

# South Africa

## Transfer Pricing Country Profile<sup>1</sup>

July 2025

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic transfer pricing framework<sup>2</sup> make reference to the arm's length principle?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Section 31 of the <a href="#">Income Tax Act</a> , Act No. 58 of 1962 ("SA Income Tax Act")
2	<b>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)?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><a href="#">Practice Notes / Interpretation Notes</a> <a href="#">Practice Note 7</a> must be read with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#">Notice 1334</a> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extent applicable (as mentioned in the <a href="#">Briefing Note</a>)</p> <p>Practice Note 7 issued by SARS gives subsidiary application status to section 31 of the Income Tax Act no.28 of 1962.</p> <p>The OECD Transfer Pricing Guidelines provide supporting guidance for the application of the arm's length principle contained in the South African domestic transfer pricing legislation.</p> <p>Paragraph 3.1 of Practice Note 7 provides that "<i>...This practice note has been drafted as a practical guide and is not intended to be prescriptive or an exhaustive discussion of every transfer pricing issue that might arise...</i>"</p>

<sup>1</sup> 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.

<sup>2</sup> 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.

		Paragraph 3.2 of Practice Note 7 provides that "...Because of the international importance of the OECD Guidelines, this Practice Note is based on, inter alia, those guidelines..."													
3	<b>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.</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Section 1 of the SA Income Tax provides for a definition of "connected person". It is a general definition that encapsulates natural persons, trusts, partnerships and companies.</p> <p>For the purposes of the South African domestic transfer pricing legislation, the general definition of 'connected person' has been widened. Effective for years of assessment commencing on or after 1 January 2022, the South African domestic transfer pricing legislation is also applicable to "associated enterprises" as defined in Article 9 of the OECD Model Tax Convention, in relation to one another.</p>	<p>Section 1 of the SA <a href="#">Income Tax Act</a></p> <p>Interpretation <a href="#">Note 67</a></p> <p>Interpretation <a href="#">Note 128</a></p>												
<b>Transfer Pricing Methods</b>															
4	<b>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</b>	<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" style="margin-left: auto; margin-right: auto;"> <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> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table> <p>South Africa relies on the methods in the OECD Transfer Pricing Guidelines without having any direct reference to any method in its Transfer Pricing domestic legislation. This is reflected in Practice Note No. 7 and Interpretation Note No. 127.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><a href="#">Practice Notes / Interpretation Notes</a></p> <p><a href="#">Practice Note 7</a> must be read with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#">Notice 1334</a> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extent applicable (as mentioned in the <a href="#">Briefing Note</a>)</p> <p>Interpretation <a href="#">Note 127</a></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 type="checkbox"/>										

5	<p><b>Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?</b></p>	<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> <hr/> <p>South Africa relies on the guidance in the OECD Transfer Pricing Guidelines on the selection of the applicable transfer pricing method using the most appropriate method as a criterion.</p> <p>Neither Section 31 nor the tax treaties entered into by South Africa prescribe any particular methodology for the purpose of ascertaining an arm's length consideration. Given that there is no prescribed legislative preference, the Commissioner would generally seek the most appropriate method.</p> <p>The most appropriate method in a given case will depend on the facts and circumstances of the case and the extent and reliability of data on which to base a comparability analysis. It should always be the intention to select the method that produces the highest degree of comparability.</p> <p>The Commissioner endorses the CUP, RP, CP, TNMM and profit split methods as acceptable transfer pricing methods, the most appropriate of these depending on the particular situation and the extent of reliable data to enable its proper application.</p>	<p><b>Practice Notes / Interpretation Notes</b></p> <p>Practice Note 7 must be read with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#">Notice 1334</a> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extent applicable (as mentioned in the <a href="#">Briefing Note</a>)</p> <p>Interpretation <a href="#">Note 127</a></p>
6	<p><b>Does your domestic transfer pricing framework contain specific guidance on commodity transactions?</b></p>	<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> <p>The South African domestic transfer pricing legislation does not contain specific legislation or guidelines for the treatment of commodity transactions. The practice is that the OECD Transfer Pricing Guidelines are consulted for purposes of considering and selecting the most appropriate transfer pricing method.</p>	

