

THE INCOME TAX ACT

The Income Tax (Transfer Pricing Documentation) Regulations, 2015

In exercise of the power conferred upon the Minister by section 17D(1) of the Income Tax Act, and of every other power hereunto enabling, the following Regulations are hereby made:-

1. These Regulations may be cited as the Income Tax (Transfer Pricing Documentation) Regulations, 2015.
2. Every person with a gross annual revenue of five hundred million dollars in the previous year of assessment shall keep (and on the request of the Commissioner General provide to the Commissioner General in accordance with paragraph 5) transfer pricing documentation that verifies that the conditions in their connected party transactions for the relevant year of assessment are consistent with the arm's length consideration.
3. Transfer pricing documentation shall include -
 - (a) an overview of the person's business operations (history, recent evolution and general overview of the relevant markets of reference) and organizational chart (details of business units, departments and organizational structure);
 - (b) a description of the corporate organizational structure of the group that the person is a member of (including details of all group members, their legal form, and their shareholding percentages) and the group's operational structure (including a general description of the role that each of the group members carry out with respect to the group's activities, as relevant to the connected party transaction);

- (c) details of the connected party transaction, including an analysis of the comparability factors specified in paragraph 3 of the Eighth Schedule;
- (d) an explanation of the selection of most appropriate transfer pricing method as specified in paragraphs 4, 5 and 9 of the Eighth Schedule and, where relevant, the selection of the tested party and the financial indicator;
- (e) a comparability analysis, including –
 - (i) a description of the process undertaken to identify comparable independent transactions;
 - (ii) an explanation of the basis for the rejection of any potential internal comparable independent transactions (where applicable);
 - (iii) a description of the comparable independent transactions;
 - (iv) an analysis of comparability of the connected party transaction and the comparable independent transactions (taking into account paragraph 3 of the Eighth Schedule);
and
 - (v) details and explanation of any comparability adjustments made;
- (f) detail of any industry analysis, economic analysis, budgets or projections relied on;
- (g) details of any advance pricing agreements or similar arrangements in other countries that are applicable to the connected party transactions;
- (h) a conclusion as to consistency of the conditions of the connected party transactions with the arm's length consideration, including details of any adjustment made to ensure compliance;
- (i) all connecting party transactions; and

- (j) any other information that may have a material impact on the determination of the person's compliance with the arm's length consideration with respect to the connected party transactions.
3. Transfer pricing documentation shall be submitted in the English language.
4. Transfer pricing documentation for a relevant year of assessment is considered to be contemporaneous where it is in place at the statutory tax return's filing date.
5. Transfer pricing documentation shall be provided to the Commissioner General within thirty working days of the written request being duly issued by the Commissioner General.
6. The obligation of the person to provide transfer pricing documentation is imposed without prejudice to the power of the Commissioner General to request additional information in the course of audit procedures or in relation to a return on income.

Dated this 24th day of November, 2015.


Minister of Finance and Planning

