Africa Transfer Pricing Summit

22, 23, 24 and 25 October 2012, Hyatt Regency, Rosebank, Johannesburg, South Africa

Key topics to be discussed include:

➤ Global developments in transfer pricing and the impact on Africa
➤ The transfer pricing of intangibles: how intangibles are (and should be) defined, how to benchmark them, doing functional analyses to determine economic ownership and recent developments in intangibles at the OECD
➤ The transfer pricing of financial transactions: how to price and benchmark guarantees and loans
➤ Are advanced pricing agreements coming to Africa and will SARS lead the way?
➤ Transfer pricing and thin capitalisation: what do the changes to Section 31(3) of South Africa’s Income Tax Act mean in practice?

What are the benefits of attending?

➤ Attend the only vendor-neutral transfer pricing event on the African continent and the region’s premier knowledge-sharing forum
➤ Hear how changes in the regulatory framework and enforcement regime will affect your business
➤ Get up to date with the latest transfer pricing developments at the OECD
➤ Network with the leading transfer pricing thought leaders and decision makers from across Africa and the world
➤ Minimise your compliance risk by understanding transfer pricing in Africa and where it is going in the medium term

Speakers:

➤ Lee Corrick, Senior Advisor, Tax Transparency & Transfer Pricing, OECD
➤ Keith Engel, Chief Director of Legal Tax Design, National Treasury of South Africa
➤ Ana-Celia Mendes, Corporate Tax Manager: Southern Africa, General Electric
➤ Richard Stern, Program Manager: Global Tax Simplification, World Bank Group
➤ Michael Fortmann, Associate Director; KPMG
➤ Michael Honiball, Partner, Webber Wentzel
➤ Chris van de Walle, Director: EMEA, Bureau van Dijk
➤ Andrew Wellsted, Tax Director, Norton Rose
➤ Karen Miller, Director: International Tax: Transfer Pricing, Ernst & Young
➤ Prof. Daniel Erasmus, Senior International Tax Attorney & Advisor, International Institute for Tax & Finance
➤ Michael Hewson, Associate Director, Deloitte
➤ David Lermer, Director, PwC
➤ Dr. Peter Mpinganjira, Director, PFM Consulting
➤ Mark Badenhorst, Director, PwC
➤ Theo van der Spoel, Group Tax Manager, Nampak
➤ Jens Brodbeck, Executive, ENS
➤ Natasha Vaidanis, Director, KPMG
➤ Jonathan Sweidan, Senior Manager, KPMG
➤ Christian Wiesener, Senior Manager, KPMG

Pre-conference workshop
The emerging transfer pricing environment in Africa and what multinationals doing business in Africa can expect in the future - from first-hand practical experience

Post-conference workshops

Workshop one: The transfer pricing of services
Led by Natasha Vaidanis, Director, KPMG, Jonathan Sweidan, Senior Manager, KPMG and Christian Wiesener, Senior Manager, KPMG

Workshop two: Pricing intangibles - getting to grips with the evolving Chapter VI
Led by: Lee Corrick, Senior Advisor, Tax Transparency & Transfer Pricing, OECD
Dear Taxation Professional

Transfer pricing is highly complex and in Africa, regulations, legislation and revenue authority interpretations are rapidly evolving. Understanding a topic as complex as transfer pricing in a region as multi-faceted as Africa is a major challenge. With increased revenue authority scrutiny expected over the medium term, it is a challenge that will only grow in intensity and broaden in scope. It is abundantly clear, therefore, that doing business in Africa now requires detailed, comprehensive and up-to-date knowledge of transfer pricing legislation, rules, documentation requirements and practices.

The Institute for International Research’s Africa Transfer Pricing Summit, in partnership with the South African Institute of Tax Practitioners, with two full conference days and two interactive workshop days, represents a (mostly) painless ticket to managing your tax compliance risk by ensuring that you thoroughly understand the intricacies of transfer pricing in Africa.

