



Venezuela

Taxing Authority and Tax Law	Venezuelan Tax Administration (SENIAT). 1999 Venezuelan Income Tax Law: Title VII, Articles 112 to 117, for fiscal year 2000 and 2001. 2001 Master Tax Code: chapter III, articles 220 to 229, articles 109, 110 and 111. 2001 Venezuelan Income Tax Law, chapter III, articles 112 to 170, for fiscal year 2002. The 1995 OECD rules will be applicable as a supplement to these rules for everything else not considered in these regulations.
Regulations and Rulings	Administrative Rulings 401, 3/05/01 (9 TPR 870, 4/4/01) (applicable only for the period from March 5, 2001 to December 28, 2001), establish gross margins for imports and exports Resale and Cost Plus methods. There are no transfer pricing rules in the Venezuelan Income Tax rulings. SENIAT believes that the transfer pricing rules in the law are enough to cover the issue.
Priorities/Pricing Methods	The methods that may be applied for 1999 include CUP, Resale Price, Cost Plus, for imports and exports, following the Brazilian transfer pricing rules and TNMM following the OECD model. The methods acceptable for 2001 are the internationally accepted methods CUP, Resale, Cost Plus, Profit Split and TNMM. Priority is given to the CUP method but any of the approved methods can be applied.
Transfer Pricing Penalties	For failing to apply the methods established by the Income Tax Law, the taxpayer faces fines from 300 to 500 tax units. The 2001 tax unit is BS 14,800/unit. In addition, there will be a fine ranging from 25% to 200% of the omitted tax amount and interest may also be added to these amounts.
Reduction in Penalties	There are mitigating circumstances if the taxpayer complies with the transfer pricing method. However, this circumstance does not reduce the penalty itself; it is just an element taken into account in the determination of the adjustment.
Documentation Requirements	Effective as of 2002, taxpayers are required to prepare and maintain supporting and extensive contemporaneous documentation.
Categories of Documentation Required	Documentation of functions, assets, risk, organizational structure, business description, detailed information of all operations with related and non-related parties, audited financial statements, agreements and contracts, reasoned method selection, inventory valuation method (if applicable), analysis results, and other relevant information.
Deadline to Prepare Documentation	The taxpayer must prepare documentation by the filing date of annual income tax return and the end of every fiscal year.
Deadline to Submit Documentation	The taxpayer must submit documentation upon request by SENIAT during a transfer pricing audit.
Statute of Limitations on Transfer Pricing Assessments	The statute of limitations is four years from the date of filing the return and six years if overall tax compliance was not accomplished.
Return Disclosure—Related Party Disclosure	A controlled party's information return must be filed in June, immediately after the closing of each tax year. The Tax Administration has not issued a specific form for the transfer pricing return. As such, the information may be submitted by the taxpayer using his own form.

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Venezuela (continued)

Audit Risk/Transfer Pricing Scrutiny

In February 2005, the Venezuelan Tax Administration (SENIAT) initiated an audit process related to transfer pricing. SENIAT is currently reviewing the fiscal year 2002-2003. It is too soon to conclude if any particular industrial sector is receiving more scrutiny than others. Thus far audits have been performed on taxpayers in pharmaceutical industry, service providers, consumer products, manufacturer and distributors.

As such, SENIAT is requiring the following information from taxpayers:

- Commercial accounting ledgers
- Special ledgers for investments carried out in low taxation jurisdictions
- Purchase and sale ledgers regarding VAT, including the respective monthly summary required by law
- Special ledgers regarding inflation adjustment
- Transfer Pricing transactions return
- List of assets used in the production of income
- The company's organizational chart
- Documents that verify the activities performed by group companies
- The totality of contracts with related parties
- The statement of production cost and cost of sold goods
- Documentations supporting the transfer pricing method used
- Documents that verify the monthly control of goods inflows and outflows, indicating the inventories valuations method and their valuation
- Detail of the functional analysis
- Additional ledger of financial transactions, open, primary or secondary market, internationally applicable

APA

Unilateral and bilateral APAs are available to the extent that they are carried out with nations that have outstanding double taxation treaties. (See Income Tax Law articles 143 to 167 and Master Tax Code chapter III, articles 220 to 229, articles 109, 110 and 111).
