

# Transfer Pricing Country Summary Bolivia

26 August 2015

## Legislation

Existence of Transfer Pricing Laws/Guidelines

The legal framework for Transfer Pricing was introduced in 2014 with the Supreme Decree No. 2227, the Law No. 549 and the Resolution No. 10-0008-15.

Transfer pricing rule includes Chapter I of the Income Tax (IUE), Title 3, legislation 2005 (Impuesto sobre las Utilidades de las Empresas, Título III del Texto Ordenado 2005, Spanish).

## Definition of Related Party

According to the Supreme Decree, Art.2, two or more entities can be considered as related parties when one of the following cases applies:

- When one of them owns part of the capital of one another.
- When one of them has significant influence on the other parties.
- A natural or legal person operating in national territory doing business and / or financing directly or indirectly with natural or legal persons domiciled or operating in countries or regions with low or no taxation
- A branch, affiliate or subsidiary operating in national territory has its headquarters outside the territory or vice versa.
- Business operations and/or financial operations between branches, affiliates or subsidiaries located in another country and outside of the head quarter.
- Business operations and/or financial operations between a national company and one abroad, whose owners, shareholders, partners, managers, or senior staff are related up to the fourth degree of consanguinity and second of affinity

Includes definitions of subjects as set in the Article 2nd, Law 549:

- I. Those who conduct transactions with related parties constituted resident, filed resident or located abroad; and falling in Art. No. 45 of law No. 843, Ordered Text 2004. In transactions with related parties, the price is the same as arm's length.
- II. The related companies have to prepare financial statements separately.
- III. Those who perform transactions constituted resident, filed residing or located in countries with low or no taxation or benefiting from a special scheme for low or no taxation entities.

## Transfer Pricing Scrutiny

SNI (The Fiscal Administration of Bolivia) is entitled to perform transfer pricing audits to test whether transactions carried out between related parties have been agreed in accordance with the arm's length principle. Taxpayer is required to justify that the transactions with foreign related parties are undertaken on an arm's length basis and in accordance with the transfer pricing rules and regulations.

When prices or value agreed in transactions with related parties do not meet the arm's length standards, the SNI is entitled to make appropriate adjustments, as the valuation agreed between the related parties would result in lower taxation in Bolivia.

## Transfer Pricing Penalties

Resolution RND 10-0008-15 requires taxpayer in excess of u\$s 2:200.000 about transactions with related parties to the obligation to present the transfer pricing study

Taxpayers who violate the formal duties established under the Transfer Pricing legislation, will be fined the maximum amount of USD 1,500, approximately. The penalties are set out in the Resolution, Chapter IV, Article 12.

## Advance Pricing Agreement (APA)

Not applicable.

## Documentation And Disclosure Requirements

### Tax Return Disclosures

Tax payers are required to disclose the followings:

- Form 601
- Transfer Pricing Report
- Statutory financial statements

### Level of Documentation

Transfer pricing documentation should include:

- Information on activities and functions developed.
- Information on risks assumed and assets employed.
- Facts and circumstances used for analyses.
- Details and value of the transactions to be disclosed according to transfer pricing requirements.
- Identification of foreign related parties with which the transactions being declared are carried out.
- Information on the methods used for the calculation of transfer prices and the reasons for considering them the most appropriate methods.
- Identification of the selected comparables.
- Identification of the sources used for the selection of comparables.
- Details and justification of the comparables rejected.
- Details and justification of the comparability adjustments performed.
- The inter-quartile range. There is a special formula to determinate the median range.
- Transcriptions of the income statement of the comparable parties corresponding to the fiscal years necessary for the comparability analysis, with an indication of the source of the information,
- Conclusions.

### Record Keeping

Records must be kept in accordance with the provisions of the Tax Code, for five years.

### Language for Documentation

Transfer pricing documentation should be in Spanish.

### Small and Medium Sized Enterprises (SMEs)

Not applicable.

## Deadline to Prepare Documentation

No specific requirement.

## Deadline to Submit Documentation

Transfer pricing documentation must be submitted to the Fiscal Administration four months after the close of the fiscal year at the latest. There are specific requirements for taxpayers with the following business activities:

- For Industrial companies and Oil companies: 31 March
- For Agricultural and Livestock companies: 30 June
- For Miners companies: 30 September
- For Other companies: 31 December

For taxpayers that submit transfer pricing documentation for the first time, the following deadlines shall apply:

- For Industrial companies, oil companies: 29 July 2016
- For Agricultural and livestock companies: 28 October 2016
- For Miners companies: 28 January 2016
- For Other companies: 29 April 2016

## Statute Of Limitations

Five years starting at the close of the fiscal year.

## Transfer Pricing Methods

The methods in Bolivia are the same as in the OECD Guidelines:

- Comparable uncontrolled price method (CUP);
- Resale price method (RPM);
- Cost plus method (CPM);
- Profit split method (PSM); and
- Transactional net margin method (TNMM).
- The prices of the imports or exports of commodities to related entities performed through an international trader based on international prices in commodities markets.

## Comparables

The legislation in Bolivia allows the use of domestic and foreign comparables to determine the arm's length range for the evaluation of related-party transactions.