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Tax & Legal Alert

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OECD Public Consultation: Potential Revisions to Transfer Pricing Guidelines for Intra-Group Services

Key Proposed Changes to Chapter VII

The Organisation for Economic Co-operation and Development (OECD) has released a Public Consultation Document outlining potential revisions to Chapter VII of its Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Transfer Pricing Guidelines). This chapter specifically addresses "Special considerations for intra-group services."

This communication seeks to highlight the key proposed revisions to Chapter VII.

Key Highlights

The OECD's 2026 public consultation draft proposes changes to Chapter VII of the OECD Transfer Pricing Guidelines on intra-group services. It is still a discussion draft and comments are requested by 22 July 2026. The OECD intends to hold a public consultation in November 2026, and the draft does not yet represent consensus guidance of the OECD Committee on Fiscal Affairs. The practical direction is clear on the fact that intra-group service charges should be anchored in accurate delineation, benefit, pricing evidence and documentation, rather than broad labels such as management fee, regional support, or head office recharge.

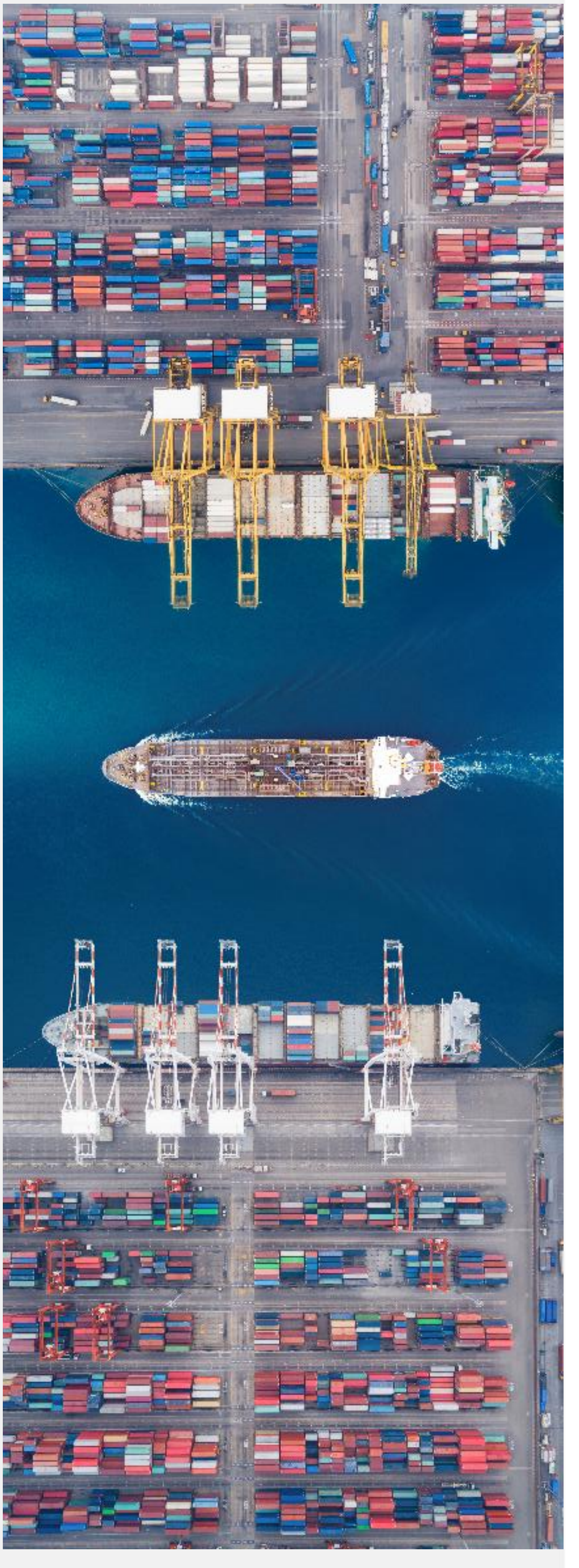
The primary objective of these revisions is to ensure alignment with the foundational principles in Chapters I, II, and III of the OECD Transfer Pricing Guidelines, enhance clarity, and provide practical illustrations through the inclusion of new examples. The revisions are not intended to change the general principles underlying the transfer pricing analysis of intra-group services.