Attend and benefit from the knowledge and experience of transfer pricing thought leaders from international and government organisations, multi-national companies and the major accounting consultancies for four days of knowledge sharing and networking.

I look forward to meeting you at the event.

Kind regards

Michael Meadon
Senior Project Manager: Conferences
Institute for International Research

Day one: 22 October 2012

Pre-conference workshop

The emerging transfer pricing environment in Africa and what multi-nationals doing business in Africa can expect in the future - from first-hand practical experience


Africa is an increasingly an important place to do business for multi-national companies, especially given the continent’s resilient economic growth in the face of the global financial crisis. As the number and volume of cross-border transactions continue to increase, African countries are paying greater attention to transactions between related parties in an attempt to ensure their tax bases are not eroded. Rightly or wrongly, the activities of NOPs and tax activists have also drawn attention to the issue of transfer pricing in Africa.

The results have been evident in the widespread adoption of either specific transfer pricing legislation, or some form of anti-avoidance legislation. It’s clear, therefore, that companies will need to adjust to the new reality of revenue authority scrutiny when it comes to transfer pricing.

What will be covered:
- An overview of international tax developments in African over the last few years
- The legal status of transfer pricing (and anti-avoidance) in Africa: recent developments and expected legislation in the near to medium-term
- The OECD transfer pricing guidelines vs. the draft UN transfer pricing guidelines in Africa
- Exchange of information issues in Africa: the correct protocols and where authorities may get it wrong
- Safe harbours on the continent, their status and future
- Will Advanced Pricing Agreements come to Africa? Does the appetite and capacity exist?
- The transfer pricing documentation requirements of different jurisdictions: ensuring that you get it right
- Trends in the interpretation of economic ownership (vs legal ownership) in Africa
- Management fees and royalties: a hot topic
- Tax risk management in Africa: putting in place a proper system to avoid the adversarial nature of tax controversies with tax authorities
- Managing your transfer pricing process: the principles you need to follow to minimise your risks
- The importance of being willing to go to court to challenge over-zealous revenue authorities: case studies from South Africa, Uganda and Malawi

Benefits of attending:
- Understand the state of play in transfer pricing across Africa and how it will evolve over the short- to medium-term
- Learn how to put in place a comprehensive tax risk management system
- Know your legal rights and how the dispute resolution process works in African countries, illustrated with practical examples

Registration starts at 08:00. The workshop will run from 08:45 to 16:00 with breaks for refreshments and lunch.

Day two - 23 October 2012

08:00 Registration and early morning refreshments

08:45 Chairperson’s welcome and opening remarks
Michael Honiball, Partner, Webber Wentzel

09:00 The role of transfer pricing in policy formulation
- Latest developments in transfer pricing at the South African Treasury
- Legislative changes being considered in South Africa
- The evolution and future of government views on transfer pricing in Africa
Keith Engel, Chief Director of Legal Tax Design, National Treasury of South Africa

09:45 Looking at the contribution of the World Bank to transfer pricing in the developing world
- Conducting a country-by-country transfer pricing diagnostic (needs assessment)
- Helping countries implement transfer pricing rules: legislative reform, administrative capacity building, managing the costs of compliance and conducting risk-based assessments
- Tax simplification: reforming tax laws, strengthening accounting standards and reporting obligations and improving frameworks for exchange of information
Richard Stern, Program Manager: Global Tax Simplification, World Bank Group

10:30 Mid-morning refreshments and speed networking

11:15 Pricing loans and guarantees
- Understanding the transactions
- Methodology and economic analysis for financial services
- Finding comparables
Michael Fortmann, Associate Director, KPMG and Jorge Simoes, Manager, KPMG.

