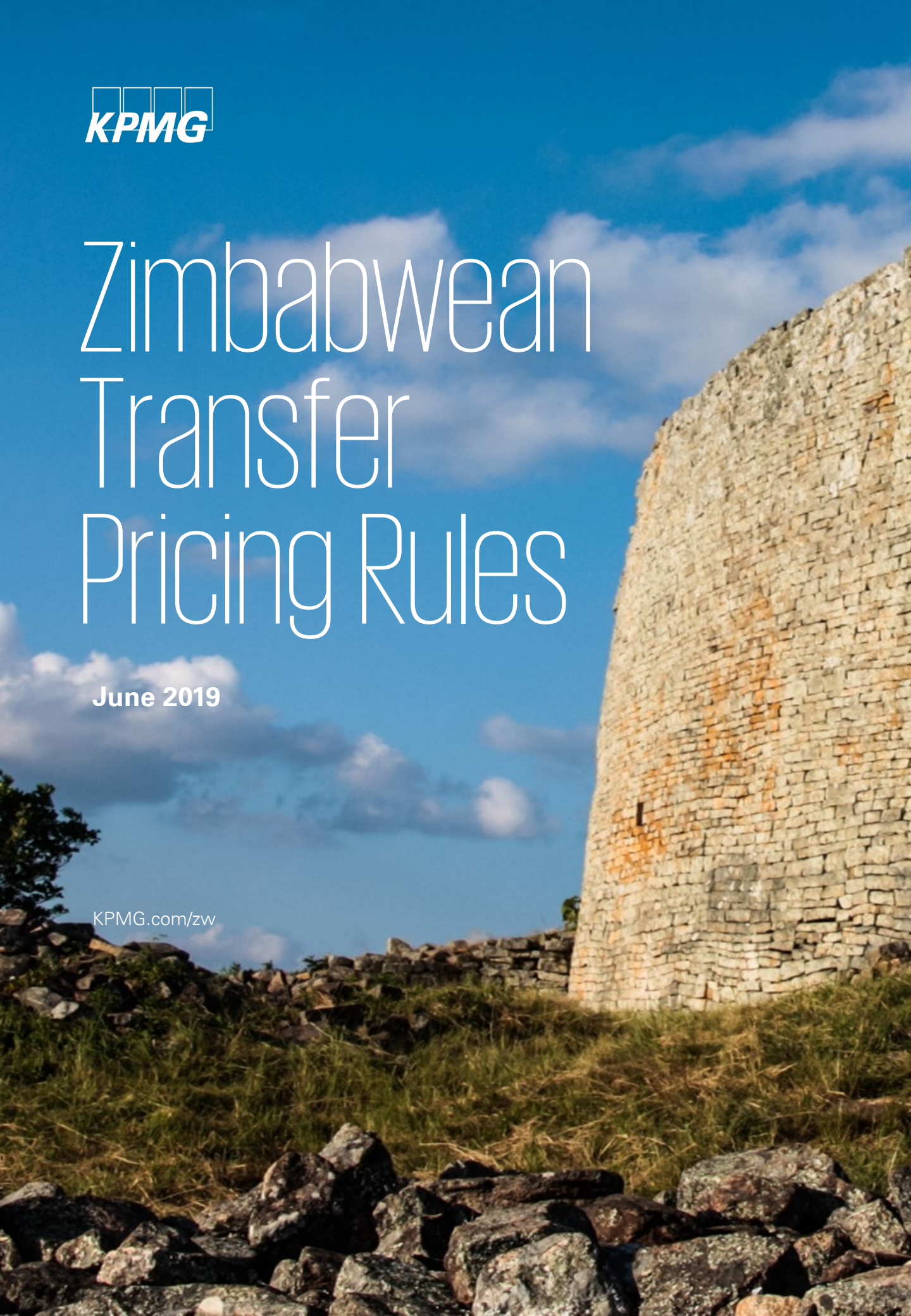

Zimbabwean Transfer Pricing Rules

June 2019

KPMG.com/zw

Zimbabwean transfer pricing rules

Are the rules applicable to you?

