

Transfer Pricing Country Summary

Cameroon

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1. Introduction	3
2. Laws & Regulations.....	3
a) References to OECD/EU/Local Rules	3
b) Definition of Related Party	4
c) Nature of Transfer Pricing Documentation	5
d) Tax Havens & Blacklists	5
e) Advance Pricing Agreement (APA).....	5
f) Audit Practice.....	6
3. Transfer Pricing Documentation	6
a) Level of Documentation	6
b) Industry Analysis	6
c) Company Analysis	6
d) Functional Analysis	6
e) Choice of Transfer Pricing Method.....	6
f) Economic Analysis – Benchmark Study.....	7
g) Inter-company (IC) Legal Agreement.....	7
h) Financial Statements.....	7
i) Production Process for TP Relevant Returns, Documents, Forms and Financials	7
j) Mandatory Language.....	9
k) Notification Requirement	9
l) Record Keeping	9
m) Penalties and Interest Charges	9

1. Introduction

Cameroon is part of the African Union and not an OECD member. Since 2012, Cameroon has formal transfer pricing documentation requirements to submit the master file, local file and country-by-country reporting.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

Cameroon is not a member of OECD. However, it took several steps to comply with the OECD's international standards, such as BEPS and the Action Plan 13.

On 5 October 2015, OECD released its final Base Erosion and Profit Shifting (BEPS) package containing measures that significantly change existing international tax rules. Cameroon signed both the Multilateral BEPS Convention and the convention on mutual administrative assistance in tax matters to tackle international tax avoidance and evasion on 17 July 2017. Still, the agreements have not entered into force yet. These agreements enable jurisdictions to automatically amend existing bilateral treaties to include measures that tackle base erosion and profit shifting (BEPS) through tax treaties.

Transfer pricing legislation was already introduced in Cameroon under 1 January 2012 Finance Law. It has been updated through Law No. 2014/026 of December 2014, which lays down documentation requirements and the mandatory submission of certain level documentation to substantiate the Transfer Pricing. Furthermore, via 2018 and 2020 Finance Law's, legislation has undergone several modifications.

The 2017 General Tax Code (GTC) under section 19 contains the Arm's Length Principle application between the related parties. Based on the provisions of Section 19, related companies must document the arm's length price, the method used for determining the arm's length price, and all evidence or situation supporting them for the controlled transactions.

Cameroon has also issued the Finance Law for 2020 via Law No.2019/023 on 24 December 2019. Under this legislation, the submission of the Transfer Pricing return is required before the reception of the annual tax return. Regarding the documentation, Article 19 of Law No.2019/023 specifies that it is applicable for companies with a turnover, excluding taxes being equal or greater than FCFA 1 billion, and under the dependence or control of other entities. The TP documentation is no longer to be filed starting from 2020, but it has to be available at the start of a tax audit and provided to the tax authorities upon request.

Furthermore, new TP return requirements are provided Law No.2019/023. It requires filing an annual transfer pricing return electronically by the tax return deadline for the companies that come under the entity responsible for the administration of large-scale enterprises and are managed by or control other undertakings. The return must be submitted in compliance with the administration's standards and must include:

General information about the group of associated enterprises, including

- a declaration of their holdings in other Cameroonian or foreign enterprises,
- a general overview of the activities conducted, including changes during the financial year,
- general overview and definition of the transfer pricing policy of the group, and
- enumeration of intangible assets held by the group utilised by the reporting organisation and the corporate name of the entity that owns the assets and its tax domicile.

Specific information on the reporting company, such as:

- a summary of the activities carried out within the financial year, including any adjustments made during that time,
- a brief statement of transactions with related parties, which must include the characteristics and quantity of the transactions, the State or territory of residence and corporate name of the associated enterprises involved in the transactions, as well as the beneficial owners of the related transactions for tax purposes, the transfer pricing method used, and any changes made during the financial year,
- a summary of transactions with associated companies that did not involve a monetary counterpart contribution or that did not involve a monetary counterpart contribution,
- a summary of transactions between related parties that have been the subject of a prior APA agreement or tax rescript between the tax authorities of another State or territory and the associated enterprise involved in the transaction.

