accept the English language documentations, on a voluntary basis.

The preparation of a local file is not mandatory, but it is strongly recommended for the flow of a potential audit. Presentation of the local file is also necessary for application of APA/MAP proceedings.

DEADLINES AND SUBMISSION

In the Czech Republic, the documentation deadline aligns with the CIT return filing date, therefore it is 3 months after the end of the fiscal year. In practice, if the fiscal year ends by December 31, the CIT return deadline will be March 31. Consequently, the Local File must be prepared by the end of March. However, companies may also opt for an extension of 6 months, so the deadline will move to the end of June.

There is no submission requirement of documentations, but an annex of intercompany transaction is part of the CIT return (in Czech language), and the Tax Authority can request the documentation during a tax audit within a time limit of minimum 15 days.

Document type	Deadline
Local File	CIT return filing
Annex on IC transactions	CIT return filing
Master File	n/a
CbC Notification	12 months after the year-end

THRESHOLDS AND SAFE HARBORS

There are no classical thresholds or safe harbors, i.e., every transaction must be presented in the local file, but for low value-added transactions (Guidance G-10), taxpayers may opt to prepare only

simplified documentation. The limitations of low-value transaction clarifications are included in the G-10.

PENALTIES

Failure to follow the TP regulation will result in a penalty, but the exact penalties are not specified by the regulation for failure of documentation. Generally, if the tax audit reveals tax base deficit due to improper transfer prices, the penalty will be calculated as 20% of unpaid tax in case of increased tax base + penalty of 1% of unpaid tax if a tax loss is to be deducted + overdue payment fee.

However, for the failure to follow the Country-by-Country Reporting obligations, the penalty will range up to CZK 1,500,000 (approximately EUR 60,000).

METHODOLOGIES

The price setting methods, regulated by the law, as set in D-34 and will follow the OECD Guidelines. Although there is no priority between the methods, if there is direct comparable data, it is recommended to apply the CUP method over the other methods.

For the calculations, the weighted averages and arithmetic (simple) averages are also widely accepted, adjustment to median value is not mandatory.

DATABASES

Authorities use the TP Catalyst database and other databases are also accepted. However, it should be noted that TP Catalyst has an overall dominance.

Obtaining a non-TP database sourced financial information about local comparables is also possible by the Ministry of Justice's website, which provides a free of charge platform to view annual reports.

BENCHMARK CRITERIA

EU-level standard benchmarks with 50% independence criteria will be non-compliant with the local regulation, as 25% criteria must be met. The Tax Authority will also prefer local comparable companies from similar markets, which is also set in D-34 Guidance. In the case of the insufficient number of local comparables, a wider geographic range is acceptable (preferably V4 or EU).

ADVANCE PRICING AGREEMENT (APA)

Both unilateral and bilateral APAs for future transactions are regulated by D-32 and the Income Tax Act and are valid for 3 binding years. APA application will cost CZK 10,000 (approximately EUR 400) / transaction. For the application, the presentation of the Local File is compulsory.

ECOVIS 2024 EXPERIENCE

In recent years, tax authorities have increasingly used TP assessments as a tool to evaluate potential compliance issues, initiating more frequent investigations into companies' TP practices. This trend has intensified noticeably over the past two years, during which we have observed a significant increase in scrutiny specifically targeting TP arrangements.

RECENT DEVELOPMENTS

There have been no significant developments in recent years.

TRENDS AND KEY AREAS

The Czech Republic continues to enhance its transfer pricing enforcement efforts, with increased focus on high-risk areas such as:

- Transactions involving intangible assets and intercompany financing (especially inter-company loans)
- Management services, where it may be challenging to prove the arm's length principle.
- Continued alignment with international standards and potential future changes due to BEPS initiatives.
- Increased focus of the Authorities as TP is becoming a key area of tax audits.

HUNGARY

The Hungarian transfer pricing is regulated by the CIT Act and the documentation requirements are prescribed in the NGM Decree. Both regulations are OECD-based, but also include special criteria. The Hungarian Tax Authority and the Ministry of Finance also issues non-binding guidance on transfer pricing, especially due to the recent changes in the legislation and on the correct database search. Regulations about APAs are defined in Act CL of 2017.