Zimbabwean transfer pricing rules apply to your company if :

- Your company operates in more than one tax jurisdiction and has cross border transactions with its associates; and/or
- Your company is part of a local group of companies and has intercompany transactions within the local associates.

The arm's length principle had been introduced by sections 23, 24 and 98 of the Income Tax Act for a number of years. However, the guidance by which the 'Commissioner General' will determine whether transactions are consistent with the arms' length principle was introduced with effect from 1 January 2016.

Do you need to maintain documentation if the rules applicable to you?

- A taxpayer must have in place contemporaneous documentation that verifies that the conditions in its controlled transactions for the relevant year are consistent with the 'arm's length' principle.
- Statutory instrument 109 of 2019 as read with section 90 and 35th schedule to Income Tax Act specifies the nature of the required documentation.

What if you do not have adequate information on transactions with associates?

Failure to provide the information when requested by ZIMRA would mean:

- Transfer pricing adjustment which would be liable to additional income tax at 25.75%.
- Moreover, a penalty of 100% of the additional taxes when it is evident that there is tax evasion or fraudulent scheme.
- Further, a penalty of 30% where the documentation is not in compliance or contemporaneous with the related party transactions.
- A penalty of 10% where the related party transactions are not at the arm's length but contemporaneous TP documentation is available.

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Zimbabwean transfer pricing rules

Thin Capitalisation	Interest expense is disallowed on the portion that causes the debt equity ratio to exceed 3:1. *This restriction does not apply to the interest on debt with a local financial institution which is not associated with the taxpayer.* *"equity" means issued and paid-up capital, unappropriated profits, reserves, realised reserves and interest-free loans from shareholders.*
General administration & management fees	General Administration and Management fees between any associated companies in excess of 1% of total allowable deductions will be non-deductible.
Non-resident shareholders' tax	In addition to the normal tax currently at 25.75% on amounts disallowed above, the excess interest expense and general administration and management fees, disallowed as a deduction are subject to Shareholders' tax at 15% as a deemed dividend. No double tax agreement tax rate will apply to this dividend.
Impact on other taxes	Transfer Pricing adjustments may have an impact on other taxes eg. VAT, exicise duty, stamp duty & Customs Duty.

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Transfer Pricing documentation rules

Zimbabwean transfer pricing documentation

Contemporaneous documentation	Documentation for a relevant tax year is considered to be contemporaneous where it is updated and in place at the statutory tax return's filing date.
Due date of submission of documentation	Documentation must be provided to the Commissioner within seven days of receipt of written request.
Powers of the commissioner	The commissioner has power to request additional information during an audit or investigation review. The onus is on the taxpayer to support related party transactions.
Language of documentation	Documentation must be submitted in English Language

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What should the documentation include?

Statutory Instrument 109 of 2019 requirements

Information that should typically be available in some form

- ✓ Ownership structure
- ✓ Name, principal office, legal form and tax residence of connected persons
- ✓ Business operation overview:
  - ❑ Description & strategy
  - ❑ History of organisation
  - ❑ Recent evolution
  - ❑ Organogram of senior leadership
  - ❑ Organogram of business units
  - ❑ Major economic & legal issues
  - ❑ Key value drivers (industry research)
  - ❑ Description of controlled transactions
  - ❑ Description of Zimbabwean taxpayer & each connected person in the group's supply chain
  - ❑ Segmental accounts & reconciliation with AFS
  - ❑ Operational flows – information flow, product flow & cash flow

- ✓ Comparability analysis:
  - ❑ Analysis of comparability factors
  - ❑ Explanation of the selection of appropriate TP methods
  - ❑ Explanation of the tested party & the financial indicators
  - ❑ Industry policy, incentives or restrictions
  - ❑ Market share & competitor analysis
  - ❑ Industry analysis & economic analysis
  - ❑ Description of process undertaken to identify comparable uncontrolled transactions
  - ❑ Basis for the rejection of any potential internal comparable uncontrolled transactions
  - ❑ Description of the comparable uncontrolled transactions
  - ❑ Analysis of comparability of the controlled transactions & the comparable uncontrolled transactions
  - ❑ Explanations of comparability adjustments made

Information to be specifically compiled to demonstrate arm's length nature

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