

Mozambique

New Transfer Pricing Regulations in Force

Executive Summary

Mozambique's Council of Ministers enacted the Decree 70/2017, of 6th December which approves the Transfer Pricing Regulations ("TP Regulations").

This new legislation entered into force in 1st January 2018 and defines the procedures to assess transactions carried out between related parties, imposes new documentation requirements and allows corrections to taxable profits by tax authorities.

Taxpayers with an annual net operating revenue, in the preceding fiscal year, equal or exceeding MZN 2.5 million will have to prepare and maintain specific transfer pricing information and documentation.

Scope

The TP Regulations are applicable to both residents in Mozambique, as well as to permanent establishments of non-resident companies carrying out transactions with related parties.

The obligation to prepare transfer pricing documentation is applicable to taxpayers whose annual net turnover and other income, in the preceding fiscal year, is equal to or exceeds MZN 2.5 million (approximately USD 40,000).

Concept of Related Parties

Two entities are considered related parties if managed or controlled by: (i) the same person/entity, (ii) a person that is a key member of the management of the other entity or its parent company, or (iii) has the capacity to exercise a significant influence in the management decisions. This may be deemed to occur inter alia:

- Between an entity and its shareholders, their spouses, ascendants or descendants, which directly or indirectly hold no less than 10% of the share capital or voting rights;
- Entities in which the same shareholders, their spouses, ascendants and descendants, directly or indirectly hold no less than 10% of the share capital or voting rights;
- An entity and the members of its governing bodies, or any bodies from its administration, direction, management or audit, as well as their spouses, ascendants and descendants;
- Entities in which the majority of the members of their governing bodies, or any bodies from its administration, direction, management or audit are the same persons or, being different, are related through marriage, non-marital partnership or affinity in direct line;
- Entities linked by a subordination contract, group parity contract or another contract with equivalent effect;

right people
right size
right solutions

passion

teamwork

clarity

quality

integrity



- Entities in a controlling relationship, as determined in the legislation which states the obligation of presenting consolidated financial statements
- Entities which, due to their direct or indirect commercial, financial, professional or legal relations, depend on each other for carrying out their business activity (e.g. know how contracts, transfer of technology, etc.)
- Contracts and other legal agreements pertaining to the related party transactions
- Selection and application of the selected TP methods by transaction
- Comparability analysis as well as detailed information on the comparable information used

Transfer Pricing Methods

The TP Regulations enacted adopted the methods set forth in the OECG Guidelines for Multinational Entities. The methods accepted are:

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost Plus Method
- Profit Split Method
- Transaction Net Margin Method
- Other methods.

Transfer Pricing Documentation

The new documentation requirements foresee the following information to be disclosed:

- Description of the related party transactions with respect to characterization of the entities through its functions, assets and risks
- Description of the business of the tested party in terms of operations as well as strategy
- Directives relating to the application of the TP policy

Other compliance obligations

The tax return to be submitted by taxpayers shall include the following information, related to transactions with related parties:

- Identification of the parties
- Transaction value per product or service
- Transfer pricing adjustments
- Transfer pricing method selected per transaction

PKF Contacts

For additional information with respect to this Tax Alert, please contact:

José Parada Ramos (Tax Partner)

paradaramos@pkf.pt

+351 968 776 393

André Freitas (Transfer Pricing Manager)

andre.freitas@pkf.pt

+351 969 319 392

Website: www.pkf.pt