## Comparability Analysis

7	<p><b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>South Africa follows the guidance on comparability analysis as outlined in Chapter III of the OECD Transfer Pricing Guidelines.</p>	
8	<p><b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>The South African domestic transfer pricing legislation does not contain specific legislation or guidelines for the selection and or use of domestic or foreign comparables. However, the OECD Transfer Pricing Guidelines are consulted to provide guidance on comparability analysis.</p>	
9	<p><b>Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?</b></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>The South African domestic transfer pricing legislation does not contain specific legislation or guidelines to permit the use of secret comparables for transfer pricing comparability assessment purposes.</p>	
10	<p><b>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?</b></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>The South African domestic transfer pricing legislation does not contain a specific provision that allows or requires the use of an arm's length range and/or statistical measure for determining the arm's length range. However, South Africa follows the OECD Transfer Pricing Guidelines, which provide in-depth guidance on the use of an arm's length range and/or statistical measure for determining arm's length remuneration. This is reflected in Practice Note No. 7 at a high level.</p> <p>Paragraph 11.4.7 of Practice Note.7 provides that "...The Commissioner concurs with the view of the OECD that the adjustment should reflect the point in the range that best accounts for the facts and circumstances of the controlled transaction.</p>	<p><b><u>Practice Notes / Interpretation Notes</u></b></p> <p><u>Practice Note 7</u> must be read with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <u>Notice 1334</u> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extent applicable (as mentioned in the <u>Briefing Note</u>)</p>

		<i>However, in the absence of persuasive evidence for the selection of a particular point in the range, the Commissioner may select the mid-point in the range..."</i>	
11	<b>Are comparability adjustments required under your domestic transfer pricing framework?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>The South African domestic transfer pricing legislation does not contain a specific provision or inclusion for comparability adjustments. However, the OECD Transfer Pricing Guidelines are consulted to provide guidance on comparability adjustments.</p>	
<b>Intangible Property</b>			
12	<b>Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?</b>	<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 <p>The South African domestic transfer pricing legislation does not contain a specific provision or inclusion on the pricing of transactions involving intangibles. South Africa follows the OECD Transfer Pricing Guidelines, which provide in-depth guidance on pricing of controlled transactions involving intangibles. Transactions involving intangibles is also reflected in SARS Practice Note No. 7, at a high level.</p>	<a href="#">Practice Notes – South African Revenue Service (sars.gov.za)</a>  <a href="#">Practice Note 7</a> must be read with the following: The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#">Notice 1334</a> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extend applicable (as mentioned in the <a href="#">Briefing Note</a> )
13	<b>Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>South Africa follows the OECD Transfer Pricing Guidelines, in this respect.</p> <p>Whilst not specifically focused on the pricing of controlled transactions involving intangibles, South Africa has legislated a number of anti-avoidance provisions relating to intangibles:</p> <p><a href="#">Section 23I</a> is the South African domestic provision that prohibits a deduction in respect of certain intellectual property. The purpose of the provision is to, in specified circumstances, disallow the deduction in the hands of a South African</p>	Section 23I of the SA <a href="#">Income Tax Act</a> Prohibition of deductions in respect of certain intellectual property

	<p>resident who licenses IP from a non-taxable person, including a non-resident. The following is a summary of the licensing transactions to which the provision applies:</p> <p><u>Exportation of IP</u> – where a South African taxpayer (resident) licenses patents, designs, trademarks or copyright IP from a non-taxable person and the IP was developed by the licensee or a person connected to the licensee.</p> <p>Bare dominium structures – where a resident licenses IP, the IP is owned by a taxable resident, and the royalties are paid to a non-taxable person. A bare dominium structure is a situation wherein ownership in an asset is divorced from use rights therein.</p> <p><u>Sale of business as a going concern</u>: Where a resident's business is sold by the sale of assets of the seller generally to another resident (purchaser) while transferring the IP to a non-taxable person and the purchaser licenses the IP.</p> <p>Research and Development (R&amp;D) structure - Where R&amp;D that gave rise to IP was performed by a resident within South Africa, the IP is licensed to the resident or to another “connected” resident, the licensor is a non-taxable person and the licensee and resident connected persons in relation to the licensee own at least 20% shares in the licensor.</p> <p><u>Controlled Foreign Companies (CFCs)</u> - Where royalties are paid by a resident to a CFC, royalties paid to the CFC are captured in the section to the extent that shares in the CFC are held by non-taxable persons.</p> <p>Synthetic arrangements – Where any arrangement that attempts synthetically to achieve the same tax result as any of the above scenarios.</p>	
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### Hard-to-Value Intangibles<sup>3</sup>

14	<p><b>Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?<sup>4</sup></b></p>	<p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p>	<p><a href="#">HTVI Implementation Questionnaire</a></p>
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<sup>3</sup> Please note that questions in this section are imported from the HTVI questionnaire and integrated into this TPCP to centralise all jurisdiction-related transfer pricing information.

<sup>4</sup> 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.

