

# Application of the "Authorized OECD- approach" (AOA)

Nexia Survey Questionnaire



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## Introduction

On 22 July 2010 the OECD released the "Update 2010" to the OECD Model Tax Convention and its Commentary as well as the final version of its "Report on the Attribution of Profits to Permanent Establishments". One of the major changes in this update was the implementation of the "Functionally Separate Entity Approach" for the profit allocation to permanent establishments in article 7, also called the "Authorized OECD-Approach" (AOA). The AOA replaces the "Relevant Business Activity Approach", which was the standard for the allocation of profits to permanent establishments in the OECD Model Tax Convention and its Commentary before the update 2010 was implemented.

This new approach got a boost by the OECD/G20 activities within the "Base Erosion Profit Shifting" (BEPS) project, which received final approval at the end of 2015. Many countries have either started to implement the AOA concept into national law or just refer to this concept as the new standard. Others are still waiting and stick to their traditional national interpretation.

This survey among international tax experts within the Nexia network intends to give an overview about the status of implementation of the AOA concept. Four lead questions provide an introduction into the concept as well as a clear structure for answers at a glance. Additionally you have access to the tax experts of the contributing Nexia member firms of more than 40 countries at your fingertips.

The survey has the status of May, 1st 2016 and is open for updates and extensions by additional countries by the end of April 2017.

## Characteristics of the AOA

1. "Functionally Separate Entity Approach", i.e. permanent establishments (PEs) are treated like separate and independent enterprises (corporations) for tax purposes.

2. Determination of profit to be allocated to PE is done in two steps:

Step 1: Allocation of functions, risks, assets and free capital to PE

- Attribution of functions to PE based on "significant people functions", i.e. analysis of all functions performed by the company as a whole and allocation of the ones performed by the people working for the PE to the PE.
- Attribution of risks to PE based on the functions performed ("risks follow functions").
- Attribution of assets to PE, which are necessary to perform the functions identified ("assets follow functions").
- Attribution of free capital to PE based on the risks borne and assets economically owned by the PE.

Step 2: Identification and pricing of dealings between head office and PE

- Identification of the nature of the dealings between PE and head office based on the functions, risks, assets and free capital allocation done in step one.
- Determination of appropriate pricing for the identified dealings based on the arm's length principle.

## Questions

1. Does your country apply the AOA as described by the OECD in its Commentary to article 7 of the OECD Model Tax Convention 2010 and the "2010 Report on the Attribution of Profits to Permanent Establishments"?
  - If yes, how was it implemented (by reference in the local tax law to the OECD Model Tax Convention and the respective Commentaries only or by introducing a separate set of rules in the local tax law)?
  - If no, do you know whether such an implementation is planned in the near future?
2. The AOA implies that the allocation of assets, free capital and profits is determined by the "direct method" only, i.e. the allocation of assets and free capital has to be based on the functional and risk profile of the PE and the allocation of profit is the result of individual "dealings" with the head office for which arm's length remunerations have to be determined under consideration of the functional and risk profiles. An allocation of assets, free capital and profits by applying the "indirect method" (i.e. allocation based on allocation keys) is not intended.
  - Do the tax laws of your country allow the use of the "indirect method"?
  - If yes, are there any pre-conditions that have to be fulfilled in order to be allowed to apply it (please provide a short description)?



