



# TAX

Dispute Resolution and  
Tax Controversy Services

---

[kpmg.com](https://kpmg.com)

KPMG INTERNATIONAL



Dealing with tax disputes can mean uncertainty and complexity. KPMG has the experience to help you take control of the dispute resolution process.

We get effective results.

Locally. Globally.



# Set your strategy. Take control. Get results.

Dealing with tax disputes can mean uncertainty and complexity. KPMG South Africa's Dispute Resolution & Controversy team has the experience to help you take control of the dispute resolution process. Where the tax dispute spans international jurisdictions we work seamlessly with our global colleagues to get effective results both locally and globally.

Tax authorities worldwide are under increasing pressure to generate revenue, causing a rise in tax audit activity across all taxing jurisdictions and all types of tax. Particular uncertainty can arise as global businesses seek to access new and developing markets where the local tax environment may be unfamiliar and extremely unpredictable.

This pressure on tax authorities is resulting in more investigation, larger adjustments, and increased potential for penalties and interest. Wherever you do business, it's important to approach your tax matters proactively and be ready to respond if and when a local tax investigation begins.

KPMG's Dispute Resolution & Controversy professionals can help you prepare to manage any tax authority challenge that comes your way. For any business or person preparing for or facing a tax audit, appropriate strategies for response and compliance are critical. Without a plan of action for resolving potential tax disputes, uncertainty, inefficiency and lost opportunities can result. When your organisation finds itself under the tax collector's microscope, will you be ready to take control and manage the tax controversy and resolution process toward its best possible end?

- Have you proactively and thoroughly documented your uncertain tax positions and your tax transactions, including cross-border transfer prices?
- Are your analyses of your tax positions well stated, complete and supported by relevant documentation?
- Do you have a process in place for retaining confidential tax analyses under the protection of legal privilege in all relevant jurisdictions where a form of this protection is available?
- Have you formulated a broad-ranging strategy for engaging with the tax authorities in order to resolve disputed or controversial tax issues?
- Do you have a clear picture of possible resolution scenarios, whether by negotiated resolution or, if necessary, litigation of disputed tax issues?
- Do you know your options for dealing with a number of open enquiries strategically rather than on a piecemeal basis?
- Are you engaging with the tax authorities in the most effective way?
- Have you considered the impact of your resolution on your tax positions in all affected jurisdictions?

**KPMG's South Africa Dispute Resolution & Controversy network helps companies and individuals, protect against, prepare for, and respond to challenges by the tax authorities.**

- What protocols do you have in place to actively manage and address tax risk to avoid future tax disputes and exposures?

# Protect. Manage. Resolve.

**KPMG has extensive knowledge of tax controversy matters that can help you prepare for and defend against challenges by the tax authorities.**

KPMG's Dispute Resolution & Controversy professionals help member firm clients gain control over the uncertainty inherent in tax disputes, both within jurisdictions and across borders. Our approach is designed to cut through the complexity of dealing with local and multijurisdictional tax disputes through effective strategies for their mitigation, management and prompt resolution.

Our clients include large national and multinational corporations, medium- sized enterprises, government entities, and, in some countries, high net worth individuals. Our teams also work together with other tax, accounting and legal firms to serve their clients with high quality tax and dispute resolution advice.

Leveraging our network's collective knowledge, our outstanding tax professionals and our strong relationships with tax authorities, we help member firm clients achieve the best possible outcome. Many of our dispute professionals joined KPMG from their country's revenue authority, bringing a unique perspective and the ability to understand the revenue authority's process and approach. Our network of dispute professionals work with your KPMG Tax Team, locally and globally to help foster consistency across borders and to gain strong results from a worldwide perspective across the tax dispute continuum.



# The Tax Dispute Continuum – KPMG's approach



## Transaction and documentation review tax reporting

- Evaluating transactions “from the revenue authority’s perspective” and providing assistance in working through the relevant processes, to obtain technical rulings, opinions, clearances and waivers in advance of your transactions.
- Preparing documentation and files to support tax positions in anticipation of future tax authority request for information.
- Shielding confidential tax analyses from inappropriate tax authority scrutiny in jurisdictions having a form of legal privilege.
- Navigating voluntary disclosure, advance compliance and other tax authority programs.



