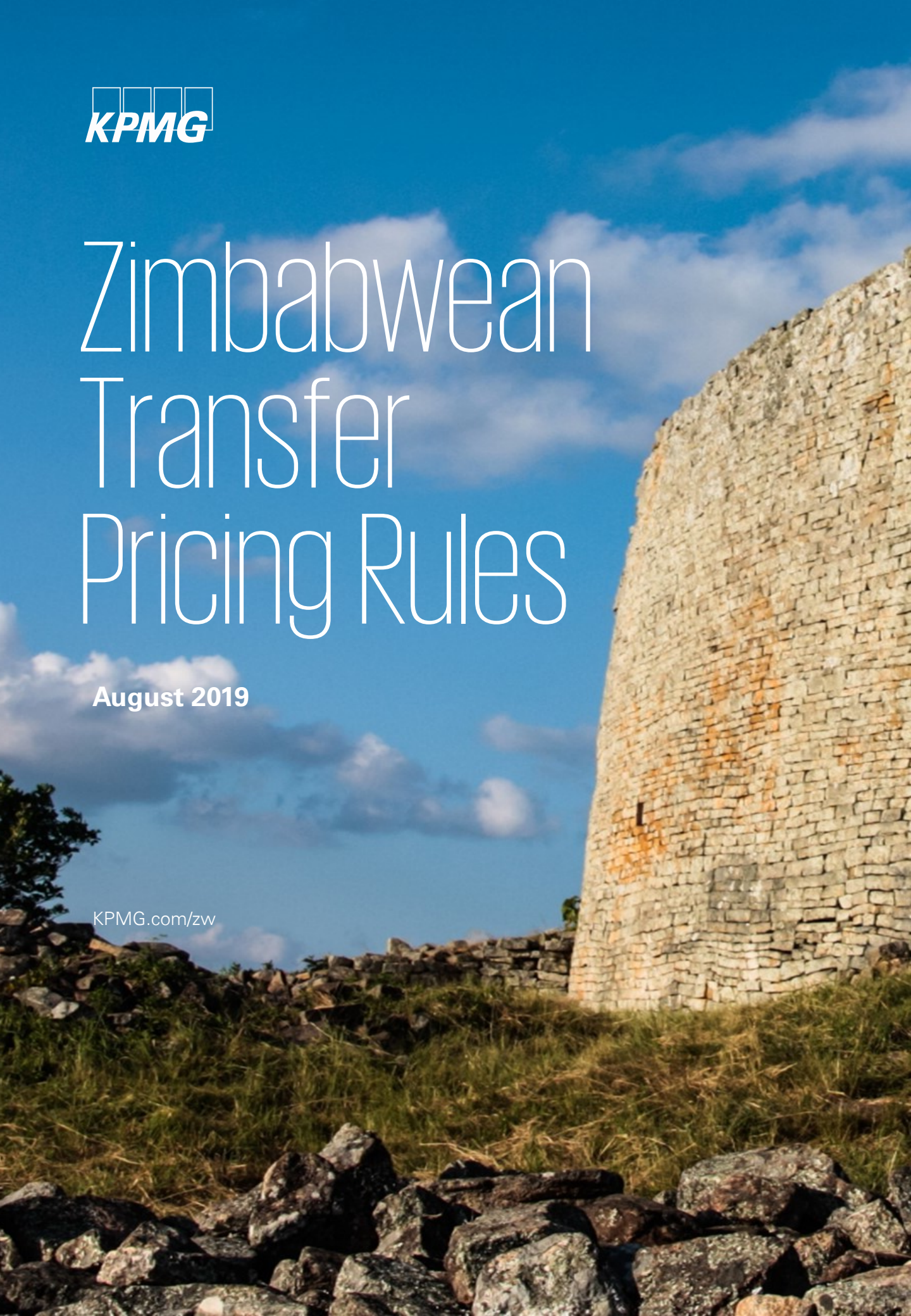




# Zimbabwean Transfer Pricing Rules

August 2019

[KPMG.com/zw](https://www.kpmg.com/zw)



# Zimbabwean transfer pricing rules

## Are the rules applicable to you?

Zimbabwean transfer pricing rules apply to your company if :

- Your company operates in more than one tax jurisdiction and has cross border transactions with its associates; and/or
- Your company is part of a local group of companies and has intercompany transactions within the local associates.