		To date, South Africa has not adopted the HTVI approach, as defined in Chapter VI of the OECD Transfer Pricing Guidelines.	
<b>Intra-group Services</b>			
23	<b>Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?</b>	<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?</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> <p>The South African domestic transfer pricing legislation does not contain a specific provision or inclusion on intra-group service transactions. However, Practice Note No. 7 states that Chapter VII of the OECD Transfer Pricing Guidelines is relevant and therefore the OECD Transfer Pricing Guidelines are followed.</p>	<p><a href="#"><u>Practice Notes – South African Revenue Service (sars.gov.za)</u></a></p> <p><a href="#"><u>Practice Note 7</u></a> must be read with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#"><u>Notice 1334</u></a> of <i>Government Gazette</i> 40375 dated 28 October 2016 to the extend applicable (as mentioned in the <a href="#"><u>Briefing Note</u></a>)</p>
24	<b>Does your domestic transfer pricing framework provide for or allow the application of a simplified approach for low value-adding intra-group services?</b>	<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> <p>South Africa has not adopted the simplified approach for low value-adding intra-group services.</p>	
25	<b>Are there any other rules outside your transfer pricing framework for pricing intragroup services?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>South Africa follows the OECD Transfer Pricing Guidelines in this respect.</p> <p>Whilst not specifically focused on the pricing of intragroup services, South African tax legislation contains a number of other provisions: the following general sections</p>	<p>Section 11(a) of the SA <a href="#"><u>Income Tax Act</u></a> - General deductions allowed in determination of taxable income</p> <p>Sections 80A – 80L of the SA <a href="#"><u>Income Tax Act</u></a> - General Anti Avoidance Rules (“GAAR”)</p>

		11(a) (general deduction of expenses provision) and 80A – 80L (general anti-avoidance provision) of the SA Income Tax Act may be applied.	
<b>Financial Transactions</b>			
26	<b>Does your domestic transfer pricing framework provide guidance specific to financial transactions?</b>	<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> <p>The South African domestic transfer pricing legislation does not contain a specific provision or inclusion on financial transactions. However, South Africa follows the OECD Transfer Pricing Guidelines, which provides in-depth guidance on financial transactions.</p> <p>Interpretation Note No.127 was issued by SARS, on 17 January 2023 which provides guidance relating to the determination of taxable income of certain persons from international transactions: intragroup loans.</p>	
27	<b>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)</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Whilst the OECD Transfer Pricing Guidelines provide the primary framework for the tax treatment of financial transactions between related parties, there are additional relevant sections under the South African Income Tax Act that, whilst not directly related to transfer pricing may still affect the overall tax treatment of these transactions. The South African Income Tax Act contains various sections that consider the limitation and computation of interest deductions for income tax purposes (not necessarily specific for transfer pricing).</p> <p>A discussion paper was published in February 2020. This paper explores the Treatment of Excessive Debt Financing, Interest Deductions and Other Financial Payments, based on the measures contained in BEPS Action 4.</p>	<p>Interpretation <a href="#">Note 127</a></p> <p>Section 23M of the SA <a href="#">Income Tax Act</a> - Limitation of interest deductions in respect of debts owed to persons not subject to tax</p> <p>Section 23N of the SA <a href="#">Income Tax Act</a> - Limitation of interest deductions in respect of reorganisations and acquisition transactions</p> <p>Section 50B of the SA <a href="#">Income Tax Act</a> - levy of withholding tax on interest</p>

		<p>Section 24J of the SA <a href="#">Income Tax Act</a> - Incurral and accrual of Interest</p> <p>Section 24JA of the SA <a href="#">Income Tax Act</a> - Sharia compliant financing arrangements</p> <p>Section 24JB of the SA <a href="#">Income Tax Act</a> - Taxation in respect of financial assets and liabilities of certain persons</p> <p>Section 24K of the SA <a href="#">Income Tax Act</a> - Incurral and accrual of amounts in respect of interest rate agreements .</p> <p>Section 24L of the SA <a href="#">Income Tax Act</a> - Incurral and accrual of amounts in respect of option contracts</p> <p>Section 24O of the SA <a href="#">Income Tax Act</a> - Incurral of interest in certain debts deemed to be in the production of income</p> <p><a href="#">National Treasury Discussion Paper on Reviewing the Tax Treatment of Excessive Debt Financing, Interest Deductions and Other Financial Payments</a> dated 26 February 2020</p>
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### Cost Contribution Arrangements

