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Uganda
Transfer Pricing

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This country-specific Q&A provides an overview of transfer pricing laws and regulations applicable in Uganda.

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Uganda: Transfer Pricing

1. What is the legal framework (legislation, regulations or administrative guidance) governing transfer pricing in your jurisdiction?

The Transfer Pricing (TP) legal framework in Uganda is premised on Section 116 of the Income Tax Act Cap 338 which empowers the Commissioner General, Uganda Revenue Authority (URA) to adjust transactions between associates to reflect arm's length conditions. The Uganda Revenue Authority may distribute, allocate or reallocate income, deductions, and tax credits between the associated parties.

The statutory provisions are further operationalised by the Income Tax (Transfer Pricing) Regulations, 2011 (TP Regulations), which came into force on 1st July 2011. The rules provide for the arms – length principle, the transfer pricing methods, comparability, documentation requirements, Advance Pricing Agreements (APAs), corresponding adjustments, among others.

Pursuant to Regulation 8(3) of the TP regulations, the Commissioner General issued the Practice Note on Transfer Pricing Documentation to be kept by Taxpayers (2012) which provides guidance on the transfer pricing documentation required for TP compliance by associated persons who are parties to related party transactions.

2. To what extent are the OECD Transfer Pricing Guidelines incorporated into or relied upon in your jurisdiction?

The OECD Transfer Pricing Guidelines are highly incorporated into Uganda's TP legal framework.

Specifically, under Regulation 6 of the TP Regulations, the Regulations are to be applied consistently with Article 9 of the OECD Model Tax Convention (which elaborates on the arm's length principle) and the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, as supplemented and updated from time to time.

The Regulations further provide that where there is any inconsistency between the OECD Guidelines, the Transfer Pricing Regulations and the Income Tax Act, the provisions of the Income Tax Act shall prevail.

3. How are "related parties" and "control" defined in your jurisdiction, and how do these concepts affect the application of the arm's length principle and the scope of the transfer pricing rules?

Uganda's transfer pricing rules refer to "related parties" as "associates". Under Section 3 of the Income Tax Act, parties are regarded as associates of each other where one person acts in accordance with the directions, requests, suggestions or wishes of the other person.

The Associates are further defined to include a relative of a person or a partner of the person who acts in accordance with that other person's directions, requests, suggestions or wishes, and a partnership in which the person in the partnership controls 50% or more of the rights to income or capital of the partnership, among others.

In relation to companies, but without limiting the generality of the wide meaning above, an associate is defined as any person or another company which alone or together with associates controls 50% or more of the voting power in the company, either directly or indirectly through interposed entities. In this case, the threshold for control would be 50% or more of the voting power, but this does not diminish or limit the wide application of the general meaning for Associates.

The TP Regulations define a "controlled transaction" as a transaction between associates. Consequently, such transactions must satisfy the arm's length principle, whereby prices and terms should be consistent with those that would have been agreed between independent parties in comparable circumstances.

The concepts of associates and control between associates determines whether a transaction falls within the scope of Uganda's transfer pricing rules.

4. Do transfer pricing rules apply to both cross-border and domestic transactions?

Yes. Uganda's TP rules apply to both cross-border and domestic transactions. The Transfer Pricing Regulations apply to controlled transactions where one party is subject to tax in Uganda and the other party is located either within or outside Uganda.

However, TP Documentation requirements apply to:

a) All cross-border controlled transactions for Multinational Enterprises (MNES); and

b) Domestic controlled transactions whose aggregate value in a year of income exceeds UGX 500 million (approximately USD 135,000).

MNEs in this case refer to enterprises that manage production, deliver services or generator sales and profits in more than one country whether under a hybrid arrangement or where the relationship is established through shareholders.

5. Are there any exemptions or exclusions from the transfer pricing rules in your jurisdiction (for example, for small and medium sized enterprises, specific transaction types, or materiality thresholds)?

No. Ugandan law does not provide statutory exemptions from the transfer pricing rules.

However, for domestic transactions, the TP documentation rules apply where the aggregate value of a controlled transaction(s) in a year of income exceeds UGX 500 Million (approximately USD 135,000).

6. Are there any notable deviations from OECD principles in local law or practice?

There are no notable or material deviations from OECD principles. However, the Uganda TP regulations expressly apply to branches to separately comply with TP obligations.

They introduce the concept of a Branch person and a Headquarter persons, where the branch is deemed separate from the headquarter person and each is located where its activities are. It therefore follows the attribution of profits and expenses to a branch in its operations with head office should strictly align with the TP rules.

7. What transfer pricing methods are recognised under local law?

The TP Regulations recognise the following transfer pricing methods:

i. Comparable Uncontrolled Price (CUP) Method; ii. Resale Price Method (RPM); iii. Cost Plus Method (CPM); iv. Transactional Net Margin Method (TNMM); v. Transactional Profit Split Method (PSM).

Additionally, under Regulation 7(5), a person may apply any other method other than those listed above, if the person can establish that none of the listed methods can reasonably be applied and the method used gives rise to a result that is consistent with the arms – length principle.