New requirements for the assessment of enterprises involved in cross-border controlled transactions have been introduced amongst others:

- profits that are indirectly transferred must be compared to those that would have been realised if there was no dependency or control,
- When dealing with businesses based in a tax haven or subject to a favourable tax system, the requirement of dependency or control is deemed unnecessary, and
- transactions with related parties established in Cameroon and are beneficiaries of a favourable regime may likewise be subject to this assessment.

b) Definition of Related Party

Finance Law for 2020 (Law No.2019/023) also addressed the definitions concerning associated enterprises. It is stipulated that between two enterprises, a dependency or control relationship is presumed to exist in circumstances of:

- when one owns or controls 25% of the share capital of the other directly or through a proxy, or where one has actual decision-making powers over the other, or
- where both companies are placed under the control of the same company or person subject to the aforementioned conditions.

Taxpayers must disclose related-party transactions. The provisions of Article 18(3) of Law No.2019/023 indicate that a company must describe transactions with other related parties, including

the characteristics and quantity of transactions, such as fees. These disclosures must be included in the Transfer Pricing documentation submitted in the TP return and in the course of a tax audit.

c) Nature of Transfer Pricing Documentation

The documentation requirements for transactions involving related parties are fairly stringent. At the start of a tax audit, the taxpayers registered with the Large Taxpayer Unit are automatically required to provide documentation. That is required for all other taxpayers only upon request by the Tax Administration. The Code further empowers the Tax Authorities to demand audited companies to provide detailed information on the group's transactions, including:

- Details of the business relationship amongst group enterprises, as well as information about the group's Cameroon-based companies,
- The methods for establishing intercompany transaction pricing, as well as a justification for their usage,
- Group entities', corporations', or companies' activities carried out in the intercompany transactions;
- The fiscal, legal, and administrative processing of transactions carried out by group companies based outside of Cameroon, while specifying the group companies involved, the countries involved, and the total amount involved in the transaction,
- The contractual agreements governing the repatriation of cost and any pre-established agreements, including advanced rulings if any; and
- An analysis of the comparative information used where applicable.

A Large Taxpayer is defined as an entity with a total turnover of at least 1 billion FCFA at the end of the fiscal year.

d) Tax Havens & Blacklists

The Finance Law of 2012 concerning non-deduction of payments for Corporate and Income Tax has specified certain criteria to determine countries deemed a tax haven. The Law defines any territory where the corporate tax or marginal tax rate is less than 11.66% (a third of Comparative Corporate Tax rates in Cameroon) as a tax haven. And any country qualified as non-cooperative for fiscal transparency and exchange of information by International financial institutions also falls under this category.

e) Advance Pricing Agreement (APA)

There are currently no APA' rules in Cameroon. However, based on Section M34 of the Manual of Tax Procedures, a taxpayer may request a tax ruling from the Tax Administration concerning the administration's opinion on the potential tax implications applicable to the transaction in question before its completion. The Tax Administration's position on the transaction guarantees the taxpayer against any subsequent change of interpretation of the Tax law.

f) Audit Practice

Transfer pricing scrutiny in Cameroon covers every business sector; most particularly, the loopholes in the Tax Code as a result of inadequate regulations on related parties business transactions, payments of royalties, allocations of costs and expenses (head office costs, cost-sharing agreements, disbursements, etc.), in financial transactions, etc. are particularly targeted as reiterated in the 2007 Finance Law Circular.

3. Transfer Pricing Documentation

a) Level of Documentation

The strict documentation requirement by the Cameroon Revenue Authorities urges taxpayers to respect a 1 month (or 2 months if extended) deadline with sufficient, reasonable, and precise Transfer Pricing material to defend its related party transaction and Transfer Pricing policy. The documentation must be detailed on the transactions carried out, evidencing the accounting matters, Transfer Pricing Methodology used and the economic realities relating to market data, and an explanation of the Methods invoked by the entities.

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity, including an indication of whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines in paragraph 1.51.

e) Choice of Transfer Pricing Method

There is no specific Transfer Pricing method provided by the legislation in Cameroon. However, companies must determine their prices on related party transactions according to the arm's length

principle. The Tax Authorities duty is to determine whether the related party transactions are consistent with the principle. In so doing, the targeted commercial transactions, payment of compensation rights, intangibles used, cost and expense distribution agreements, financial relationships of the controlled company are scrutinised.

