Finland

TRANSFER PRICING PROFILE

1. Reference to the Arm's Length Principle

Act on Assessment Procedure § 31.

2. Reference to the OECD Transfer Pricing Guidelines

No reference in the legislation.
However, the OECD TPG have been referred to in the Government Bill (107/2006 vp.) updating transfer pricing legislation (Act on Assessment Procedure § 31) and introducing transfer pricing documentation requirements. The reference has also been made in the Government Bill (142/2016 vp.) updating transfer pricing documentation requirements. In addition Supreme Administrative court has referred to OECD TPG as an interpretation source in several decisions (e.g. KHO 2013:36)"

3. Definition of related parties

Act on Assessment Procedure § 31.

4. Transfer pricing methods

No relevant legislation.
However, TP methods have been referred to in the Government Bill (107/2006 vp.) and in the Supreme Administrative Court Practise. The TP methods are applied in line with the OECD TPG including the hierarchy of the methods.

5. Transfer pricing documentation requirements

Act on Assessment Procedure § 14a - 14c effective from 1 January 2007.
Act on Assessment procedure § 14 b amended to correspond the updated guidance on transfer pricing documentation in the OECD TPG effective from 1 January 2017.
Act on Assessment Procedure § 14d - 14e enacted to implement Country-by-Country reporting requirements in accordance with the council directive (EU) 2016/881 effective from 1 January 2017.

Implementation of the Code of Conduct on Transfer Pricing documentation for associated enterprises in the European Union (EU TPD) - summary of Member States' responses to the 2013 JTPF questionnaire on the implementation of the EU TPD:

6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

No specific transfer pricing audit procedures in legislation.
Act on Assessment Procedure § 32, 32a and 32 b on penalties.
For noncompliance of documentation or CbC reporting requirements, the tax authorities may impose a penalty of an amount not exceeding €25,000. Documentation- or CbC-related penalty may be imposed even if there is no need for a transfer pricing adjustment.

7. Information for Small and Medium Enterprises on TP

Information relevant for SMEs in tackling transfer pricing matters is available on the JTPF webpage at: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/transfer_pricing/forum/profiles/profile-fi.pdf

8. Information on dispute resolution

Competent Authority	Finnish Tax Administration POST-OFFICE BOX 10 FI-00052 VERO FINLAND
Organization	Finnish Tax Administration is the delegated competent authority regarding transfer pricing MAPs. The Finnish Tax Administration can provide more detailed information on who to contact.
Scope of MAP & MAP APA	N/A
Domestic guidelines & administrative arrangements	N/A
Time for filing	N/A (see specific tax treaty).
Form of request	No specific form required (see English guideline above).
Documentation requirement	No formal requirement.
User fees	None.
Tax collection / penalty / interest	Tax collection cannot be deferred in MAPs
Other dispute resolution mechanisms	The EU Arbitration Convention for the transfer pricing cases.
Government Website	http://www.vero.fi

9. Relevant regulations on Advance Pricing Arrangements

Unilateral advance rulings may be reached on the basis of Act on Assessment Procedure §§ 84 and 85.
MAP APAs conducted under respective double tax treaties.

10. Links to relevant government websites

www.vm.fi (the Ministry of Finance)
www.vero.fi (the Tax Administration)

11. Other relevant information

Secondary and compensating year-end adjustments may result in double taxation. Please find Finland's status on compensating adjustments as an annex.

Secondary Adjustments - overview on the legal and administrative/practical aspects in the different Member States

Compensating/year-end Adjustments - overview on the legal and administrative/practical aspects in the different Member States (see annex for Finland's updated responses to the JTPF questionnaire)

Tax return form for transfer pricing was introduced as of tax year 2009.

National provisions allow for the presence of foreign officials in administrative offices and in administrative enquiries as well as the interview of individuals and the examination of records on the condition that at least one of the officials present from the visiting country must be competent for exchanging information with the host country's competent official during the visit. As proof of this competence, the competent official from the visiting country must have a certificate of competence and an identity document.

Annex

Updated responses to the JTPF questionnaire on compensating/year-end adjustments

Q1. Does your MS have domestic legislation allowing compensating/year-end adjustments and/or (internal) administrative guidelines on their implementation? Please briefly indicate key points addressed and include the official reference (and electronic link)?

There is neither legislation nor administrative guidelines regarding compensating adjustments/year-end adjustments. The adjustments are, however, allowed in practice when needed to achieve an arm's length outcome.

Q2. If not, are legislation and/or guidelines under consideration and when may they be introduced?

N/A

Q3. When do you accept such adjustments to be made?

Year-end adjustments are accepted during the year, before year-end and after the year end before closing the books provided that the year-end adjustment is also recognized in the accounts.

Q4. To what situations (e.g. deviation from the median range, falling outside the range) do compensating/year-end adjustments apply?

Compensating adjustments /year-end adjustments apply to a situation where a compensating adjustment/year-end adjustment recognized in the accounts is used to achieve an arm's length outcome.

Q5. How are compensating adjustments characterised for direct tax purposes in your jurisdictions? What is the risk of the adjustments being reclassified?

There is no specific characterization of compensating adjustments/year-end adjustments for tax purposes. Should the outcome be at arm's length there would not be need for reclassification for tax purposes.

Q6. What kind of documentation/justification do you request from the taxpayer? Is an inter- company agreement compulsory?

There are no specific TP documentation requirements for compensating adjustments/year-end adjustments. TP documentation rules apply.

Q7. Does your MS oblige taxpayers to make compensating/year end adjustments? If yes, please explain in which cases. Do you apply any arm's length test to these compulsory adjustments?

There is no legislation requiring compulsory compensating adjustments/year-end adjustments. However, the outcome is required to be at arms' length.

Q8. In case a taxpayer is forced to make such adjustment do you accept to deal with it under the AC provisions?

Yes, provided that the conditions for the AC are met

Q9. If the taxpayer makes a compensating / year-end adjustment and you challenge it, do you accept to deal with it under the AC provisions?

Yes, provided that the conditions for the AC are met.

Q10. Adjustments vs intentional set-offs

The OECD Guidelines in paragraphs 3.13 to 3.17 describe intentional set-offs as "a benefit provided by one associated enterprise within the group that is deliberately balanced to some degree by different benefits received from that enterprise in return."

In other words, in some circumstances it may be the case that two or more associated enterprises, by offsetting the respective unbalanced positions related to transactions undertaken between them, may implicitly "adjust" the respective results.

Are intentional set-offs allowed in your MS and under which circumstances?

International set-offs are allowed if the outcome is at arm's length.