



# TRANSFER PRICES REGIME IN MOZAMBIQUE

The Transfer Pricing Regime (TPR) published by Decree No. 70/2017, of 6 December, which entered into force on 1 January of this year, established a set of rules that will govern relationships between related parties.

The TPR applies to individuals and companies resident or domiciled in Mozambique, and to permanent establishments of companies non-resident in Mozambique that conduct transactions associated with non-resident companies, as well as with other permanent establishments of the same company situated outside Mozambique.

In reality, the TPR develops and establishes the transfer pricing rules provided for in the Corporate Income Tax Code (CIT Code). Article 49 of the CIT Code had already established some rules in respect of transfer prices, including the possibility for the tax authorities to make any corrections necessary to determine the taxable profit whenever, by virtue of special relationships between the taxpayer and another person, whether or not subject to CIT, conditions have been established different from those that would be established between independent bodies. This legal provision of the CIT also determines that there are special relations between two companies in situations in which one has the power to, directly or indirectly, exercise a significant influence over the management decisions of the other company.

However, there was no definition or clarification of the concept of “significant influence”, which significantly hindered the application by the tax authorities of transfer pricing rules.

With Decree No. 70/2017, the TPR is now specifically regulated in Mozambique, with definitions and examples regarding when a company exercises a significant influence over the other company’s management decisions. It is thus considered that there is a significant influence over the management decisions of the other company, particularly in the following scenarios:

- A company and the holders of its capital, or their spouses, or relatives in the ascending or descending lines, directly or indirectly hold a share of no less than 10% of the capital or voting rights;
- Entities in which the same capital holders, or their spouses, or relatives in the ascending or descending lines, directly or indirectly hold a share of no less than 10% of the capital or voting rights;

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- A company and the members of its statutory bodies, or of any administration, management or supervision bodies, and their spouses, or relatives in the ascending or descending lines;
- Companies in which the majority of members of the statutory boards, or members of any administration, management or supervision bodies, are the same people or, if different people, are connected by marriage, common-law marriage or a direct family relationship;
- Companies connected by subordination agreement, equal partnership agreement or other agreement with the same effect;
- Companies that are in a controlling position;
- Companies between which, due to commercial, financial, professional or legal relations between them, directly or indirectly established or conducted, situations of dependence occur in the exercise of their activity;

Furthermore, the new Decree has introduced the following methods to be applied to determine the transfer prices:

- Comparable Uncontrolled Price Method (this method is specifically applicable to transfer prices in the export or import of commodities)
- Resale-Minus Method
- Cost Plus Method
- Profit Split Method
- Transactional Net Margin Method
- Any other method suited to the facts and specific circumstances of each transaction

There are also specific arrangements for agreements between related companies, in particular cost sharing agreements and service agreements within the group.

In addition, to determine whether transactions between related companies follow the same rules as transactions between independent companies, the interquartile range is established to determine whether the transaction complies with full competition rules.

With regard to ancillary obligations, payers of corporate income tax and personal income tax that, in the previous year, have reached annual net sales and other income of MT 2,500,000, have to prepare a transfer pricing file.



MÁRIO MACILAU - MOÇAMBIQUE  
Pedras na Mão, (da série O Preço da Pedra), 2011

Prova gelatina e prata  
90 x 110 cm  
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