

Kenya

Transfer Pricing Country Profile¹

October 2025

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic transfer pricing framework² make reference to the arm's length principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Income Tax Act , Section 18(3)
2	Does your domestic transfer pricing framework give the OECD Transfer Pricing Guidelines any role or status (e.g. legal binding effect, subsidiary application in the absence of domestic legislation, source of interpretation of domestic legislation and/or treaty provisions, other)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No When there is no specific guidance given under the domestic law international best practice takes precedence including guidance given by the OECD/UN transfer pricing guidelines. Based on Kenyan court jurisprudence, OECD TPG are used for guidance and interpretation.	

¹ Information in transfer pricing country profiles is provided directly by jurisdictions. By publishing the transfer pricing country profiles on the OECD website, the OECD does not certify the accurateness of the information provided therein. Importantly, transfer pricing country profiles published on the OECD website are made available to stakeholders for information purposes only, and are not intended to be used in substitution to a jurisdiction's legal instruments, jurisprudence, or administrative guidance or practice nor relied on as an accurate and complete description of domestic law.

² For purposes of transfer pricing country profiles, the term "domestic transfer pricing framework" refers to a jurisdiction's domestic legislation, regulations, administrative guidance or practice, jurisprudence or governing general principles in the jurisdiction.

3	<p>Does your domestic transfer pricing framework provide for a definition of related parties applicable for transfer pricing purposes? If so, please provide the definition contained under your domestic transfer pricing framework.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>For the purposes of section 18 subsection (6), a person is related to another if -</p> <p>(a) either person participates directly or indirectly in the management, control or capital of the business of the other; or</p> <p>(b) a third person participates directly or indirectly in the management, control or capital of the business or both.</p> <p>(c) an individual, who participates in the management, control or capital of the business of one, is associated by marriage, consanguinity or affinity to an individual who participates in the management, control or capital of the business of the other.</p> <p>Section 2 of the Income Tax Act</p> <p>“related person” means, in the case of two persons, either of the persons who participates directly or indirectly in the management control or capital of the business of the other person, and in the case of more than the two persons—</p> <p>(a) any other person who participates directly or indirectly in the management, control or capital of the business of the two persons;</p>	<p>Income Tax Act, Section 18(6), and Section 2</p>
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Transfer Pricing Methods

4	<p>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="673 1246 1527 1397"> <thead> <tr> <th>CUP</th><th>Resale Price</th><th>Cost Plus</th><th>TNMM</th><th>Profit Split</th><th>Other (If so, please describe)</th></tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> </tbody> </table>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<p>The Transfer Pricing Rules are in Legal Notice No:67 of 2006 within the Income Tax Act</p>					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										

		Such other method as may be prescribed by the Commissioner from time to time, where in his opinion and in view of the nature of the transactions, the arm's length price cannot be determined using any of the methods contained in the transfer pricing rules (i.e. any of the 5 methods recommended by the OECD TPG)	
5	Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	
6	Does your domestic transfer pricing framework contain specific guidance on commodity transactions?	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic transfer pricing framework provides for the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input checked="" type="checkbox"/> No</p>	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
		Since Kenya's transfer pricing rules does not have extensive guidance on comparability analysis, we tend to rely on the guidance provided under the TPG UN/OECD.	
8		<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	This is largely due to lack of domestic external comparable companies.	
9	Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This is as per the guidance provided under the TPG and Article 47(2) of the constitution of Kenya on fair administration.
10	Does your domestic transfer pricing framework allow or require the use of an arm's length range and/or statistical measure (e.g. the interquartile range or other percentiles) for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Application of the arm's length range and other statistical measures are used based on the UN/OECD TPG.
11	Are comparability adjustments required under your domestic transfer pricing framework?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	We rely on the guidance provided under the OECD TPG.
Intangible Property			
12	Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VI of the TPG? <input type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input checked="" type="checkbox"/> No	

13	<p>Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hard-to-Value Intangibles			
14	<p>Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?³</p>	<input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG? <input type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input checked="" type="checkbox"/> No	
Intra-group Services			
23	<p>Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?</p>	<input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VII of the TPG? <input type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input checked="" type="checkbox"/> No	

