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Overview

LeitnerLeitner GmbH Wirtschaftsprüfer Steuerberater, Taxand Austria

Taxand Austria's experienced team consisting of transfer pricing specialists assist with all aspects of domestic and foreign transfer pricing obligations and documentation requirements, and with the planning and implementation of international value chains. We analyse the current situation, adapt existing transfer pricing systems or work with the client to develop recommendations for establishing a tax-optimised transfer pricing system that is designed take into account business parameters, reduce the risk of double taxation and prevent costly and time-consuming discussions with tax authorities. If needed, we also help defend existing intragroup transfer pricing mechanisms and systems.

Taxand Austria provides tax advisory services in the following fields:

- Update of existing/conceptualisation and implementation of BEPS-compliant transfer pricing systems and tax-optimised value chains,
- Creation of clear functional and risk structures, and optimisation of intragroup supply and service transactions,
- Analysis of the impact of changes on group structures (business restructuring),
- Development of/support with depicting the transfer price-specific aspects of intragroup supply and service transactions (including the development of intragroup supply, service, allocation and license agreements etc.),
- Intragroup financing, implementation of cash pools,
- Design of intragroup employee secondments,
- Efficient identification of transfer price risks and potentials for optimization,
- Tailored Quick Check for the rapid identification of potential transfer price risks,
- Conceptualisation and implementation of efficient and customised transfer price documentation models in accordance with legal requirements (centralised documentation approaches, master/local files, CbC reporting etc.),
- Advice for automation-supported tools or web-based solutions to ensure uniform documentation across countries,
- Support with audits so disputes may be settled amicably without the involvement of the courts,
- Management of bilateral and multilateral arbitration and mutual agreement procedures (MAP),
- Defense of existing intragroup transfer pricing mechanisms and transfer pricing systems in appeal proceedings,
- Request for rulings pursuant to sec. 118 BAO (Federal Fiscal Code), and initiation of advance pricing agreements (APAs),
- Benchmarking studies (including interest and royalties),
- DAC 6 analysis,
- Advice regarding VAT, customs and foreign trade legislation in connection with transfer prices.

General: Transfer Pricing Framework

In Austria, no statutory provisions dealing specifically with intercompany pricing exist and any tax issues arising from transfer pricing have to be dealt with on the basis of general rules of Austrian income tax law. Therefore, the basic provision in Sec 6 para 6 Austrian Income Tax Act contains provisions based on the principle that prices between related persons must be at arm´s length. Furthermore, transfer pricing documentation obligations exist due to the Transfer Pricing Documentation Act ("Verrechnungspreisdokumentationsgesetz" or "VPDG") implemented in 2016.

However, transfer pricing guidelines published by the Austrian Ministry of Finance and updated in 2025 ensures the implementation of the OECD Guidelines (and any updates thereto) in Austria. From a legal point of view, the guidelines were published in the form of a ministerial decree and thus do not have the binding effect of a law.

Accepted Transfer Pricing Methodologies

Austria's transfer pricing guidelines are based on and refer to the OECD Guidelines and thereby follow the revised hierarchy of transfer pricing methods according to the OECD Guidelines. In line with the OECD Guidelines, the Austrian tax authorities must begin a transfer pricing examination from the perspective of the method selected by the taxpayer. The taxpayer, however, must be able to substantiate why the chosen method is appropriate in view of the relevant facts and circumstances. The Austrian tax authority accepts the five following methods (which are in line with the OECD):

- Comparable Uncontrolled Price Method (CUP)
- Resale Price Method
- Cost Plus Method
- Transactional Net Margin Method (TNMM)
- Profit Split Method

As the Austrian Transfer Pricing Guidelines are based on and refer to the OECD Guidelines, the principles and the methods set out in the OECD Guidelines are the only recognized methods in Austria. Nevertheless, a taxpayer may use a different method to set prices, provided that it can demonstrate that it meets the arm's length principle and is more appropriate to the facts of the case than one of the OECD methods.

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Regarding method selection, the Austrian Transfer Pricing Guidelines specify that the method that provides the highest certainty for determining an arm's length transfer price has to be chosen. As a consequence, the TNMM and the PSM are regarded as methods of last resort. However, if more than one method could be used and these methods are equally reliable, there is a preference for the standard methods and the CUP method over the other methods in Austria. There is no case law in Austria dealing with the selection and use of specific methods of transfer pricing.

Transfer Pricing Documentation Requirements

The Austrian government and tax authority fully followed Action 13 of the OECD BEPS Action Plan. This is implemented in the Austrian Transfer Pricing Documentation Act.

