



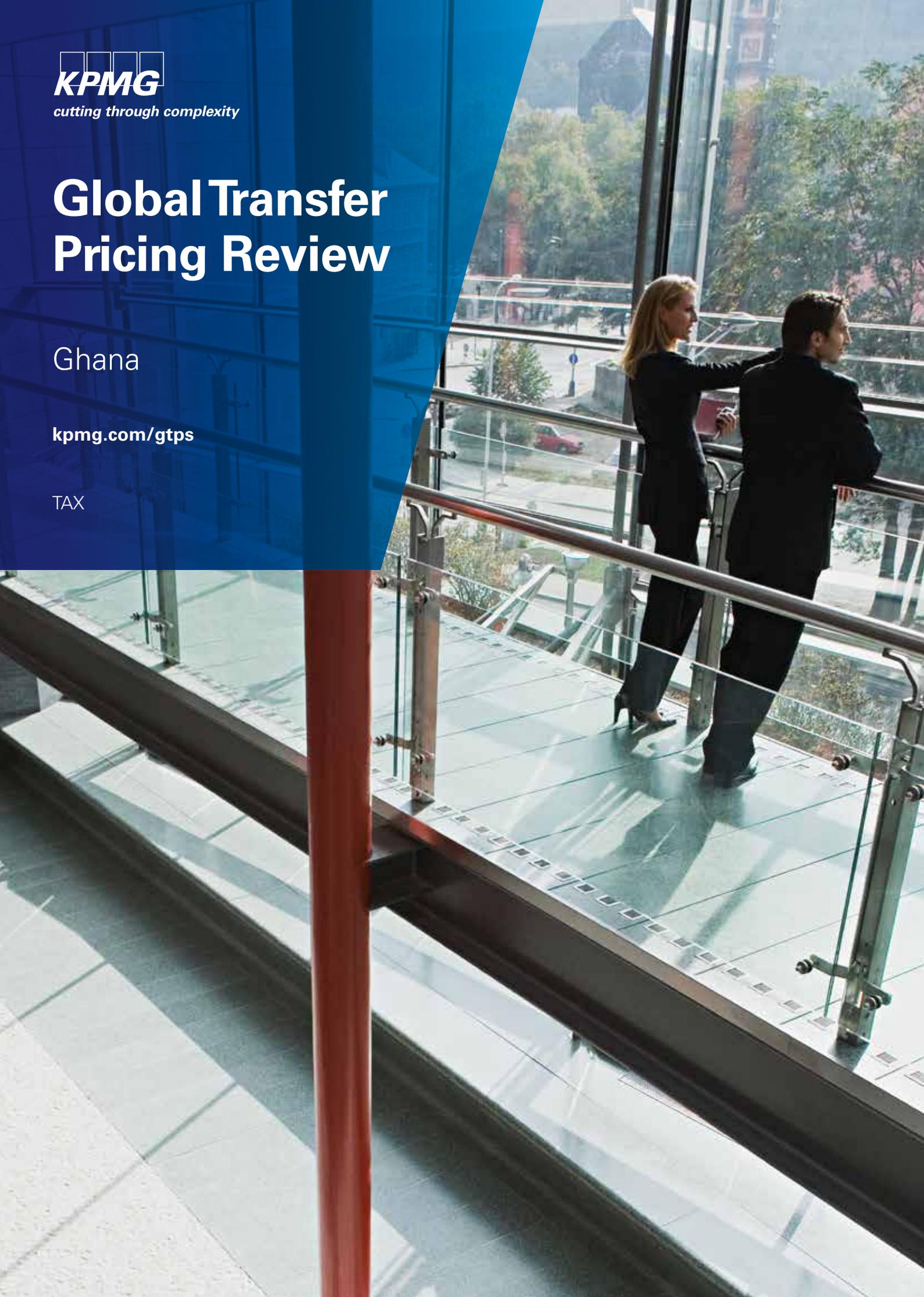
cutting through complexity

Global Transfer Pricing Review

Ghana

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TAX



Ghana



KPMG observation

Since the inception of transfer pricing regulations in Ghana in 2012 (L.I. 2188), the Ghana Revenue Authority (GRA) has become aggressive in undertaking both desk and field transfer pricing audits.

As of January 2015, over 250 reviews (mainly desk audits) have been undertaken by the GRA. This is expected to increase with emphasis on more on-site audits by the Transfer Pricing Unit set up within the GRA.

This development is expected to increase the awareness of transfer pricing compliance among Ghanaian taxpayers.