28	<p><b>Does your jurisdiction allow cost contribution arrangements?</b></p>	<p><input 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><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input checked="" type="checkbox"/> No</p>	<p><a href="#">Practice Notes – South African Revenue Service (sars.gov.za)</a></p> <p><a href="#">Practice Note 7</a> must be read together with the following:</p> <p>The record requirements of this Practice Note (including the addendum) will now be replaced by the record requirements of <a href="#">Notice 1334</a> of</p>
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		<p>The South African domestic transfer pricing legislation does not contain a specific provision or inclusion on cost contribution agreements. South Africa follows the OECD Transfer Pricing Guidelines, which provides guidance on this topic. This is reflected in Practice Note No. 7</p>	<p>Government Gazette 40375 dated 28 October 2016 to the extend applicable (as mentioned in the <a href="#">Briefing Note</a>)</p>
<b>Transfer Pricing Documentation</b>			
29	<p><b>Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input checked="" type="checkbox"/> Other (specify): IT14</li> </ul> <p>The income tax return for companies (ITR14) contains a detailed section that the taxpayer must complete in relation to its cross-border transactions entered into with its connected persons.</p>	<p>Duty to keep records, books of account or documents in terms of <a href="#">Section 29 of the Tax Administration Act, 2011</a></p> <p>Return to be submitted by persons in terms of <a href="#">Section 25 of the Tax Administration Act, 2011</a></p> <p>Extension of deadline to file country by country returns in terms of <a href="#">section 25(7) of the Tax Administration Act, 2021</a></p>
30	<p><b>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</b></p>	<p>For tax return filing purposes taxpayers are asked questions on the returns, for example, pertaining to whether the taxpayer has entered into intra-group transactions with offshore connected parties and if the taxpayer has supporting documentation to support the arm's length nature of such transactions.</p> <p>In addition to the above, taxpayers who meet the criteria of the sections and/or provisions set out below are mandated to:</p> <ul style="list-style-type: none"> <li>(i) keep or retain certain transfer pricing related documents in terms of Section 29 of the Tax Administration Act, 2011; and</li> <li>(ii) file a Country-by-Country Report; a Master File, and/or a Local File within a year of the end of their financial year in terms of Section 25 of the Tax Administration Act, 2011.</li> </ul> <p>All of the above must be completed in English. The relevant filing or retention dates are provided for in each of the relevant notices (see links provided).</p>	<p>Duty to keep records, books of account or documents in terms of <a href="#">Section 29 of the Tax Administration Act, 2011</a></p> <p>Return to be submitted by persons in terms of <a href="#">Section 25 of the Tax Administration Act, 2011</a></p> <p>Extension of deadline to file country by country returns in terms of <a href="#">section 25(7) of the Tax Administration Act, 2021</a></p>

31	<p><b>Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p> <p>The South African domestic transfer pricing legislation does not provide for any specific penalties or compliance incentives pertaining to the filing of transfer pricing documentation. General administrative penalties apply for the late or non-filing of CbC reports, Master files and Local files.</p>	<p>Incidences of non-compliance by a person in terms of <a href="#">Section 210(2) of the Tax Administration Act</a>, 2011 that are subject to a fixed penalty in accordance with sections 2010(1) and 211 of the Tax Administration Act, 2011</p>
32	<p><b>Does your domestic transfer pricing framework provide for exemption from transfer pricing documentation obligations?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p> <p>Where a CbC report is required to be filed, a CbC report, master file and local file must be filed by the Ultimate Parent Entity or the Constituent Entity. The threshold for CbC reporting is consolidated group revenue of R 10billion or EUR 750million.</p> <p>In addition, where the aggregate of a person's potentially affected transactions (i.e. transactions potentially subject to transfer pricing adjustments) for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million, and that person is a tax resident, the person must submit a local file. If the ultimate holding company of the person's group is resident in South Africa or a master file has been prepared by any entity within the group, the person must also submit a master file.</p> <p><u><a href="#">Section 29 of the Tax Administration Act, No.28 of 2011</a></u></p> <p>Duty to keep records. — (1) A person must keep the records, books of account or documents that</p> <p style="padding-left: 40px;">(b) are specifically required under a tax Act or by the Commissioner by public notice.</p> <p><u><a href="#">Public Notice- GG 40375, Notice 1334</a></u></p> <p>Persons required to keep specified records, books of account or documents</p> <p style="padding-left: 40px;">(a) has entered into a potentially affected transaction; and</p>	<p><u><a href="#">Section 29 of the Tax Administration Act, 2011</a></u></p>

(b) the aggregate of the person's potentially affected transactions for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million.

