TRANSFER PRICING IN TANZANIA

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Transfer pricing refers to the process of setting the price for goods and services that are traded between related parties, such as subsidiaries within a multinational corporation which conduct business in other countries. The goal of transfer pricing is to ensure that the prices charged for these transactions are consistent with the prices that would be charged between unrelated parties in similar circumstances. There is a need to have some principle and rules on how transfer pricing should be done because if not regulated and monitored it can be used to manipulate a company's financial results by shifting profits to subsidiaries in low-tax jurisdictions.

LAWS REGULATING TRANSFER PRICING IN TANZANIA.

In considering the likely impacts which many arise out of the implementation of Transfer pricing, the Government of Tanzania has implemented transfer pricing regulations to prevent tax avoidance and ensure that companies pay the appropriate amount of taxes. Those laws are;

- The Income Tax Act, CAP. 332, 2019 which has discussed about transfer pricing under section 33 that the transfer pricing should be done in accordance with the tax laws by specifically provide that in any arrangement between persons who are associates the persons should quantify, apportion and allocate amounts to be included or deducted in calculating income between the persons as is necessary to reflect the total income or tax payable that would have arisen for them if the arrangement had been conducted at arm's length.

- The Tax administration (Transfer pricing) Regulation of 2018 which provide for the specific reasons on documentation; transfer pricing methods; comparability analysis; intra-group services and intra-group financing; intangible property; commodity products; advance pricing agreement; penalties.

Apart from the above laws the Tanzania Revenue Authority has been publishing some guidelines on Transfer pricing which are also similar to the international guidelines on Transfer pricing as given out by the Organization for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines and the United Nations (UN) Practical Manual on Transfer Pricing for Developing Countries.

THE ARM'S LENGTH PRINCIPLE.

This is a principle in economics and accounting that states that transactions between related parties (such as a parent company and its subsidiary) should be conducted as if they were between unrelated parties, in order to prevent conflicts of interest and ensure that each party acts in its own self-interest. This principle is often used to determine the appropriate transfer prices for goods and services between related parties, and is the basis for the international rules on transfer pricing established by the Organization for Economic Co-operation and Development (OECD). The principle is also an important concept in determining the tax liability of multinational corporations.

Tanzania through Tanzania Revenue Authority has adopted the Arm's length principle to be used in all transaction related to transfer pricing. Regulation 4 of The Tax administration (Transfer pricing) Regulation of 2018 provides for the applicability of the principle in Tanzania with regards to the transfer pricing in Tanzania. There must be a comparison in prices, margins, division of profits or other indicators between controlled transactions and uncontrolled transactions.

METHODS ARE RECOMMENDED IN DETERMINING THE ARM'S LENGTH PRICE:-

In Tanzania the methods to be used in determining the arm's length price for the controlled transactions are categorized the into two categories which are;

- **Traditional Transactional Methods**

This are the methods   which recommended to be used in the arm's length pricing, and those methods are;

(a) The Comparable Uncontrolled Price (CUP method).

(b) The Resale Price Method (RP method).

(c) Cost Plus Method (CP method).

- **Transactional Profit Methods**

These methods are recommended be used only when traditional transactional methods cannot be reliably applied or exceptionally cannot be applied at all.

(a)Transactional Net Margin Method (TNMM method).

(b)The Profit Split Method.

DOCUMENTS NEEDED IN TRANSFER PRICING.

The law has provided for the requirement of documentation to any person doing transfer pricing in Tanzania and those documents are to be filled with enough details provided that those details will be exhaustive enough to show that the transfer pricing process was done as required by the law, necessary details to be included in the documents are provided under Regulation 7(2) The Tax administration (Transfer pricing) Regulation of 2018. The transfer pricing documents are to be accompanied with the Income Tax returns at the end of the year.

The law further requires that;

- It is mandatory for the taxpayers whose annual transactions with associates exceed TZS 10 billion to submit transfer pricing documentation at the time of filing the annual corporate income tax return.
- The taxpayers whose annual transactions with associates are less that TZS 10 billion are not required to submit the documentation unless requested to do so, but they still have an obligation to prepare and maintain contemporaneous transfer pricing documentation.

PENALTIES FOR VIOLATION OF LEGAL REQUIREMENTS IN TRANSFER PRICING PROCESS.

The law provides for the penalties to the person who violate the legal requirements with regards to transfer pricing process.

- Penalty for non-compliance with the arm's length principle (upon audit) is now 100% of a transfer pricing adjustment which will be done by the commissioner as provided under Regulation 4(2) of The Tax administration (Transfer pricing) Regulation of 2018.
- Penalties for failure to provide documentation the person will be charged 3,500 currency points within the prescribed time by the commissioner as provided under Regulation 7(4) of The Tax administration (Transfer pricing) Regulation of 2018.