Transfer pricing study snapshot

The purpose of a transfer pricing study

	Applicable	Required to be contemporaneous
Legal requirements	●	●
Protection from penalties	●	●
Reduce risk of adjustment	●	●
Shifts burden of proof	●	●

Basic information

Tax authority name

Ghana Revenue Authority (GRA).

Citation for transfer pricing rules

- Internal Revenue Act, 2000 (Act 592).
- Transfer Pricing Regulations, 2012 (L.I. 2188).

Effective date of transfer pricing rules

The principal act, Internal Revenue Act, 2000 (Act 592), became effective from 2000. This act had a general transfer pricing rule which was very broad. However, the transfer regulations became effective from 2012.

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

The threshold relations between persons:

- persons who are in controlled relationships
- a permanent establishment (a branch) and its head office
- a permanent establishment and other related branches of the permanent establishment; and
- persons, who are in employer-employee relationships.

It should be noted that, a controlled relationship means a relationship between one person and another person by the terms of which the relations is able to influence the transfer price set in a transaction. These relationships may include associates, trust, partnerships, subsidiary, and, closed corporations.

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

There is no statute of limitations to the transfer pricing regime of Ghana.

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. The Annual Return on Transfer Pricing Transaction (the Return), is the return disclosure form that taxpayers are required to file annually with the GRA.

It should be noted the taxpayer's transfer pricing study is only submitted to the GRA only upon request from the Commissioner-General of the GRA.

What types of transfer pricing information must be disclosed?

Listed are the key information that would be disclosed on the Annual Transfer Pricing Return:

- corporate information – company's name, address, tax identification number, address, key contact person
- particulars of related parties with which the taxpayer has conducted any form of transaction or dealing within the year
- related party transactions, including the amounts
- transfer pricing method selected.

What are the consequences of failure to submit disclosures?

Failure to file the Return may result in a GHS4 per day penalty.

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?

Yes. The following is required:

- information of related parties and nature of relationship
- description of the related party transactions
- financial analysis

- comparability
- selection of the most appropriate transfer pricing method
- economic analysis.

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

Yes.

Transfer pricing methods

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

Yes.

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?

No.

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

The Commissioner-General of the GRA stipulates the time frame within which taxpayers are required to submit documentation.

Taxpayers are not required to submit their transfer pricing study reports or contemporaneous reports on an annual basis. They are provided to the GRA only upon request.

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

- objection to the adjustment through the use of the GRA's internal administrative process
- objection through the law courts
- objection through a prescribed arbitration per a tax treaty agreement.

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

Yes and below are the possible tax penalties:

- 10 percent of the underreported income if the amount has been outstanding for less than three months
- 20 percent of the underreported income if the amount has been outstanding for more than three months.

To what extent are transfer pricing penalties enforced?

Transfer pricing audits and penalties are strictly enforced.

What defenses are available with respect to penalties?

The only defense is compliance with the transfer pricing laws.

What trends are being observed currently?

There has been a considerable increase in the number of transfer pricing audits and this is expected to result in tax penalties.

Special considerations

Are secret comparables used by tax authorities?

We are not aware of the use of secret comparables by the Ghana tax authorities.

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

No.

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

The Ghana Revenue Authority (GRA) does not have any requirements or preference for any database for comparables. It should be noted that, the Transfer Pricing Regulations in Ghana is silent on this subject.

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

Yes, always.

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

None.

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

There is a fair interaction between tax authorities with the customs authorities.

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

No.

Are management fees subject to withholding?

Yes.

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

No. It should be noted that, there could be agreed percentages or amounts that royalties can be charged. However, the GRA may only allow the tax deduction of expenses after compliance with the arm's length principle.

Are royalties subject to withholding?

Yes.

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

No. The number per the Return has to match the number in the audited financial statements. However, since

the Return is concerned with the amounts accrued exclusively during the year, the amounts per the audited financial statements which are based on amounts outstanding as of year-end may differ from what has been accrued during the year.

In relation to year-end adjustments, the Regulation is silent on this. However, in times of any year-end adjustments, there is the possibility of customs/VAT adjustments.

Other unique attributes?

None.

Tax treaty/double tax resolution

What is the extent of the double tax treaty network?

Currently, Ghana has eight DTA's with the listed countries:

- South Africa
- United Kingdom
- Germany
- France
- Italy
- Swiss Confederation
- Belgium
- Netherlands.

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

Yes.

When may a taxpayer submit an adjustment to competent authority?

Yes.

May a taxpayer go to competent authority before paying tax?

Yes.

Advance pricing agreements

What APA options are available, if any?

None.

Is there a filing fee for APAs?

Not applicable.

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

No.

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

Not applicable.

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