



Transfer pricing alert

OECD releases updated transfer pricing country profiles

December 5, 2017

On November 6, 2017, the Organisation for Economic Co-operation and Development (OECD) released updated transfer pricing country profiles (TPCP) for 31 nations, including Canada. These documents contain up-to-date information that reflect the current state of countries' legislation on transfer pricing, including some recent developments. The OECD expects TPCP updates to follow from another 21 nations in the near future.

The TPCP features answers from each tax authority on a set of 29 questions on 11 different topics, including the arm's length principle, transfer pricing methods, comparability analysis, intangible property, intra-group

Contacts:

Norma Kraay
National Transfer Pricing Leader
Tel: 416-601-4678

Quebec

Hernan Allik
Tel: 514-393-3643

Eastern Region

Tony Anderson
Tel: 905-315-6731

Toronto

Norma Kraay
Tel: 416-601-4678

services, cost contribution agreements, transfer pricing documentation, administrative approaches to avoiding and resolving disputes, safe harbours, other legislative aspects or administrative procedures, and other relevant information.

Updated OECD guidelines

The TPCP reflects the state of each country's legislation and indicates how closely it aligns with OECD Transfer Pricing Guidelines.

The OECD released the 2017 edition of the OECD Transfer Pricing Guidelines on July 10, 2017, which incorporates the substantial revisions in the 2015 base erosion and profit shifting (BEPS) reports. These include the Final Reports on *Aligning Transfer Pricing Outcomes with Value Creation (Actions 8-10)*, and on *Transfer Pricing Documentation and Country-by-Country Reporting (Action 13)*.

Following the release of the OECD 2015 BEPS reports, many member nations have implemented measures to align with revisions to the OECD Transfer Pricing Guidelines. The updates to TPCPs released on November 6, 2017 provide member nations an opportunity to clarify how the revisions in the 2015 BEPS reports and related 2017 edition of the OECD Transfer Pricing Guidelines impact local transfer pricing administration. For example, the United Kingdom TPCP makes specific references to "amendments to the TP Guidelines made by the BEPS Actions 8-10 Final Report."

Canada's TPCP

The Canadian TPCP, dated October 2017, references Section 247 of the Income Tax Act, court rulings, and Canada Revenue Agency (CRA) issued circulars and transfer pricing memorandums (TPMs) to highlight the country's position on key transfer pricing issues. As such, Canada's TPCP only specifically references the 2010 update of the OECD Transfer Pricing Guidelines pursuant to CRA's TPM-14. Canada's recently updated TPCP makes no mention of the 2015 BEPS reports or the 2017 edition of the OECD Transfer Pricing Guidelines.

While there are multiple references to the 2010 update of the OECD guidelines and no references to more recent revisions, this is not an implicit lack of support for the 2015 BEPS reports or the 2017 edition of the OECD Transfer Pricing Guidelines. The commentary in Canada's 2016 federal budget stated that revisions to the OECD Transfer Pricing Guidelines as contained in the 2015 BEPS Reports are being applied by the CRA. Furthermore, CRA's TPM-14 endorsing the 2010 update of the OECD Transfer Pricing Guidelines was published in October 2012, approximately 27 months after the OECD approved the 2010 version of the Transfer Pricing Guidelines on July 22, 2010. It is highly anticipated that the CRA will revise its administrative position to include the 2017 OECD Transfer Pricing Guidelines, but based on the timing of the 2010 update, it can take years before such a CRA position is released to the public.

Therefore, Canada's October 2017 responses merely reference available Canadian circulars and TPMs, which are not yet updated to reflect the 2015 BEPS reports or the 2017 version of the OECD Transfer Pricing Guidelines.

Next steps and issues to consider

The release of the Canadian TPCP comes at a time when there is still some uncertainty in respect of Canada's implementation of the OECD Transfer Pricing

Western Region

[Rob Stewart](#)

Tel: 604-640-3325

Related links:

[Transfer pricing](#)

[Deloitte Tax services](#)

Guidelines in its administrative guidance. While Canada's 2016 federal budget indicates support for the revised guidelines in the 2015 BEPS reports, Canada does not endorse every word of the revised guidelines, since, for example, the master file and local file approach described in Chapter V of the revised guidelines are not required in Canada. Until CRA releases detailed additional guidance, it is uncertain to what degree CRA will follow the 2017 version of the OECD Transfer Pricing Guidelines.

Deloitte LLP
Bay Adelaide Centre, East Tower
8 Adelaide Street West, Suite 200
Toronto ON M5H 0A9
Canada

This publication is produced by Deloitte LLP as an information service to clients and friends of the firm, and is not intended to substitute for competent professional advice. No action should be initiated without consulting your professional advisors. Your use of this document is at your own risk.

Deloitte, one of Canada's leading professional services firms, provides audit, tax, consulting, and financial advisory services. Deloitte LLP, an Ontario limited liability partnership, is the Canadian member firm of Deloitte Touche Tohmatsu Limited.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a U.K. private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

© Deloitte LLP and affiliated entities.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.