DEFINITION OF A RELATED PARTY

The Hungarian regulation defines related parties primarily through capital ownership. However, comparing to the other V4 countries, Hungary defines direct or indirect majority for over 50% of ownership only.

Furthermore, participation in a Company management with specific rights, or being a closely related person will also set up related party connections even without capital ownership.

DOCUMENTATION CONCEPT

Besides the OECD-concept, the Hungarian regulation also requires a separate Transfer Pricing data sheet, which is part of the Corporate Tax Return (ATP). The Local File should be prepared for each intercompany transaction over the threshold, and the rules for consolidated transactions are strictly defined.

From the tax year 2023 onward, the local file must include a joint taxpayer-specific section and one or more transaction-specific section. While only one general section is required per tax year, companies must prepare a transaction-specific section for each transaction that needs to be documented within that year. Each section will be treated as a separate record starting from 2023.

Foreign language documentations are also accepted by the Tax Authority, based on our experience, the Tax Authority is familiar with English language documentations. Subsidiaries in Hungary will also often choose English language for the preparation of their Local Files, even by Local Advisors.

DEADLINES AND SUBMISSION

Generally, companies must have their local files prepared by the date of tax return, which is May 31st (five months after year end) for most taxpayers. The 5-months deadline will move accordingly i.e., for companies, ending their business year in September, the deadline will move to February.

The preparation of the local file by this deadline is compulsory, and the short extract (transactional values, method, range, etc.) must be submitted through the Corporate Tax Return's ATP form. For the local file, there is no submission requirement, but the Tax Authority might request the documentation any time after the deadline.

The deadline of the CbC notification is 12 months, and the last deadline for the master file is the end of the following fiscal year at the latest.

Document type	Deadline
ATP	CIT return filling
Local File	CIT return filling
Master File	12 months after the year-end
CbC Notification	Last day of business year

THRESHOLDS AND SAFE HARBORS

The main exception for documentation is related to small enterprises. However, it should be noted that the whole group should be evaluated when determining the SMA-classification. Medium enterprises already have documentation obligations.

For transactions, which were concluded at arm's length price, the documentation threshold is HUF 100,000,000 (EUR 250,000). Transactions below this amount are out-of-scope for documentation, but they still must be concluded as arm's length.

Furthermore, other important exemptions include cost recharging without mark-up from independent parties, specific stock exchange transactions or free cash transfers.

Transactions within the corporate tax group are also exempt from documentation obligations, however, we still suggest the preparation of at least benchmarks for the latter transactions, as the intercompany transactions might affect not only the CIT, but other taxes as well.

Low value-added services: the relevant activity codes are defined by the law; they must fall under the threshold of HUF 150,000,000 (EUR 370,000) and must be under 5% of the service providers' net income or 10% of the recipient's operating expenses.

Type	Minimum	Maximum
Low value-added services	Mark-up of 3% of the costs	Mark-up of 7% of the costs

PENALTIES

The penalty for breach of the documentation rules is up to HUF 5,000,000 (EUR 12,500) per record, which can double in case of repeated breach. As the master file is also an individual record, the Tax Authority can also impose the penalty.

The breach of CbC notification ranges up to HUF 20,000,000 (EUR 50,000). However, based on our experience, this is unlikely that such a high penalty would be imposed in practice.

In case of violation of the principle of arm's length price, the Tax Authority will recalculate the Hungarian tax base. Furthermore, the Authority will also impose the tax penalty and overdue payment fee on the unpaid tax.

As for the ATP form, in addition to the imposition of a default fine, the incorrect or incomplete completion of the tax return may also result in tax investigation.

METHODOLOGIES

The price setting methods, regulated by the law, will follow the OECD Guidelines. There is no priority between the methods. However, if direct comparable data is available, for the application of CUP, it will be prioritized.

DATABASES

TP Catalyst, Bloomberg Professional, RoyaltyRange, Crefoport (Hungarian developed) databases are used mostly.

