



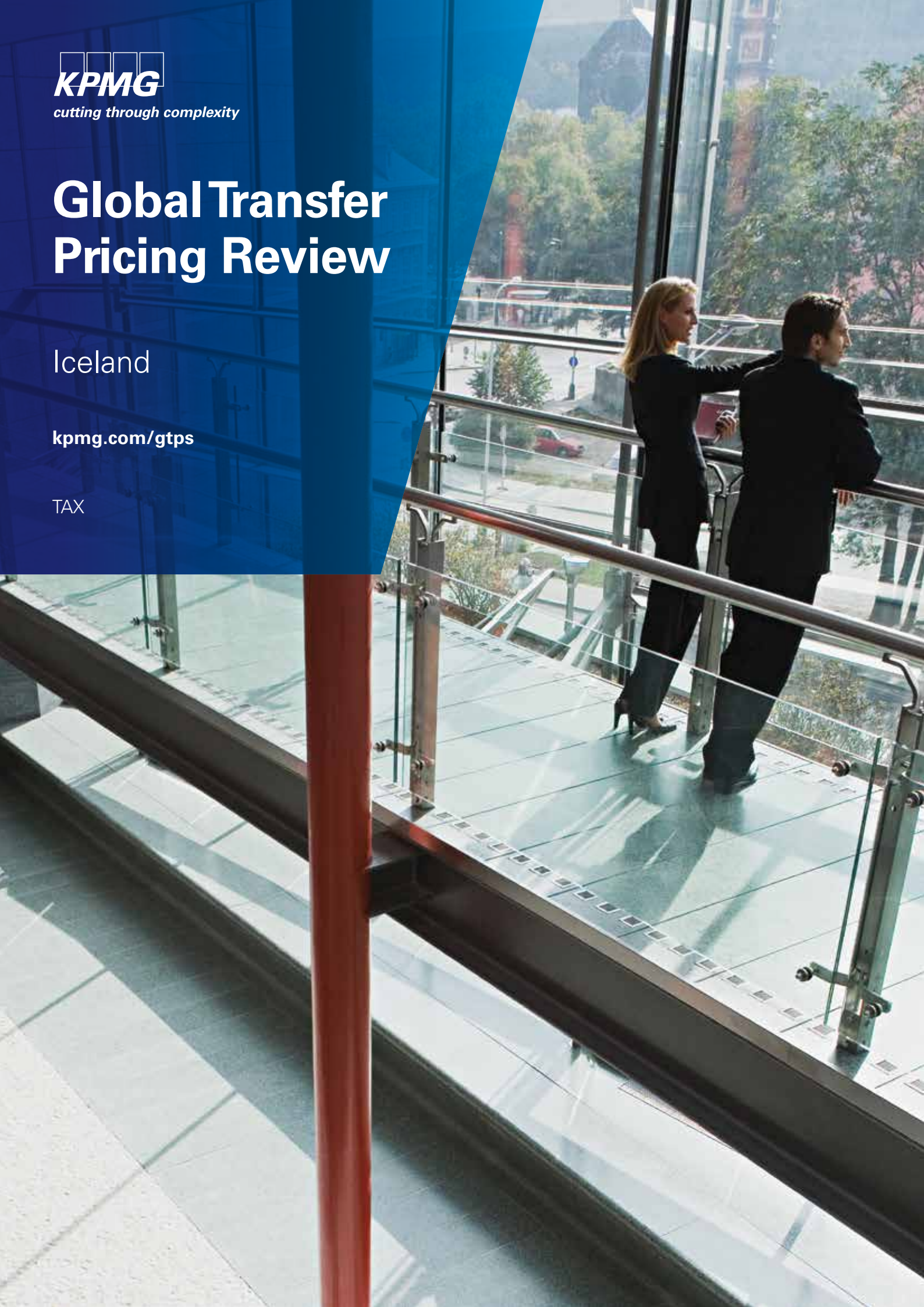
cutting through complexity

Global Transfer Pricing Review

Iceland

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TAX



Iceland

KPMG observation

The law that enacted the Icelandic transfer pricing rules was passed in 2013 and came into effect 1 January 2014.

On 23 December 2014, Regulation No. 1180/2014 on documentation and transfer pricing in transactions between related parties was issued by the Ministry of Finance. The Regulation became effective on 1 January 2015.

Under the Regulation, Icelandic legal entities or permanent establishments that 1) have transactions with related entities or permanent establishments and 2) have assets or turnover in excess of one billion ISK are subject to the transfer pricing documentation rules.

As the transfer pricing rules only became applicable on 1 January 2014, it is difficult to predict what Iceland's approach to Base Erosion and Profit Shifting (BEPS) will be.

However, it is likely that a similar approach as the other Nordic countries will be taken.

Transfer pricing study snapshot

The purpose of a transfer pricing study

	Applicable	Thresholds apply/exist
Legal requirements		●
Protection from penalties	●	
Reduce risk of adjustment	●	
Shifts burden of proof	●	

Basic information

Tax authority name

Directorate of Internal Revenue (Ríkisskattstjóri).