3. The “Functionally Separate Entity Approach” means that all dealings between head office and PE have to be remunerated arm’s length. Do the tax laws of your country
- stipulate that “services” performed by or for the benefit of the PE for which no external sales are realized by the company as a whole (e.g. internal administrative services like bookkeeping or legal support) need to be remunerated? If yes, is it necessary that this remuneration includes a profit component or is an allocation of the respective costs (e.g. respective parts of the personnel costs) to the beneficiary of these “services” (PE or head office) sufficient?
  - stipulate that the “temporary use of assets” (e.g. premises or intangibles such as brand, technology or customer base) by the PE or the head office need to be remunerated? If yes, how does this remuneration typically look like (e.g. arm’s length rental fee for premises or arm’s length license fee for intangibles or just an allocation of the costs related to these assets such as depreciation, maintenance costs or parts of the development costs)?
  - stipulate that the “transfer of assets” (e.g. tangible fixed assets such as premises, tangible current assets such as finished goods or intangible assets such as a customer base) need to be remunerated? If yes, does this remuneration have to reflect an arm’s length price (current fair market value) or is it sufficient that the remuneration reflects the current book-value of the asset only? In case it has to reflect an arm’s length price: are there any special rules to consider with regard to the moment of the profit / loss realization resulting from the transfer (example: head office transfers finished goods to PE with the intention that the PE resells them to third party customers. However, PE is not able to sell them before the end of the fiscal year. Does the head office have to tax the notional profit resulting from the transfer even though the PE did not sell the goods to third party customers in the same year?)?
4. According to section D-4 of the OECD “Report on the Attribution of Profits to Permanent Establishments” and also according to the new set of rules planned in Germany, documentation of all dealings between the enterprise and its permanent establishment is required. For this purpose the OECD refers to the respective Chapter V of the OECD Transfer Pricing Guidelines, which explains what kind of documentation should be requested by tax authorities in order to be able to evaluate whether transactions between related enterprises are remunerated arm’s length. These requirements imply that there usually exist contracts, invoices or other paperwork that document the existence of the transactions and the applied conditions. However, due to the fact that a permanent establishment is only a part of the whole enterprise but no separate entity, such documents (written contracts, invoices, etc.) are not available.
- a. Does your country provide detailed guidance on how the documentation of dealings between enterprises and their permanent establishments has to look like? If yes, please provide us with a summary.
  - b. If no, please provide us with a description of the best practice regarding documentation of dealings between enterprises and their permanent establishments in your country and/or with recommendations based on your practical experience.

#### Feedback

Feedback and updates are welcome at any time and should be addressed to:

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# Application of the "Authorized OECD-approach" (AOA)

Country	Does the country apply the "Authorized OECD Approach"?	Does the country allow the "indirect method" for allocating assets, free capital and profits?	How do the following transactions between the company and its PE have to be remunerated? a) internal services b) temporary use of assets c) transfer of assets	Is a specific TP documentation for the documentation of dealings required?
Argentina	No, not implemented in national tax law; there is also no information whether implementation is planned in the future; but the arm's length principle applies also for PEs	No specific rules, but it must be done on an arm's length basis	a) no specific rules; general arm's length principle to be applied b) no specific rules; general arm's length principle to be applied c) no specific rules; general arm's length principle to be applied	No, general TP documentation rules are applicable
Australia	No, neither implemented into National law or through any of the current double tax treaties at Article 7	No; actual income and expenses are allocated to a PE by using functional analysis and applying the arm's length principle by analogy. In accordance with relevant DTAs, the Commissioner of Taxation may apply domestic TP measures to calculate profits	a) at arm's length b) at arm's length c) at arm's length	No, general TP documentation rules are applicable
Austria	Yes, but not explicitly in national tax law but through reference to OECD Commentaries in Austrian TP-Guidelines 2010 published by the the Austrian tax authorities; full application of the AOA only after revision of Art. 7 in the relevant Double Taxation Agreement; meanwhile the AOA applies if it is not contradictory to the OECD-Commentary to Art. 7 in its 2008-version	Yes, but not preferred method. Application only when the activities of the PE cannot be clearly separated from the activities of the company as a whole and the arm's length principle is met	a) administrative services like bookkeeping or legal services at cost; other internal services at arm's length b) at cost (e.g. depreciation) c) at arm's length; profit/loss realization when assets are transferred, moment of sale to third party customer is irrelevant (taxation of notional profits is possible; in case of a EU PE, the notional profit can be allocated and taxed over a seven year period if the transferred asset is noncurrent or a fixed asset, or a two year period if the transferred asset is a current asset)	No; general TP documentation rules are applicable

