



# Transfer pricing

Insight and dedication to guide you through the transfer pricing landscape

mazars



# Contents

- 04**    **Introduction**
- 05**    Transfer pricing, a priority for multinational companies
  
- 06**    **How we can assist you**
- 07**    360-degree service offering
- 08**    Advanced services
- 10**    Our global transfer pricing team
- 11**    Your trusted advisors in South Africa

## Introduction

### Transfer pricing, a priority for multinational companies

Globalisation and the rapid growth of international trade, facilitated in recent years by the digital revolution, has brought complex regulatory and tax issues to the forefront of every multinational organisation's agenda. In the wake of media scrutiny and international projects led by the Organisation of Economic Cooperation and Development (OECD), transfer pricing has remained an area of focus and controversy.



## Introduction

# Transfer pricing, a priority for multinational companies

**Many challenges related to the digital economy remain unresolved and new areas of focus arise following how businesses adapt to the ever-changing socioeconomic and uncertain geopolitical landscapes.**

The work performed by the OECD to increase tax transparency has sparked radical change. Increased disclosure requirements such as the three-tiered approach to transfer pricing documentation and increased exchange of information has allowed tax administrations greater access to information. This has raised the risk of tax audits, challenges and scrutiny because tax authorities around the globe, armed with increased information, have become far more vigilant. Information can be perceived to indicate the presence of tax avoidance structures, or just that there are insufficiencies in the recognition and reward of value creation.

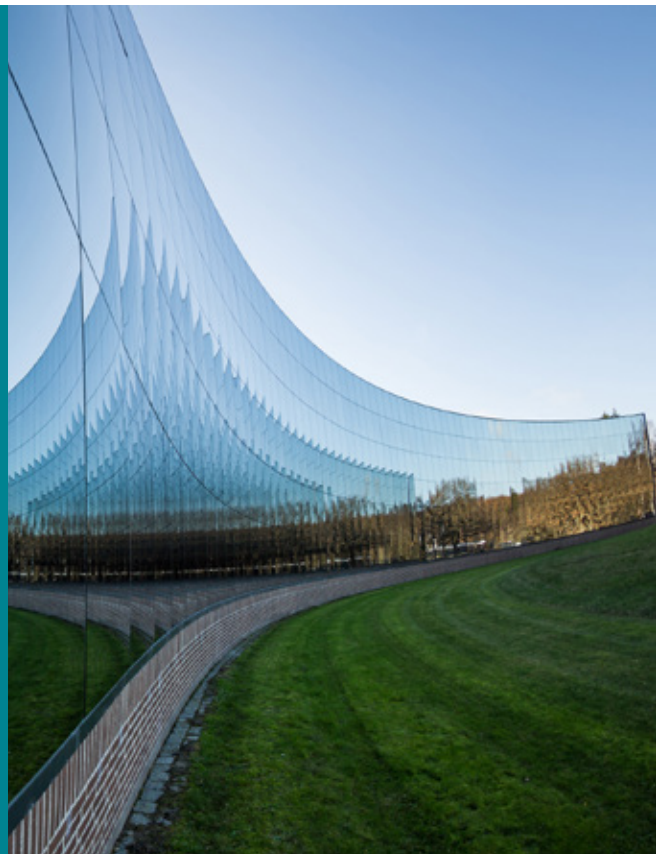
Considering this ever-changing transfer pricing landscape and changes within businesses, keeping up with transfer pricing requirements and best

practice can prove very challenging for most companies.

Having accurate, well documented, commercially driven transfer pricing planning and policies alongside a proactive approach to compliance has never been so critical to managing or preventing long and costly disputes with tax authorities worldwide.

This is where Mazars can help. Through our integrated international partnership we ensure you understand your transfer pricing obligations and that you are compliant. We can also design, review and optimise your transfer pricing policies, whilst simultaneously managing your transfer pricing risks worldwide. We work in alignment with the commercial priorities of your business.