³ In the case of jurisdictions that do not apply the HTVI approach (i.e. they responded “no” to question 14), it is not necessary to respond to the remaining questions in the HTVI section and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

24	<p>Does your domestic transfer pricing framework provide for or allow the application of a simplified approach for low value-adding intra-group services?</p>	<p><input type="checkbox"/> Yes. If so, does it follow (largely follow) the low value-adding services approach in Chapter VII?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p>	
25	<p>Are there any other rules outside your transfer pricing framework for pricing intragroup services?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
Financial Transactions			
26	<p>Does your domestic transfer pricing framework provide guidance specific to financial transactions?</p>	<p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter X of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p>	
27	<p>Are there any other rules outside your transfer pricing framework that are relevant for the tax treatment of financial transactions? (e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Kenya has adopted the BEPS Action 4. Interest above 30% of EBITDA in relation to loans borrowed from non-resident persons are disallowed in computing taxable income.</p>	

Cost Contribution Arrangements

28	<p>Does your jurisdiction allow cost contribution arrangements?</p> <p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VIII of the TPG?</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Yes</p> <p style="margin-left: 20px;"><input type="checkbox"/> No (please provide further explanations below)</p> <p style="margin-left: 20px;"><input type="checkbox"/> No</p>	OECD TPG
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Transfer Pricing Documentation

29	<p>Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p style="margin-left: 20px;"><input type="checkbox"/> Other (specify):</p>	Section 18B to 18F of the Income Tax Act .
30	<p>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</p> <p>The submission of the Action 13 three-tier documentation and the notification is as follows:</p> <ul style="list-style-type: none"> • The CBC report Notification should be made not later than the last day of the reporting financial year of the MNE group. • The CBC report should be submitted 12 months after the last day of the reporting financial year of the MNE group. • The Master File and Local File should be submitted 6 months after the last day of the reporting financial year of the MNE group. 	Section 18C and 18D of the Income Tax Act Section 23 and 70 of the Tax Procedures Act.

		All records are to be maintained in any of the official languages (i.e. either English or Kiswahili). Otherwise, they should be translated.	
31	Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>The domestic transfer pricing framework imposes general penalties but does not provide for specific transfer pricing penalties or transfer pricing documentation penalties. For instance failure to submit transfer pricing documentation is an offence which is subject to penalties prescribed in the Tax Procedures Act.</p>	Section 18E of the Income Tax Act and the Tax Procedures Act apply.
32	Does your domestic transfer pricing framework provide for exemption from transfer pricing documentation obligations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>MNE groups that have not attained the annual Ksh. 95 Billion turnover threshold are not required to submit Notifications or CbC reports.</p>	Section 18D of the Income Tax Act

Administrative Approaches to Avoiding and Resolving Disputes

33	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement or cooperative compliance programmes <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <input type="checkbox"/> Unilateral APAs <input type="checkbox"/> Bilateral APAs <input type="checkbox"/> Multilateral APAs <input type="checkbox"/> International Compliance Assurance Programme (ICAP) <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Kenya Dispute Resolution Profile</p> <p>Part X of the Tax Procedures Act.</p> <p>Section 18G of the Income Tax Act as updated by the Finance Act (2025)</p>
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		<p>The domestic law allows for issuance of private and public rulings.</p> <p>Guidance on MAP is in place and the MAP profile has been updated with the information.</p> <p>The domestic law provides for APAs.</p>	
Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities			
34	Does your domestic transfer pricing framework allow the application of the simplified and streamlined approach for baseline marketing and distribution activities in the relevant Annex of Chapter IV of the TPG?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Other (please elaborate) <p>Kenya is still evaluating whether it will adopt Amount B.</p>	
35	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach, how is it implemented?	<input type="checkbox"/> In-scope tested parties resident within the jurisdiction can elect to apply the simplified and streamlined approach (i.e. safe harbour) <input type="checkbox"/> In-scope tested parties resident within the jurisdiction are required to follow the simplified and streamlined approach for in-scope qualified transactions and tax administrations are allowed to impose the application of the simplified and streamlined approach to in-scope qualified transactions of tested parties resident within their jurisdiction (i.e. rule) <input checked="" type="checkbox"/> N/A	
36	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach, what is the operating expense to sales (OES) upper bound chosen by your jurisdiction regarding scoping criterion 13.b?	<input type="checkbox"/> 20% <input type="checkbox"/> 30% <input type="checkbox"/> Other (please specify) <input checked="" type="checkbox"/> N/A	