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Belgium	Yes, except not explicitly in national tax law but rather through references in rulings (e.g. ruling 2012.103 dd 22 May 2012)	Yes, but not preferred method. Sufficient justification of applied keys necessary when applied	a) at cost but tendency to include profit component (arm's length price) b) at cost (e.g. depreciation); royalty fees would not be tax deductible c) at arm's length but moment of taxation can lead to a discussion with the tax authorities when moment of transfer to PE and sale from PE to third party customer deviates	No; there is no legal obligation to prepare TP documentation, but in practice tax authorities start detailed investigations when no TP documentation is provided; therefore, in practice documentation is required but there are no specifics for PEs
Brazil	No, Brazil does not follow the definitions of the OECD; there is also no information whether an implementation is planned in the future; in PE cases Brazilian general transfer pricing rules apply	No specific rules	a) no specific rules, general Brazilian TP rules are applicable b) no specific rules, general Brazilian TP rules are applicable c) no specific rules, general Brazilian TP rules are applicable	No; general TP documentation rules are applicable
China	No, there is also no information available whether China will implement this approach in the near future	No, in general Chinese tax authorities do not consider function & risk profiles for a PE; they usually tax a PE only when there is actual income received and assess the profits by using deemed profit rates that are stipulated in regulations	a) not considered and not deductible in most cases; >90% of PE taxation is conducted via withholding tax and deemed profit b) not considered and not deductible in most cases; >90% of PE taxation is conducted via withholding tax and deemed profit c) not considered and not deductible in most cases; >90% of PE taxation is conducted via withholding tax and deemed profit	No, there is no legal requirement on documentation of the dealings; best practice in China (for most activities performed by foreign companies) is to maintain detailed documentation of all expenses and time incurred by the PE (split between onshore and offshore work), records of all contracts with China clients and similar documentation; with detailed records it is often possible to negotiate a most favorable tax position
Canada	Yes, but not explicitly in national tax law but through reference in Circular 87-2R published by the Canadian tax authorities; treaties can provide for different methodologies	Yes, but not preferred method. Sufficient justification of applied keys necessary when applied	a) at cost b) at cost (e.g. depreciation) c) at arm's length but no specific rules on moment of profit / loss realization when moment of transfer to PE and sale from PE to third party customer deviates	No; general TP documentation rules are applicable



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Cyprus	Yes, but not explicitly in national tax law or in circular / guidelines of the tax authorities but rather in practice / tax rulings	Yes, when adequately justified that arm's length principle is met. There are no specific rules regarding application of the "direct" or "indirect method"	a) no specific rules, only general statement that arm's length principle has to be considered b) no specific rules, only general statement that arm's length principle has to be considered c) no specific rules, only general statement that arm's length principle has to be considered	No; general TP documentation rules are applicable
Czech Republic	No; there is also no information whether an implementation in domestic law is planned in the future; application possible when particularly agreed in a specific double tax treaty	No; there is generally only the "direct method" allowed	a) at cost b) at cost c) at cost	No; general TP documentation rules are applicable
Denmark	Yes, implemented in Section 2 (2) of the Danish Corporation Tax Act with effect from 1 July 2012	Yes, but according to new law not preferred method, i.e. application only when included in respective double tax treaty. Under the old law the "indirect method" was the preferred method	a) no specific rules, only general statement that arm's length principle has to be considered b) no specific rules, only general statement that arm's length principle has to be considered c) no specific rules, only general statement that arm's length principle has to be considered	No; general TP documentation rules are applicable
Finland	Yes; not explicitly in national tax law but through practice and tax rulings	Yes, but not preferred method; application only when the activities of the PE cannot be clearly separated from the activities of the company as a whole and the direct method is not suitable; the arm's length principle should be met	a) no specific rules, method has to meet at arm's length principle b) no specific rules method has to meet at arm's length principle c) no specific rules, method has to meet at arm's length principle	No; However, regulations regarding the accounting, auditing and remuneration of a PE require an elaborated documentation of transactions with a PE
France	No; but will be referred to in case law and for negotiation of future double tax treaties	Yes, but not preferred method; applicable in case the operations of the PE are not totally different to operations of the headquarters and the PE does not have a separate accounting	a) no specific rules, typically at arm's length b) no remuneration c) no specific rules, typically at arm's length	No; general documentation rules in tax matters are applicable