**Whilst the OECD has tried to take a consistent approach to the arm's length principle transfer pricing reporting, differences and nuances have developed across countries. Identifying and navigating these differences increases the challenge for multinational entities.**



How we can assist you  
**360-degree service offering**



# How we can assist you 360-degree service offering

Whether your organisation is new to the world of transfer pricing or requires additional support, Mazars can step in and seamlessly fulfil your needs.

**Our transfer pricing offering comprises a full suite of services spanning advisory, implementation, compliance and dispute prevention/resolution.**

## Transfer pricing advisory services

We cover the widest range of needs you may have using our international network of local transfer pricing experts; from assistance in designing or reviewing group-wide transfer pricing structures and policies, to calculating potential tax risks.

We can provide you with value-adding strategic transfer pricing advice in any context (including valuation of intangibles, review of contracts, treatment of permanent establishments, etc.), which allows you to assess and manage your transfer pricing risks, and identify and capture any areas for optimisation.

We can also provide full implementation and operational support, including models that can be integrated into your systems and management reporting.

## Transfer pricing compliance

The OECD's three-tiered approach (i.e. Master File, Local File and Country-by-Country Report (CbCR)), widely adopted by tax authorities worldwide, has created a level of compliance which can be difficult to manage.

We can assist you with determining what compliance means for your business, based on the relevant local regulations, and help you achieve compliance on a

global scale by preparing the required documentation, including all necessary benchmarking analyses for commercial and financial transactions.

We offer a lean and efficient approach to transfer pricing documentation, which produces robust and reliable outcomes – this is your first and most important tool in dispute prevention.

## Dispute prevention and resolution

The preparation of transfer pricing documentation should no longer be regarded as purely a compliance exercise but instead an inherent part of the group's strategic tax risk management.

Advance Pricing Agreements (APAs) remain an effective tool for achieving certainty for multinational entities on complex matters or high value transactions. These can attract costly and protracted individual country tax audits. With this comes a risk of double taxation and ongoing uncertainty for the business.

Dispute resolution through Mutual Agreement Procedures (MAPs) are perhaps the most efficient way of resolving disputes if they do occur and avoiding double taxation.

Our experienced international team has good relationships with Competent Authorities to help you through the process and achieve desirable outcomes. Our practical approach can demystify the procedures to help you unlock their potential.

## Our services



## How we can assist you

### Advanced services

**Our capabilities include additional expertise in key areas of importance in today's transfer pricing landscape, to provide you with a complete service.**

#### **Intra-group services**

Intra-group service charges are a commonplace but often overlooked area of transfer pricing. Tax authorities often perceive management and other intra-group services as profit shifting transactions. We can assist you in correctly delineating the transactions, applying practical and compliant policies, identifying and documenting proof of benefit, and policies proving implementation support.

#### **Cost contribution arrangements**

Cost contribution arrangements allow parties to share the contributions and risks involved in either (a) the development, production, or acquisition of intangible or tangible assets; or (b) the execution of services, with an expectation

that the parties will share the potential benefits to be derived from their collaboration. We can assist you in establishing an arm's length arrangement (including 'buy-in payments'), and determining the subsequent entitlement of the benefits arising from the arrangement.

#### **Financial transactions**

Based on the long-awaited OECD guidance on financial transactions now incorporated into the latest OECD transfer pricing guidelines, our transfer pricing specialists can help you with assessing the arm's length nature of transactions, such as the role and responsibilities of treasury functions, intra-group loans, cash pooling, hedging, financial guarantees and captive insurance.





# How we can assist you

## Advanced services

### Valuation of intangibles and returns

Generally, in the context of a restructuring involving transactions relating to existing IP or IP generation, a valuation of such intangibles from a transfer pricing perspective may be required. We can provide you with an expert opinion in relation to valuations and advice on the allocation of returns from intangibles based on a robust DEMPE<sup>1</sup> analysis.

### Value chain analyses

The term value chain refers to the various business activities and processes involved in creating a product or performing a service. Understanding your value chain in the context of a multinational enterprise does not only provide helpful business insight, but it is also critical to gauging your transfer pricing risks and striving for optimisation of your tax structure.

