



*cutting through complexity*

# Global Transfer Pricing Review

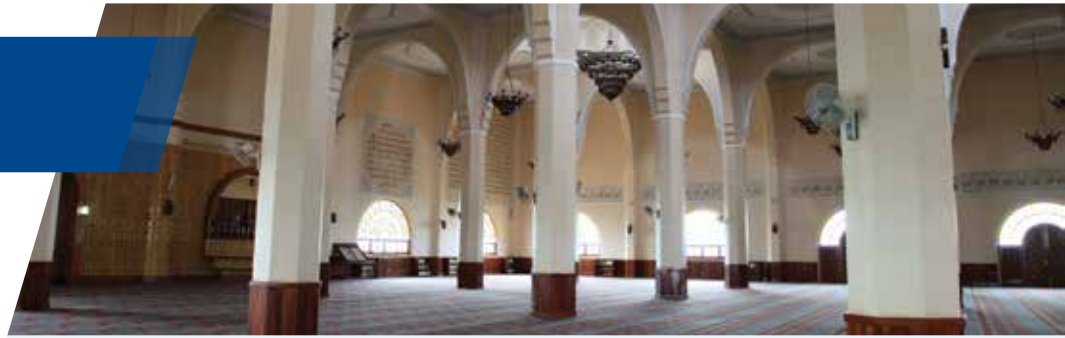
Uganda

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TAX



# Uganda



## KPMG observation

Transfer pricing rules in Uganda came into effect on 1 July 2011. From that time, the Income Tax Act (the Act) and the Transfer Pricing Regulations contained therein became binding legislation. Under the Act, 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 was the first time taxpayers had to have transfer pricing documentation in place. As a result, information on trends and existing practices is still limited.

## Transfer pricing study snapshot

### The purpose of a transfer pricing study

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

## 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 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 submit disclosures?

Not applicable.

## Transfer pricing study overview

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

Yes, English.

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

Yes, for all transactions. In addition, the Practice Note also gives guidelines of the required documentation to be maintained by the taxpayer:

- 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

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.

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

This has not been specified. The Regulations state that the policy should be submitted upon request. 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, what dispute resolution options are available?

Not yet specified, but it is expected that the tax authorities would pay attention to explanations by the tax consultants in defending transactions and in case this does not work out, the 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 six 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 taxation Acts. The penalty for income tax is two 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 defenses are available with respect to penalties?

Default defense is documentation but other defenses are to be established once the authorities have taken on some noncompliant taxpayers.

What trends are being observed currently?

The Tax Authorities have started asking for policies from taxpayers.

## 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.

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

Yes, sometimes.

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

No experience yet.

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

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

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

Yes. The income Tax Act gives the commissioner the powers to reclassify transactions and if a fee is deemed above arm's length, the commissioner may disallow the excess.

Are management fees subject to withholding?

Yes.

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

Yes. Excess over the arm's length price may be disallowed.

Are royalties subject to withholding?

Yes.

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

No. The URA has not yet clarified this but it is highly unlikely 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.

## 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 APA options are available, if any?

Unilateral, bilateral, multilateral.

Is there a filing fee for APAs?

Not applicable.

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.

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

No known case has been handled.

### KPMG in Uganda

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