Thus, methods based on the company's earnings (TNMM) might be used in determining the transfer price. However, the focus must also be made on the use of either of these three methods:

- Comparable uncontrolled price method (CUP)
- Resale price method (RPM)
- Cost-plus method (CPM).

f) Economic Analysis – Benchmark Study

Per the Tax code, comparables may be used to substantiate the arm's length nature of a related party transaction. The responsibility to prove the arm's length nature of a transaction is on the taxpayer per the documentation requirement. On the other hand, the auditor/ tax administration also has an obligation to provide evidence of any unfair advantage that the related party transactions require Transfer pricing measures.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalises the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the "conduct of parties" the prevailing concept.

h) Financial Statements

No information found on Financial Statements.

i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. These information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No)*(If "No", it can be filed in English)

Corporate Income Tax	File	Electronic	15 March (only for the TP return)	N/A	1 billion FCFA	No
Master File	File	N/A	15 th of March	N/A	N/A	N/A
Local File	File	N/A	15 th of March	N/A	N/A	No
CbCR	File	N/A	15 th of March	N/A	N/A	N/A
Local form X	N/A	N/A	N/A	N/A	N/A	N/A
Annual Accounts	File	OHADA	At the end of each accounting year	N/A	N/A	Yes – (French or Portugese)
Segmented P&L	N/A	N/A	N/A	N/A	N/A	N/A
* Cameroon has NOT signed the MCAA agreement for the filing of CBCR.						

There is currently no special Transfer Pricing regulation/provision in the Code for small and medium sized enterprises. However, Law No. 2013/004 of 18 April 2013 lays down Private Investment Incentives in Cameroon. The Law applies to 'investors': Cameroonian or foreign natural or legal persons, whether or not established in Cameroon, conducting business or holding shares in Cameroonian companies. Furthermore, the Tax Code provisions on SME stipulates enterprises under this category must have a capital of at least 500 million XAF in order to enjoy the following fiscal benefits:

- Exemption from Business Tax for the first 2 years,
- Exemption from VAT on purchases, local building material, and imports, and
- Extension of the period for loss carried forward from 4 years to 5 years.

There is no statutory deadline to prepare transfer pricing documentation. However, tax returns must be prepared on or before 15 March, after the previous fiscal year. Taxpayers are thus expected to

submit an annual return of revenue derived from business transactions during the fiscal year. The required tax return documentation must be presented in conformity with the OHADA Accounting Standards.

The deadline to submit the required Transfer Pricing documentation is 1 month from the taxpayer's date of receipt of the notice. However, the deadline may be extended to 2 months after the taxpayer provides a reasoned application. An additional 1 month may also be granted to the taxpayer if the Tax administration judges that the time allocated for submitting documentation is insufficient. In principle, tax audits on transfer pricing matters and the exchange of information by virtue of the Tax Convention may not exceed six months.

Although there is no specific Statute of Limitations in Cameroon, according to Section M34 of the Cameroonian Manual of Tax Procedure, the tax authorities may correct the total or partial omissions up to the end of the fourth year after the one in which the taxes were due. Thus, the amounts owed by taxpayers for taxes and duties under the provisions of the Tax Code are barred to the benefit of the taxpayer 4 years after its due date.

j) Mandatory Language

In Cameroon, the language for Transfer Pricing documentation is either French or English, namely the official languages of Cameroon.

k) Notification Requirement

Since the BEPS Action plan has not entered into force, CbC Reporting and related requirements do not exist.

l) Record Keeping

There is currently no specific Transfer Pricing record-keeping provision in the Code. However, tax records, accounting ledgers, purchase and sale receipts and tax documentation must be kept for 10 years from the date the documents were established, regardless of the form.

m) Penalties and Interest Charges

There is no particular Transfer Pricing penalty provided in the Tax Code. However, the Tax Administration requires to serve a 30 days' notice for submission of Transfer Pricing Documentation to the taxpayer upon a partial or total failure to complete or submit the required documentation. This notice also states the applicable penalties in case of a perpetual default to respond to the request for documentation.

As guidance, general tax penalties relating to inadequate tax return documentation, omissions, or incorrect declarations gives rise to the following fines:

- Failure to produce the TP documentation after a formal notice is punishable by a fine of 5% of the amount of each transaction that should have been documented and per financial year. The amount of the minimum fine is set at FCF 50 million.

- An interest, imposed at 1.5% and not more than 50% of the tax due per month for late filing or payment;
- A penalty assessed at 30% for good faith, 100% for bad faith and 150% in case of fraud;
- Upon non-response to notice for declaration, a penalty equal to 100% of the tax due is charged. The fine is raised to 150% for a recidivist; and
- Late declarations/payment of monthly tax are subject to a penalty of 10% per month and not exceeding 30% of the tax due.