

BDO LUXEMBOURG TRANSFER PRICING SERVICES

Navigate the evolving
TP landscape with
confidence



THE CURRENT TRANSFER PRICING LANDSCAPE

In an environment shaped by persistent inflation, trade tensions, rising borrowing costs and supply-chain realignments, transfer pricing (TP) has evolved from a routine compliance obligation into a strategic function.

Building on the implementation of OECD's Base Erosion and Profit Shifting ("BEPS") action plan, tax authorities across the world have been enacting stricter regulations on transfer pricing and applying greater scrutiny to safeguard their local tax base.

This makes it more important than ever for Luxembourg businesses to apply sustainable TP methodologies and maintain robust supporting documentation to withstand local and international scrutiny.

KEY REGULATIONS GOVERNING TP IN LUXEMBOURG

Statutory arm's length standard

Articles 56 and 56bis embed the arm's length principle and comparability analysis into Luxembourg Income Tax Law (LITL) for all intercompany transactions regardless the size, while Article 164 LITL addresses the re-characterization of non-arm's length advantages as hidden dividend distributions.

TP documentation obligation

Paragraph 171 of the General Tax Law authorises the Luxembourg Tax Administration (LTA) to request contemporaneous TP documentation to support intra-group pricing. Since 2017 obligation to disclose the existence of intercompany transactions in tax returns. There are no de minimis thresholds provided for the TP documentation and no additional TP forms or filings are required.

Financing guidance

Circular 56/1-56bis/1 prescribes substance, capitalisation and benchmarking requirements for intermediary financing companies.

Transparency measures

Country-by-Country (CbC) reporting applies from FY 2016, while Public CbC reporting becomes effective for periods beginning on or after 22 June 2024.

WHAT SHOULD TAXPAYERS DO NEXT?

Luxembourg companies must:

- ▶ Diligently maintain arm's length TP positions and documentation for all intercompany transactions.
- ▶ Be ready to demonstrate substance from a TP perspective: the LTA increasingly requests TP documentation to confirm that Luxembourg entities' pricing strategies align with their economic substance and activities.
- ▶ Assess and document debt capacity and the arm's length pricing of financial transactions.
- ▶ Undertake periodic TP "health-checks": proper, proactive TP reviews and implementation checks are essential for effective tax risk management and for being able to substantiate TP positions before the LTA within the prescribed deadlines.

HOW BDO LUXEMBOURG CAN HELP

- ▶ BDO Luxembourg TP team helps Groups and Investment Fund structures navigate the complexities of the global transfer pricing environment.
- ▶ Working closely with BDO global network of TP specialists, we provide tailored solutions that address clients' specific needs across various industries.
- ▶ We collaborate closely with your teams to design TP policies that are defensible, adaptable and aligned with your wider tax strategy.
- ▶ We offer end-to-end services: from planning, benchmarking and documentation to audit defence, Advance Pricing Agreements (APA) and Mutual Agreement Procedures (MAP), ensuring continuous support throughout the TP life-cycle.

EXPERT TRANSFER PRICING SERVICES

TP advisory and Risk Assessments

- ▶ Review Group TP policies, intercompany transactions and documentation to identify compliance risks and implementation gaps
- ▶ Analyse value chains to ensure TP outcomes align with value creation
- ▶ Support with value chain transformations and planning
- ▶ Assess the substance of Luxembourg entities from a TP perspective

Financing, Debt Pricing & Thin Capitalisation

- ▶ Prepare interest rates benchmark analyses for any type of loan and financial instrument
- ▶ Perform debt capacity analyses to establish arm's length levels of debt
- ▶ Conduct cash pool and guarantee fees analyses

TP Planning & Policies

- ▶ Develop and help implement bespoke TP policies
- ▶ Assist with business restructuring to optimise TP and operational models
- ▶ Advise on TP aspects for due diligence and acquisitions

Documentation & Compliance

- ▶ TP reports for financing transactions per Circular n°56/1-56bis/1
- ▶ TP Master Files and Local Files in line with OECD standards
- ▶ Benchmark reports for any type of intercompany transaction
- ▶ CbC reports and notifications to meet Luxembourg's filing obligations

Audit Defence & Dispute Resolution

- ▶ Help respond to TP requests and defend your TP model during LTA audits
- ▶ Assist with MAP applications to resolve TP disputes
- ▶ Assist with preparation and negotiation of unilateral or bi/multi-lateral APAs

Implementation support

- ▶ Design & roll-out of TP policies, by translating pricing models into detailed rules, allocation keys and contractual terms alignment
- ▶ Assist with aligning intercompany agreements with TP policies, to mitigate future audit challenges

INTERESTED?

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