Citation for transfer pricing rules

Paragraphs 3-6 of Article 57 of the Icelandic Income Tax Act No 90/2003.

Regulation No. 1180/2014.

Effective date of transfer pricing rules

1 January 2014.

The Regulation became effective on 1 January 2015.

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

Direct or indirect ownership of more than 50 percent.

According to the law:

- legal entities that are part of a group according to Article 2 of Act 3/2006 on Annual Accounts or are under the direct or indirect ownership of control

of two or more companies within the same group; or

- there is a majority ownership over a legal entity jointly by group companies either directly or indirectly; or
- legal entities that are directly or indirectly in majority ownership or controller by individuals that are related by family, i.e. married, siblings, etc. The same applies to individuals that are connected through business relations and investments.

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

The statute of limitation is six years from the tax 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. There is a special form to be submitted with the tax return.

The form has not been completed by the tax authorities but it is expected that it should be filed with the 2016 tax return (income year 2015).

What types of transfer pricing information must be disclosed?

Not applicable as the form has not been completed by the tax authorities.

What are the consequences of failure to submit disclosures?

If affected taxpayers do not submit the form, the tax filings could be deemed incomplete. Providing insufficient or wrongful information can lead to penalty taxes being imposed on adjusted transfer pricing amounts in tax audits.

Transfer pricing study overview

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

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 certain situations a more detailed information should be provided.

According to the regulations the transfer pricing documentation requirements should include among other the following information.

- Information about the group, individual legal entities and operations:

- brief historical overview of the group and individual legal entities
- general description of ownership and legal form of legal entities and the tax domicile of the entities
- description of the operations of individual legal entities and their role within the group. A general description and organizational chart where there is a formal management system.
- Information on key markets, main competitors and competitive products of the group:
 - description of any restructuring during the fiscal year
 - financial information
 - the documentation shall include financial statements of the three preceding years for all related entities which the entity subject to the documentation in Iceland has transactions with. If the financial statements are not accessible or if they don't contain information on earnings before depreciation, interest or earnings before valuation changes and taxes that information must be specifically provided
 - if the entity subject to documentation has suffered a loss the reasons for the loss must be described.
- Information about the nature and scope of transactions:
 - description of the nature and extent of intercompany transactions
 - information on commercial terms
 - information on how the pricing decisions were made, what method according to the OECD Guidelines was used for the pricing. Whether the pricing was based on guidance from independent experts or other available methods. Furthermore the transactions should be described with reference to the OECD Guidelines comparability factors
 - recurrent transactions should be especially described.
- Service between related entities:
 - in relation to cost allocation of services, it shall be sufficiently documented that the entity subject to the documentation did in fact receive the services
- in relation to R&D cost allocation sufficient information on the terms of allocation shall be available.
- Information on intangible assets:
 - the entity subject to documentation shall describe any intangible asset within the group that has an effect on intercompany transactions
 - information on likely resale price and net present value of expected future earning of the intangible asset shall also be presented.
- Transfer pricing methods:
 - the documentation shall contain a description of the transfer pricing method used and why it was chosen.
- Information on comparability analysis:
 - the documentation shall include a comparability analysis where appropriate
 - the analysis shall be made with reference to the OECD Guidelines comparability factors.
- Information on contracts:
 - all contracts that have an effect on the pricing of intercompany transactions shall be included
 - all Advance Pricing Agreements (APAs) and other agreements in relation to setting transfer prices shall be included in the documentation.

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?

Yes, 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.

The taxpayer has 45 days to submit its documentation.

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

The taxpayer can bring the case to the tax state internal revenue board and/or the courts.

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

Yes. General tax penalties only: up to 25 percent increase on the tax base adjusted.

To what extent are transfer pricing penalties enforced?

Not yet known as the rules just took effect 1 January 2014.

What defenses are available with respect to penalties?

Taxpayers are obliged to disclose sufficient and correct information about their transfer pricing. The defense would thus generally be to argue that the taxpayer has complied with these requirements with reasonable cause. Other defense is negotiation with tax authorities.

What trends are being observed currently?

Not applicable.

Special considerations

Are secret comparables used by tax authorities?

Not applicable.

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

Unofficially they have said that pan-European comparables should be accepted and are preferable.

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

Not applicable. Amadeus will most likely be used.

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.

Not applicable.

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

Medium.

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

No.

Are management fees subject to withholding?

No.

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

No.

Are royalties subject to withholding?

Yes.

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

Yes. There is no practice regarding this available to date.

Other unique attributes?

Not applicable.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

Medium. Treaties with about 40 countries.

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

No experience.

When may a taxpayer submit an adjustment to competent authority?

No formal rules exist in this area.

May a taxpayer go to competent authority before paying tax?

Permitted. Meetings with the Directorate of Internal Revenue. However, taxes become payable upon the tax office's decision being made, so generally taxes have to be paid prior to going to the competent authority.

Advance pricing agreements

What APA options are available, if any?

None.

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?

Not applicable. There are no APAs available in Iceland.

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