The correct setting of the TP Catalyst is a cornerstone in Hungary. A few years ago, detailed, non-binding guidance was also issued on the correct setting of the database. Also, in a past court case, the Tax Authority challenged the selection of a financial indicator as a screening step, which resulted in the re-screening by the Tax Authority.

Obtaining a non-TP database sourced financial information about local comparables is also possible by the Ministry of Justice's website, which provides a free of charge platform to view annual reports.

BENCHMARK CRITERIA

EU-level standard benchmarks with 50% independence criteria will be well-accepted, however the Tax Authority will prefer local comparable companies from similar markets. The step-by-step expansion of the geographical scope is expected from the Authority's side.

Multi-year (last 3 years) averages with pooling method are preferred. The benchmark must also be reproducible later. It is common that the Tax Authority will reject the inappropriate benchmarks and prepare their own, where they can have different findings to the taxpayer's original benchmark.

ADVANCE PRICING AGREEMENT (APA)

Unilateral, bilateral, and multilateral APAs are available for taxpayers. APAs are valid for a maximum of 5 years after their conclusion, extension is available upon the request of the taxpayer.

Type	Fee
Unilateral APA	HUF 8,000,000 (EUR 20,000)
Bilateral / multilateral APA	HUF 12,000,000 (EUR 30,000)

Modification and extension are 50% of the original fee. In case of rejection, 85% of the fee shall be charged back. The consultation fee with the Authority is HUF 500,000 (EUR 1,250).

The standard deadline of conclusion is 120 days, which might be extended twice, by 60-60 days. For bi- or multilateral APAs, consultation with foreign Tax Authorities shall be concluded within 2 years, which is also subject to 1 year extension.

ECOVIS 2024 EXPERIENCE

The Tax Authority has recently started an automated review of the ATP forms, which can easily draw the focus to non-compliant transfer pricing practices. However, as it is a new practice, the Tax Authority was rather cooperative in case of breaches.

Another important aspect is the focus on the transactions closely below the threshold of HUF 100,000,000 threshold. It must be proved in such cases that the transaction was concluded at arm's length price. The Tax Authority will also examine the price setting of the below-threshold transactions, as they also fall under the scope of arm's length price principle.

We also experience that almost every tax audit will require the TP documentation, and TP is increasingly in the focus of the Authorities.

2024 was also a key year for transfer pricing audits. According to the latest information, 61% of the TP audits, started by pre-analysis of ATP forms, confirmed the risks, previously detected by the Tax Authority. In practice, TP audits are started on the previously submitted ATP form information.

Based on our 2024 experience, our clients will receive standardized questionnaire, about their transfer prices with strict deadline (in some cases 3 working days) for the submission of the documentations. The Authority may also ask for the Master File together with the Local File.

RECENT DEVELOPMENT

- The Hungarian regulation significantly changed in 2023, among all, introducing the HUF 100,000,000 threshold and the ATP submission requirement.
- Since 2023, adjustment to median has also been compulsory in case of breach of the arm's length price.
- The ATP forms were updated one more time, requiring even more information from the taxpayer's side.
- The recent change in the regulation also multiplied the transfer pricing penalties. Most of the changes can be considered as tightening.
- The Authority may impose a penalty for incomplete and for each missing record.

TRENDS AND 2025 KEY AREAS

- The Tax Authority is expected to release its audit plan for 2025 in the first months. We expect that transfer pricing will stay in the center.
- The Tax Authority will likely enhance its monitoring and audit processes, as it will have more digital data about taxpayers.
- We also believe that a potential change of the current threshold policy might arise.

POLAND

The Polish TP framework is regulated by the PIT and CIT Acts. Furthermore, the Ministry of Finance also issues act on the documentation requirements.

DEFINITION OF A RELATED PARTY

The Polish regulation defines related parties primarily through capital ownership. The concept of 25% of voting rights / direct or indirect ownership will result in major influence.

Furthermore, participation in company management or being a closely related person will also set up related party connections even without capital ownership.