CbC-Report: Austria is requiring Austrian parented MNEs or a local subsidiary with a global consolidated group turnover of at least EUR 750 million in the previous year to file a Country-by-Country (CbC) report containing the information in Annex III of the OECD's BEPS Action 13 final recommendations. The CbC report has to be filed electronically via FinanzOnline in an XML format, which is very similar to the OECD XML format.

CbC-Report notification: Every Austrian group entity or Austrian branches of MNE groups with annual revenues exceeding EUR 750 million in the preceding fiscal year has to notify the tax authority which company will file the CbC-Report.

This CbCR notification was initially set to be made annually, no later than the end of the reporting fiscal year. However, the Austrian Transfer Pricing Guidelines states that a notification is only required if there are changes compared to the previous year's notification (e.g. if the ultimate parent company changes).

Master File and Local File: In general, all entities (including permanent establishments) belonging to an MNE group that are tax resident in Austria are requested to prepare a transfer pricing documentation including a Master File and a Local File in German or English language.

An entity will fall under the Master File and Local File documentation obligation if its turnover exceeded EUR 50 million in each of the two preceding years. However, a Master File must also be presented even if the Austrian entity will not exceed the revenue threshold but there is another group entity that must prepare a Master File.

Master File and Local File must be prepared no later than the statutory deadline for filing the corporate income tax return (31 March of the second year after the end of the reporting fiscal year if the taxpayer is represented by an Austrian tax advisor or 30 June of the first year after the end of the reporting fiscal year in other cases) and may only be requested by the tax authorities after such statutory deadline to be submitted within 30 days upon request from the tax authorities. Transfer pricing documentation is usually submitted to the tax authorities upon request during a tax audit.

For entities not exceeding the threshold of a turnover of EUR 50 million in each of the two preceding years, the entities would have to prepare a transfer pricing documentation based on the administrative guidelines. As such, documentation is required upon the tax authorities' request, though lacking any model/template. Formally, if documentation and/or supporting documents are not available in German, the tax authorities have the right to request a translation at the taxpayer's expense.

No other transfer pricing returns of forms are applicable.

Local Jurisdiction Benchmarks

The preparation of benchmark studies based on databases as Orbis, Amadeus, Ktmine, DealScan, S&P Credit Risk Pricing is accepted in Austria, if the requirements according to the Austrian Transfer Pricing Guidelines are fulfilled. In general, Austrian comparables should be included in the final set of comparables. However, the Austrian Ministry of Finance also accepts pan-European comparables. The Austrian Transfer Pricing Guidelines include specific requirements for the preparation of benchmark studies.

Advance Pricing Agreement "APA"/Bilateral Advance Pricing Agreement "BAPA" Overview

There is a unilateral advance ruling procedure in place in Austria, the so-called advance ruling or "Auskunftsbescheid". This procedure provides for the possibility to request a binding ruling on transfer pricing matters. Administrative fees of EUR 1,500 to EUR 20,000 (if part of a group of companies according to local accounting standards) will be charged for the processing of the application of unilateral APAs depending on the company's sales. Advance tax rulings are dealt with by the responsible tax office of the taxpayer. The APA request must be submitted electronically if the applicant has a domestic tax number. The application has to be processed within 2 months after submission.

In Austria, no statutory provisions dealing specifically with BAPA or multilateral APA exist. However, the new guidance on MAP and arbitration procedure published in 2022 includes details on bilateral/multilateral APA. Therefore, bilateral APAs should start with an informal discussion (prefiling meeting) prior to formal initiation of an APA. The prefiling meeting is intended to offer the taxpayer the opportunity to discuss, together with the competent authority the suitability of an APA in the specific case, the nature and scope of the available documentation, as well as a rough schedule. A request must be submitted by the taxpayer. Prior to conclusion of an APA, the taxpayer will receive a statement of the agreement reached from the authorities. If the taxpayer agrees, the APA will become binding for the competent authorities. In addition, there is also the option of a "roll-back", i.e. extending the solution obtained through the APA for periods prior to the APA by means of a MAP. Since only a few bilateral APAs are requested in Austria, the timing mainly depends on the other contracting state.

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Transfer Pricing Audits

It is unusual for the tax authority to carry out an audit specifically in respect of transfer prices alone. However, experience shows that at the beginning of a tax audit, inspectors request a description of the transfer pricing system and a transfer pricing documentation. The availability of benchmark studies is usually expected. Typically, transfer prices represent a considerable part of a tax audit of Austrian-based MNEs or subsidiaries of MNEs in Austria.

The tax authority has special TP experts who retrace and review the correctness and comparability of transfer pricing documentation including benchmarking studies. The tax authorities have access to the Orbis database.