### Value chain transformation services

Global value chains are experiencing transformation driven by a push for greater supply chain resilience to economic crises, which adds to existing pressures from the technology revolution, growing trade nationalism, and sustainability factors. We will help you define your new operating model and integrate tax into your organizational design to support your business case.

### Restructuring

Cross-border restructuring transactions may be carried out by multinational companies to streamline their business model, achieve growth and/or re-align their core activities. Such restructuring invariably have transfer pricing implications that may lead to costs in the form of exit taxes and/or penalties if not properly implemented. We can assist you in correctly assessing the implications and designing an efficient new transfer pricing policy, along with any remuneration for the reorganisation itself.

<sup>1</sup>Development, Enhancement, Maintenance, Protection and Exploitation functions and activities are to be evaluated to ensure that all parties contributing to intangibles are being remunerated on an arm's length basis.



# How we can assist you

## Our global transfer pricing team

### About Mazars

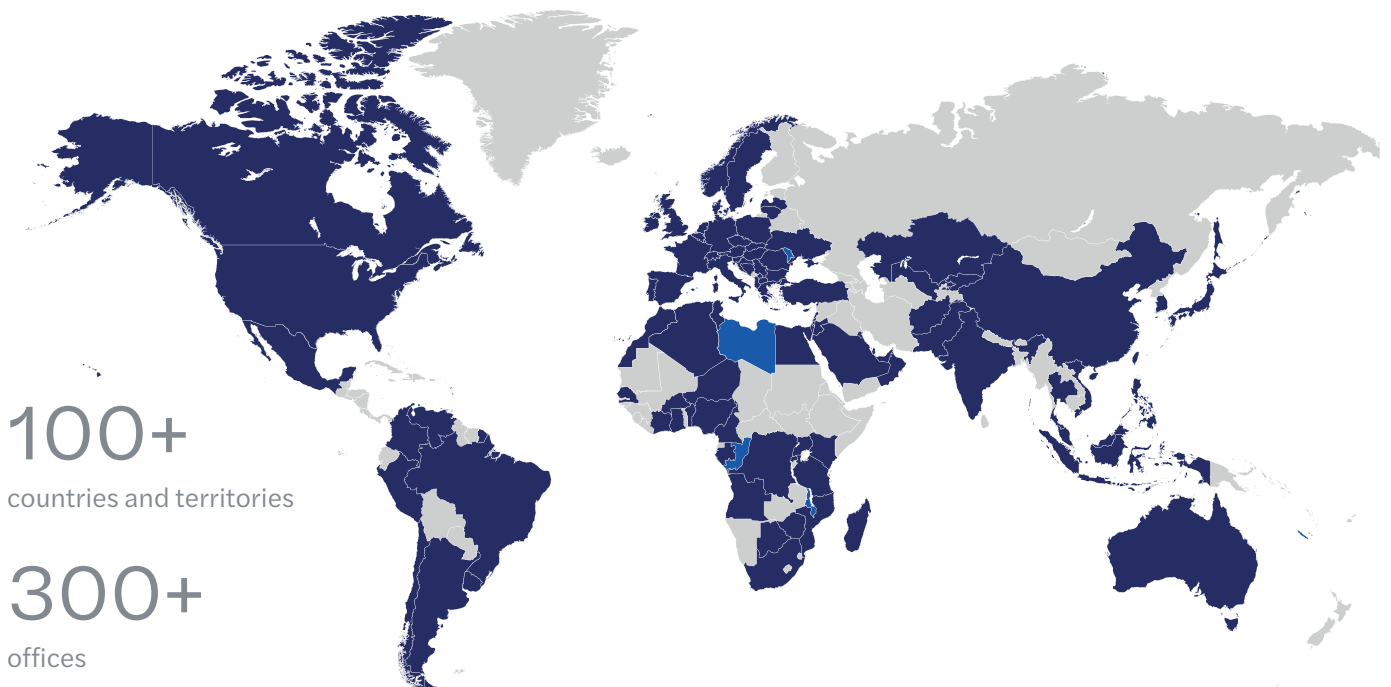
Founded in 1945, today Mazars is a global, connected partnership of over 47,000 professionals - 30,000+ in our integrated partnership, 17,000+ via the Mazars North America Alliance - with a presence in over 100 countries and territories, working seamlessly as one integrated team across borders, services and sectors. We have the skills and the scale to serve clients of all sizes, across all industries, while remaining agile, personal and distinct in our approach.