37	Does your jurisdiction respect the outcome of the application of the simplified and streamlined approach by a covered jurisdiction in line with the Inclusive Framework political commitment?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
38	If your domestic transfer pricing framework allows the application of the simplified and streamlined approach for resident in-scope tested parties, does your jurisdiction respect the outcome of the application of such approach by another jurisdiction that is not a covered jurisdiction?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Kenya is still evaluating its position on this.	

Safe Harbours and Other Simplification Measures

39	Does your jurisdiction provide for any safe harbours or other simplification measures in respect of certain industries, types of taxpayers, or types of transactions (not listed in other sections of this questionnaire)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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Other Legislative Aspects or Administrative Procedures

40	Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No As part of our tax procedures the Commissioner is allowed by law, to open an assessment of a taxpayer for a reporting year and make amendments to ensure that the taxpayer is liable to the correct amount of tax payable.	Section 31 of the Tax Procedures Act Section 16 of Income Tax Act
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41	<p>Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?</p>	<p><input type="checkbox"/> Yes. Year-end adjustments are required. <input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed. <input type="checkbox"/> No</p> <p>Kenya's transfer pricing rules allow but do not mandate year-end adjustments. This practice is also consistent with OECD Guidelines.</p>	<p>Section 18(3) of the Income Tax Act Income Tax (Transfer Pricing) Rules, 2006</p>
42	<p>Does your domestic transfer pricing framework provide for secondary adjustments?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Section 7(b)(v) of the ITA deems any increase in taxable income or reduction in assessed loss as a result of a transfer pricing adjustment to constitute a dividend payment to a non-resident shareholder thus subject to a withholding tax.</p>	<p>Section 7 of the Income Tax Act</p>

Attribution of Profits to Permanent Establishments

43	<p>Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?</p>	<p><input checked="" type="checkbox"/> Article 7 as it read before 2010. <input checked="" type="checkbox"/> If so, please indicate in how many treaties: 12 treaties <input checked="" type="checkbox"/> Article 7 as it reads after 2010. <input checked="" type="checkbox"/> If so, please indicate in how many treaties: 3 treaties <input type="checkbox"/> Other (please provide additional details)</p>	<p>https://www.treasury.go.ke/agreements/</p>
44	<p>For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (please explain the approach used and which tax treaties are concerned)</p> <p>Kenya's domestic transfer pricing framework, as outlined in Section 18(3) of the Income Tax Act (Cap 470) and the Income Tax (Transfer Pricing) Rules, 2006, does not adopt the AOA.</p>	<p>Section 18(3) and Transfer Pricing Rules, 2006 Section 18(5) and Transfer Pricing Rules, 2006</p>

		Instead, it treats a PE as a separate and distinct entity for tax purposes, requiring that transactions between the PE and its head office or related entities be conducted at arm's length.	
45	Does your domestic transfer pricing framework contain specific guidance for the attribution of profits to permanent establishments of non-resident entities? If so, please provide a summary of the main features of this guidance.	<input type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments <input type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments <input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules) <input checked="" type="checkbox"/> No	

Other Relevant Information

46	Other legislative aspects or administrative procedures regarding transfer pricing	1. Regulations on implementation of APAs to be published by 31st December 2025. 2. Revised Transfer Pricing Rules are awaiting publication.	
47	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	We are in the process of reviewing the Transfer Pricing Rules (2006). The Rules will be published for the public once the internal approvals are completed.	

For more information, please visit: <https://www.oecd.org/en/topics/sub-issues/transfer-pricing/transfer-pricing-country-profiles.html>