



Transfer Pricing  
**Country Summary**

**Tanzania**

March 2023



<b>1. Introduction</b> .....	2
<b>2. Laws &amp; Regulations</b> .....	2
a) References to OECD/EU/Local Rules .....	2
b) Definition of Related Party .....	2
c) Nature of Transfer Pricing Documentation .....	3
d) Tax Havens & Blacklists .....	3
e) Advance Pricing Agreement (APA) .....	3
f) Audit Practice .....	3
<b>3. Transfer Pricing Documentation</b> .....	4
a) Level of Documentation .....	4
b) Industry Analysis .....	4
c) Company Analysis .....	4
d) Functional Analysis .....	4
e) Choice of Transfer Pricing Method .....	4
f) Economic Analysis – Benchmark Study .....	5
g) Inter-company (IC) Legal Agreement .....	5
h) Financial Statements .....	5
i) Production Process for TP Relevant Returns, Documents, Forms and Financials .....	5
j) Mandatory Language .....	6
k) Notification Requirement .....	6
l) Record Keeping .....	6
m) Penalties and Interest Charges .....	7

## 1. Introduction

Tanzania is not a member of the Organization for Economic Cooperation and Development (OECD). The OECD Guidelines and the United Nations' transfer pricing handbook (UN TP manual) are recognised by tax agencies and the Commissioner. If there are contradictions between the ITA 2004 and the 2018 TP rules and the OECD and UN texts, the ITA 2004 and the 2018 TP regulations take precedence.

## 2. Laws & Regulations

### a) References to OECD/EU/Local Rules

Tanzanian transfer pricing legislation is laid down under Section 33 of the Income Tax Act, Chapter 332 ("The Act"). In addition to section 33, specific transfer pricing regulations were introduced under section 129 of the Act, which took effect 7 February 2014 ("The Regulations"), and it was updated later on 27 April 2018.

The Regulations, which to a large degree are consistent with the OECD Transfer Pricing Guidelines and the UN Transfer Pricing Manual, apply to controlled transactions, where a person who is a party to the transaction is located in and is subject to tax in the United Republic of Tanzania ("Tanzania") and the other person who is a party to the transaction is located in or outside Tanzania. A "controlled transaction" is explained as a transaction carried out between associates.

By virtue of Section 4 of the Regulations, where a person has entered into a transaction or series of transactions to which the Regulations applies (i.e. transactions entered into between associates), the income and expenditures resulting from the transactions between related parties need to be determined in a manner which is consistent with the arm's length principle. Accordingly, where a person fails to ensure that the income and expenditures resulting from the transactions mentioned above are determined in a manner that is consistent with the arm's length principle, the Commissioner of the Tanzania Revenue Authority ("TRA") ("Commissioner") may employ the necessary adjustments to ensure that the income and expenditures resulting from the transactions are consistent with the arm's length principle. In this regard, the Commissioner's authority includes re-characterising the source and type of income or loss and apportioning or allocating the expenditure.

Additional guidance is provided in respect of the application of the arm's length principle in the context of intra-group services, intangible property and intra-group financing in Section 10 of the Regulations, as well as a requirement to prepare contemporaneous transfer pricing documentation (including guidance on the expected content of such documentation) in section 7 of the Regulations.

### b) Definition of Related Party

As stated above, "controlled transaction" is defined as a transaction between "Associates". An "Associate" is in turn defined in the Act; in relation to a person, this means another person where the relationship between the two is, among other things, that of an entity and a person who is:

- Either alone or with an affiliate or associates under another use of this term; and
- Whether directly or via one or more intervening entities, controls or benefits from %50 or more of the rights to capital or income or voting power of the entity.

In summary, for the Regulations to apply, the relationship threshold for related transactions includes:

- 50% or more of the rights to income or capital or voting power of the other entity, whether directly or indirectly;
- Partners of the same partnership, unless the Commissioner is convinced that it is unreasonable to expect either person to operate in conformity with the intentions of the other; and,

- In other cases, one may reasonably be expected to act according to the intentions of the other, other than as an employee.

Branches or permanent establishments ("PE") are also characterised as "Associates" of the entity that they form a part of.

### c) Nature of Transfer Pricing Documentation

Contemporaneous Transfer Pricing Documentation with the content as outlined in section 7(2) of the Regulations needs to be prepared before the due date for filing the income tax return and kept by the taxpayer. This documentation should not be filed with the income tax returns but should be submitted to Commissioner within 30 days from the request of the Commissioner.

### d) Tax Havens & Blacklists

N.A.

### e) Advance Pricing Agreement (APA)

Section 12 of the Regulations provides for the conclusion of APAs to devise a suitable set of criteria for determining whether or not the subject adhered to the arm's length principle. A taxpayer's request for the conclusion of an APA is accompanied by:

- a description of the controlled transactions, person's activities, and the intended scope and durations of APA's;
- a proposal for the determination of the transfer prices for the transactions to be covered by the APA, setting out comparability factors, the selection of the most appropriate transfer pricing method and the essential assumptions about future occurrences that the choice is based on;
- the identification of any other countries that the taxpayer wishes to participate in the APA; and
- The Commissioner may request any other information, as detailed in a transfer pricing practice note.

The Commissioner shall accept, reject or modify the APA request proposal. If accepted or modified, the APA shall apply to the controlled transactions specified in the agreement at a date indicating the years of income for which the agreement applies. Once an APA is accepted, it will be in force for a maximum of 5 years. Unilateral, bilateral and multilateral APA agreements are available.