DOCUMENTATION CONCEPT

The Polish regulation also requires a separate Transfer Pricing Information (TPR) documentation.

As for language requirement, there is no specific guidance in the regulation, but based on the Polish legislation, it is assumed that Polish language is only acceptable, but master files are acceptable in English.

DEADLINES AND SUBMISSION

Companies must declare the existence of their local file and confirm that the prices involved in related-party transactions are at arm's length. This declaration is part of a separate report (TPR) due within 11 months of the year's end. The TPR includes financial indicators, ratios, and other information derived from the company's financial statements.

TPR is mandatory for entities that engage in controlled transactions meeting the criteria for transfer pricing documentation. In other words, if a company is required to prepare a Local File, it must also submit a TPR. Additionally, certain entities that qualify for a domestic exemption from transfer pricing documentation may still need to file a TPR, albeit with a more limited scope.

The deadline of the CbC notification is 12 months, and the Master File is also 12 months, after the end of the company group's fiscal year, creating an overall busy year-end period for taxpayers.

The Tax Authority can request the documentation during a tax audit within a time limit of 14 days and 30 days for transactions which are not subject to documentation. These deadlines are binding and not expendable.

Document type	Deadline
Local File	10 months after the year-end
TPR document	11 months after the year-end
Master File	12 months after the year-end
CbC Notification	12 months after the year-end

THRESHOLDS AND SAFE HARBORS

Transfer pricing documentation should be prepared for homogeneous transactions whose value exceeds the following amounts:

- PLN 10,000,000 (EUR 2,300,000) for transactions involving commodity / financial transactions
- PLN 2,000,000 (EUR 460,000) for service / other transactions

Additionally, transfer pricing rules may apply to transactions, agreements, or arrangements with entities located in tax havens, regardless of the prerequisites for related party status, if the transaction values exceed:

- PLN 2,500,000 (EUR 600,000) for financial transactions
- PLN 500,000 (EUR 120,000) for non-financial transactions

Furthermore, Companies are also exempt from Local File documentation obligations if it is unlikely to pose a significant transfer pricing risk or where there is a clear and easily demonstrable arm's-length nature to the transaction. Such as safe harbor transactions, cost recharging or domestic transactions, with additional conditions.

Related entities based in Poland that have not incurred a tax loss and do not benefit from personal income tax exemptions are exempt from the documentation obligation. Another condition is that the income they obtain does not come from business activities conducted in a special economic zone (Article 11n of the CIT Act).

The safe harbors are detailed below:

Type	Minimum	Maximum
Low value-added services	Mark-up of 5% of the costs for provision of services	Mark-up of 5% of the costs for purchase of services
Financial transactions	Minimum margin for lenders: 2.20%	Maximum margin for borrowers: 3.10%

Based on company size, companies may also opt for exemption from transfer pricing analysis. Micro and small enterprises can prepare their documentation with no analysis.

PENALTIES

For the breach of the arm's length price, a 10% penalty shall be imposed on the unpaid tax.

If the amount exceeds PLN 15,000,000 (EUR 3,500,000), or the Local File failed to submit, an increased 20% penalty shall be imposed.

In case of both, a cumulative penalty of 30% is applied.

Incorrect submission, non-submission of declarations and the TP-R will also result in a penalty up to 720 daily rates per day.

The penalty of late submissions of the TP-R or late TP documentation preparation is 240 daily rates per day.

METHODOLOGIES

The price setting methods, regulated by the law, will follow the OECD Guidelines. There is no priority between the methods.

DATABASES

The main database used by Polish tax authorities to analyze transfer prices in the field of goods and services transactions is the QTPA database provided by InfoCredit.

In the case of some (the most complex) goods and services transactions, the authorities also use the TP Catalyst / Orbis database.

In the case of financial transactions, tax offices usually use banking statistics and offer data. However, in cases where the scope of the transaction goes beyond a simple form of granting/obtaining financing by an entity (i.e. in situations where advanced financial management models are used), the authorities use databases provided by Bloomberg. It should be noted here that only competence centers and selected customs and tax offices have access to data from Bloomberg.

