

ABC

Transfer Pricing for Investors in Bogotá-Región



Introduction

This ABC provides practical and essential information on Colombia's transfer pricing regime. It was prepared in collaboration with the law firm [Philippi Prietocarrizosa Ferrero DU & Uría \(PPU\)](#) and is intended to offer clear guidance to help your company comply with its obligations and make informed decisions regarding its operations in the Bogotá-Región.

PPU is a full-service firm with a direct presence in Santiago (Chile), Bogotá and Barranquilla (Colombia), and Lima (Peru). It is supported by the Uría Menéndez network of offices in Spain, Portugal, London, and Brussels. Thanks to its technical expertise, professional quality, and regional coverage, PPU has established itself as a benchmark firm for addressing the legal needs arising from the growing economic interrelationship between Latin America and Europe.

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Transfer Pricing for Investors

(Art. 260-1 of the Tax Statute and Decree 2120/2017)

If your company is foreign and intends to start operations in the Bogotá Region through the incorporation of a commercial company, or if you plan to operate under the Free Trade Zone regime, it is important to be familiar with **Colombia's transfer pricing regime**. This regime also applies if your company is domiciled in Colombia and has plans for international expansion (exporting products or services or carrying out transactions with related parties abroad).

Transfer pricing: establishes the conditions under which prices must be set for transactions between your company and related entities located abroad or in a Colombian free trade zone. **Its purpose is to ensure that these transactions are conducted at market value, avoiding tax adjustments and ensuring that taxes are paid fairly in each country where profits are generated.**



Basic concepts

 **Related companies¹:** Refers to relationships of subordination or control in the following cases:

- (i) One company owns more than 50% of another.
- (ii) It holds decision-making power in the shareholders' meeting or partners' assembly.
- (iii) It exercises management or has dominant influence over another.

 **Arm's Length Principle:** Establishes that the conditions agreed between related companies must be equivalent to those that would be agreed in a similar (comparable*) transaction with or between independent parties. This principle applies mainly for income tax purposes. The Colombian Tax and Customs Authority (DIAN, for the Spanish original) may adjust revenues, costs, deductions, assets, or liabilities if it determines that the agreed prices do not comply with this principle.

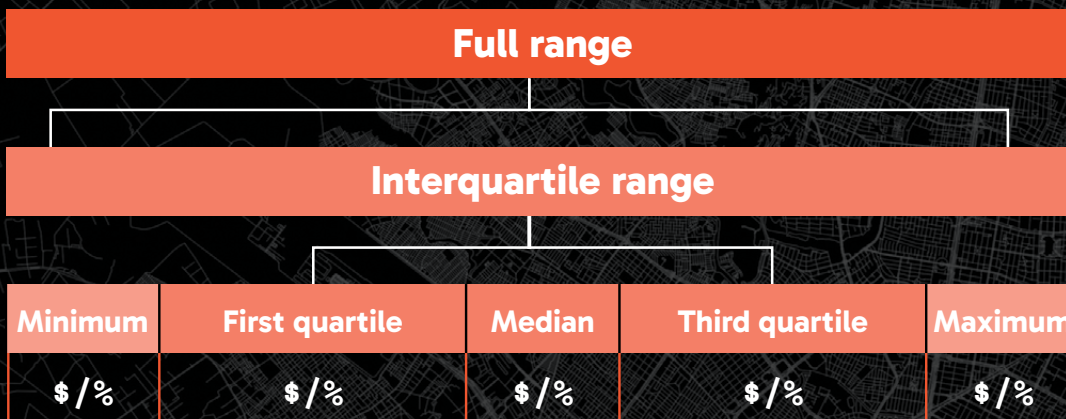
 **Comparable transactions:** Involves conducting a functional analysis of the transaction, selecting the appropriate methodology and comparable transactions². Under the regulations, if your company engages in comparable transactions with independent third parties (**internal comparables**), priority must be given to using these for the transfer pricing analysis. If none exist, **external comparables** must be used (similar transactions carried out between independent third parties).

 **Arm's length range:** Having only one comparable is not sufficient to verify compliance with the principle. Therefore, when two or more independent transactions that meet the comparability criteria are identified, a range of prices or profit margins is constructed, known as the arm's length range.

This range may be refined using statistical methods, particularly the interquartile range method. If the price or profit margin of the analyzed transaction falls below the arm's length range, it must be adjusted to reach the corresponding median (as shown in the graph below).

¹The following are considered related parties: A subsidiary and its parent company; branch offices and their head office; when more than 50% of revenues are derived from partners or shareholders; entering into transactions with entities domiciled or located in non-cooperative jurisdictions (as listed in Decree 1496/2024).

²According to Article 260-4 of the Tax Statute, "[f]or the purposes of the transfer pricing regime, two transactions are comparable when there are no significant differences between them that could materially affect the conditions being analyzed through the appropriate transfer pricing methodology."