8. Is there a prescribed hierarchy or priority among the transfer pricing methods?

No hierarchy or priority among TP methods exists. What is required is to apply the most appropriate method in the circumstances.

9. How are arm's length ranges determined in your jurisdiction, and do domestic tax rules, guidelines, or case law prescribe specific statistical methodologies or calculation approaches for interquartile ranges?

No domestic tax rules or case law exists. OECD Transfer Pricing Guidelines (as supplemented and updated from time to time) on interquartile range are applied and followed by both taxpayers and the Revenue Administration.

10. To what extent are comparability adjustments permitted in your jurisdiction, and which types of adjustments are most commonly applied or rejected by tax authorities?

Comparability adjustments are permitted by the TP Regulations. Regulation 4 provides for considerations to be taken into account in the evaluation of comparability of transactions. Consideration must be given to the characteristics of the property or services involved, the functions performed by the parties taking into account the assets employed and risks assumed, the contractual terms between the parties, the economic circumstances in which the transactions occur, and the business strategies pursued by the associated enterprises.

11. What rules apply to year end transfer pricing adjustments in your jurisdiction, particularly in

relation to statutory accounting requirements and their recognition for tax purposes?

No specific domestic rules exist. The OECD Transfer Pricing Guidelines (as supplemented and updated from time to time) apply, for example adjustments for differences between budgeted costs and actual costs.

Taxpayers are required to confirm and determine income and expenditure arising from controlled transactions in a manner consistent with the arm's length principle and maintain contemporaneous documentation supporting that position.

12. Are secondary adjustments applied/included in the legislation in your jurisdiction?

The URA is empowered by the Income tax Act to recharacterize any transaction or element of a transaction that is entered into as part of a tax avoidance scheme or whose form does not reflect the substance. The Commissioner may also disregard a transaction without a substantial economic effect. In this context, an 'avoidance scheme' includes any transaction whose main purpose is the avoidance or reduction of tax liability.

13. What statutory provisions, regulations, or administrative guidance govern the transfer pricing treatment of transactions involving intangibles in your jurisdiction, including any specific references to OECD Transfer Pricing Guidelines Chapter VI?

The TP Regulations permit the application of Chapter VI of the OECD Transfer Pricing Guidelines Chapter VI (as supplemented and updated from time to time).

14. How does your jurisdiction apply the DEMPE concept (Development, Enhancement, Maintenance, Protection, and Exploitation) when determining entitlement to intangible related returns?

The TP Regulations permit the application the DEMPE concept based on the OECD Transfer Pricing Guidelines (as supplemented and updated from time to time).

15. What legal or administrative criteria determine which entity is entitled to intangible related returns (e.g., entities controlling economically significant DEMPE related risks)?

No local administrative criteria exist in Uganda. The entity entitled to intangible related returns for example residual profits, etc is determined based on criteria under the OECD TP Guidelines (as supplemented and updated from time to time).

16. Does local law or administrative guidance provide specific rules for hard to value intangibles, including whether ex post outcomes may be used as presumptive evidence for testing ex ante assumptions?

No local law or administrative guidance exists. The hard – to – value intangible rules under the OECD TP Guidelines (as supplemented and updated from time to time) are applied.

17. Does local law or administrative guidance expressly recognise cost sharing or cost contribution arrangements for the development or use of intangibles, and what requirements must such arrangements meet under applicable rules?

Yes, the URA Practice Note recognises Cost Contribution Arrangements (CCAs).

A taxpayer involved in a CCA is obligated to maintain documentation such as: Copies of agreements and relevant amendments, List of arrangement participants and beneficiaries, extent of use of CCA property by associated parties who are non-parties to the CCA, duration of the CCA, description of scope of activities to be undertaken including any intangible or class of intangibles in existence or intended to be developed, interest of each participant, identification of benefits accruing to each party, material differences between expectations and actual benefits, rights and obligations of each associated enterprise under the CCA, contribution borne by each participant, method used to determine each party's share of the contribution, and consequences of entry or withdrawal of a participant from the agreement.

18. What transfer pricing information may be exchanged cross border, and subject to what

legal conditions or limitations?

The information that may be exchanged generally covers ‘foreseeably relevant’ tax information.

Information sharing mechanisms exist under the Double Taxation Agreements (DTAs), the Convention on Mutual Administrative Assistance in Tax Matters (MAAC) and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information. All these conventions or treaties have been incorporated into domestic law in Uganda and are therefore available to be used by the URA.

Some of the limitations and conditions contained within the information sharing agreements include forbidding sharing information that is likely to disclose any trade secrets or trade process, information that is contrary to public policy, among other limitations or conditions.

19. To what extent may exchanged information be relied upon in transfer pricing assessments or litigation?

Information obtained through exchange-of-information mechanisms can be relied upon extensively by the URA in transfer pricing audits, assessments and dispute resolution processes.

In practice, the URA may use exchanged information to verify the accuracy of related-party transactions; obtain foreign financial and transactional information relating to associated enterprises; test the arm’s-length nature of controlled transactions; support comparability analyses and functional assessments; and substantiate transfer pricing adjustments during audits, among others.

20. What statutory or regulatory transfer pricing documentation requirements apply in your jurisdiction (including any master file, local file, or country by country reporting obligations)?