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Germany	Yes, implemented in the German Foreign Tax Act with effect for all fiscal years starting after 31 Dec 2012; however, in case a specific treaty does not include AOA, application of old Relevant Activity Approach possible; adoption in future treaties intended	No, generally only the "direct method" is allowed; draft of the letter of the German Ministry of Finance in which the understanding of the German tax authorities is described available; final version of this letter of the German Ministry of Finance expected to be published in the course of 2016	a) at arm's length, typically based on costs including an arm's length profit mark-up when CUP not applicable b) at arm's length c) at arm's length, profit / loss realization when assets are transferred, moment of sale to third party customer is irrelevant (taxation of notional profits is possible; in case of an EU PE the notional profit can be allocated and taxed over a five year period if the transferred asset is a noncurrent / fixed asset)	No, general TP documentation rules are applicable in addition to the necessity to prepare a separate profit calculation scheme for the PE
Greece	Yes, except not explicitly in national tax law but rather in practice / tax rulings or in circular / guidelines of the tax authorities for transfer pricing documentation and issues	No specific rules	No specific rules; the arm's length principle should be tested and documented in each case	No, general TP documentation rules are applicable
Hungary	Yes, reference is made in the Act on Corporate Income Tax and Dividend Tax and in the Decree of the Hungarian Ministry of Finance on the documentation requirements related to transfer pricing to the OECD Guidelines; treaties may provide for different methodologies especially when the treaties were concluded before the implementation of the AOA	No, only the "direct method" is allowed; according to the Act on Corporate Income Tax and Dividend Tax, the allocation of overhead costs are determined by net sales or revenues	a) at arm's length; allocation of intragroup services needs to be reasonable; based on costs incurred, including profit mark-up b) at arm's length; allocation of temporary use of assets (e.g. premises or intangibles such as brand, technology or customer base) needs to be reasonable and in line with the arm's length principle c) at arm's length; transfer of assets needs to reflect the current fair market value	No; general TP documentation rules are applicable based on the Hungarian legislation



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India	No, rules as prescribed by AOA have not been issued in India up to now; also no information is available about future implementation of AOA	Since, the AOA is not followed in India, no specific rules exist for the allocation of assets, free capital & profits; however, profit based on functions performed by the PE is taxable in India	a) no specific rules; however in cases where remuneration is paid for services, this ought to be at an arm's length price b) no specific rules; however in case rent is paid for the use of assets, this ought to be at an arm's length price c) no specific rules; however in case the assets are transferred, the price of the same ought to be transferred at arm's length price	No detailed guidelines have been provided by the Indian Tax Authorities for the maintenance of documents for transactions between Head Office & PE; however according to Indian Transfer Pricing Regulations, certain documents have been prescribed by the Indian Direct Tax Laws that are required to be maintained by the PE
Indonesia	No; there is also no information whether such implementation is planned in the near future.	No specific rules; so far there is no asset and free capital allocation, based on Indonesian Tax Law. In determining the profit of PE, Head Office's administration costs which are allowed to be charged to PE are those related with PE's activities.	a) at cost, insofar as it concerns Head office costs which are allowed to be charged, i.e. those which are related with PE's activities; management services and other services are not allowed as PE costs b) no specific rule; royalties or other remunerations with respect to the use of property, patents or other rights are not allowed c) no specific rules; in general the arm's length principle has to be applied	No; documentation of comparability analysis, determination of appropriate TP method and implementation of arm's length principle has to be done according to prevailing tax regulations.
Ireland	No; there is also no information whether implementation is planned in the future	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred as long as the profit allocation is done on a just and reasonable basis	a) no specific rules, allocation needs to be reasonable b) no specific rules, allocation needs to be reasonable c) no specific rules, allocation needs to be reasonable	No; general cooperation rules in tax matters are applicable