**PROTECT.**



## Tax audits and queries

- Negotiating audits, responses to audit queries, and, where regulations permit, judicial appeals.
- Responding to tax authority demands for information or documentation.
- Engaging with the tax authority to agree on a project-based approach to progressing issues collaboratively.
- Working with senior officials to help ensure stated administrative policies and procedures are followed.



**MANAGE.**



## Tax dispute and controversy process

- Making informed decisions on preferred options for resolving difficult disputes, e.g. alternative forms of dispute resolution, settlement, and, in certain jurisdictions, litigation.
- Helping finalize settlements and ensure appropriate documentation in collaboration with the tax authority.
- Managing the tax dispute resolution process in a nonconfrontational and effective manner.
- Using all available procedures and processes to help bring closure to your disputes, effectively and efficiently.



**RESOLVE.**

EFFECTIVE RESULTS. LOCALLY. GLOBALLY.



## Case study: Bringing our global network of resources to a multinational client.

A multinational client facing difficult tax compliance issues in various countries, including South Africa, the United States, Hong Kong, the United Kingdom, Germany, France and the Netherlands contacted its local KPMG service professional for help. The client had a number of errors to correct across several countries, including certain missed filings and erroneous positions on other filings. The engagement underscored the many complexities that can result from tax dispute matters, requiring assistance and collaboration among a number of member firms. Working closely with the KPMG Tax Team and subject matter specialists across a number of tax specialty areas, our network of Disputes professionals was able to respond rapidly, sharing information while striving to secure a favorable outcome for the client.

Our Global Dispute Resolution & Controversy professionals helped to protect the client against potentially excessive assessments of tax, interest and penalties by:

- Analyzing and confirming the proper filing positions for corporate income tax returns
- Utilizing the extensive KPMG network of tax technical specialists around the world
- Navigating various complex employment tax reporting issues stretching back several years
- Identifying and resolving various transfer pricing issues
- Providing in-depth guidance on voluntary disclosure procedures
- Representing the client's interest directly with the various revenue authorities
- Providing multiple scenarios on interest and penalty computations to quantify the potential benefits to be achieved as the result of several settlement alternatives being considered
- Helping the client to achieve full compliance with its past and future obligations while managing costs in the process.

Bringing together the resources and experience of the Dispute Resolution & Controversy team helped the client to address numerous outstanding tax compliance issues, contemporaneously quantify its potential exposure, and proactively manage its tax risk in multiple jurisdictions around the world.

“ Our Dispute Resolution & Tax Controversy professionals were able to respond rapidly, sharing information while striving to secure a favorable outcome for the client. ”

# Transfer Pricing

In the aftermath of the Organisation for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) project, tax authorities are instituting new transfer pricing rules and stepping up the scrutiny of transfer pricing issues. SA companies, especially those with Pan-African operations are also seeing an increase in scrutiny of transfer pricing. The scrutiny is expected to produce a substantial increase in transfer pricing disputes.

More than ever, companies should develop a proactive strategy for responding to transfer pricing inquiries that can lead to tax adjustments, penalties, interest charges, and even negative publicity.

## KPMG can make a difference

KPMG Global Transfer Pricing Services (GTPS) team can help you resolve disputes and respond to challenges that come with transfer pricing controversy. Our experienced professionals can work with you and your transfer pricing team to determine which dispute resolution approach to use, provide robust economic analysis to test and demonstrate the arm's length nature of existing transfer prices, help you prepare strong responses to detailed inquiries, and support negotiations with the South African Revenue Service (SARS) or any other tax authority.

KPMG's TP professionals are senior-level tax practitioners with years of dispute resolution experience. These skilled professionals serve clients in a variety of industries and geographies. By listening to your concerns and goals, we contribute where we can add most value. The combination of this tailored approach

with a global and forward-thinking mindset, we can efficiently help you resolve your transfer pricing disputes.

