



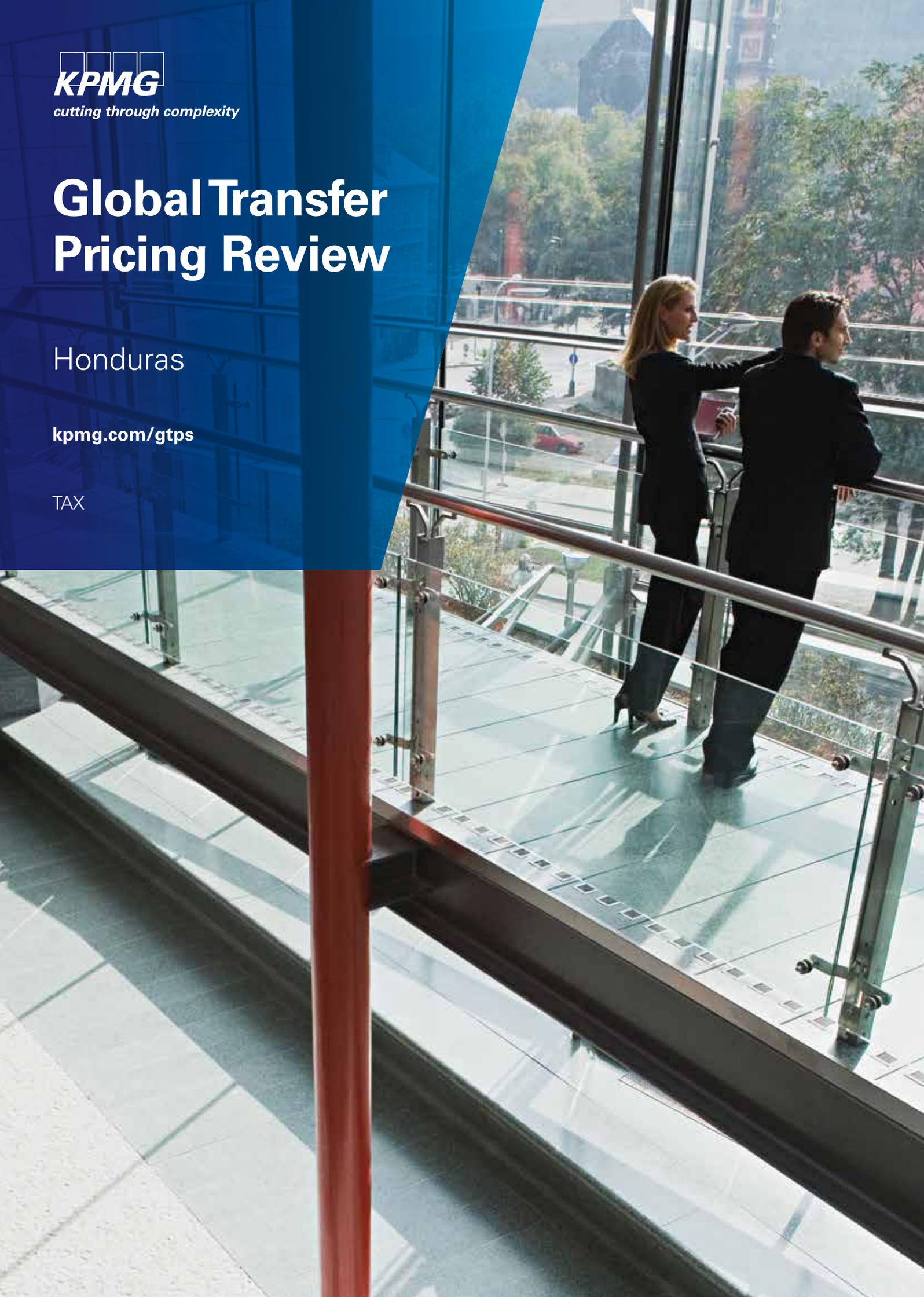
cutting through complexity

Global Transfer Pricing Review

Honduras

kpmg.com/gtps

TAX



Honduras



KPMG observation

The Honduran Transfer Pricing Law became effective on January 2014; however, regulations regarding the correct application of the Law have not been issued yet. The date for the issuance of the regulations is unknown.

Transfer pricing study snapshot

The purpose of a transfer pricing study

Submission to tax authority required

Legal requirements	●
Protection from penalties	●
Reduce risk of adjustment	●
Shifts burden of proof	●

Basic information

Tax authority name

Dirección Ejecutiva de Ingresos (DEI).

Citation for transfer pricing rules

Decreto Ley No. 232-2011.

Effective date of transfer pricing rules

1 January 2014.

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

Two or more entities are related parties when:

- a person or entity participates directly or indirectly in the management, control or capital of both legal entities
- a person or a company participates in the management, control or capital of another entity, both entities or the person and the entity are related parties

- entities comprise a decision unit. An entity is considered to be a member of another and if they are in any of the following situations:
 - hold a majority of voting rights. If the member has the power to appoint or remove the majority of the members of board of directors
 - could have, under agreements with other partners, most of the voting rights; and
 - has appointed only with its votes most of the members of the board of directors.
- they participate in direct or indirect commercial and financial transactions (not yet defined by the tax authorities)
- a person resident in the country has permanent establishments abroad
- a company has the same directors or managers as a related company
- when the relationship between potentially related parties is considered in terms of the social capital or control of voting rights, such

participation must be more than 50 percent; and

- when a company or business is a decision unit, or when a company is a 'partner' of another company.