As for licensing transactions, the authorities use the Royalty Range, KtMine and Royalty Stat databases.

Obtaining non-TP database sourced financial information about local comparables is also possible by the National Court Register website, which provides a free of charge platform to view annual reports.

BENCHMARK CRITERIA

EU-level standard benchmarks with 50% independence criteria will be non-compliant with the local regulation, as 25% criteria must be met. The Tax Authority will also prefer local comparable companies from similar markets. There is preference for local comparables, but it is not set in the regulation, rather only used in practice.

ADVANCE PRICING AGREEMENT (APA)

Unilateral, bilateral, and multilateral APAs are available for taxpayers. APAs are valid for 5 years after their conclusion. The fee is generally 1% of the value of the transaction, which it covers.

However, there is a limitation in the fee calculation:

Type	Minimum	Maximum (PLN)
Unilateral APA for domestic entity	PLN 5,000 (EUR 1,150)	PLN 50,000 (EUR 11,150)
Foreign entity	PLN 20,000 (EUR 4,600)	PLN 100,000 (EUR 23,000)
Bilateral / multilateral APA	PLN 50,000 (EUR 11,500)	PLN 200,000 (EUR 46,000)

ECOVIS 2024 EXPERIENCE

In 2024, there were no significant changes in the reporting and documentation of transfer prices.

This does not mean, however, that there have been no changes, as there have been some simplifications for the benefit of taxpayers related to transfer pricing documentation. In 2024, entities subject to the obligation to provide transfer pricing documentation had the opportunity to submit the form through an authorized representative, i.e. a legal advisor, lawyer, certified auditor or tax advisor. This is a great simplification because the entity preparing the documentation can submit the documentation without undue delay.

Moreover, there is no longer an obligation to submit a separate declaration on the preparation of local transfer pricing documentation and on the market nature of the prices used. In 2024, the mere submission of the TPR-C is tantamount to submitting the previously mentioned declaration.

RECENT DEVELOPMENT

- Since 2022, taxpayers might recognize TP adjustment for arm's length transactions, if a list of cumulative conditions are met.
- Beginning 2019, Tax Authorities may recharacterize or even disregard intercompany transactions.

- Also, year 2019's development is the introduction of the previously detailed low value-added safe harbor rule.
- As of 2024, the safe harbor regulation for financial transactions was introduced too.
- There are dozens of different TP database tools available on the Polish commercial market, and there has been a surge of them recently.

TRENDS AND KEY AREAS

Since the introduction of TPR-C reporting in Poland in 2019, tax authorities have begun targeting taxpayers for transfer pricing audits based on the information provided in these forms and the transfer pricing audits are becoming increasingly common

SLOVAKIA

TP rules in Slovakia are compliant with the OECD TP rules which basic principles were implemented in the Slovak Income Tax Act (the arm's length principle, the TP methods). The OECD TP Guidelines may be used as a reasonable tool and, typically, they are used in this way, however, they were not published in the Slovak Collection of Laws, thus, represent only a soft-law which is not binding. Therefore, there is always recommended to rely on the wording of the Slovak Income Tax Act.

The Ministry of Finance also published the latest Guidelines MF/020061/2022-724 for the period starting in 2023, which define the content of the transfer pricing documentation and implemented a meaningful change in the regulation.

DEFINITION OF A RELATED PARTY

The Slovak regulation defines related parties primarily through capital ownership. The concept of 25% of voting rights / direct or indirect ownership will result in major influence.

Furthermore, participation in company management or being a closely related person will also set up related party connections even without capital ownership.

DOCUMENTATION REQUIREMENTS

There is obligation to keep TP documentation which may have several levels of the content, details and size depending on the size of the taxpayer. The most detailed levels applicable to the biggest companies should contain the functional and risk analysis, reasoning of the opted TP method and also analysis of comparable data. Smaller companies should keep only a very limited TP documentation that basically represents only a list and volume of transactions with related parties.