## Tax Dispute Resolution Services network

Our transfer pricing professionals are aligned with KPMG's Tax Dispute Resolution Services network, an international team from all areas of tax who assist taxpayers with identifying, managing, and mitigating potential tax risks and exposures. It is our goal to help clients prevent disputes before they arise and to successfully resolve those matters subject to challenge by the tax authorities.

## KPMG services

KPMG adopts an integrated approach to resolving transfer pricing disputes in the Mutual Agreement Procedure (MAP) process. Our teams include transfer pricing MAP specialists from both countries in dispute teamed with professionals who specialize in local country requirements for indirect taxes, taxes imposed by local or state/provincial jurisdictions, international tax and interest calculations for late payment that invariably affect the outcome.

Our professionals can help your organisation in a variety of areas:

- Respond to SARS' Requests for Information
- Assemble information and analyses that may support the contemporaneous documentation requirements in cases where there are no formal reports
- Provide supplementary economic and regulatory analysis, as necessary

### Appeals and alternative processes

- Prepare responses to SARS' Notices of Additional Assessment
- Prepare and submit Notices of Objection and Appeal
- Represent clients in available alternate dispute resolution (ADR) process

### Competent authority/mutual agreement procedure

- Request competent authority assistance to resolve double taxation issues involving both SARS and foreign-initiated adjustments
- Request accelerated competent authority assistance to resolve the issue for prior years (not just for the years in which a formal adjustment has been raised)
- Identify situations requiring certain protective measures and undertaking the necessary steps to preserve your right to relief under the applicable MAP

### Our Experienced team

KPMG GTPS team delivers a multidisciplinary approach to transfer pricing and risk

management issues. The group includes seasoned professionals with extensive experience in intercompany transfer pricing planning.

For companies with operations outside SA, our professionals draw on the global resources of KPMG International member firms to deliver services that align with our organisation's global structure, as well as its tax and business objectives.

KPMG's professionals know the right questions to ask and have established working relationships with SARS and Revenue Authorities in most jurisdictions around the world to help get those questions resolved. Accordingly, we can help you choose and develop the appropriate approach. We offer the professional support you need – whenever and wherever you need it – and, as a result, help you reduce costs, save time, and realise sustainable value in the long term.





# Local knowledge. Practical experience. Global reach.

Our Dispute Resolution & Controversy professionals have years of experience and extensive knowledge in numerous key industries and sectors. Many have joined various member firms within the KPMG network, from positions with national tax authorities and governments. Others have come to us from law firms, where they provided tax dispute resolution assistance to large multinational corporate clients facing taxation issues in various foreign jurisdictions.

Your global business needs a range of in-depth knowledge to document your position, present your position to the tax authorities, resolve your matter where practicable and, if needed, prepare a case for litigation.

We draw on the vast knowledge of KPMG's global network of professionals, including those with specialty practices in various fields such as financial services, mining, economics, IT and engineering. These professionals help foster a broader understanding of your position and can work with external professional advisers that may be needed to provide assistance and strengthen your case.

Because of our experience with the world's tax authorities, our teams can anticipate their issues and concerns before they raise them. Our longstanding professional relationships and experience in dealing with governmental and regulatory bodies helps the teams to represent you efficiently and effectively.

## Effective results. Locally. Globally.

Our coordinated approach to resolving tax matters in multiple jurisdictions through our global network of dispute resolution professionals can help produce benefits, including:

- Refunds of overpaid taxes
- Certainty over tax filing positions, allowing for the release of unneeded tax reserves and providing assurance on the availability of tax attributes and tax credit incentives
- Reduced compliance costs, freeing your in-house tax professionals for more value-adding work
- More effective working relationships and reduced risk profiles with local tax authorities, potentially easing future tax audit coverage
- Improved reputation with internal and external stakeholders.

With our forward-thinking outlook, we will work with you to help ensure that local dispute resolution influences positive outcomes in other operational regions.

Using our past experience and specialized knowledge of how the revenue authorities operate, our teams can help your organization identify, improve and benchmark the risk management aspects of its taxes, within each country of operation and on a worldwide basis. Because of our prior experience as revenue authority professionals in certain instances, we can view these issues from the revenue authority's perspective. And, because of our ability to leverage and benefit from the talents of our technical subject matter professionals around the world – whether in tax, accounting, law, economics and other areas of expertise – we are able to provide a seamless solution to your unique disputes issues.