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Italy	Yes, introduced in the Italian Corporate Income Tax Code (see article 152) by the Legislative Decree 14 Sept 2015 n. 147; in effect for fiscal years ending 7 October 2015	No specific rules, i.e. either the "direct method" or the "indirect method" are preferred as long as the profit allocation is done on an arm's length basis; specific guidelines concerning the attribution of free capital to local branches of foreign banks have been provided through the Central Revenue Commissioner's Decision n. 49121 issued on 5 April 2016	a) no specific rules, the arm's length principle generally has to be matched b) no specific rules, the arm's length principle generally has to be matched c) no specific rules, the arm's length principle generally has to be matched	No, general TP documentation rules apply; reference can be made to the requirements provided by the Central Revenue Commissioner's Decision n. 137654 of 29 September 2010
Japan	Yes, stipulated in Japanese income tax laws. From the tax period on and after 1 April, 2016, change from the "entire income" to the "attributable-income" principle. In connection with this change the "functionally separate entity" approach shall be applied.	No, the "indirect method" is not allowed, except for headquarter expenses.	a) at arm's length; however, it shall be permitted to remunerate certain inter-branch administrative services like bookkeeping or legal support at cost b) at arm's length c) at arm's length	No, except for supporting documents for allocation of headquarter expenses; general TP documentation rules are applicable; the Japanese PE of a foreign MNE will be required to submit the master file for FY's beginning on or after 1 April 2016; the deadline to submit is one year following the FY of the foreign parent; MNE's with less than JPY 100 billion group revenue are not required to file; furthermore, if the foreign parent cannot provide the CbC report to the Japanese authorities (i.e., no requirement of the CbC report under foreign law, etc.) then the Japanese PE of the MNE shall be required to submit the CbC report within the year following the FY end of the parent
Lithuania	Yes, reference is made in the Lithuanian tax law to the OECD Guidelines	No, only the "direct method" is allowed	a) at arm's length b) at arm's length c) at arm's length	No; general TP documentation rules are applicable
Luxembourg	Yes, implemented in national tax law	Yes, but typically the "direct method" is applied; however, there is no need to allocate free capital under Luxembourg law	a) at arm's length b) no specific rules c) no specific rules	No; general TP documentation rules are applicable
Malta	No, neither implemented in national tax law nor through other publications such as circulars; most Maltese treaties contain the old version of article 7 (2) of the OECD Model Tax Convention	No specific rules, neither method is a preferred one; profit allocation ideally at arm's length	a) no specific rules, but typically at arm's length b) no specific rules, but typically at arm's length c) no specific rules, but typically at arm's length	No; in practice, several documents such as invoices, contracts or other paperwork are sufficient

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Mexico	Yes, the rules in Mexican tax law are comparable with the AOA; for interpretation purposes the Mexican tax law refers to the OECD Commentary	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred; rules concluded in specific treaty to be considered	a) most likely at cost, but not specified b) at arm's length c) at arm's length	No; general TP documentation rules are applicable; contracts and invoices are advised
Netherlands	Yes, reference is made in the Dutch tax law to the OECD Model Tax Convention; furthermore, a decree of the Ministry of Finance explicitly declares that the Netherlands prefer the AOA	Yes, but only in specific cases (e.g. insurance companies) or when the application of the "direct method" is not possible or unfair	a) at cost b) at arm's length c) at arm's length, but profit realization only when assets are actually sold to a third party customer (no taxation of notional profits)	No; general TP documentation rules are applicable
Poland	Yes; implemented in national tax law in July 2013	Yes, but not preferred method; applicable only in case the operations of the PE are not totally different to operations of the headquarters and the arm's length nature of the allocation key can be justified	a) at arm's length b) at arm's length c) at arm's length	No; general TP documentation rules are applicable
Portugal	No; there is also no information whether an implementation is planned in the future	No, only the "direct method" is allowed; allocation keys might be applied when it comes to an allocation of overhead costs.	a) at cost b) no specific rules c) at arm's length; profit / loss realization when assets are transferred, moment of sale to third party customer is irrelevant (taxation of notional profits is possible)	No; general TP documentation rules are applicable
Romania	No; there is also no information whether implementation is planned in the future	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred as long as the profit allocation is done on an arm's length basis	a) no specific rules, but in general the arm's length principle has to be considered b) no specific rules, but in general the arm's length principle has to be considered c) no specific rules, but in general the arm's length principle has to be considered	No; general TP documentation rules are applicable