*The arm's length principle had been introduced by sections 23, 24 and 98 of the Income Tax Act for a number of years. However, the guidance by which the 'Commissioner General' will determine whether transactions are consistent with the arms' length principle was introduced with effect from 1 January 2016.*

## Do you need to maintain documentation if the rules applicable to you?

- A taxpayer must have in place contemporaneous documentation that verifies that the conditions in its controlled transactions for the relevant year are consistent with the 'arm's length' principle.
- Statutory instrument 109 of 2019 as read with section 90 and 35<sup>th</sup> schedule to Income Tax Act specifies the nature of the required documentation.

## What if you do not have adequate information on transactions with associates?

Failure to provide the information when requested by ZIMRA would mean:

- Transfer pricing adjustment which would be liable to additional income tax at 25.75%.
- Moreover, a penalty of 100% of the additional taxes when it is evident that there is tax evasion or fraudulent scheme.
- Further, a penalty of 30% where the documentation is not in compliance or contemporaneous with the related party transactions.
- A penalty of 10% where the related party transactions are not at the arm's length and contemporaneous TP documentation is available.

# Zimbabwean transfer pricing rules

## Thin Capitalisation

Interest expense is disallowed on the portion that causes the debt equity ratio to exceed 3:1.

*This restriction does not apply to the interest on debt with a local financial institution which is not associated with the taxpayer who have not colluded for the purpose of avoiding tax or a debt contracted through a Government Credit Facility by a public entity as defined in the Public Entities Corporate Governance Act*

*“equity” means issued and paid-up capital, unappropriated profits, reserves, realised reserves and interest-free loans from shareholders.*

## General administration & management fees

General Administration and Management fees between any associated companies in excess of 1% of total allowable deductions will be non-deductible.

## Non-resident shareholders' tax

In addition to the normal tax currently at 25.75% on amounts disallowed above, the excess interest expense and general administration and management fees, disallowed as a deduction are subject to Shareholders' tax at 15% as a deemed dividend. No double tax agreement tax rate will apply to this dividend.

## Impact on other taxes

Transfer Pricing adjustments may have an impact on other taxes eg. VAT & Customs Duty.



# Transfer Pricing documentation rules



# Zimbabwean transfer pricing documentation

## Contemporaneous documentation

Documentation for a relevant tax year is considered to be contemporaneous where it is updated and in place at the statutory tax return's filing date.

## Due date of submission of documentation

Documentation must be provided to the Commissioner within seven days of receipt of written request.

## Powers of the commissioner

The commissioner has power to request additional information during an audit or investigation review. The onus is on the taxpayer to support related party transactions.

## Language of documentation

Documentation must be submitted in English Language

# What should the documentation include?

## Statutory Instrument 109 of 2019 requirements

Information that should typically be available in some form

- ✓ Ownership structure
- ✓ Name, principal office, legal form and tax residence of connected persons
- ✓ Business operation overview:
  - ❑ Description & strategy
  - ❑ History of organisation
  - ❑ Recent evolution
  - ❑ Organogram of senior leadership
  - ❑ Organogram of business units
  - ❑ Major economic & legal issues
  - ❑ Key value drivers (industry research)
  - ❑ Description of controlled transactions
  - ❑ Description of Zimbabwean taxpayer & each connected person in the group's supply chain
  - ❑ Segmental accounts & reconciliation with AFS
  - ❑ Operational flows – information flow, product flow & cash flow

- ✓ Comparability analysis:
  - ❑ Analysis of comparability factors
  - ❑ Explanation of the selection of appropriate TP methods
  - ❑ Explanation of the tested party & the financial indicators
  - ❑ Industry policy, incentives or restrictions
  - ❑ Market share & competitor analysis
  - ❑ Industry analysis & economic analysis
  - ❑ Description of process undertaken to identify comparable uncontrolled transactions
  - ❑ Basis for the rejection of any potential internal comparable uncontrolled transactions
  - ❑ Description of the comparable uncontrolled transactions
  - ❑ Analysis of comparability of the controlled transactions & the comparable uncontrolled transactions
  - ❑ Explanations of comparability adjustments made

Information to be specifically compiled to demonstrate arm's length nature











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