Transfer Pricing Country Summary

Angola

November 2021

1. Introduction

Angola is not a member of EU or OECD, but it is still influenced by OECD Guideline to some extent. Currently, it only has its own transfer pricing documentation requirement and does not apply local file, master file and CbCr.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

The Angolan Legislation refers to Arm's Length Principle in Article 50 of the Corporate Income Tax that is approved by Law No: 26/20. Although Angola is not a member of the OECD, the 2017 Guidelines are taken as an explanatory instrument in the Transfer Pricing regulations of Angola. Thus, Angola did not adopt or implement BEPS Action 13 for Transfer Pricing documentation in a general overview.

The Angolan Transfer pricing rules took effect under Presidential Decree Number 147/13 of 1 October 2013, also known as the Large Taxpayers Statute. The regulation, which set forth specific rules governing the tax regimes applicable to large taxpayers, empowers the tax administration to make adjustments in determining the taxable income of a taxpayer where, under a 'special relationship' between the taxpayer and another person, subject to industrial tax or not, income derived between the parties is assessed on an accounting base different from that calculated in the absence of such relationship, or the operations between the parties differ from those which would normally be agreed upon in transactions between independent entities. The transfer pricing regulations apply to commercial transactions on goods, services, rights, and financial transactions.

Order number 472/14 published on 28 February 2014, as amended by Order number 599/14 of 24 March 2014, further provides information regarding companies operating under the Large Taxpayers Statute.

b) Definition of Related Party

The definition of related parties as referred to in Article 11 of the Large Taxpayers regulation (Presidential Decree No:147/13), as "special relation", which applies to two entities where one can exert, directly or indirectly, a significant influence in the decision or management of the other, including:

- When the management of a company, including spouses, ascendants and descendants of management personnel, has direct or indirect participation of 10% or more in the capital or the rights to vote in the other entity;
- When the majority of the members of the administration or management of two entities includes the same people or, being different people, related through marriage, de facto union or direct kinship;
- When the entities have entered into a subordination contract;
- When the entities are involved in a domination agreement or have reciprocal participation; connected by a subordination contract, connected through an equal partners agreement, or in other ways connected under terms with similar legal effects, according to the Company's Code;
- When two or more commercial entities engage in transactions that represent more than 80% of the total volume of operations of one of the entities; and,
- When one entity is in a position of financing the other with more than 80% of its credit portfolio.

c) Nature of Transfer Pricing Documentation

In general, a taxpayer with an annual income higher than 7 billion Kwanza (approximately 12M Dollars as of November 2021), at the close of the accounting year, is obliged to prepare and file a declaration characterising the relationship and pricing arrangements with companies with whom they have "special relations". The National Director of Taxation is also empowered to approve work orders, circulars and orders defining more restrictive terms on the characteristics of the required documentation.

Angola's Ministry of Finance, under Order no. 678/17, 25 September 2017, established the Transfer Pricing Unit (TPU). The recently created unit is an ad-hoc technical administrative committee under the Large Taxpayers' Office, which ensures, controls, and secures Large Tax Payers' compliance for mandatory submission of the transfer pricing data to the AGT established by the presidential decree. The TPU is also tasked with conducting an audit on files associated with transfer pricing and ensuring that declared operations comply with established competition rules.

The TPU is responsible for proceeding with transfer pricing audits to monitor compliance of controlled transactions with the arm's length rules for taxpayers covered by the Angolan transfer pricing regime.

The unit provides support and the necessary clarifications to these taxpayers in order to ensure greater levels of compliance with the associated obligations, as well as ensure information sharing and interaction regarding the transfer pricing regime with the other Services, Directions or offices of the ATA or other entities with which the ATA cooperates on transfer pricing matters.

d) Tax Havens & Blacklists

No related information was found.

e) Advance Pricing Agreement (APA)

There is currently no legislation with regards to "Advanced Pricing Agreements".

f) Audit Practice

Scrutiny of intercompany transaction applies to the list of companies on the Large Taxpayers Statute; viz. entities with an annual profit that exceeds 7 billion Kwanza (approximately 12M Dollars as of November 2021).

Scrutiny is therefore typical in the lucrative Oil and Gas sector, with transactions in this sector usually surpassing the statutory threshold. Further, the "Production Sharing Agreement" (PSA) applicable in the Oil and Gas sector defines specific transfer pricing rules inherent to petroleum operations, especially in relation to subcontracting services, acquiring materials, equipment, machinery and consumable goods. Other activities usually scrutinised are in the financial, diamond extraction and telecommunication sectors.