// Because of our experience with the world's tax authorities, we can effectively anticipate their issues and concerns before they raise them. //



## Why KPMG

- We know the right questions to ask. KPMG's highly trained professionals have years of experience working as members of the tax authorities and in private practice.
- We work with your KPMG Tax Team or in-house team, and leverage the outstanding tax technical knowledge of our subject matter specialists across the globe to help secure a favorable outcome.
- We help you choose and develop an appropriate resolution strategy. Regardless of the situation, we can help you effectively handle your tax dispute.
- We can help you reduce costs and save time. By identifying potentially contentious issues early in the process and developing appropriate responses, we can save you time and money.
- As a full-service provider, we leverage tax, legal and other specialties from around the world to assist in multi-jurisdictional tax controversies.
- Your team is with you from start to finish.<sup>1</sup>

When facing a tax dispute, experience counts.

<sup>1</sup> Not all KPMG member firms are authorized to perform legal services, and those that are so authorized may do so only in their local regions.

# Contact us

For more information about how KPMG can help you and/or your business manage and resolve tax disputes efficiently and effectively, please contact our Dispute Resolution & Tax Controversy Specialist team below:

## Johannesburg

### **Roula Hadjipaschalis** **Director**

Head of Dispute Resolution and Tax Controversy, Corporate Tax  
[roula.hadjipaschalis@kpmg.co.za](mailto:roula.hadjipaschalis@kpmg.co.za)

### **Andre Meyburgh** **Director**

Dispute Resolution and Tax Controversy, VAT  
[andre.meyburgh@kpmg.co.za](mailto:andre.meyburgh@kpmg.co.za)

### **Erina Cooper** **Director**

Dispute Resolution and Tax Controversy, VAT  
[erina.cooper@kpmg.co.za](mailto:erina.cooper@kpmg.co.za)

### **Natasha Vaidanis** **Director**

Dispute Resolution and Tax Controversy, International Tax and Transfer Pricing  
[natasha.vaidanis@kpmg.co.za](mailto:natasha.vaidanis@kpmg.co.za)

### **Melissa Duffy** **Director**

Dispute Resolution and Tax Controversy, Global Mobility Services  
[melissa.duffy@kpmg.co.za](mailto:melissa.duffy@kpmg.co.za)

### **Venter Labuschagne** **Director**

Dispute Resolution and Tax Controversy, Customs and Excise  
[venter.labuschagne@kpmg.co.za](mailto:venter.labuschagne@kpmg.co.za)

### **Jenna Mason** **Associate Director**

Dispute Resolution and Tax Controversy, Corporate Tax  
[jenna.mason@kpmg.co.za](mailto:jenna.mason@kpmg.co.za)

### **Jonathan Sweidan** **Associate Director**

Dispute Resolution and Tax Controversy, Transfer Pricing  
[jonathan.sweidan@kpmg.co.za](mailto:jonathan.sweidan@kpmg.co.za)

### **Natasha Rohhamlal** **Senior Manager**

Dispute Resolution and Tax Controversy, Global Mobility Services.  
[natasha.rohhamlal@kpmg.co.za](mailto:natasha.rohhamlal@kpmg.co.za)

### **Russel Stark** **Senior Tax Consultant**

Dispute Resolution and Tax Controversy, Corporate Tax  
[russel.stark@kpmg.co.za](mailto:russel.stark@kpmg.co.za)

## Durban

### **Johan Heydenrych** **Director**

Dispute Resolution and Tax Controversy, Tax Management Services  
[johan.heydenrych@kpmg.co.za](mailto:johan.heydenrych@kpmg.co.za)

## Cape Town

### **Tanya Engels** **Director**

Dispute Resolution and Tax Controversy  
[tanya.engels@kpmg.co.za](mailto:tanya.engels@kpmg.co.za)



@KPMG\_SA



KPMG South Africa



KPMG South Africa