## Administrative Approaches to Avoiding and Resolving Disputes

33

**Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?**

Please check those that apply:

- Rulings
- Enhanced engagement or cooperative compliance programmes
- Advance Pricing Agreements (APA)
  - Unilateral APAs
  - Bilateral APAs
  - Multilateral APAs
- International Compliance Assurance Programme (ICAP)
- Mutual Agreement Procedures
- Other (*please specify*):

APAs:

South Africa has introduced APA legislation in terms of Section 76A of the Income Tax Act, No. 58 of 1962. The application of the legislation is subject to Commissioner's Notices that guide the application of the APA. The Commissioner's Notices to effect the legislation are yet to be released.

Information relating to MAP regulations, procedures or guidance is contained in the South Africa's MAP Profile.

[South Africa's MAP Profile](#)

[Section 76A](#) of the Income Tax Act, No 58 of 1962.

## Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities

34	<p><b>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?<sup>5</sup></b></p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> Other (please elaborate)</p> <p>South Africa whilst having expressed an interest in applying Amount B: The Simplified and Streamline Approach for Baseline Marketing and Distribution Activities, has not yet legislated it.</p>	
35	<p><b>If your domestic transfer pricing framework allows the application of the simplified and streamlined approach, how is it implemented?</b></p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> N/A</p>	
36	<p><b>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?</b></p>	<p><input type="checkbox"/> 20%  <input type="checkbox"/> 30%  <input type="checkbox"/> Other (please specify)  <input checked="" type="checkbox"/> N/A</p>	
37	<p><b>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?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>	

<sup>5</sup> In the case of jurisdictions that do not apply the simplified and streamlined approach (i.e. they responded “no” to question 34), it is not necessary to respond to questions 35, 36 and 38 and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

38	<p>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?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No N/A	
<b>Safe Harbours and Other Simplification Measures</b>			
39	<p>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)?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Other Legislative Aspects or Administrative Procedures</b>			
40	<p>Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>In the absence of a MAP, there cannot be a downward corresponding adjustment. The legislation cannot be applied in the absence of proving that there has been a “tax benefit” which is a requirement of section 31 – therefore section 31 of the SA Income Tax Act does not include a provision to allow for a downward corresponding adjustments.</p>	
41		<input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed. <input type="checkbox"/> No	Section 31 of the SA <a href="#">Income Tax Act</a>

	<b>Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?</b>	Although there are no specific provisions included in South Africa's transfer pricing legislation dealing with year-end adjustments, year-end adjustments would generally be considered and evaluated based on the arm's length principle as provided for by Section 31 of the SA Income Tax Act	
42	<b>Does your domestic transfer pricing framework provide for secondary adjustments?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Section 31(3) of the SA Income Tax Act provides that the difference in taxable income on an arm's length basis and taxable income on a non-arm's length basis is deemed to be a dividend consisting of a distribution of an asset <i>in specie</i> declared and paid by the SA taxpayer, on which dividends tax is payable. In the case of a natural person, the difference is deemed to be a donation, on which donations tax is payable.
<b>Attribution of Profits to Permanent Establishments</b>			
43	<b>Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?</b>	<input type="checkbox"/> Article 7 as it read before 2010. <input checked="" type="checkbox"/> If so, please indicate in how many treaties: 79 <input type="checkbox"/> Article 7 as it reads after 2010. <input type="checkbox"/> If so, please indicate in how many treaties: <input type="checkbox"/> Other (please provide additional details)	All 79 of the SA tax treaties contain Article 7 as it read before 2010.
44	<b>For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (please explain the approach used and which tax treaties are concerned)	South Africa does not follow the AOA in its tax treaties.

45	<p><b>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.</b></p>	<p><input type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules)</p> <p><input checked="" type="checkbox"/> No</p>	<p>South Africa has a reservation to use the profit attribution guidelines as contained in the OECD Profit Attribution Guidelines 2008. Therefore, in determining the profit that needs to be attributed only expenses actually incurred in the year of assessment by the permanent establishment are taken into consideration, for example, pertaining to interest, royalties and other relevant expenses.</p>
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### Other Relevant Information

46	<p><b>Other legislative aspects or administrative procedures regarding transfer pricing</b></p>	<p>There are no separate legislative aspects or administrative procedures regarding transfer pricing. Domestic enhanced programmes such as the general Alternative Dispute Resolution (ADR) processes which apply in Corporate Tax matters are similarly applicable in transfer pricing dispute resolution matters</p>	<p><a href="#">Dispute resolution guide</a></p>
47	<p><b>Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)</b></p>	<p>South Africa has introduced APA legislation. The application of the legislation is subject to Commissioner's Notices that guide the application of the APA.</p> <p>The Commissioner's Notices to give effect to the APA legislation, is yet to be released.</p>	

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