Our clients benefit from our ability to combine our technical expertise with both a global perspective and local knowledge. We empower our people to help clients make the most of opportunities, operate with conviction, and give confidence to their stakeholders.

We take a commercial approach to transfer pricing planning, always striving to achieve the strategic objectives of our clients. Our approach and vision is to provide a tailored and personal service to our clients, which is aligned to manage the current challenges and opportunities in international transfer pricing.

We provide our clients with one central point of contact for all your needs, across service lines and jurisdictions. This approach means we will always leverage and integrate international teams to bring you the specialist local knowledge and perspectives you require. Our aim is to provide you with a fully managed service and ensure your communications with Mazars are as simple and efficient as possible.

### Serving our clients worldwide



Valid as of January 2023

- Integrated countries and territories
- Non-integrated countries and territories:  
Mazars correspondents and representative offices

# How we can assist you

## Your trusted advisors in South Africa

Transfer pricing legislation and requirements have been applicable in South Africa since 1995. In recent years it has become more of a focal area for the South African Revenue Service (SARS) mainly due to international trends and the work performed by the OECD in respect of the Base Erosion and Profit Shifting (BEPS) action plans finalised in 2017.

Although South Africa is not an OECD member country the guidance as set out by the OECD is followed in terms of the arm's length principle and the evaluation of cross-border intra-group transactions. In addition to the OECD guidelines, various South African specific regulations in terms of transfer pricing have been promulgated by SARS. These regulations are to be considered in addition to section 31 of the Income Tax Act, which deals with the anti-avoidance provisions in respect of transfer pricing together with the guidance issued by SARS<sup>1</sup>.

Failing to adhere to the arm's length principle in South Africa could lead to transfer pricing adjustments in terms of which the onus of proof is on the taxpayer to determine whether the cross-border intra-group transactions are occurring on an arm's length basis or not. The effect of a transfer pricing adjustment could also lead to the further imposition of penalties and interest, for example the underestimation of provisional tax or underestimation of taxes.

From a compliance perspective, CbCR would be applicable in South Africa as well as Master File and Local File requirements.

Below is a short summary of the requirement, for more detail please visit our Mazars South Africa website for a country summary of the South Africa transfer pricing requirements.

CbCR would require a mandatory submission in South Africa where the ultimate parent company is situated in South Africa and the group consolidated revenue for the preceding year is in excess of R 10 billion (Euro 750 million). The CbCR would have to be submitted within 12 months of the financial year end.

A mandatory Master File and Local File would be required where the cross-border intra-group transactions are in aggregate (without netting off any transactions) exceeding or estimated to exceed R 100 million for a financial year. The threshold includes capital balances of funding transactions and dividends. The documentation is to be submitted with the corporate tax return within 12 month of the financial year end.

In addition to the above, a regulation has also been issued in respect of which certain information is to be kept on hand and provided by the taxpayer in the event of a transfer pricing audit or investigation.

Where the mandatory threshold for transfer pricing is not met the Income Tax Act still provides that the onus of proof is on the taxpayer to substantiate the arm's length nature of any cross-border intra-group transactions. In this instance it is recommended that taxpayers still perform an element of analysis as to mitigate any potential risks.



<sup>1</sup>Interpretation Note 127 (in respect of funding transactions), External Business Requirements Specification V 2.7.5, Government Gazette No. 40375 and Government Gazette No. 41186.

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Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services\*. Operating in nearly 100 countries and territories around the world, we draw on the expertise of more than 47,000 professionals – 30,000+ in Mazars' integrated partnership and 17,000+ via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.

\*Where permitted under applicable country laws

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