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Russia	No; there is also no information whether implementation is planned in the future	No, only the "direct method" is allowed; allocation keys might be applied when it comes to an allocation of overhead costs; Russian treaties with other countries can provide for different rules	a) no remuneration b) no remuneration c) no remuneration	No; development of internal basic documentation for explanation purposes recommended
Saudi Arabia	No, the country is not planning to implement in the near future	No; generally only the direct method is allowed	a) at cost; with 15% withholding tax b) at cost; with 5% withholding tax c) at cost; no taxation	No; general documentation rules in tax matters are applicable
Singapore	Yes, by reference to the tax authority's transfer pricing guidelines	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred as long as the profit allocation is done on an arm's length basis; reasonable allocation keys might be applied to overhead cost allocations	a) at arm's length, typically cost + 5% for internal routine support services provided on a cost pooling basis b) no specific rules; general arm's length principle to be applied c) no specific rules; general arm's length principle to be applied	No; adequate TP documentation (general guidance is provided via circulars) should be maintained to demonstrate compliance with arm's length principle
Slovak Republic	No; there is also no information whether implementation is planned in the future	Yes, The only precondition is that direct attribution of income or costs is not possible.	a) at cost b) at cost c) no remuneration	No; General documentation rules for TP shall be applied. Best practice is to regard the PE as separate entity for documentation.
Slovenia	Yes, but not explicitly in national tax law but through reference to OECD-Commentaries in published interpretations of the tax authorities	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred as long as the profit allocation is done on a reasonable basis	a) no specific rules, but in general the arm's length principle has to be considered b) no specific rules, but in general the arm's length principle has to be considered c) no specific rules, but in general the arm's length principle has to be considered	No, general TP documentation rules are applicable



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South Africa	No; South Africa's understanding of profit allocation to PEs is based on the old version of article 7 of the OECD Model Tax Convention and its Commentary	No specific rules, i.e. neither the "direct method" nor the "indirect method" are preferred as long as the profit allocation is done on an arm's length basis	a) at cost; no taxation of notional profits b) at cost; no taxation of notional profits c) at arm's length, but profit realization only when assets are actually sold to a third party customer (no taxation of notional profits)	No; general TP documentation rules are applicable
South Korea	Yes, the "Functionally Separate Entity Approach" was stipulated in Article 130 of the Enforcement Decree of the Corporate Income Tax Law ("CITL") of Korea, effective from January 1, 2014; the AOA is respected by the tax administration in the determination of the profits attributable to a PE	No specific rule. The calculation method of the taxable income for a PE is similar to the method for a company incorporated in Korea. Head office expenses relating to the creation of the PE's business income can be allocated to the PE based on reasonable criteria and claimed as a deduction.	a) no specific rules except that interest expenses on the loans to a non-bank branch or a PE and guarantee fees are not tax deductible b) no specific rules; in general the arm's length principle has to be considered c) no specific rules; in general the arm's length principle has to be considered	No; general TP documentation rules are applicable
Spain	Yes, not implemented in national tax law or through other publications such as circulars, nevertheless future amendment of General Tax Law will allow the Treasury Ministry and the Tax Authorities to directly implement soft Law through circulars; according to Spanish Supreme Court direct application of OECD Commentaries without law change is possible	No, only the "direct method" is allowed; allocation keys might be applied when it comes to an allocation of overhead costs	a) no specific rules except for deductibility of interest and royalties; in general the arm's length principle has to be considered b) no specific rules; in general the arm's length principle has to be considered c) no specific rules; in general the arm's length principle has to be considered	No; general TP documentation rules are applicable
Sweden	Yes, functionally separate entity approach was already implemented in the Swedish tax law before 2010	Yes, but not preferred method	a) at arm's length; however, services as part of general management have to be remunerated at cost b) at arm's length c) at arm's length; when moment of transfer to PE and sale from PE to third party customer deviates, profit / loss realization can be postponed	No; development of internal basic documentation for explanation purposes recommended

