



## **Navigating the Southern Africa transfer pricing landscape.**

### *Insights from KPMG's recent Transfer Pricing in Southern Africa series*

Transfer pricing has become a focus area for both taxpayers and revenue authorities around the world and in Africa. In addition, the recent Organisation for Economic Cooperation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) initiative has led to significant legislative changes and revised transfer pricing guidance, as well as a change in the transfer pricing practices of taxpayers and revenue authorities alike.

At a KPMG [webinar](#) that took place on 23 August 2024, KPMG's transfer pricing specialists in South Africa and Zambia discussed recent transfer pricing trends and developments across the Southern Africa region, which included updates on legislative amendments, how to prepare for revenue authority audits as well as dispute resolution.

Christian Wiesener who heads up the transfer pricing practice in the Western Cape and Eastern Cape at KPMG in South Africa pointed out that South Africa recently, with effect from 2023, broadened the ambit of the South African transfer pricing legislation in that cross-border transactions between both connected persons as well as associated enterprises, as defined, must comply with the law. "The legislation also mentioned that there is an obligation for certain taxpayers to not only prepare but also file their transfer pricing documentation with the revenue authority", he adds.

By comparison, in Zambia, any form of relevant documentation or information requested by the revenue authority must be kept on file and provided, on request. "The statute of limitation in Zambia is 10 years, a lot longer than in many other countries and therefore taxpayers must ensure that they store the relevant documentation and information for long periods, says Michael Phiri, a transfer pricing specialist, and Head of Tax at KPMG in Zambia.

Overall, taxpayer obligations regarding compliance with the relevant laws can seem burdensome, where good planning and documentation are essential.

It was also interesting to note that South Africa has already proposed legislation to implement a Global Minimum Tax Regime, ensuring that Multinational Groups meeting the requirements achieve a minimum tax rate of 15% in the jurisdictions in which they operate, and this regime will be applicable with retrospective effect from 1 January 2024.

The discussion then moved on to the topic of experience relating to the transfer pricing controversy. A common theme observed in both countries was the subject of intragroup financial loans.

"Recent transfer pricing guidance issued by the OECD and in South Africa suggests that this area of transfer pricing will continue to gain in importance, so taxpayers will be required to improve the level of support and documentation for such transactions, and revenue authorities are likely to look closer and be much more experienced when auditing financial assistance transactions, explains Christian Wiesener.

"It was interesting to note the need for a taxpayer to ensure that the interest rate and the amount of debt are market-related, while from a Zambian perspective, interest-free intragroup loans were mentioned as an area of risk."

The speakers from both countries emphasised that in today's world of transfer pricing - transfer pricing cannot be looked at from one jurisdiction only. Rather, both jurisdictions involved in a transaction need to be considered, and the support and documentation in both countries must align. More importantly, the creation of transfer pricing documentation alone is not sufficient,



because the implementation of the documentation and what actually happens in the group is what counts.

The last topic of the day was on transfer pricing audits and the dispute resolution process. “It became clear that there are currently several mechanisms that can be used for identifying transfer pricing risks, which may trigger a transfer pricing query/ audit,” elaborated Michael Phiri. “For example, the information set out in disclosure forms, or the income tax return may help identify such risk.”

The speakers also expanded on how the dispute resolution systems work in both countries, and the differences were pointed out. A common point, however, was that most disputes still end in a settlement rather than a court decision.

The webinar was the first in a series of relevant transfer pricing-related updates from selected jurisdictions in Southern Africa, and several further sessions on specific transfer pricing relevant topics have been planned and will be held in the coming months.

Ends.

#### **About KPMG South Africa**

KPMG South Africa operates through two entities, KPMG Incorporated for audit services and KPMG Services Proprietary Limited for advisory and tax services. KPMG South Africa has served the South African market for over 125 years and is headquartered in Parktown, Gauteng. KPMG South Africa collectively has 142 partners and 2168 employees servicing several industries across our country’s nine provinces. We operate from four offices across Johannesburg, Cape Town, Durban, and Gqeberha.

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