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

Five years from filing date of the income tax return, and ten years in cases of tax fraud determined by the DEI.

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. The DEI shall demand the Annual Transfer Pricing Affidavit, however such affidavit is not available for taxpayers yet. According to Law on 30 April 2015, taxpayers was supposed to have transfer pricing studies, however, Tax Authority

has announced an extension of three months starting from the issue of the Transfer Pricing Regulation, however the date for the issuance of the regulation is unknown.

What types of transfer pricing information must be disclosed?

Transfer Pricing Law only indicates that taxpayers must submit to the DEI the tax return, the information and sufficient analysis to assess its operations with related parties, this obligation shall be without prejudice to any additional information that will be required at the request of DEI. The DEI have not provided specific detail about the information that should be included in the transfer pricing disclosures/documentation study.

What are the consequences of failure to submit disclosures?

The taxpayer not providing or providing false or grossly incomplete or inaccurate data information or documentation required by Tax Authority, is punishable by a fine of 10,000 US dollars (USD) payable in its equivalent in Lempiras.

Transfer pricing study overview

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

Spanish.

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. This is not detailed in the Honduran Transfer Pricing Law.

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. However, for the case of export transactions of goods with an international quote, before applying

OECD transfer pricing methods, the following methodology will need to be considered or rejected.

Applicable method for the exports of goods with international quote: In the case of exports of goods with international quote in transparent markets, the exporter subject to income tax will have the choice to apply the comparable uncontrolled price (CUP) method using third parties information, regarding the prices agreed with third parties as the market value of those goods in similar conditions.

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?

Yes.

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

According the Honduran Tax Code, taxpayers must have with immediately availability all tax documentation when the Tax Authorities request it.

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

Appeal.

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

Yes. In accordance with Honduran Transfer Pricing Law, violations are:

- failure to provide or providing false or grossly incomplete or inaccurate data information or documentation required by Tax Authority
- declare any taxable year a lower tax base which would have been payable due to a different valuation agreed to have agreed independent parties in comparable
- circumstances, unless there is documentation to support the statement; and

- any other breach of the provisions contained in the Honduran Transfer Pricing Law.

The offense described in number one shall be punished by a fine of USD10,000 payable in its equivalent in Lempiras; the offense described in number two shall be punished by a fine of 15 percent of the amount of the adjustment made by the Tax Authority. If any of those behaviors are accompanied by that typified in number one, the previous penalty for both offenses will rise to the greater of 30 percent or USD20,000 payable in its equivalent in Lempiras, the offense described in number three shall be punished by a fine of USD5,000 payable in its equivalent in Lempiras.

To what extent are transfer pricing penalties enforced?

The TP Law is in force, but it have not been applied yet because the issuance of a regulation is pending. Therefore no penalty has been applied yet.

What defenses are available with respect to penalties?

Occasionally. Congress approves tax breaks that reduce the impact of the penalties if the taxpayer decides to avail them while making the penalty payments.

What trends are being observed currently?

Tax Authority has not applied the Honduran Transfer Pricing Law yet.

Special considerations

Are secret comparables used by tax authorities?

Tax Authority has not applied the Honduran Transfer Pricing Law yet.

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

Tax Authority has not applied the Honduran Transfer Pricing Law yet.

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

Tax Authority has not applied the Honduran Transfer Pricing Law yet.

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

No.

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

Tax Authority has not applied the Honduran Transfer Pricing Law yet.

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

Tax and customs in Honduras are under the same management.

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

Yes. However, taxpayers must support the fact that intra-group services have been rendered before a deduction is taken. That is, taxpayer must demonstrate that the services:

- were actually rendered
- provided a benefit to the taxpayer; and
- were not duplicative services.

If no support can be provided, then the tax authority will consider them non-deductible.

Are management fees subject to withholding?

Yes.

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

No. Not specified in TP Honduran Law.

Are royalties subject to withholding?

Not applicable.

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

Not applicable. Tax Authority has not applied the Honduran Transfer Pricing Law yet.

Other unique attributes?

Not applicable.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

None.

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

Not applicable.

When may a taxpayer submit an adjustment to competent authority?

In case of adjustments to financial and commercial operations between related parties, that have been practiced in another State and that result in a greater income that the derived of the operation as a whole, the Dirección Ejecutiva de Ingresos prior to the request of the resident taxpayer in its territory, shall examine the origin of the adjustment and determine that double taxation has been produced, shall admit the adjustments for the amount of the tax received as well as the accessory elements of the tax debt.

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?

Bilateral.

Is there a filing fee for APAs?

No. According to Honduran Transfer Pricing Law, the Dirección Ejecutiva de Ingresos can enter into APAs with resident and non-resident income taxpayers.

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. Tax Authority has not applied the Honduran Transfer Pricing Law yet.

KPMG in Honduras

Ruben Alonzo

Tel: + 504 2238 5605

Email: realonzo@kpmg.com

As email addresses and phone numbers change frequently, please email us at transferpricing@kpmg.com if you are unable to contact us via the information noted above.

kpmg.com/socialmedia



kpmg.com/app



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2015 KPMG International Cooperative ("KPMG International"), a Swiss entity. Member firms of the KPMG network of independent firms are affiliated with KPMG International. KPMG International provides no client services. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm. All rights reserved.

The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International.

Designed by Evalueserve.

Publication name: Global Transfer Pricing Review

Publication number: 132762-G

Publication date: October 2015