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Switzerland	Yes, the AOA is implemented by way of formally amending each double tax treaty; since double tax treaties are part of Swiss national law, they are directly applicable; this means that no additional set of rules in the Swiss tax law is required once the wording of a treaty is amended; for all double tax treaties not yet formally amended, Switzerland announced that it would apply the AOA concept immediately in the course of a mutual agreement procedure	Yes, but a double tax treaty containing article 7 according to the 2010 model would override the indirect method; in practice, the indirect method may only be applied in the case of a Swiss enterprise having a PE abroad; in the case of a foreign enterprise having a Swiss PE, the direct method is required	a) services need to be notionally remunerated at arm's length, i.e. the mere allocation of costs to the beneficiary of the services is not sufficient for tax purposes b) the temporary use of assets needs to be notionally remunerated at arm's length, i.e. the mere allocation of costs to the user of the assets is not sufficient for tax purposes c) the transfer of assets needs to be notionally remunerated at arm's length, i.e. the mere allocation of the book value of the assets is not sufficient for tax purposes; a profit / loss is tax effective at the moment for the transfer of the asset	No, the general documentation rules of Swiss tax law are applicable; this means that a taxpayer is required to provide all documents necessary for a proper assessment of the taxable basis; in the case of transactions between related parties, a taxpayer has to demonstrate that the transfer prices used are based on sound economic reasoning
Tanzania	Yes, this has been embodied under the Income Tax Act, Cap 332 and further modified in the Income Tax (Transfer Pricing) Regulations 2014	No, income and expenses of a PE are calculated as if the two entities are independent of each other and any transaction between them will be subjected to meeting the criteria/requirements expected from the Income Tax (Transfer Pricing) Regulations, 2014 to ensure the arm's length principle has been deployed	a) at arm's length b) at arm's length c) at arm's length  The following transfer pricing methods are permitted based on the arm's length principle: Comparable Uncontrolled Price (CUP) method, Resale Price method, Cost Plus method, Profit Split method, Transactional Net Margin method and any other as prescribed by the Commissioner from time to time	Yes in accordance with Income Tax (Transfer Pricing) Regulations, 2014; contemporaneous transfer pricing documentation is required to be prepared before the tax return is submitted; although it is not required to be submitted with the tax return, it should be provided within 30 days once requested by the Tanzania Revenue Authority
UK	Yes, indirectly adopted in the UK legislation as a result of the rules on the exemption for foreign branches and the CFC revised legislation	Yes, but only when the "indirect method" produces a more accurate result than the "direct method", i.e. "direct method" is the preferred method	a) at arm's length b) at arm's length c) at arm's length	No; general TP documentation rules are applicable



Country	Does the country apply the "Authorized OECD Approach"?	Does the country allow the "indirect method" for allocating assets, free capital and profits?	How do the following transactions between the company and its PE have to be remunerated? a) internal services b) temporary use of assets c) transfer of assets	Is a specific TP documentation for the documentation of dealings required?
Ukraine	No, there is also no information on whether implementation is planned in the future	Yes, an allocation key is applied, under which 0.7 % of income can be classified as expenses	a) no specific rules; in general the arm's principle has to be considered b) no specific rules; in general the arm's principle has to be considered c) no specific rules; in general the arm's principle has to be considered	No, general TP documentation rules are applicable
USA	Yes, if adopted in the specific tax treaty, not implemented in US tax law; adoption in future treaties intended	No, only the "direct method" is allowed; however, also application of profit based TP methods (e.g. Comparable Profits Method) possible	a) at cost, if low-value service; profit mark-up possible when at arm's length b) no specific rules; general arm's length principle to be applied depending on individual facts and circumstances c) at arm's length	No; development of internal basic documentation for explanation purposes recommended



# Globally active with Nexia International

Economic activity for SMEs no longer stops at the national borders. However, the step across the border is accompanied by numerous international questions. Only companies with a strong partner with an international network are on the safe side.

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This research project was led by Ebner Stolz. Ebner Stolz is a member firm of the "Nexia International" network (Nexia) and has representation on important committees within the Nexia network. The firm actively influences further development of the network. For further information on Ebner Stolz please go to [www.ebnerstolz.de](http://www.ebnerstolz.de).

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