



Transfer Pricing News

# Transfer pricing matters to consider in the Guatemalan pharmaceutical industry

At the end of 2021, the Ministry of Economy published a Study of the Pharmaceutical Products Industry. The data reflects market share percentages led by generic drugs, which are broken down as follows: pain relief medications (27.2%), cough, cold and allergy products (15.0%), digestive remedies (7.7%), and pediatric products, among others. The main distribution channels for these products are traditional retailers, pharmacies, drugstores, supermarkets, specialized retailers, discount stores, superstores and/or others. Due to the Covid-19 pandemic, the products focused on prevention and treatment have experienced solid growth in retail sales. The generic drugs with greater growth during 2021 were vitamins, supplements and pediatric remedies.

Exports and imports also reflected a significant percentage of growth:

Pharmaceutical products	Year-over-year growth 20-21	
	Exports	Imports
Medicines containing penicillin for human use.	23.3%	-0.2%
Medicines containing other antibiotics for human use.	2.8%	45.0%
Other medicines containing vitamins or other products for human use.	20.7%	16.6%
Other medicines for human use.	15.8%	11.4%
Bandages and other items, with an adhesive layer.	31.4%	19.2%
Other paddings, gloves, gauzes, bandages and similar items.	179.3%	9.8%
Sterile catguts, similar sterile ligatures for surgical sutures and sterile adhesives for organic tissues.	348.2%	-18.2%

Sources: Ministry of Economy of the Republic of Guatemala

This growth in exports and imports makes it imperative for companies of the pharmaceutical industry to be prepared for the tax and transfer pricing compliance implied by such growth, among which we can mention three important economic structures to be evaluated.

The first structure is the use of exclusive distributors and/or a company's own distributors in the value chain for the sale and marketing of medicines and medical supplies. In both cases, it is subject to the transfer pricing regulations in Guatemala. Thus, it is necessary to perform an analysis on whether the prices, both for imports and exports from and to these distributors, are valued at market prices, which should be documented in a transfer pricing study.

The second structure is the use of a company's own brands for the differentiation of the medicines and medical supplies. These brands can sometimes be a significant asset for companies, which is not always

visible in the accounting, but it is an intangible that adds value to the transaction. It can also represent long-term tax savings, if adequately structured, aligning the functions, assets and risks that support the royalty payments at a market rate.

Finally, the third structure refers to corporate services. If the company is operating in various countries, but centralizes part of its transactions in a single country, such as financial functions, regulatory matters, human resources, and marketing, among others, it is important to verify that these services are provided with a remuneration valued at market prices. Many times, these centralized functions are provided without any remuneration, thus resulting in non-compliance with the transfer pricing regulations and triggering a tax risk with respect to the deductibility of the expense, such as the salaries and wages of the people involved and other expenses that are related to the providing of the service.



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