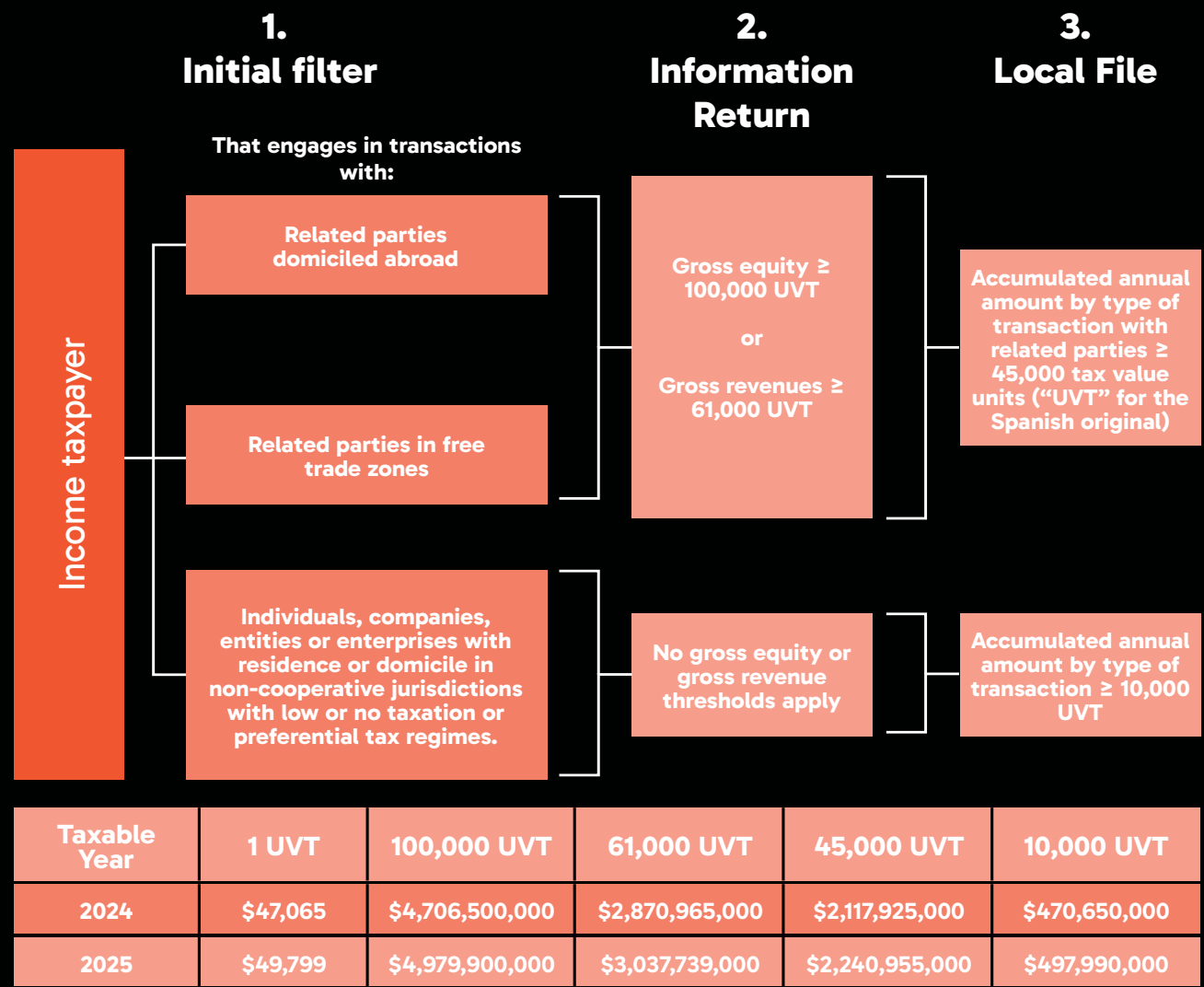


Formal obligations

Your company must comply with certain formal obligations to avoid penalties or tax adjustments:

Obligation	Description
Information Return	Detailed information on all intercompany transactions carried out during the tax year under review. This filing does not generate any tax liability and must be submitted in June of the year following the fiscal year being reported.
Local File	Filed together with the Information Return by taxpayers whose transactions exceed certain thresholds. It contains information on the taxpayer's assets, functions, and risks, and seeks to demonstrate compliance with the arm's length principle in the transactions under review.
Master File	Provides an overview of the multinational group's business (a set of companies operating in two or more jurisdictions), including the nature of its global economic activities, its general transfer pricing policies, and its global allocation of revenues, risks, and costs.
Country-by-Country Report	Applies only to multinational groups with consolidated revenues exceeding approximately one billion U.S. dollars. It details the allocation of revenues, profits, losses, personnel costs, taxes paid, and tangible assets among the group's entities.
Country-by-Country Report Notification	Its main purpose is to inform DIAN of the jurisdiction in which the Country-by-Country Report is filed and the group entity responsible for such filing.

Formal **obligations** related to transfer pricing: Information Return and Local File



Key aspects to take into account



The transfer pricing regime enables the adequate valuation of transactions between related companies, ensuring that they are carried out on an arm's length basis. Its strict application produces tax efficiencies for businesses with multinational presence, which would not be obtained if they were limited to an exclusively local environment.



The transfer pricing methodology includes five main approaches, the selection which depends on the characteristics of the transaction and the availability of information.



Information databases on transactions and companies are available for performing transfer pricing assessments, which provide objectivity and technical support to the conclusions.



This methodology is especially useful for the analysis of transactions between unrelated parties which, although they comply with the Arm's Length principle by definition, may require technical testing of their considerations or the final agreement.

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