

Transfer Pricing Country Summary

Mozambique

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1. Introduction

Mozambique is not a member country of OECD. Mozambique has no formal transfer pricing documentation requirements to submit the master file, local file, country-by-country reporting and the notification of country-by-country reporting for qualifying multinational groups.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

Transactions concluded between related parties need to be at arm's length. The Council of Ministers approved the first Transfer Pricing Regulations through Decree 70/2017, dated 6 December 2017, which entered into force on 1 January 2018.

The regulations apply to:

- resident taxpayers subject to corporate or individual income tax in Mozambique that undertake transactions with related parties (whether resident or not);
- permanent establishments that undertake related-party transactions with non-resident entities or other permanent establishments of the same entity outside of Mozambique; and
- resident or non-resident entities that undertake related-party transactions with entities subject to a more favorable tax regime.

b) Definition of Related Party

An entity is deemed to be related to another if the entity:

- directly or indirectly
 - i. controls, is controlled or is under common control of the same entity,
 - ii. has an interest in the company that grants a significant influence, or
 - iii. has joint control over the entity;
- is an associate or has a joint venture of the other entity;
- is a member of the management of the other entity or of its main office; or
- manages a post-employment benefit for the other entity's employees

c) Nature of Transfer Pricing Documentation

This section is not applicable.

d) Tax Havens & Blacklists

This section is not applicable.

e) Advance Pricing Agreement (APA)

This section is not applicable.

f) Audit Practice

The majority of transfer pricing scrutiny in Mozambique focuses on foreign financing of resident financial companies. Its thin capitalization rules regulate the over-indebtedness of Mozambican companies. Banks are also required to report any suspicion of money laundering and no transfer of income obtained from Mozambique to a non-resident is allowed unless the tax due has been paid.

In addition, the new Mining Tax Law that entered into force on 1 January 2015 requires all mining companies in Mozambique to comply with the “independent entities” principle and list the transactions to which the principle applies, including transactions between different concessions held by the same taxpayer.

3. Transfer Pricing Documentation

a) Level of Documentation

Specific rules are imposed for cost-sharing and group service agreements. Taxpayers have to indicate related party transactions in their Annual Return (M/20) and prepare (in Portuguese) a file with all documentation and relevant information pertaining to the transfer pricing policy adopted by the company and the agreements signed with related parties.

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 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 at paragraph 1.51.

e) Choice of Transfer Pricing Method

The transfer pricing regulations recognize:

- the comparable uncontrolled price (CUP) method;
- the resale price method;
- the cost-plus method;
- the profit-split method;
- the transactional net margin method (TNMM); and
- any other method deemed appropriate based on the circumstances of the transaction

f) Economic Analysis – Benchmark Study

This section is not applicable.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes 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

This section is not applicable.

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. This 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	Local GAAP	31 May	No	No	Yes
Master File	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Local File	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
CbCR	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Local form X	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Local form Y	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Local form Z	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Annual Accounts	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Segmented P&L	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.

* Mozambique has signed the MCAA agreement for the filing of CBCR.

* Mozambique does not request as much and detailed information from smaller and less complex enterprises (SME's included) than it does from large and complex enterprises.

In Mozambique a new tax, the "Simplified Tax for Small Taxpayers" ("ISPC") was introduced in 2009 and has been in force since 14 April 2009. The ISPC only applies at the election of the taxpayer, and once elected it replaces the Value Added Tax ("VAT"), Corporate Income Tax ("IRPC") and Personal Income Tax ("IRPS"). The tax introduces a simplification for micro-enterprises and small individual taxpayers performing agricultural, industrial or commercial activity, including services, when the turnover does not exceed 2,500,000MT. The annual tax could either be paid as a fixed amount of 75,000MT or by applying an annual tax rate of 3% to the turnover.

Taxpayers with annual turnover below 2,500,000MT are also exempted from the compliance obligations of the transfer pricing regulations.

Records and documentation should be prepared within 90 days from the last day of the month in which the transactions occurred.

The deadline for submitting the transfer pricing documentation should not exceed 90 days after the execution of the account.

The annual tax returns and the balance of tax due must be submitted by 31 May of each year, with the supporting documentation filed a month later.

j) Mandatory Language

Information kept in a language other than Portuguese must be translated into Portuguese on request.

k) Notification Requirement

This section is not applicable.

l) Record Keeping

The code requires persons liable to tax under the Act to keep in good order for a period of at least ten years, tax documentation relating to each financial year. The files must be stored in centralized premises in the Mozambican territory (at the tax representatives' premises in the case of non-resident taxpayers).

m) Penalties and Interest Charges

There are currently no specific transfer pricing penalties in the IRPC. However, in the case of non-compliance of tax return documentation, the normal penalties are also applicable to transfer pricing cases for late filing, non-payment of tax or failure to disclose records. These span from:

- i Interest charged on late payment at the Interbank rate (12 months MAIBOR) plus a 2% surcharge;
- ii Prison terms for tax fraud may last up to eight years and up to two years for negligence.