

Jamaica

Transfer Pricing Country Profile

February 2022

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Income Tax Act (ITA), Section 17. The Income Tax (Amendment) Act 2015-No 12 of 2015
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The legislation was drafted in accordance with the OECD Transfer Pricing Guidelines. As such, the TPG is the main resource for interpreting transfer pricing rules.	Practice note Transfer Pricing, 2017 version
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The transfer pricing legislation uses the term "Connected persons" which is broader than the OECD definition of related party. A "connected person", in relation to a participant in a transaction, means a person who is treated as being connected, in accordance with section 2(2), with another participant in the transaction. (2) For the purposes of this Act the following persons shall be treated as being connected with a given person ("A") and he with them and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or had seem to exist- (a) A's relatives; (b) the husband or wife of any relative of A; (c) A's partners;	

		(d) where A is a trustee of a settlement (other than a settlement where the sole trustee is a trust corporation for the purposes of The Judicature (Trust Corporations) Act, or all the trustees are such corporations, and none of the beneficiaries is connected with a settlor of the settlement or with a person connected with a settlor, or would be so connected if he were the sole beneficial owner of the property comprised in the settlement).													
4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Income Tax Act Section 17 Subsection 10.</p> <p>Notwithstanding paragraphs 5 and 9, the Commissioner General may apply a method (other than the one that has been used by a connected person and whether or not it is a method provided by paragraph 5) to establish the arm's length consideration in respect of a connected transaction if the Commissioner General is satisfied that the method to be applied is consistent with paragraph 4.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input checked="" type="checkbox"/> Hierarchy of methods</p> <p><input type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>The Comparable Uncontrolled Price (CUP) Method is mandatory to the extent it can be applied equally with any other method.</p>													

6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	
No Specific Guidance.			
Comparability Analysis			
7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>For the purposes of this paragraph, the arm's length range in relation to a connected transaction is a range of financial indicators produced by the application of the most appropriate transaction pricing method to a number of independent transactions that are reasonably comparable to the connected transaction.</p>	Income Tax Act Eight Schedule paragraph 12
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The arm's length consideration in respect of a connected transaction shall be determined by applying the most appropriate transfer pricing method to the circumstances of the case, taking into consideration the following criteria –</p>	Income Tax Act Eight schedule paragraph 4 Subparagraph d

		the degree of comparability between the connected transaction and independent transaction, including the reliability of comparability adjustments, if any, that may be required to eliminate differences in the comparison of the transactions.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The determination of arm's length consideration for a connected transaction involving a grant of licence relation to, a sale or other transfer of intangible property between connected persons shall take into account –</p> <p>(a) the perspective of both the transferor and the transferee of the property, including in particular the price which an independent person would be willing to pay for, or accept for, the property in a comparable independent transaction;</p> <p>(b) the value and usefulness of the property to the transferee.</p> <p>(2) In applying the provision of paragraph 3 to a transaction involving the grant of licence relating to, the sale or other transfer of in tangible property, any special factors relevant to the comparability of the connected and independent transactions shall be considered, including –</p> <p>(a) the benefits expected from the transfer of the property;</p> <p>(b) any geographic limitations on the exercise of rights to the property;</p> <p>(c) whether the rights to the property are exclusive or non-exclusive; and</p> <p>(d) whether the transferee has a right to participate in further development of the property by the transferor of the property.”.</p>	Schedule Eight Paragraph 15 dictates additional considerations for intangibles.
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ITA Capital Allowance schedule

Intra-Group Services

15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Jamaican domestic legislation does not contain specific guidance on the pricing of controlled intra-group services transactions and tend to rely on the OECD TPG.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<p>Intra-group value-adding transitions for local group members which result in lower rate of tax is avoidance and not evasion.</p> <p>Jamaica would follow the OECD TPG on the simplified approach for low value-adding services.</p>	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Withholding tax provision and impact of permanent establishment provision as well as treaty factors.	

Financial Transactions

18	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Jamaican domestic legislation does not contain specific guidance on the pricing of controlled financial transactions and tend to rely on the OECD TPG.	
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Oncome Tax Act Section 13 Interest accrued is not deductible only when actually paid.	

	<i>deductions and other financial payments or any similar rules)</i>		
Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Jamaica would follow the OECD guidance on CCAs.	
Transfer Pricing Documentation			
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): <p>Schedule 8 annexed to Annual Corporate Tax Returns annually.</p> <p>Transfer pricing Agreement legislation allows for the requisition of transfer pricing documentation consistent with Annex I to Chapter V of the TPG.</p>	
22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	All documentation is due by 15 March following the relevant year of assessment. <i>Records must be maintained in English.</i>	Income Tax Act section 89
23	Does your legislation provide for specific transfer pricing penalties	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ITA Section 17(5)

	and/or compliance incentives regarding transfer pricing documentation?	With effect from the year of assessment 2016, if any person fails to certify as required by subsection (4) or provides an incorrect or incomplete certificate or return due to the taxpayer's negligent or fraudulent conduct, the taxpayer shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two millions(J\$) and, in default of payment thereof, to imprisonment for a term not exceeding twelve months.	
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	No exemptions. However, the legislation was implemented prospectively so does not apply to years of assessment prior to the passing of the legislation irrespective of date for filing such outstanding returns.	
Administrative Approaches to Avoiding and Resolving Disputes			
25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	<u>Transfer Pricing Agreement June 2018</u>
		<p>Income Tax Act 17A. Transfer Pricing Agreement (guidelines legislated)</p> <p>Currently there is an APA program in place. The maximum duration of an APA is 5 years, with the application or roll-back of findings to past years being decided upon agreement between Tax Administration Jamaica (TAJ) and the taxpayer.</p> <p>There are currently no MAP cases or Programs.</p>	
Safe Harbours and Other Simplification Measures			
26	Does your jurisdiction have rules on safe harbours in respect of certain	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

	industries, types of taxpayers, or types of transactions?		
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Legislative Aspects or Administrative Procedures			
28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Section 17.2 (b) of the Income Tax Act requires adjustments in order for the tax to reflect the arm's length price of the transaction.	
Attribution of Profits to Permanent Establishments			
30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> In 15 tax treaties. <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i> The interpretation of the Article prior to 2010 remains.	
		<input checked="" type="checkbox"/> No <i>In how many tax treaties?</i> In one tax treaty.	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes	

		<input checked="" type="checkbox"/> No	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)	N/A	

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>