



cutting through complexity

Global Transfer Pricing Review

Egypt

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TAX



Egypt

KPMG observation

Transfer pricing is now one of the most important topics for the Egyptian Tax Authority. The Tax Authority issued the first of three planned parts of transfer pricing guidelines on 29 November 2010. The first part mainly discussed the basis of the arm's length principle, the transfer pricing methods and the importance of documentation. This first part is generally consistent with the Organization for Economic Co-operation and Development (OECD) Guidelines. There has been no announcement from the Tax Authority regarding the date of issuing the remaining two parts of the guidelines. The Tax Authority has now established a unit for audit and inspect the related parties' transactions and the fairness of their transactions' pricing.

Transfer pricing study snapshot

The purpose of a transfer pricing study

	Applicable	Not applicable	Required to be contemporaneous
Legal requirements		●	
Protection from penalties		●	●
Reduce risk of adjustment	●		
Shifts burden of proof	●		

Basic information

Tax authority name

Egyptian Tax Authority.

Citation for transfer pricing rules

Tax law, the executive regulations, and OECD module if the methods mentioned in the Executive regulations are not applicable.

Effective date of transfer pricing rules

2005

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

- ownership of greater than 50 percent, based on voting power or share capital
- partnerships, the joint partners, and silent partners therein

- any two or more companies in which a third person possesses at least 50 percent of the number or value of the shares or voting rights in them.

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

Five years from the filing date of the corporate tax return (which is four months after the financial year-end).

Transfer pricing disclosure overview

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

Yes. It is a statutory requirement to mention the transfer pricing method the

company has used for transactions with related parties in the annual tax return.

What types of transfer pricing information must be disclosed?

The name of the related party, nature of the transactions, amount of transactions and the transfer pricing method used.

What are the consequences of failure to submit disclosures?

The tax return will be considered incomplete and the Tax Authority may refuse to accept it.

Transfer pricing study overview

Can documentation be filed in a language other than the local language? If yes, which ones?

No.

When a transfer pricing study is prepared, should its content follow Chapter V of the Organisation for Economic Co-operation and Development (OECD) Guidelines?

Not applicable. However, the first part of the Egyptian guidelines (the only part issued to date) is consistent with the OECD Guidelines and therefore it is suggested that Chapter V is followed.

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

Does your country follow the transfer pricing methods outlined in Chapter II of the OECD Guidelines? If exceptions apply, please describe.

Yes.

Transfer pricing audit and penalties

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? And if so, how many days?

No, 45 days.

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? Please explain.

There is no time frame stipulated in the law. However according to the practice documentation should be submitted during the tax audit period.

If an adjustment is proposed by the tax authority, what dispute resolution options are available?

Yes. If a taxpayer disagrees with the adjustment proposed by the Tax Authority, the taxpayer may appeal to the Internal Committee. If not solved at the Internal Committee level, then the taxpayer may appeal to the High Committee. A formal court action may be taken if not solved at the level of the High Committee.

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

There are no special penalties for transfer pricing adjustments. However, if the transfer pricing adjustment has affected the taxable profits, then normal penalties and delay fines are imposed.

To what extent are transfer pricing penalties enforced?

Not applicable.

What defenses are available with respect to penalties?

Not applicable.

What trends are being observed currently?

Not applicable.

Special considerations

Are secret comparables used by tax authorities?

Unknown.

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

Unknown. However, there is no Egyptian-specific database available.

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

At this point of time, there is no public database in Egypt that can be used for benchmarking. Therefore, there is no clear view on tax authority preferences.

Does the tax authority generally focus on the interquartile range in a TNMM analysis?

Not applicable.

Does the tax authority have other preferences in benchmarking? If so, please describe.

Unknown.

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

Unknown.

Are there limitations on deductibility of management fees beyond the arm's length principle?

Yes, such expenses should be only for branches from their headquarters and within 10 percent of the branch taxable profits.

Are management fees subject to withholding?

Yes.

Are there limitations on the deductibility of royalties beyond the arm's length principle?

Yes. Royalty is subject to withholding tax, however if the royalty has exceeded the arms' length then it may not be accepted as a legitimate tax expense for the corporate tax purposes.

Are royalties subject to withholding?

Yes.

Are taxpayers allowed to file tax return numbers that differ from book numbers?

Yes. The common practice is that transfer pricing adjustments are made at the year-end within the annual income tax return required to be filed by the taxpayer.

Other unique attributes?

None.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

Extensive.

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

Should be.

When may a taxpayer submit an adjustment to competent authority?

During the five years after the adjustment year, limited by the Tax Authority inspection.

May a taxpayer go to competent authority before paying tax?

No formal rules exist in this area.

Advance pricing agreements

What APA options are available, if any?

Unilateral.

Is there a filing fee for APAs?

No.

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

No.

Are there any difficulties or limitations on the availability or effectiveness of APAs?

Not applicable. The Tax Authority has not yet issued any APAs, and it is unclear when the first will be issued.

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