### f) Audit Practice

Special considerations apply to intra-group services, intangible properties, and intra-group financing. For intra-group services, the TRA requires proof that the non-resident party provided the services and conferred an economic benefit or commercial value to the recipient and documentation proving that the charge for the intra-group services is justifiable and at arm's length. Many taxpayers fail to satisfy the tax authority by proving whether intra-group services were given (the "rendering test"). As a result, even if the transaction prices fulfil the arm's length principle, the money expended for such services may be rejected outright for tax reasons, and penalties may be applied. If the TRA is dissatisfied with the proof, it may re-allocate the excess payment as taxable profit to the local company and tax it accordingly. In line with the OECD Transfer Pricing Guidelines, the Regulations provide that intra-group services shall be disregarded if it involves shareholder activities, duplicative services, services that provide incidental services or any other service deemed inappropriate by the Commissioner.

### 3. Transfer Pricing Documentation

#### a) Level of Documentation

The level of documentation to be included in the Contemporaneous Transfer Pricing Documentation is outlined in section 7(2) of the Regulations and includes the following:

- Organisation structure, including the organisation chart covering persons involved in a controlled transaction;
- Nature of the business or industry and market conditions;
- The controlled transactions;
- strategies and assumptions regarding factors that influenced the setting of any pricing policy;
- comparability, functional and risk analysis;
- the selection of transfer pricing method;
- the manner of application of the transfer pricing method;
- documents that serve as a foundation for, support, or were used in the development of the transfer pricing analysis;
- index to document; and
- Any additional information, data, or document that the Commissioner deems relevant.

#### 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

Since the TRA follows the OECD Transfer Pricing Guidelines, it applies the five OECD transfer-pricing methods in practice. These methods constitute:

- Comparable Uncontrolled Price Method ("CUP");
- The Cost Plus Method ("CPM");
- The Resale Price Method ("RPM");
- The Transactional Net Margin Method ("TNMM");

- The Profit Split Method ("PSM").

There is a preference for the traditional transactional methods (the first three methods mentioned above), which must first be applied. The TNMM and PSM methods are used if the traditional transactional methods cannot be reliably applied or cannot be applied at all. Nonetheless, the most appropriate method should be applied regarding the nature of the transaction, persons involved or functions performed by the persons involved.

Transactions involving intangible properties, like licenses, are also subject to the arm's length principle, and the Regulation requires the use of the CUP method or, if in the case that the intangible is unique or has a high value, the residual profit split method.

#### f) Economic Analysis – Benchmark Study

When applying the comparability factors in determining if transactions are at arm's length, the results of a controlled transaction shall be compared with the results of uncontrolled transactions for the same basis year for the year of income.

The TRA understands the limitations when it comes to the identification of local Tanzanian comparables (or any African comparables) due to the lack of financial information available for private companies in Africa. Non-Tanzanian comparables are thus generally accepted. However, the TRA currently uses Bureau van Dijk's Amadeus database, with no particular preference regarding databases for benchmarking purposes.

#### 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

Taxpayers are required to submit their 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)
<b>Corporate Income Tax</b>	File	CIT format	June 30 <sup>th</sup>	N/A	No	No
<b>Master File</b>	N/A	N/A	N/A	N/A	N/A	N/A

<b>Local File</b>	File	OECD Guidelines	June 30 <sup>th</sup>	N/A	Yes	No
<b>CbCR</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Form</b>	File	Special Format/TP Return	June 30 <sup>th</sup>	N/A	Yes	No
<b>Annual Accounts</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Segmented P&amp;L</b>	N/A	N/A	N/A	N/A	N/A	N/A
* Tanzania has NOT signed the MCAA agreement for the filing of CBCR.						
* There is no specific transfer pricing provision or relief for small and medium sized enterprises in the Regulations.						

Tanzania applies safe harbour rules by virtue of Section 12 of the Income-tax Act of 2004 as amended by the Finance Act 2010. The applied thin capitalisation rule is based on a 7:3 debt-to-equity ratio.

By virtue of the Regulations, Contemporaneous Transfer Pricing Documentation should be in place before the due date for filing the income tax return for that year. A taxpayer must file a final tax return to the TRA within 6 months after the end of each tax year. The taxpayer must file a return between 1 January and 30 June.

Adequate and complete Transfer Pricing Documentation must be submitted within 30 days from the date of the Commissioner's request.

According to the Act, the statute of limitation on transfer pricing assessments is limited to 3 years from the date of filing the tax return. However, in cases where the tax authorities suspect fraud or intent to evade payment of taxes, the three-year limitation is not applicable.

#### j) Mandatory Language

The Transfer Pricing documentation must be submitted in one of Tanzania's official languages (English or Swahili). But in practice, Transfer Pricing documentation is usually filled in English.

#### k) Notification Requirement

N.A.

#### l) Record Keeping

Taxpayers need to retain the necessary documents to enable accurate determination of tax returns or any other documents as prescribed by the Commissioner for at least 5 years from the end of the relevant income tax year.

#### m) Penalties and Interest Charges

By virtue of Section 98 – 103 of the Act, the TRA has discretionary powers to penalise non-compliant taxpayers, including non-compliance on transfer pricing matters.

Entities that are non-compliant with the arm's length principle are considered committing an offence and are liable to a penalty equal to 100% of the underpayment of the tax. Furthermore, non-compliance with the documentation requirements is seen as an offence and is liable on conviction to imprisonment for at least 6 (six) months or to a fine of at least **TZS 50 million or both**.