

Global Transfer Pricing Landscape

Bangladesh

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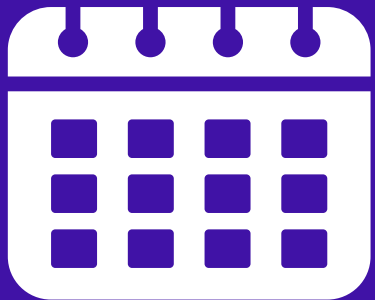
Highlights

2012

Transfer pricing rules introduced in the Finance Act 2012.

2014

Transfer pricing regulations became effective from 1 July 2014 by the Finance Act 2014.



Introduction

The Finance Act, 2012 inserted a new chapter incorporating transfer pricing provisions into the Income Tax Ordinance, 1984. Transfer pricing regulations in Bangladesh came into force on 1 July 2014.

The amount of any income, or expenditure, arising from an international transaction shall be determined with regard to the arm's length price. However, transfer pricing provisions shall not apply if it results in lowering the total income by virtue of applying the arm's length principle.

Tax Authority

National Board of Revenue (NBR).

Relevant Regulations

- Section 107A to 107J of the Income Tax Ordinance, 1984
- Rules 70 to 75A of Income Tax Rules, 1984.

Associated Enterprise (AE)

The definition of an 'AE' is comprehensive and includes the following relationships:

- Direct or indirect participation in the management/control/capital of an enterprise or common participation in both enterprises;

- Direct or indirect holdings of shares carrying more than 25% of the voting power in the enterprise;
- Cumulative borrowings of more than 50% of the book value of the total assets of the borrowing enterprise;
- Cumulative guarantees of more than 10% of the book value of total borrowings of other enterprises;
- Power to appoint more than 50% of the board of directors/members of the governing board of an enterprise by another enterprise/same person;
- Executive director/member of the governing board of one enterprise are appointed by other enterprises/same person or enterprises having common executive directors/members;
- Practical ability to control the decisions of the other enterprise;
- The two enterprises are bonded by a relationship of mutual interest as may be prescribed.

International Transactions

A transaction entered into between two AEs, where either one or both enterprises are non-residents, and it has a bearing on the profits, income, losses, assets, financial position, or economic value of such enterprises.

International transactions also include deemed international transactions, i.e., transactions entered into by an enterprise with a third party, and if there exists a prior agreement between the third party and the AE with respect to the relevant transaction, or if the terms of the relevant transaction are determined in substance between the third party and the AE.

Computation of Arm's Length Price

Arm's length price is determined by applying the most appropriate method from the six transfer pricing methods prescribed:

- Comparable uncontrolled price;
- Resale price method;
- Cost plus method;
- Profit split method;
- Transactional net margin method; and
- Any other method.

If applying any of the first five methods is not reasonably possible, then any other method that yields consistent results may be applied.

The regulation does not prescribe any hierarchy of methods. In analyzing the comparability, data pertaining to the relevant financial year should be used.

However, the use of prior-period data is permitted if such data bears such facts that can influence the comparability analysis.

Documentation and accountant's report

Documentation

Maintaining prescribed documentation is mandatory if the aggregate value of the international transactions entered into during an income year exceeds BDT 30 million (approximately USD 350,000).

Extent of documentation

Key documentation requirements are:

- Profile of the multinational group along with consolidated financial statements of the group;
- Business description of each member of the group, including the business relationships between them;
- Profile of each AE including tax registration numbers and financial statements of any enterprise operating in Bangladesh;
- The nature and terms of international transactions;
- Transfer pricing analysis/benchmarking for international transactions, including the database utilized.

Statement of international transaction

Every person who has entered into an international transaction shall file a Statement of International Transaction along with the tax return. There is no threshold for filing a Statement of International Transaction.

Accountant's Report

Every person who has entered into an international transaction with an aggregate value exceeding BDT 30 million during an income year shall furnish a report from a Chartered Accountant before the specified date in a prescribed form.

There are no Master File and CbCR documentation requirements as of now. The information and documents specified shall be kept and maintained for a period of eight years from the end of the relevant assessment year.

Penalties for Non-compliance

Non-Compliance	Penalty
Failure to keep, maintain or furnish any information or documents	Not exceeding 1% of the value of the international transaction
Failure to comply with the notice or requisition by Deputy Commissioner of Taxes	Not exceeding 1% of the value of an international transaction
Failure to furnish statement of international transactions	Not exceeding 2% of the value of an international transaction
Failure to furnish a report from a Chartered Accountant	Not exceeding BDT 300,000

Safe Harbour Rules/Tolerance

There are no safe harbour rules prescribed in Bangladesh.

Furthermore, the provisions are silent with regard to the determination of an arm's length price when more than one comparable price is available, whether a single arm's length price is allowed, or whether a range concept is preferred.

Benchmarking Search/Comparables

The provisions are silent on which databases would be accepted for benchmarking search/determining comparable.

Advance Pricing Agreement

Bangladesh currently does not have a formal APA program.

BEPS/CbC Applicability

Bangladesh has not yet formally accepted the recommendations of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project. However, the country has clearly supported the actions undertaken under the BEPS Project while answering the questionnaire set by the UN about BEPS.

OECD/UN Guidelines

The documentation requirements are largely based on the OECD transfer pricing guidelines and the UN transfer pricing manual.

Summary of Transfer Pricing Requirements

Effective from

1 July 2014

Compliance Requirements

- Every person with international transactions must file a Statement of international transaction
- Report from a CA/CPA if the value of transactions exceeds BDT 30 million (USD 0.35 million)
- Compulsory contemporaneous documentation if transactions exceed BDT 30 million (USD 0.35 million)

Penalties

Significant and linked to value of transactions

Method and Preference for Comparable

Five methods as defined by OECD without any hierarchy

Preference for local comparables

Peculiar features

Definition of international transaction very wide and also certain third party arrangements are deemed to be international transaction and covered.

Safe Harbour and APA

Not available as of now

BEPS/CbCR applicability

Not as of now

*The conversion rate considered is as on 19 November 2020

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Our cross-functional teams serve a wide range of industries, with a specific focus on healthcare, food processing, and banking and financial services. Over the last decade, we have built and leveraged capabilities across key global markets to provide transnational support to numerous clients.

We provide an array of solutions encompassing Consulting, Business Services, and Professional Services. Our solutions help businesses navigate challenges across all stages of their life-cycle. Through our direct operations in USA, India, and UAE, we serve a diverse range of clients, spanning multinationals, listed companies, privately owned companies, and family-owned businesses from over 50 countries.

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