



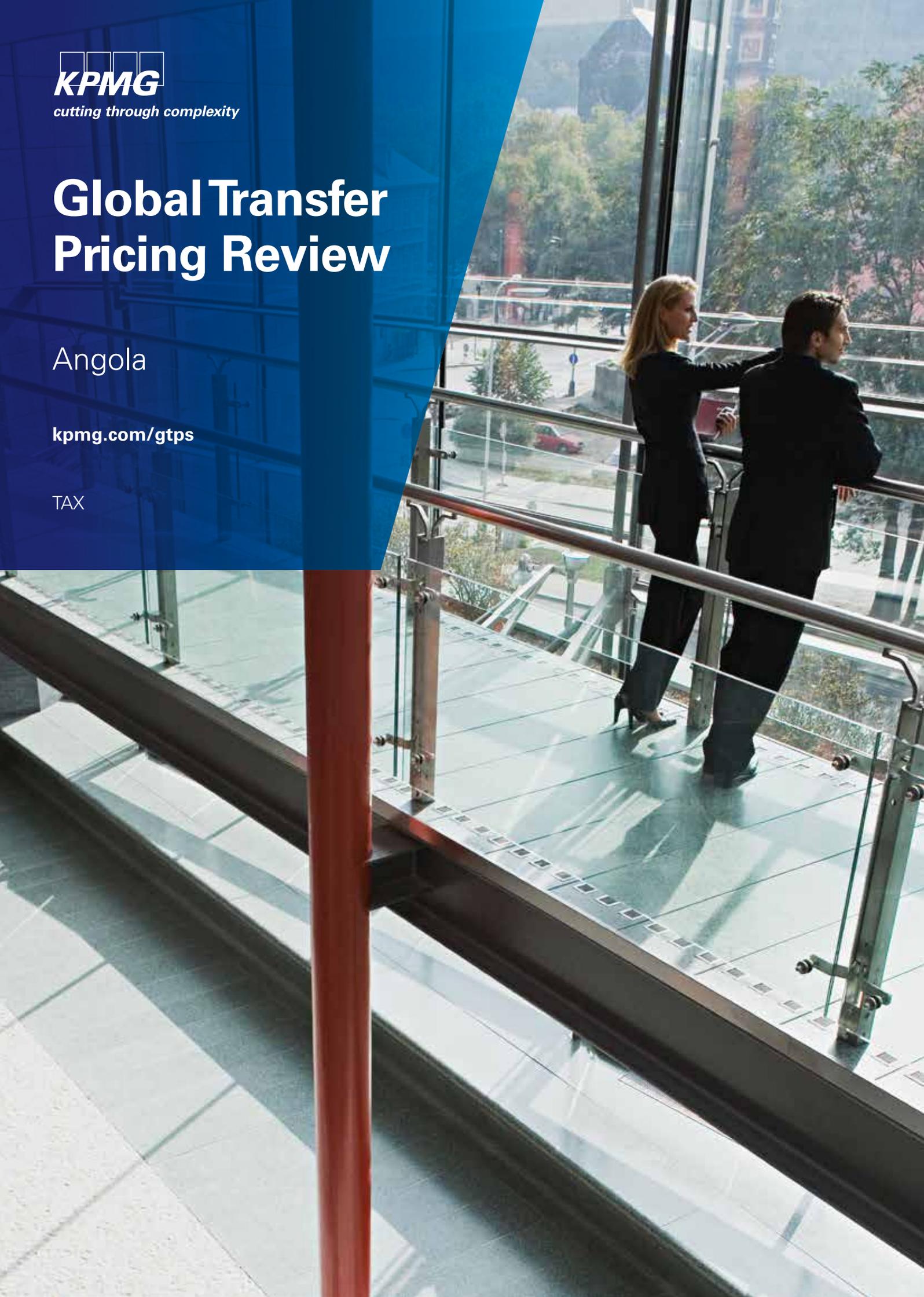
cutting through complexity

Global Transfer Pricing Review

Angola

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TAX



Angola

KPMG observation

Tax reform in Angola continues to be ongoing. Presidential Decree no. 147/13 was published in the National Gazette in October 2013, introducing into the Angolan tax framework the Major Taxpayers Statute, which includes both the tax group relief regime and the transfer pricing regime. The new transfer pricing rules are applicable to all domestic and cross-border commercial and financial transactions established between the taxpayer and its related entities beginning or occurring on or after 1 January 2013.