3. Transfer Pricing Documentation

a) Level of Documentation

Since Angola has not implemented the documentation requirements of OECD BEPS Action 13, there are no specific obligations regarding Master File, Local File, or CbCR. However, pursuant to Article 12 of the Large Tax Payers regulation (Presidential Decree No: 147/13), the required transfer pricing documentation is prepared and filed by each company in a structure comprising the following:

- Summary of the transaction,
- Macro-economic environment,
- Presentation of the entity,
- Functional analysis of the entity,
- Identification of the related party operations; and
- Economic analysis of the related party operations.

By outlining the structure of the required documentation expected from a taxpayer, it is trite that compliance is mandatory so long as the statutory threshold is reached.

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity, including an indication of whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines in paragraph 1.51.

e) Choice of Transfer Pricing Method

In general, the Angolan TP Methods follows the basic principles established in the OECD Transfer Pricing Guidelines, with a key exception that only the three traditional methods are used in determining the arm's length transfer price. The methods accepted by the Directorate General for Taxes in order to determine and substantiate the economic analysis of a related party operation are:

- The Comparable Uncontrolled Price Method;
- The Resale Price Method; and,
- The Cost-Plus Method.

f) Economic Analysis - Benchmark Study

Per the Angolan Transfer Pricing Rules, no mention of comparables in determining the Transfer price by the taxpayer is made. The decree empowers the tax authorities to make corrections in determining the tax base in "special relation" transactions. In doing so, a comparison of the special related party transaction is made with transactions between independent parties in similar circumstances. Thus, only the tax authority can use comparables where necessary to substantiate the corrections made to the taxpayers' tax base.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalises the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the "conduct of parties" the prevailing concept.

h) Financial Statements

Angola needs to include related-party disclosure in financial statements.

i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No)*(If "No", it can be filed in English)
Corporate Income Tax	File	Local GAAP	31 May for Group A, 30 April for Group B companies.	N/A	Yes. 7 billion Kwanzas.	Yes
Master File	N/A	N/A	N/A	N/A	N/A	N/A
Local File	N/A	N/A	N/A	N/A	N/A	N/A
CbCR	N/A	N/A	N/A	N/A	N/A	N/A
TP Dossier	File	N/A	6 months after the closing date of the fiscal year	N/A	AOA 7 billion	N/A
Annual Accounts	N/A	N/A	N/A	N/A	N/A	N/A
Segmented P&L	N/A	N/A	N/A	N/A	N/A	N/A
* Angola has NOT signed the MCAA agreement for the filing of CBCR.						
* There is no specific transfer pricing rule relating to "Small and Medium-sized Enterprises".						

The taxpayer is given six months upon the close of the fiscal year to build up the transfer-pricing dossier according to the six steps required. The fiscal year in Angola coincides with the calendar year. Accordingly, the documentation should be submitted no later than 30 June of the following fiscal year.

Also, the statute of limitation for transfer pricing assessments is 5 years. In case of tax infringements, this period is extended to 10 years.

j) Mandatory Language

Transfer pricing documentation should be prepared in the local language, which is Portuguese.

k) Notification Requirement

Angola has not implemented rules regarding CbCR and information exchange. Therefore, there is no notification requirement related to it.

l) Record Keeping

There is no rule on the decree with regards to record-keeping.

m) Penalties and Interest Charges

There are currently no specific transfer pricing penalties for non-compliance. However, general tax penalties may apply. If transfer pricing adjustments are made, a penalty between 50% and 200% of the unpaid tax may apply, with a 2.5% interest on the monthly rate additionally imposed.

Large taxpayers who fail to provide TP documents are notified by the General Tax Administration and are required to pay a tax fine under the General Tax Code (namely, No. 2 of Article 198). The penalty may be anything from 10,000 Kwanzas and 50,000 Kwanzas. The maximum amount of the range is being applied, according to existing notifications of the Tax Administration. The imposition of fines in this case will put the taxpayer's image at risk since it will be regarded as non-compliant.

Non-compliance with TP documentation requirements may also result in taxpayers being barred from performing capital operations, current invisible transactions (payments for services and intangibles), or trading operations requiring the intervention of the National Bank of Angola under current exchange control regulations. In practice, it has the power to prohibit the day-to-day activities of any taxpayer whose legal name has been reported to the National Bank of Angola by the General Tax Administration, indicating non-compliance with tax duties.