

Overview

LeitnerLeitner, Tax and Croatia

LeitnerLeitner Consulting d.o.o. is a consulting firm based in Zagreb, Croatia and offering a full range of services. We offer individual and innovative solutions for all questions around tax, accounting, payroll-related and financial advisory services.

Our services related to transfer pricing include all aspects of transfer pricing services, including compliance and reporting, analysis, tax planning and strategy and assistance during tax audits. We are focused on the preparation of customized transfer price documentation in compliance with local legislation.

General: Transfer Pricing Framework

In Croatia, transfer pricing documentation legislative framework is set out with the Profit Tax Act and the Profit Tax Regulations, as well as the Transfer Pricing Audit Manual (issued by the Ministry of Finance, with the latest version dated July 2019). Since the amendments to the Profit Tax Ordinance (Article 40) in January 2025 (NN br. 16/25), the Croatian Tax Administration refers to the OECD Transfer Pricing Guidelines in practice, which will be used for interpreting the application of transfer pricing rules under the Corporate Income Tax Act and Article 40. The use of an arm's length range or statistical measures is not proscribed in the domestic legislation. However, the use of interquartile range is accepted and used in practice.

Accepted Transfer Pricing Methodologies

In principle, the Comparable uncontrolled price method ("CUP") method is the preferred method by the Croatian Tax Authorities ("CTA") but because comparable uncontrolled transactions are difficult to find, in practice, Transactional net margin method ("TNMM") method is the most common transfer pricing method used.

The taxpayer is allowed to apply any other method as long as it can be demonstrated that it leads to an arm's length outcome. The most commonly used methods are CUP, mainly for financial transactions and license fees, and TNMM due to the ability to perform a benchmark with sufficient reliable comparable data. The profit split method is becoming more accepted by the authorities over time but in practice this method is felt to be complicated from a practical perspective.

Transfer Pricing Documentation Requirements

Entities required to prepare transfer pricing documentation in Croatia are companies that conduct transactions with foreign related parties and domestic related parties if one of the related parties is in a privileged tax position or has the right to carry forward tax losses from a previous period.

Taxpayers are required to prepare transfer pricing documentation but submit it only upon request of the tax authorities. The three-tier standardized approach as proposed by the OECD has been implemented in Croatia. There are no

local guidelines summarizing the recommendations from BEPS Action 13, but the latter are followed by the competent tax authorities. In general, compliance with the recommendations of the BEPS Action 13 imply compliance with local rules. Also, there is no threshold below which the transaction does not fall under transfer pricing rules.

The transfer pricing documentation must be submitted in Croatian language.

The documents that must be submitted without specific request by a tax inspector are the notification and filing of a country-by-country report for MNE's that exceed the €750 million annual revenue threshold. Filing of a country-by-country report is only required if the ultimate parent entity or the surrogate parent entity is tax-resident in Croatia. Also, it is required to submit a "PD-IPO form" together with the corporate income tax return which includes an overview of transactions effected with related parties.

Local Jurisdiction Benchmarks

Benchmarking helps to demonstrate that transfer prices are set at arm's length. The CTA accepts pan-European benchmarks if they meet comparable search strategy standards set by the CTA. The CTA generally refers to multiple year data and the interquartile range in terms of benchmarking. In line with the OECD TP Guidelines, a financial update is to be conducted every year. In Croatia, domestic legislation does not explicitly require an annual renewal of the comparability analysis. In practice, a regular update of the financial data (2-year update period) has proven as accepted in practice.

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

The Profit Tax Act as of January 1, 2017, provides the option to enter into APA's through which taxpayers can agree on the method of determining transfer prices with the Tax Administration ("TA"). The following fees apply: EUR 2,000 for taxpayers with a revenue of up to EUR 400,000, EUR 4,000 for a taxpayer with a revenue between EUR 400,000 and 2.65 million, and EUR 6,600 for a taxpayer with revenue exceeding EUR 2.65 million. In case of a BAPA, there is additional fee of EUR 6,600, for Multilateral APA - of EUR 13,200.

There is no prescribed deadline for APA. In practice, it takes more than one year to conclude an APA.

The Burden of Proof in Transfer Pricing: Theory versus Practice

In the Croatian tax system, the allocation of the burden of proof plays a crucial role in resolving disputes related to transfer pricing. In general, tax authorities are responsible for proving that the prices set by a taxpayer do not comply with the arm's length principle. However, taxpayers are expected to demonstrate, both before and at the time of a controlled transaction, that they have made reasonable efforts

to set the price according to this principle, based on the information available to them at that time. If, by the end of the tax period, a taxpayer determines that their pricing does not align with the arm's length principle, they are required to make a compensatory adjustment to bring it into compliance (Profit Tax Ordinance, Article 40).

In practice, the situation can become more complex when it comes to intra-group services, as Croatian tax authorities often focus on proving that services were actually performed and provided economic benefit to the taxpayer. In these cases, the benefit test is applied, requiring taxpayers to demonstrate that the received services were necessary for their operations and priced in line with what would be expected in an independent transaction. To support this, taxpayers typically rely on documentation such as **contracts, monthly invoices, service specifications, cost allocation calculations and keys, travel orders, and other relevant records**.

Collecting a broad range of supporting evidence is crucial in demonstrating that the services were genuinely performed and that the costs were allocated in a reasonable manner.

If a taxpayer fails to fulfill their documentation obligations, the burden of proof may shift to them, as outlined by legal provisions. Croatian law mandates that taxpayers maintain proper documentation (Local file) to substantiate their transfer prices, as set out in the Profit Tax Ordinance. The shift in the burden of proof is only meant to occur in cases of significant non-compliance, where a lack of key documentation is viewed as a violation of administrative duties.

In such situations, taxpayers often find themselves on the defensive, having to provide detailed evidence, such as contracts, reports, and other documentation, to prove that the

services were performed and that the pricing was justified. This puts even more importance on maintaining thorough and transparent transfer pricing documentation. It is not enough to simply comply with regulatory requirements—businesses must proactively demonstrate the legitimacy and benefit of their intra-group services, to avoid an unfavorable shift in the burden of proof.

Transfer Pricing Audits

Taxpayers are required to prepare transfer pricing documentation but submit it only upon request of the tax authorities. During a tax audit, the TA usually provides for 8 plus days for submission of the information requested. In case of transfer pricing documentation, this deadline is usually extended to 30 days, though this extension is not covered by laws and is upon discretion of the tax inspector.

Transfer Pricing Penalties

In Croatia, there are no specific penalties if the obligation for transfer pricing documentation is not met. Since transfer prices are subject to corporate income tax audits, general penalties are applicable. A penalty of EUR 260 to 26,540 can be imposed if the corporate income tax base is not in line with the legal rules. In addition, higher fines are possible for repeated offences.

Local Hot Topics and Recent Updates

In Croatia it seems that the CTA over the last year have had a strong focus on requesting transfer pricing documentation (Local file) and financial transactions and the application of arm-length interest rates.

CROATIA



Documentation threshold

Master file	N/A
Local file	N/A
CbCR	€750 million

Submission deadline

Master file	Upon request
Local file	Upon request
CbCR	Within 12 months from the last day of the reporting tax year

Penalty Provisions

Documentation – late filing provision	N/A
Tax return disclosure – late/incomplete/no filing	€260 to 26,540
CbCR – late/incomplete/no filing	N/A



CONTACT

Pavo Djedović
LeitnerLeitner

Pavo.Djedovic@leitnerleitner.com

+385 91 606 44-00