12:00 Mastering transfer pricing documentation: challenges and solutions
- Meeting the challenges of documenting key transfer pricing relevant activities and services
- Risk-based assessment of documentation: focusing on what evidence is needed to support important transfer pricing determinations
- Understanding the documentation requirements and expectations of revenue authorities in Africa
Ana Celia Mendes, Corporate Tax Manager: Southern Africa, General Electric

12:45 Lunch and networking

13:45 Managing transfer pricing compliance in Africa: A continent-wide overview
- A summary of the legislative position of the sub-Saharan African countries: what laws and regulations are in place?
- Documentation requirements in various jurisdictions: what you absolutely must document and submit
- Supporting policies in comparables: what comparables are acceptable where?
- The audit activities of African tax authorities and managing tax compliance risk by transaction
- Practical considerations in Africa
Michael Fortmann, Associate Director, KPMG and guest speaker from Africa TBA.

15:15 Mid-afternoon refreshments and networking

15:45 Transfer pricing healthcare: prevention, diagnosis, treatment and aftercare
- Prevention: first do not dispute - how to ensure compliance and mitigate the risk of an audit from a revenue authority
- Diagnosis: assessing your transfer pricing risks and putting in place measures to reduce them
- Treatment in the event of an audit: how to navigate the minefield and the various dispute resolution options
- Aftercare: monitoring and managing your transfer pricing to avoid repeat audits
Karen Miller, Director: International Tax: Transfer Pricing, Ernst & Young

16:30 The international tax consequences of a procurement function: Nampak’s experiences
- Nampak’s centralised procurement function: services rendered and risk assumed
- Ensuring that the value of the procurement function is valued appropriately
- Keeping a handle on compliance risk: ensuring compliance across Africa and meeting documentation requirements
Theo van der Spoel, Group Tax Manager, Nampak

17:15 Closing remarks from the chair

17:30 End of day two

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In the event of unforeseen circumstances IIR SA BV reserves the right to change the programme content, the venue or the dates.
Day three: 24 October 2012

08:00 Registration and early morning refreshments

08:45 Chairperson’s welcome and opening remarks
Michael Honiball, Partner, Webber Wentzel

09:00 The benchmarking of tangible and intangible transactions: an African perspective
➤ OECD guidelines
➤ Databases available and data characteristics
➤ Country risk adjustments – are they necessary?
➤ Benchmarking intercompany financial transactions (intercompany loans)
Chris van de Walle, Director, EMA, Bureau van Dijk

09:45 Correctly interpreting Section 31 of the Income Tax Act of South Africa
➤ The background: Section 31 of the Act and the recent changes brought about by the Taxation Laws Amendment Act of 2011
➤ Cautions about the legal status of SARS’ practice notes
➤ Foreign cases relevant to the interpretation of Section 31
Andrew Wellsted, Tax Director, Norton Rose

10:30 Mid-morning refreshments and networking

11:00 Implementing transfer pricing policies in practice
➤ The difference between having a transfer pricing policy in place and having a transfer pricing system in place
➤ Documentation: how to collect what and how much is enough
➤ Dealing with data limitations – how to make the best of European comparables
➤ Practical guidelines for effective and relatively pain-free implementation
Michael Hewson, Associate Director, Deloitte

11:45 Value chain transformation: a ‘best business’ model for Africa
➤ The changing business environment and the focus on cash creation, cost reduction, globalization and corporate simplification
➤ Understanding why tax planning – such as depth push-downs – are under fire across the globe
➤ The ‘best business model’ and the application, or not, of the number of variations of the principal model and IP planning/management to Africa
➤ Identifying the key opportunities for and challenges of implementing a successful value chain transformation
David Lermer, Director, PwC and Mark Badenhorst, Director, PwC

12:30 Lunch and networking

13:30 Transfer pricing developments at the OECD
➤ The status of the OECD project on the transfer pricing of intangibles
➤ Capacity building initiatives in Africa and tax administration simplification initiatives
➤ Future directions for transfer pricing in developing countries
Lee Corrick, Senior Advisor, Tax Transparency & Transfer Pricing, OECD

Panel discussion

14:15 The Arms-Length Principle (ALP) - flawed or the only game in town?
➤ Is the ALP the best way to conduct transfer pricing in theory and in practice?
➤ Examining the alternatives to the ALP
➤ Is unitary taxation a practicable alternative?
Lee Corrick, Senior Advisor, Tax Transparency & Transfer Pricing, OECD
Prof. Daniel Erasmus, Senior International Tax Attorney & Advisor, International Institute for Tax & Finance

