Mozambique Transfer Pricing

Background of Mozambique transfer pricing legislation and rules

The application of the arm's length principle between related parties is prescribed by article 49 approved by Law no. 34/2007 on Corporate Income Taxation (CIT Act). This allows for the Mozambican tax authorities to make adjustment to determine the taxable profit, by virtue of special relations between taxpayer and another person where such conditions differ from those that would be established between independent entities.

The Council of Ministers approved the first Transfer Pricing Regulations through Decree 70/2017, dated 6 December 2017, which came into effect on 1 January 2018.

Transactions concluded between related parties must be at arm's length.

The transfer pricing regulations apply to:

- Resident taxpayers, individuals and companies, in Mozambique that conduct transactions with related parties whether resident or not;
- Permanent establishments in Mozambique that conduct transactions with non-resident entities including permanent establishments of the same entity outside of Mozambique;
- Resident entities or non-resident entities in Mozambique that conduct related party transactions with entities subject to a more favourable tax regime.

Arm's length adjustments

If the transaction is not at arm's length, the Tax Authority can adjust the taxable profit of the taxpayer in accordance with an arm's length transaction.

Documentation requirements

The Decree 70/2017 contains requirements and analyses that must be presented in the transfer pricing documentation. Transfer pricing documentation must present the arm's length principle in transactions between related parties.

Exemption from documentation obligation

Taxpayers whose annual net turnover and other income is less than 2.5 million MZN in previous year of assessment and companies that do not carry controlled transactions is not required to prepare the documentation.

Content of transfer pricing documentation

Transfer pricing documentation should contain the following:

- Determination of the arm's length;
- Identification and interpretation of potentially comparable data;
- Determination of the most appropriate transfer pricing method;
- Identification and analysis if of the intra-group transactions;
- Analysis of the functions performed, assumed risks and assets used by the Company;
- Analysis of the operational, financial information and respective activities and strategy of the Company;
- Detailed understanding of the Company value chain and the role assumed within the Group;

- Analysis of the macroeconomic context that surrounds the company and its framing in the sector and assessing the possible impact that it may have on the activity of the Company.

Deadline to Prepare Documentation

The documentation should be prepared at the last working day of June or the last working day of the 6th month after the end of the assessment year.

Language for Documentation

Portuguese is the preferred language for documentation. Documentation in a other language than Portuguese, must be translated into Portuguese upon request by the Tax Authorities.

Update of Documentation

If the transaction exceeds one financial year, the update of the documentation is only mandatory if there has been a substantial change in the documentation.

Methods

Mozambique makes use of the five methods in the OECD Transfer Pricing Guidelines, namely:

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost Plus Method
- Transactional Profit Split Method
- Transactional Net Margin Method

A taxpayer must apply the method that is most appropriate for each specific transaction in order to reflect the arm's length principle.

Safe Harbour Rules

The Comparable Uncontrolled Price Method must be applied according to specific criteria.

Comparables

Local comparables are preferred. However, if these comparables are not sufficient or reliable, other data with similar economic condition from a different region is acceptable as well.

Transfer Pricing Audits

Transfer Pricing can be audited during a general examination.

Penalties

The following penalties are applied for non-compliance with the transfer pricing legislation:

- 3000 – 65 000 MZN for failure or delay in presenting the TP documentation;
- 6500 – 350000 MZN if the taxpayer provides incorrect or incomplete information.

In the event that there are not specific penalties provided for non-compliance with the transfer pricing legislation, the general penalty provisions are applicable and contain the following penalties:

- 6000 – 600 000 for not maintaining TP documentation;
- 13 000 – 700 000 for omissions or inaccuracies relating to TP disclosure.

Advance Pricing Agreement (APA)

There is currently no provision made for Advanced Pricing Agreements in Mozambique.

The Tax Authority does, however, issue binding opinions whenever requested by the Taxpayer for particular transactions.

Tax Return Disclosures

The Taxpayer must indicate in the Annual Tax and Account Statement the following:

- Identify the entities concerned;
- Identity and declare the amount of controlled transactions by product or service carried out with each one;
- Declare if a transfer pricing adjustment was found;
- Indicate the transfer pricing method used.