1. **Full-scope documentation:** Classical Master file + Local file structure
2. **Basic documentation:** Master file (less complex and detailed than the full-scope version) + Local file, though there is no requirement to prove that transfer prices align with market conditions (i.e., no need for benchmark – however it is advisable to prepare)
3. **Simplified documentation:** Only holds information in a structured form.

From 2023, the Local File can also be prepared in foreign languages, and the translation is only mandatory upon the request of the Tax Authority. For such request, another 15 days of deadline will apply.

The Local File should be prepared separately for each intercompany transaction.

DEADLINES AND SUBMISSION

In Slovakia, the documentation deadline aligns with the CIT return filing date, therefore it is 3 months after the end of the fiscal year. In practice, if the fiscal year ends by December 31, the CIT return deadline will be March 31. Consistently, the local file must be prepared by the end of March. However, companies may also opt for an extension of a maximum of 6 months, consistently the deadline will move to the end of September.

There is no submission requirement of documentations, but the table "I" about intercompany transactions, which are out-of-scope of documentation requirement is part of the CIT return (in Slovakian language) and the Tax Authority can request the documentation during a tax audit within

a time limit of minimum 15 days. This deadline cannot be prolonged. Overall, the preparation of a Local File is not mandatory, but it is strongly recommended for the flow of a potential audit.

Document type	Deadline
Local File	CIT return filing
Annex on IC transactions	CIT return filing
Master File	n/a
CbC Notification	CIT return filing

THRESHOLDS AND SAFE HARBORS

Transactions or groups of transactions are only subject to transfer pricing rules if the income or expenses in the relevant tax period exceed EUR 10,000 (or EUR 50,000 for the principal amount of loans and borrowings) for any related party involved.

Transactions below these thresholds are exempt from transfer pricing regulations, with no difference between domestic and cross-border transactions. The transactions over these thresholds are to be further categorized and documented accordingly to the rules below:

Type of documentation	Obligatory to
Simplified documentation	<ul style="list-style-type: none"> - Taxpayers reporting losses and engaging in significant transactions. - Taxpayers not eligible for the reduced 15% income tax rate while engaging in significant transactions. - Taxpayers claiming tax incentives.
Basic documentation	<ul style="list-style-type: none"> - Significant foreign transactions carried out by a taxpayer with total revenues exceeding 8 million EUR. - Significant foreign transactions or combined transactions exceeding 1 million EUR. - Significant domestic transactions undertaken by a taxpayer benefiting from tax relief or incentives. - Insignificant transactions with related parties based in countries without a Double Taxation Treaty or Tax Information Exchange Agreement with Slovakia.
Full documentation	<ul style="list-style-type: none"> - Significant foreign transactions conducted by a taxpayer who prepares statutory financial statements in accordance with IFRS. - Significant foreign transactions or combined transactions exceeding 10 million EUR in the tax period. - Significant foreign transactions with related parties from countries lacking a Double Taxation Treaty or Tax Information Exchange Agreement with Slovakia. - Transactions by a taxpayer applying for an Advance Pricing Agreement (APA), requesting a corresponding tax base adjustment, or initiating a Mutual Agreement Procedure (MAP). - Significant foreign transactions undertaken by a taxpayer utilizing tax relief or incentives.

PENALTIES

For incomplete or missing TP documentation, the Tax Authority may impose a penalty up to EUR 3,000.

For the failure to follow the Country-by-Country Notification or Reporting obligations, the penalty will range EUR 3,000 or EUR 10,000.

In case the breach of the principle of the arm's length price, which results in a tax underpayment, a penalty of 6 x ECB interest rate (but at least 20%) will apply on the lack of unpaid tax.

METHODOLOGIES

The price setting methods, regulated by the law, will follow the OECD Guidelines. There is no priority between the methods.

DATABASES

The Slovak tax authorities use primarily TP Catalyst. This can be seen also from the recent case law with judgements where some of the merits of the cases related to the search criteria in TP Catalyst.

Obtaining non-TP database sourced financial information about local comparables is also possible by the Ministry of Finance's website, which provides a free of charge platform to view annual reports.