15:00 Mid-afternoon refreshments and networking

15:30 Cross-border intellectual property transactions
➤ Latest international developments, including discussion draft on the revision of Chapter VI of the OECD Guidelines
➤ Recent changes to the South African Exchange Control Regulations as a result of the Oilwell case
➤ Tax planning involving IP holding companies – what to consider in the new environment
Jens Brodbeck, Executive, ENS

16:15 Conducting robust functional analyses in house: a practical guide
➤ The how and why of functional analysis
➤ Qualitative in-house research: what to ask and how to interpret the answers
➤ How functional analyses inform TP policies and comparables: critical need to know
Dr. Peter Mpinganjira, Director, PFM Consulting

17:00 Closing remarks from the chair

17:15 End of day three

Day four: 25 October 2012

Post-conference workshops

Workshop one: The transfer pricing of services
Led by Natasha Vaidanis, Director, KPMG, Jonathan Sweidan, Senior Manager, KPMG and Christian Wiesener, Senior Manager, KPMG

Businesses usually know what to look out for regarding the transfer of goods within a group, but what about services? This is an area of risk not only for multi-national companies with large head offices, but also for SMEs. For example, the South African entrepreneur who expands into Nigeria and centralises the bookkeeping for the Nigerian business should beware.

International groups often adopt a centralised model because of economies of scale or concentration of expertise. Transfer pricing then becomes critical to a head office supplying services to its operating companies. While, for example, separate manufacturing companies and distribution subsidiaries may assume many of the normal risks associated with running a business, they may receive non-core services, such as IT, legal and HR support, from the head office. These services need to be charged and paid for.

The guidance in this session covers the following issues:
➤ OECD Transfer Pricing Guidelines
➤ Have intra-group services been provided?
➤ Would an independent company pay for the service?
➤ Are the activities shareholder activities?
➤ Services combined with other transactions
➤ What is the arm’s length price of a service?
➤ Procurement contracts

As well as tangible goods, the transfer pricing legislation applies to services provided between connected persons. The term ‘services’ is not defined in the South African Income Tax Act. A common sense approach, based on a complete review of the facts, is necessary in deciding whether a service has been performed and what the arm’s length price for the service would have been.

Workshop two: Pricing intangibles - getting to grips with the evolving Chapter VI
Led by Lee Corrick, Senior Advisor, Tax Transparency & Transfer Pricing, OECD

One of the most difficult asset classes to price properly are intangibles. How to value intercompany transfers of intangibles such as trademarks, copyrights and patents is a complex and controversial question, often resulting in disputes and much misunderstanding. There are debates not merely about methodologies, but about the very definition of an intangible. It is exactly for these reasons that the OECD WG VI undertook the ongoing intangibles project, which aims to address these uncertainties by putting in place a clear, operationally-relevant and hopefully universal standard for pricing intangibles. This half-day workshop will cover intangibles in depth and their future in OECD standards.

What will be covered?
➤ The OECD project on intangibles: the background and history
➤ How are and how should intangibles be defined?
➤ Unpacking “something which is not a physical asset or a financial asset, and which is capable of being owned or controlled for use in commercial activities”
➤ Legal vs economic ownership of intangibles
➤ How should intangibles be valued? Determining arm’s length conditions for transactions involving intangibles
➤ The impact of the OECD project on the transfer pricing of intangibles for developing countries

Key learning outcomes:
➤ Learn how to value intangibles under the OECD rules
➤ Hear directly from an OECD official - with extensive experience in Africa – on how the intangibles project is developing
➤ Understand the new proposed OECD rules before they are promulgated to get ahead of the compliance game

Registration starts at 08:00. Workshop one will run from 08:45 to 12:00. Lunch will follow from 12:00 to 13:00. Workshop two will run from 13:00 to 16:00. Each workshop will have a short refreshment break.

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