The local file is required to be in place by the due date of filing the income or corporation tax returns each tax year. In practice, the master file can be requested for during TP audits or queries from the URA.

Generally, Regulation 8 of the TP Regulations requires a taxpayer to record in writing sufficient information to verify that its controlled transactions are consistent with the arm’s-length principle.

URA’s 2012 Practice Note on TP Documentation provides a non-exhaustive list of the information and documents that taxpayers are expected to keep including:

A. Company details including ownership and organisational structures, operational aspects of the business including details of functions performed, risks assumed and assets employed relevant to the transaction in question, assumptions and information on the factors that influenced the pricing;

B. Transactional details, such as a description of controlled transactions, comparables and their description, and economic conditions at the time of the transactions such as the differences surrounding the controlled transaction and their comparable uncontrolled transactions, among others;

C. Determination of the arm’s length price, including description of selected methods, functional analysis and risks assumed, cost contribution arrangements, management strategy, among others.

D. A summary and conclusion elaborating whether the controlled transactions in question comply with the arm’s length and whether any transfer pricing adjustments were made.

21. Who is required to prepare transfer pricing documentation, and what thresholds or conditions trigger the obligation?

The Associates with controlled transactions. Under the guidance in the URA Practice note on TP Documentation (2012), it is all Multinational Enterprises (MNEs) with cross – border controlled transactions (irrespective of the amounts) or taxpayers in domestic controlled transactions whose aggregate value equals or exceeds UGX 500 million (approximately USD 135,000) during a year of income.

22. What are the timing requirements for preparing and submitting transfer pricing documentation, and must documentation be contemporaneous?

Uganda requires transfer pricing documentation to be prepared in respect of each tax year and should be in place by the due date for filing the final income tax return for that year. The documentation is kept by the taxpayer and submitted to the Uganda Revenue Authority (URA) upon request. Once requested for, the taxpayer must submit the documentation within 30 days from the date of request.

23. What penalties or sanctions apply for failure to prepare, maintain, or submit compliant transfer pricing documentation?

The Tax Procedures Code Act imposes a penalty of UGX 50 million (approximately USD 13,000) for failure to provide transfer pricing records within 30 days of request.

Under Regulation 8(4), a person who fails to comply with the transfer pricing documentation requirements is liable, upon conviction, to imprisonment for a term not exceeding six months or a fine not exceeding UGX 500,000 (approximately USD 140), or both.

24. Are there specific transfer pricing reporting requirements in relation to the filing of the corporate tax return (e.g. specific forms on intra group transactions or special disclosures on compliance)?

No. However, the local TP file and supporting documentation is required to be in place by the due date of filing income tax returns each tax year.

25. Are advance pricing agreements (APAs) available under the laws or administrative guidance of your jurisdiction, and what is their legal basis?

Yes. APAs are provided for under Regulation 9 of the Income Tax (Transfer Pricing) Regulations, 2011 but are rare in practice.

26. What types of APAs are permitted (unilateral, bilateral, and/or multilateral), and are there any statutory or treaty based limitations on their use?

Uganda permits unilateral, bilateral and/ or multilateral APAs between a taxpayer, the **URA** and/or other sovereign revenue authorities. However, APAs are rarely negotiated or completed by URA, in practice.

27. What are the safe harbour rules or simplified measures available for certain transactions or taxpayers, if any?

The safe harbour rules for low – value adding intragroup services can be available or applied in Uganda based on the application of the OECD TP Guidelines (as supplemented and updated from time to time) in Uganda.

28. How has the nature of transfer pricing audits evolved in your jurisdiction over the past two to three years—more targeted, or more expansive and data driven?

Transfer pricing audits in Uganda have increased and are sector targeted. In recent years, the URA has strengthened the capacities and capabilities of its International Tax and Transfer Pricing Department, with specialised staff responsible for transfer pricing audits.

29. How developed is domestic case law, and does it meaningfully shape practice, or are outcomes still driven primarily by tax authorities?

Uganda's transfer pricing domestic case law remains limited but growing. Currently, the outcomes are largely driven by the Uganda Revenue Authority practice or disputes being resolved administratively or amicably through negotiated “out – of – court” settlements.

30. What types of transactions or structures (e.g., IP migration, platform contributions, financing, residual profit allocations) have most frequently triggered transfer pricing adjustments or disputes with the tax authority?

The commonest transactions being reviewed for TP purposes are services and intangibles but transactions relating to goods or commodities and group restructurings have also contributed to some TP disputes.

31. Looking five years ahead, which development is likely to reshape transfer pricing practice most profoundly in your jurisdiction—digital business models, fiscal and political pressure on tax authorities, administrative capacity, or other structural changes?

The developments likely to reshape transfer pricing practice in Uganda include URA's enhanced administrative capacity for TP reviews and audits as well as increasing fiscal policy attention on combating base erosion arising from cross – border transfer pricing. We also anticipate that keeping pace with the global international tax transparency trends and related developments will play a significant part.

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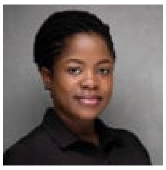

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