BENCHMARK CRITERIA

EU-level standard benchmarks with 50% independence criteria will be non-compliant with the local regulation, as 25% criteria must be met. The Tax Authority will also prefer local comparable companies from similar markets. There is preference for local comparables, but it is not set in the regulation, rather only used in practice.

Obtaining non-TP database sourced financial information about local comparables is also possible by the Ministry of Finance's website, which provides a free of charge platform to view annual reports.

ADVANCE PRICING AGREEMENT (APA)

APAs, prepared by the Tax Authority, can be requested 60 days prior to the tax period, but the Tax Authority will only define the methodology, not the actual transfer price. The maximum validity of APAs is 5 years. Unilateral APAs will cost EUR 10,000, bi- and multilateral APAs will cost EUR 30,000.

However, "highly reliable" taxpayers might receive a discount of 50% of these fees.

ECOVIS 2024 EXPERIENCE

The latest 2024 experience with larger companies shows that group-level benchmarking studies may not always be relevant for Slovak transactions. It is advisable to review their suitability for Slovak transfer pricing (TP) documentation.

Slovak tax authorities likely use analytical tools to identify potential TP issues, focusing on multinational companies with significant related-party transactions, particularly those declaring tax losses. TP cases typically last about 10 years from the start of an audit to a court ruling, resulting in limited case law until recent judgments in 2024, which provide valuable insights for future disputes.

The 2024 cases highlighted the following trends:

- **Taxpayer Profiles:** Tax authorities often classified Slovak subsidiaries as contract manufacturers with limited functions and risks, raising questions about whether this is a general approach or case-specific.
- **Methods:** The authorities challenged taxpayers' methods, favoring TNMM on an aggregated basis over individual methods, potentially due to database limitations.
- **Search Criteria:** Authorities excluded loss-making companies without justification, included personally related entities despite objections, and failed to confirm functional comparability. Courts challenged these practices.

- **Median Use:** Authorities relied on the median from TP Catalyst data without explaining why, contrary to OECD guidelines referencing interquartile ranges.

Some cases lasted over a decade, with audits prolonged by international information exchanges. This delay poses challenges for taxpayers, as personnel and transaction details may no longer be available, complicating defence efforts. These judgments underscore the complexity and evolving nature of TP disputes in Slovakia.

RECENT DEVELOPMENT

- Slovakian translation of the OECD Guidelines was published in 2024 by the Ministry of finance.
- The Ministry of Finance also published the latest Guidelines MF/020061/2022-724 for the period starting in 2023.
- Since 2023, adjustments to median have been compulsory in case of breach of the arm's length price.
- Since 2023, the Local File can also be prepared in foreign languages.

TRENDS AND KEY AREAS

Slovakia continues to enhance its transfer pricing enforcement efforts, with increased focus on high-risk areas such as:

- Loss-making positions of limited risk companies
- Miscellaneous conditions of IC transactions
- Discrepancies between a company's functional profile and its profitability
- Provision of intragroup services, royalties, and financing arrangements
- Economic sense of transactions
- Based on the publicly available information, the volume of Tax Authority findings increases (more relevant findings are typically in millions of EUR per case).

CONCLUSION

Based on the above, the countries of the Visegrad Four (V4) are at various levels in the management and regulation of transfer prices.

Despite the common goals, the legislation interprets and applies the guidelines differently, which is a great challenge for companies in the region. Local tax authorities are increasingly focusing on transfer pricing compliance, so it is extremely important for companies to have up-to-date and accurate documentation, especially considering the various regulatory changes that may make it more difficult to meet compliance requirements in the future.

Tax authorities have tightened controls on transfer pricing in recent years, resulting in increasing compliance pressure for local and international companies.

Overall, it can be said that although the V4 countries apply similar regulatory frameworks, due to national differences, each company must thoroughly understand the regulations of the given country and take them into account when developing its transfer pricing documentation to avoid tax risks.

THE V4 OFFICES OF THE ECOVIS NETWORK CAN EXPERTLY NAVIGATE THE COMPLEXITIES OF TRANSFER PRICING LEGISLATION ACROSS THE REGION, ENSURING THE BUSINESSES STAY COMPLIANT.