In tax audits, tax inspectors review especially the following intercompany transactions:

- Financial transactions (eg intercompany loans, cash pool)
- Licensing of trademarks and IP
- Provision of services
- Business restructurings

The Burden of Proof in Transfer Pricing: Theory versus Practice

The Austrian Transfer Pricing Documentation Act requires taxpayers to maintain adequate documentation to support their transfer pricing, including obligations for both a Master File and a Local File. When a taxpayer provides sufficient transfer pricing documentation, the responsibility falls on the tax authorities to prove that the taxpayer's transfer prices are not at arm's length. However, if a taxpayer fails to meet the documentation requirements, the burden of proof may shift to the taxpayer, as per statutory provisions for cross border transactions. In such cases, the tax authorities are also entitled to estimate the taxable result.

In practice, the allocation of the burden of proof does not always follow this legal framework. Rather than presenting substantial evidence, Austrian tax authorities sometimes rely on assertions or positions, effectively shifting the practical burden of proof onto the taxpayer. This is especially the case for financial transactions and licensing agreements.

Therefore, Austrian taxpayers must ensure their transfer pricing documentation is both thorough and comprehensive. This includes not only meeting the general documentation requirements but also providing clear evidence of the arm's length nature of their transactions, usually through benchmark studies. High-quality documentation is crucial in mitigating the risk of transfer pricing adjustments during tax audits.

Transfer Pricing Penalties

CbC-Report: A maximum penalty of EUR 50,000 and up to EUR 25,000 for gross negligence applies in case of non-timely or incomplete or incorrect filing of the CbC report.

There are no specific penalty provisions in case of non-timely filing or incomplete or incorrect filing of Master file or Local file. However, the Austrian Administrative Code requires the taxpayer to provide the tax authority with all relevant Information. If no Transfer pricing documentation is submitted, a fine of up to EUR 5,000 might be imposed and if willful tax evasion or tax fraud can be proven by the tax authority the fact of non-filing could aggravate the fine for such conduct. Additional penalties can arise in case of TP adjustments.

Local Hot Topics and Recent Updates

Focus on Financial Transactions

Most recently, Austrian Tax officers challenge the advance of funds and further financial transactions within MNE groups more frequently. Therefore, clients are advised on the specifics of structuring such transactions and robust transfer pricing documentation (including specific benchmarking studies) is prepared taking into account the recommendations of new Chapter X OECD Guidelines in order to defend the proposed structure in future tax audits.

Transfer Pricing Documentation for SME advantageous

Within tax audit, entities not exceeding the threshold of a turnover of EUR 50 million in each of the two preceding years are regularly requested to submit a (subsidiary) transfer pricing documentation based on the administrative guidelines. To avoid inconvenient queries with an uncertain outcome by Austrian Tax officers, entities slightly not exceeding the thresholds are encouraged to consider the content requirements for Local Files as stipulated in the OECD Guidelines and voluntarily prepare sufficient transfer pricing documentation.

Multilateral Risk Assessment

Since July 2022, a procedural basis for the participation of the tax administration in the International Compliance Assurance Program ("ICAP") or European Trust and Cooperation Approach ("ETACA") for multilateral risk assessment. In accordance with the CbC reporting, the prerequisite for participation in the multilateral risk assessment is a group turnover of at least 750 million euros. The risk assessment is divided into three phases:

1) the selection phase, in which the ultimate parent entity applies for the procedure to the senior financial administration responsible for it,
2) the risk assessment phase and
3) the outcome phase, which ends with a report on the risk assessment ("outcome letter").

These procedures shall provide a certain degree of tax and planning certainty for multinational companies, although it is not legally binding and has no prejudicial effect on later assessments or subsequent mutual agreement procedures in Austria.

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Documentation threshold

Master file	Entity of MNE group with turnover exceeding EUR 50 million in each of the two preceding years
Local file	Entity of MNE group with turnover exceeding EUR 50 million in each of the two preceding years
CbCR	global consolidated group turnover of at least EUR 750 million in the previous year

Submission deadline

Master file	Only upon request
Local file	Only upon request
CbCR	12 months after the last day of the reporting fiscal year of the MNE group's ultimate parent company

Penalty Provisions

Documentation – late filing provision	no specific penalty provisions applicable
Tax return disclosure – late/incomplete/no filing	Assessment interest: in addition to the current annual rate of interest of the Austrian National Bank, an annual simple interest rate of 2% of the tax due Late filing penalty: 10% of the tax assessed may be charged by the tax office, unless the taxpayer can prove that the late filing was not his fault. If the taxpayer does not file a tax return, despite reminders from the tax authorities, the tax authorities may impose a penalty of up to EUR 5,000.
CbCR – late/incomplete/no filing	A maximum penalty of EUR 50,000 applies and up to EUR 25,000 for gross negligence with the CbC report.

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