

Transfer Pricing in the Democratic Republic of Congo

The Democratic Republic of Congo (“DRC”) does not have specific transfer pricing legislation but the arm’s length principle as principle is referred to in the DRC legislation.

Documentation requirements

Companies in the DRC, who conduct related party transactions with a gross annual turnover net of taxes equal to or exceeding XAF 500 million must prepare and keep transfer pricing documentation to support the transfer pricing policy used in all transactions (including related entities outside of the DRC).

Content of transfer pricing documentation

The transfer pricing documentation must include the following information:

- The various pricing methods selected;
- The group’s policy on transfer pricing rules;
- Documentation relating to the attribution of costs, risks and functions within the group;
- A list of movable assets held or used;
- Cash pooling agreement;
- Contracts relating to the TP documentation.

Deadline to Submit Documentation

The transfer pricing documentation should be submitted within 2 months following the tax return deadline.

Language for Documentation

The official language in DRC is French.

Record Keeping

The transfer pricing documentation must be kept and be available at any time. In the event of a tax audit, the transfer pricing documentation must be provided at the date the audit commences. If not provided a taxpayer will be granted 30 days to provide the required documentation.

Methods

The DRC makes use of the five methods in the OECD Transfer Pricing Guidelines, i.e.:

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

However, since there is no formal following of the OECD Guidelines in the DRC legislation, all pricing methods that are properly and accurately supported in the transfer pricing documentation may be accepted by the revenue authorities.

Penalties

The following penalties apply in case of non-compliance with the transfer pricing legislation:

- XAF 5 million for not submitting transfer pricing documentation within 6 months from filing the company's summary financial statements;

There is no specific penalty for failure to maintain transfer pricing documentation.

Advance Pricing Agreement (APA)

Not applicable