

TRANSFER PRICING IN JAMAICA

Administrative Considerations

By

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What is Transfer Pricing?

“Transfer pricing” is the general term for the pricing of cross-border and domestic, intra-group transactions between connected parties. It refers to the setting of prices for transactions between connected persons involving the transfer of property (including goods and intangibles) or services.



What is Transfer Pricing?

- Important part of any Multinational Enterprise (MNE) operation.
- Risk - transfer pricing manipulation otherwise called “mis-pricing” “incorrect pricing”, “unjustified pricing” or non-arm’s length pricing, resulting in tax avoidance or evasion.



Scope of Jamaica's TP Rules

Is transfer pricing restricted to international cross border transactions?

- Connected Transaction defined (17 (1)) - *“transaction between connected persons”*.
- Applicable to both cross border connected party transactions and domestic transactions.



Scope of Jamaica's TP Rules

Low or no tax jurisdictions

Deemed to be connected transactions



Who is required to account for TP?

- All taxpayers with connected party transactions.

Taxpayers transacting with low tax jurisdictions.

- jurisdiction other than Jamaica, less than 12.5% income tax rate.
- Exception



How should I account for TP?

Income Tax Return -

- Account for all transactions with connected persons using the arm's length consideration
- Compute tax based on arm's length consideration
- Section G - Declaration

Schedule 8 - Declaration of Connected Persons Transactions



When should I account for TP transactions?

- Effective for year of assessment 2015
- On or before March 15, 2016
- No penalty will be applied in respect of filing requirements for year of assessment 2015.



Declaration of Connected Persons Transactions

Completing Schedule 8

Part 1 – Corporate Information

- State ownership structure for first year or whether there were changes for the period of the report.

Part II (a) – Connected Persons Information

Persons with whom you have transacted

- Name, Relationship, Country of incorporation, location/residence and Description of transaction

Declaration of Connected Person Transactions

Part II (b) Connected person transactions

- Item (Type), Expenditure, Income , Connected person

Part II (c) Loans

- Loans and Guarantees from connected persons
- Name, loan movements and interest rates



Declaration of Connected Person Transactions

Part II (d) Non-monetary transactions with connected persons

- Transfer of property or rights, performance of services

Part II (e) Acquisition or Disposal of assets

Part II (f) Participation by resident person

Part II (g) Participation by non-resident person



TP Documentation

- Large taxpayers whose gross annual revenue equals or exceeds \$500,000,000 are required to maintain contemporaneous transfer pricing documentation in English with effect from year of assessment 2016.
- Provide documentation to the Commissioner General within 30 days of request



Documentation Requirements

Enterprise Related Documentation –

- an overview of the person's business operations and organizational chart.
- description of the corporate organization structure of group and group's operational structure



Documentation Requirements

Transaction Specific Documentation-

- all details of the connected party transaction

Computation Related Documentation

- Details of industry analysis, and
- any advance pricing agreements



TP Admin Structure

Governance Committee

- Chaired by the CG with 6 members
- Technical oversight
- Strategic direction
- Two teams of internationally trained TP experts comprising of 10 persons including economists, lawyers, and auditors.
- TP teams will also negotiate Transfer Pricing Agreements



Transfer Pricing / Advanced Pricing Agreements

Agreement between a taxpayer (or an industry) and the Tax Administration in order to agree on prices, prior to conducting economic transactions between connected parties.

Process

- Submission of a letter of application, in addition to the proposal and supporting documentation
- Review of proposal
- Presentation and clarification of the proposal
- Examination the proposal
- Negotiation of terms



Transfer Pricing / Advanced Pricing Agreements

- There are three types of Advance Pricing Agreements
- Unilateral – between person and Commissioner General
- Bilateral - a person request that the Commissioner General enters into an agreement with a double tax convention partner.
- Multilateral – a person request agreement between Commissioner General and several states with which Jamaica has a double tax treaty agreement.