Transfer pricing documentation is required in Angola for those taxpayers on the Major Taxpayers List, according to Order no. 599/14, published in the National Gazette on 24 March 2014. Additionally, all financial, oil and gas, diamond and telecommunication companies are subject to transfer pricing obligations in Angola. The transfer pricing documentation must be prepared and submitted to the National Directory of Taxes by the end of the sixth month after the fiscal year's closing date.

Transfer pricing study snapshot

The purpose of a transfer pricing study

	Not applicable	Applicable	Required to be contemporaneous	Submission to tax authority required	Thresholds apply/exist
Legal requirements		●	●	●	●
Protection from penalties	●				
Reduce risk of adjustment		●	●	●	●
Shifts burden of proof		●	●	●	●

Basic information

Tax authority name

Autoridade Geral Tributária (AGT).

Citation for transfer pricing rules

Presidential Decree (Decreto Presidencial) no. 147/13 of 1 October 2013, Order no. 472/14 of 28 February 2014 and Order no. 599/14 of 24 March.

Effective date of transfer pricing rules

1 January 2013.

What is the relationship threshold for transfer pricing rules to apply between parties?

For Angolan transfer pricing purposes, there is a special relationship when one

entity has the power to exercise, directly or indirectly, a significant influence in the management of the other, namely in the following situations:

- when the directors or management of a company, as well as their spouses, ascendants or descendants, hold directly or indirectly a participation not less to 10 percent of the capital, or the voting rights in the other entity
- when the majority of the members on the Board of Directors or management are the same persons or, being different persons, are related by marriage, non-marital partnership or direct kinship
- when the entities are bound by a subordination contract

- when the entities are in a relationship of domination or reciprocal participation relationships, as well as bound by subordination or parity group contracts or any equivalent effect under the Commercial Companies Law
- when commercial relations between two entities represent more than 80 percent of one of the entities' total volume of transactions; and
- when one entity finances other in over 80 percent of its credit portfolio.

What is the statute of limitations on assessment of transfer pricing adjustments?

Generally, five years from the last day of the tax year-end.

Transfer pricing disclosure overview

Are disclosures related to transfer pricing required to be submitted to the revenue authority on an annual basis (e.g. with the tax return)?

Yes. Under the Angolan transfer pricing regime, the following taxpayers are subject to mandatory transfer pricing compliance obligations:

- taxpayers include in the Major Taxpayers List; and
- taxpayers developing activities in the following sectors: financial, oil and Gas, diamond and telecommunications.

Transfer pricing documentation should be submitted to AGT by the end of the six month after the fiscal year-end.

What types of transfer pricing information must be disclosed?

Transfer pricing study containing the following information:

- summary
- macroeconomic overview
- company activity and financial performance analysis
- functional analysis
- identification of related party transactions; and
- economic analyses of the related-party transactions.

What are the consequences of failure to submit disclosures?

No specific penalties have been published for transfer pricing infringements. However, the taxpayer will be subject to the administrative penalties established by General Regime for Tax Infringements, as follows:

- In case of late submission/omission of the transfer pricing documentation the taxpayer is subject to a penalty between 200 US dollars (USD) and USD1,000
- If the taxpayer refuses to deliver the transfer pricing file, a fine from USD1,500 to USD30,000 is applicable.

Transfer pricing study overview

Can documentation be filed in a language other than the local language? If yes, which ones?

No.

When a transfer pricing study is prepared, should its content follow Chapter V of the Organisation for Economic Co-operation and Development (OECD) Guidelines?

