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GLOBAL TRANSFER PRICING SERVICES

Global Transfer Pricing Review

Uganda

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TAX



Uganda

KPMG observation

The transfer pricing regulations in Uganda only came into effect on 1 July 2011. From that time, the Income Tax Act and the Transfer Pricing Regulations contained therein became binding legislation. The Organisation for Economic Co-operation and Development (OECD) Guidelines are to be referred to unless they differ from the Act, in which case, the Act takes precedence. A practice note was released in May 2012 to aid taxpayers in compliance. The 2012/2013 financial year is the first time taxpayers will be expected to have transfer pricing documentation in place. As a result, information on trends and existing practices is still scanty.

Basic information

Tax authority name

Uganda Revenue Authority (URA).

Citation for transfer pricing rules

S.90 and S.91 of the Income Tax Act, Cap. 340 read together with the Transfer Pricing Regulations 2011, OECD and the Transfer Pricing Practice Note, 2012.

Effective date of transfer pricing rules

Although the transfer pricing regulations came into effect 1 July 2011, S.90 and 91 of the Income Tax Act had been in place requiring taxpayers with related party transactions to deal at arm's length.

What is the relationship threshold for transfer pricing rules to apply between parties?

The rules apply to controlled transactions for multinational enterprises (MNEs) or controlled transactions in aggregate equal to or exceeding 25,000 currency points in a year of income (500 million Uganda shillings (UGX)). This relates to transactions between related parties within Uganda. There is no threshold for transactions across borders.

What is the statute of limitations on assessment of transfer pricing adjustments?

This has not yet been specified. The Act gives the URA commissioner the authority to make adjustments but does not indicate a time limit for such adjustments.

The Income Tax Act also allows the taxpayer to amend their return in case there are some adjustments to be made but does not give a limitation on the time within which this can be done.

Transfer pricing disclosure overview

Are disclosures related to transfer pricing required to be prepared or submitted to the revenue authority on an annual basis (e.g. with the tax return)?

No. The taxpayer is not required to submit disclosures to the URA on an annual basis but is expected to keep all information up to date related to the transfer pricing policies, to be provided to the URA on request.

What types of transfer pricing information must be disclosed?

Not applicable.

What are the consequences of failure to prepare or submit disclosures?

Not applicable.

Transfer pricing study overview

Is preparation of a transfer pricing study required – i.e. can the taxpayer be penalized for mere failure to prepare a study?

Yes. A person who fails to comply with the regulation is liable on conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding UGX500,000 or both.

Other than complying with a requirement per the previous question, describe the benefits, if any, of preparing and maintaining a transfer pricing study?

Withholding tax exemption - a taxpayer can only be exempted if they have complied with all income tax requirements including transfer pricing documentation.

To satisfy the requirement and/or obtain the benefits, are there any requirements on when the transfer pricing study must be prepared and submitted?

The study must be prepared before the company files their final annual tax returns for the given financial year. However, the study/policy does not have to be submitted to the URA unless the URA specifically asks for it.

When a transfer pricing study is prepared, should its content follow Chapter V of the OECD Guidelines?

Yes. In addition, the Practice Note also gives guidelines of the required documentation to be maintained by the tax payer:

- Company details including brief history and the relationships with their related parties, brief history of the company, worldwide organizational structure and participants in the transactions.
- Transaction details including description of the transactions, names of the participants and the functions of each of the parties in the transaction.
- Determination of arm's length entailing selection of the method and the reason for selection of the method, searches and databases used and the criteria used in the selection of comparables.
- Conclusion as to whether transactions with the related parties are at arm's length basing on the comparables derived from the database used.

Does the tax authority require an advisor/tax practitioner to have specific designation in order to prepare or submit a transfer pricing study?

No.

Transfer pricing methods

Are transfer pricing methods outlined in Chapter II of the OECD Guidelines acceptable?

Yes.

Is there a priority among the acceptable methods?

No.

If there is no priority of methods, is there a "best method" rule?

To date, no "best method" rule has been explicitly laid out. As the URA begins to conduct transfer pricing audits, KPMG in Uganda expects to gain more insight on whether or not there is an implicit "best method".

Transfer audit and penalties

When the tax authority requests a taxpayer's transfer pricing documentation, how long does the taxpayer have to submit its documentation?

This has not been specified. The Regulations state that the policy should be submitted upon request. Although, the taxpayer is expected to have the policy in place before filing the annual tax return for the year of income.

If an adjustment is proposed by the tax authority, are dispute resolution options available to the taxpayer outside of competent authority?

Not yet specified, but it is expected that the tax tribunal would have jurisdiction for such cases.

If an adjustment is sustained, can penalties be assessed? If so, what rates are applied and under what conditions?

This has not been specified, but it is expected that penalties would be the same as if one had not submitted a policy in the first place, i.e. a financial penalty of UGX500,000, and/or 6 months imprisonment for the directors if convicted. There would also be penalties in respect of the tax not paid that should have been paid, based on the different Acts – for income tax the penalty is 2 percent per month, and for VAT is 2 percent per month.

To what extent are transfer pricing penalties enforced?

The extent of enforcement will only be known after some companies have been found not to be compliant on carrying out reviews of their transfer pricing documentation.

What defences are available with respect to penalties?

Default defence is documentation but other defences are to be established once the authorities have taken on some non-compliant taxpayers.

What trends are being observed currently?

No trends have been established yet.

Special considerations

Are secret comparables used by tax authorities?

Unknown. The authorities are just starting to roll out audits of transfer pricing documentation prepared by taxpayers.

Is there a preference, or requirement, by the tax authorities for local comparables in a benchmarking set?

No.

Do tax authorities have requirements or preferences regarding databases for comparables?

None have been specified.

What level of interaction do tax authorities have with customs authorities?

The customs body is a subset of the tax authority so there is a high level of interaction and all information from customs is accessible to the authorities.

Are management fees deductible?

Yes.

Are management fees subject to withholding?

Yes.

Are year-end transfer pricing adjustments permitted?

The URA has not yet clarified on this but it is highly likely that such adjustments will be acceptable.

Other unique attributes?

There are no specifications on the use of single versus multiple year data or same year data.

Other recent developments

Not applicable.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

Minimal (there are double taxation agreements with only seven countries).

If extensive, is the competent authority effective in obtaining double tax relief?

Not applicable.

When may a taxpayer submit an adjustment to competent authority?

Not applicable.

May a taxpayer go to competent authority before paying tax?

This has not been specified.

Advance pricing agreements

What Advance Pricing Agreement (APA) options are available, if any?

APA options are available. No options have been specified but a request and draft agreement must be available to the tax authority, which may then accept it, modify it or reject it.

Is there a filing fee for APAs?

Not yet specified.

Does the tax authority publish APA data either in the form of an annual report or through the disclosure of data in public forums?

Not applicable.

Please provide some information on how successful the APA program is and whether there are any known difficulties?

No known case has been handled.

Language

In which language or languages can documentation be filed?

English.

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