

# THE LIMA DIGEST

SEPTEMBER 2023 / VOL. 10



## UPCOMING DEADLINES

**PAY AS YOU EARN (PAYE), SEPT. - GRA**

**15<sup>TH</sup>  
OCT.  
2023**

**WITHHOLDING TAX, SEPT. - GRA**

**15<sup>TH</sup>  
OCT.  
2023**

**VALUE ADDED TAX, SEPT. - GRA**

**31<sup>ST</sup>  
OCT.  
2023**



## OTHER AVAILABLE DOCUMENTS



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THE GHANA BANKING INDUSTRY REPORT 2023



2023 BUDGET REVIEW

## TRANSFER PRICING RULES IN GHANA

Transfer Pricing is a vital aspect of international taxation, playing a crucial role in the global economy. Transfer Pricing (TP) refers to the pricing of goods, services, or intellectual property when they are transferred between related entities within Multinational Enterprises (MNEs). TP rules have been developed to ensure that transactions between related entities are conducted at arm's length, meaning they should be priced as if the entities were unrelated. Like in many other countries, Ghana's Transfer Pricing rules are in place to safeguard against profit erosion and tax avoidance schemes ensuring that the government collects its fair share of tax revenue. In this edition of our monthly article, we will look at some key aspects of Ghana's TP rules and how they are enforced.

### Legal Framework

The statutory requirements in Ghana when it comes to Transfer Pricing are provided for in the Income Tax Act, 2015 (Act 896) (ITA), as amended and the Transfer Pricing Regulations, 2020 (L.I. 2412). These regulations are in line with international best practices and guidelines as prescribed by the Organization for Economic Co-operation and Development (OECD).

### Arm's Length Principle

Ghana's transfer pricing regulation centers on the arm's length principle, which requires entities under common ownership or control to transact as though they were dealing with a totally unrelated third party. The Commissioner-General (CG) can make adjustments and re-characterize arrangements between related entities if they fail to comply with the arm's length principle, ensuring transactions between related parties reflect fair market values.

### Documentation Requirements

Under Ghanaian rules, a person who enters into an arrangement with another person with whom that person is in a controlled relationship, must file a transfer pricing return not later than four months after the end of each basis period. An Ultimate Parent Entity or a Constituent Entity of a Multinational Enterprise Group must also file a Country-by-Country Report of the group with the CG not later than twelve months after the last day of the reporting year.

A person who enters into an arrangement with another person with whom that person is in a controlled relationship is mandated to maintain contemporaneous documentation (a Local & Master File) regarding the arrangements that person engaged in. These documentations must be filed with the CG not later than four months after the end of each basis period. The documentation should demonstrate that the transactions for the period under review are consistent with the arm's length principle.

Under a simplified approach, the TP Regulations exempts a person engaged in a transaction or arrangement with another person with which that person has a controlled relationship, where the value of

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the arrangement does not exceed the Ghana Cedi equivalent of US\$200,000, from submitting a TP Documentation. Taxpayers may opt to use the simplified approach of TP documentation for their low value-adding services (which attract a mark-up of not more than 3% of the relevant costs) and prior approval by the CG. The same applies to transactions covered by technology transfer agreements ('TTA') approved by the GIPC where royalties, know-how and management/technical fee, do not exceed 2% of net profit (i.e., profit after tax, interest, depreciation and amortization but excluding the charge for technology transfer) per transaction.

## Recommended Transfer Pricing Methods

The transfer pricing methods recommended for determining arm's length prices in Ghana are:

1. Comparable Uncontrolled Price (CUP) method
2. Cost Plus method
3. Resale Price method
4. Transactional Net Margin method (TNMM), and
5. Profit Split method

In the case of specific arrangements, any alternative method permitted by the Commissioner-General other than the methods listed above may be used.

## Transfer Pricing Audits

The TP Unit of the GRA has the authority to conduct transfer pricing audits to ensure compliance. This includes reviewing documentations filed by taxpayers and examining the arm's length nature of transactions reported. Failure to comply with Ghana's transfer pricing regulations can result in adjustments to chargeable income, penalties and interest.

## Challenges and Recent Developments

While Ghana has made significant progress in implementing transfer pricing regulations over the past decade, there are still some challenges. From capacity building for tax officials, ensuring compliance by taxpayers to addressing the complexities associated with determining arm's length prices. In recent years however, rigorous steps are being taken to enhance Ghana's TP regime. The GRA has increased efforts to educate taxpayers on TP requirements and has been actively participating in international initiatives to combat base erosion and profit shifting.

In Conclusion, Transfer Pricing is there to ensure fair taxation and prevent profit shifting through intra-group transactions by quantifying, characterizing, and apportioning income and expenses as though they were negotiated independently. By adhering to international best practices and continuously improving its regulatory framework, Ghana aims to strike a balance between attracting foreign investment and safeguarding its tax revenue. Multinational Enterprises operating in Ghana must comply with these regulations to avoid penalties and maintain a transparent and responsible approach to taxation.



## SNAPSHOT OF THE ECONOMY OF GHANA

INFLATION (as at 30th September, 2023)

38.1%

MONETARY POLICY RATE (as at 25th September, 2023)

30.0%

GHANA REFERENCE RATE (as at 4th October, 2023)

31.09%

## EXCHANGE RATE AS AT 12TH OCTOBER, 2023

GHS - USD	BUYING	SELLING
BANK OF GHANA	11.26	11.27
ABSA BANK	11.30	11.80
ZENITH BANK	11.27	11.81
STANBIC BANK	11.36	11.80
CAL BANK	11.40	11.99
GCB BANK	11.50	11.80

## QUOTES

**"Transfer Pricing is like a two edged sword; if it's done right, it creates value, but if it's done wrong, it can lead to significant financial and reputation risks."**

**Nana Ama Sarfo**

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## TAX ADVISORY AND COMPLIANCE SERVICES

We offer the following tax advisory and compliance services;

- Tax advisory and interpretation of tax laws;
- Client Tax Audit and dispute resolution representation;
- Tax reliefs, incentives and exemptions

- processing, utilization and renewal of approvals;
- Tax health checks/due diligence/audits
- Direct and indirect tax registration and de-registration;
- Filing of monthly tax returns (VAT,WHT,PAYE);
- Filing of individual/ Expatriates/Directors tax returns;
- Filing of annual corporate income tax returns;
- Filing of transfer pricing returns;
- Obtaining tax clearance certificates.

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