No. Although the Angolan transfer pricing regime requirements do not follow OECD Guidelines, the transfer pricing contents are similar to those of Chapter V OECD.

Does the tax authority require an advisor/tax practitioner to have specific designation in order to prepare or submit a transfer pricing study?

No.

Transfer pricing methods

Does your country follow the transfer pricing methods outlined in Chapter II of the OECD Guidelines? If exceptions apply, please describe.

No. The transfer pricing regime in Angola only foresees the possibility of application of the traditional transactional methods to determine the arm's length principle, namely, (i) comparable uncontrolled price method; (ii) resale price method, and (iii) cost-plus method.

Transfer pricing audit and penalties

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? And if so, how many days?

Yes, 10 days.

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? Please explain.

Transfer pricing studies need to be submitted to the tax authorities by the end of the six month after the fiscal year-end for certain taxpayers. If any further related information is requested the taxpayer should submit until 10 working days.

If an adjustment is proposed by the tax authority, what dispute resolution options are available?

General tax provisions: administrative and/or court procedures.

If an adjustment is sustained, can penalties be assessed? If so, what rates are applied and under what conditions?

Transfer pricing adjustments that result in tax due is subject to a penalty up to 35 percent of the value due. Compensatory interest is accrued at a one percent monthly rate for late payment.

To what extent are transfer pricing penalties enforced?

With the recent introduction of the transfer pricing regime in Angola, transfer pricing audits and, consequently, an enforcement of transfer pricing penalties are expected to begin shortly.

What defenses are available with respect to penalties?

Documentation is the basis for penalty protection. A taxpayer is expected to capture all justification in the transfer pricing documentation in order to demonstrate the arm's length nature of prices agreed in special relationship.

What trends are being observed currently?

Since the transfer pricing regime in Angola is new, the National Directory of Taxes is investing significantly in the development of human and technical resources and skills to ensure enforcement of the new rules.

Moreover, the publication of the Major Taxpayers List is one of the indicators that the National Directory of Taxes wants to focus its efforts in specific groups of companies, namely those included in financial, oil and gas, diamond and telecommunication sectors.

Special considerations

Are secret comparables used by tax authorities?

No evidence.

Is there a preference, or requirement, by the tax authorities for local comparables in a benchmarking set?

No. Comparable data of Angolan companies is not publicly available.

Do tax authorities have requirements or preferences regarding databases for comparables?

Orbis and/or Amadeus databases are expected to be licensed by local tax authorities.

Does the tax authority generally focus on the interquartile range in a TNMM analysis?

No.

Does the tax authority have other preferences in benchmarking? If so, please describe.

No experience yet.

What level of interaction do tax authorities have with customs authorities?

Moderate. With the new transfer pricing regime it is expected to increase.

Are there limitations on deductibility of management fees beyond the arm's length principle?

Yes, some. If AGT considers the management fees are in excess, discretionary adjustments can take place.

Management fees payments made abroad are subject to specific registration/disclosure next to the Central Bank/Governmental offices.

Are management fees subject to withholding?

Yes.

Are there limitations on the deductibility of royalties beyond the arm's length principle?

Yes. If AGT considers the royalty fees are in excess, discretionary adjustments can take place.

Royalty payments made abroad are subject to specific registration/disclosure next to the Central Bank/Governmental offices.

Are royalties subject to withholding?

Yes.

Are taxpayers allowed to file tax return numbers that differ from book numbers?

No.

Other unique attributes?

None.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

None.

If extensive, is the competent authority effective in obtaining double tax relief?

Not applicable.

When may a taxpayer submit an adjustment to competent authority?

Not applicable.

May a taxpayer go to competent authority before paying tax?

Not applicable.

Advance pricing agreements

What APA options are available, if any?

None.

Is there a filing fee for APAs?

Not applicable. APAs are not foreseen in the law.

Does the tax authority publish APA data either in the form of an annual report or through the disclosure of data in public forums?

Not applicable.

Are there any difficulties or limitations on the availability or effectiveness of APAs?

Not applicable.

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