The proposed revisions focus on several critical areas:

1. Accurate delineation of the transaction

The draft emphasises that taxpayers must identify the actual commercial and financial relations between related parties before testing price. Labels, invoices, payments or service agreements are not sufficient by themselves to prove that a service was rendered. The analysis should examine functions performed, assets used, risks assumed, interdependencies with other controlled transactions, and whether the service provider is performing routine support or making more valuable contributions.

What is new or clarified: The draft makes the delineation exercise more explicit for services. It also clarifies that there should be no automatic presumption that intra-group services are always routine, always priced using a cost-based method, or always tested using a particular party.



2. Benefit test

A charge is supportable only where the activity provides economic or commercial value to the recipient, such that an independent enterprise would have paid for it or performed it in-house. The draft clarifies that the benefit may be expected rather than realised immediately, and that losses or failure to achieve the intended outcome do not automatically mean no service was provided if the benefit was reasonably expected at the time.

The OECD also gives clearer guidance on categories that commonly fail the benefit test:

- Shareholder activities: activities performed solely because of ownership interests, benefiting only the shareholder, should not be charged to subsidiaries.
- Duplicative activities: duplicate services generally should not be charged, unless the apparent duplication is temporary, complementary, required by regulation, or commercially justified.
- Incidental benefits / passive association: indirect or remote benefits from being part of a group do not justify a charge.

What is new or clarified: The draft separates the question “was there a service?” from “what is the arm’s length price?”. A service is not disregarded merely because the amount charged is not arm’s length and pricing is a separate analysis.

3. Arm’s length pricing: method selection, charging approach and cost treatment

The draft recognises both direct-charge and indirect-charge approaches. Direct charging is preferable where specific services, costs and recipients can be identified without disproportionate burden. Indirect charging remains acceptable where services benefit multiple entities, provided allocation keys reasonably reflect expected benefit, are measurable and verifiable, and avoid double counting or under-counting.

For pricing methods, the draft confirms that CUP may be appropriate where reliable comparable services exist, but cost-plus or TNMM may be more practical for routine services. Profit split may be relevant for complex, integrated services involving unique contributions, intangibles or shared economically significant risks.

On pass-through costs, the draft clarifies that costs should be passed on without a mark-up where the service provider merely acts as paying agent or intermediary; a mark-up should apply only to the value-adding function actually performed by the provider. The draft also notes that an arm's length outcome does not always require a profit element, although independent service providers would normally seek a profit.

4. Low value-adding intra-group services

The OECD keeps the existing simplified approach for low value-adding services. Qualifying services must be supportive, non-core, not involve unique and valuable intangibles, and not involve significant risk. The simplified approach uses cost pools, benefit-based allocation keys and a 5% mark-up, excluding pass-through costs. Importantly, the OECD notes that the low value-adding services section largely reproduces the existing approach, with cross-reference updates rather than a substantive rewrite.

Businesses should not assume the OECD 5% simplified mark-up will automatically be accepted in Uganda without local support. The local file should still explain the nature of the services, the benefit, the allocation key and the basis for the mark-up.

5. Documentation expectations

The draft does not create a mandatory checklist, but it clearly raises the bar for practical evidence. Useful evidence includes benefit narratives, communications and approvals, service agreements, project materials, deliverables, cost-base calculations, allocation-key rationale, source documents, pass-through cost breakdowns, and third-party invoices.

Implications for Multinational Enterprises

These potential revisions, once finalised, could have significant implications for MNEs, particularly in how they:

- Delineate and document intra-group services: MNEs may need to review their current practices to ensure they align with the refined "benefit test" and other delineation criteria.
- Determine arm's length pricing: The guidance on method selection, pass-through costs, and profit elements could impact the pricing of various intra-group services.

- Prepare transfer pricing documentation: Enhanced requirements for demonstrating the benefit and supporting the arm's length nature of charges will necessitate robust documentation.

Uganda Context

The URA's current audit focus aligns closely with the OECD proposals. Public and internal Uganda TP materials identify high-risk areas such as significant intra-group recharges, intra-group services, use or transfer of intangibles, intra-group financing, business restructurings, and inbound management or administrative charges where the taxpayer cannot evidence the local benefit or support the charge with agreements and documentation.

Recent Ugandan commentary on TP audits highlights that URA scrutiny is becoming more aggressive, especially for cross-border services and IP-related payments, and that the Tax Appeals Tribunal has repeatedly emphasised clear TP policies, functional analysis, benchmarking, source documents and audit cooperation.

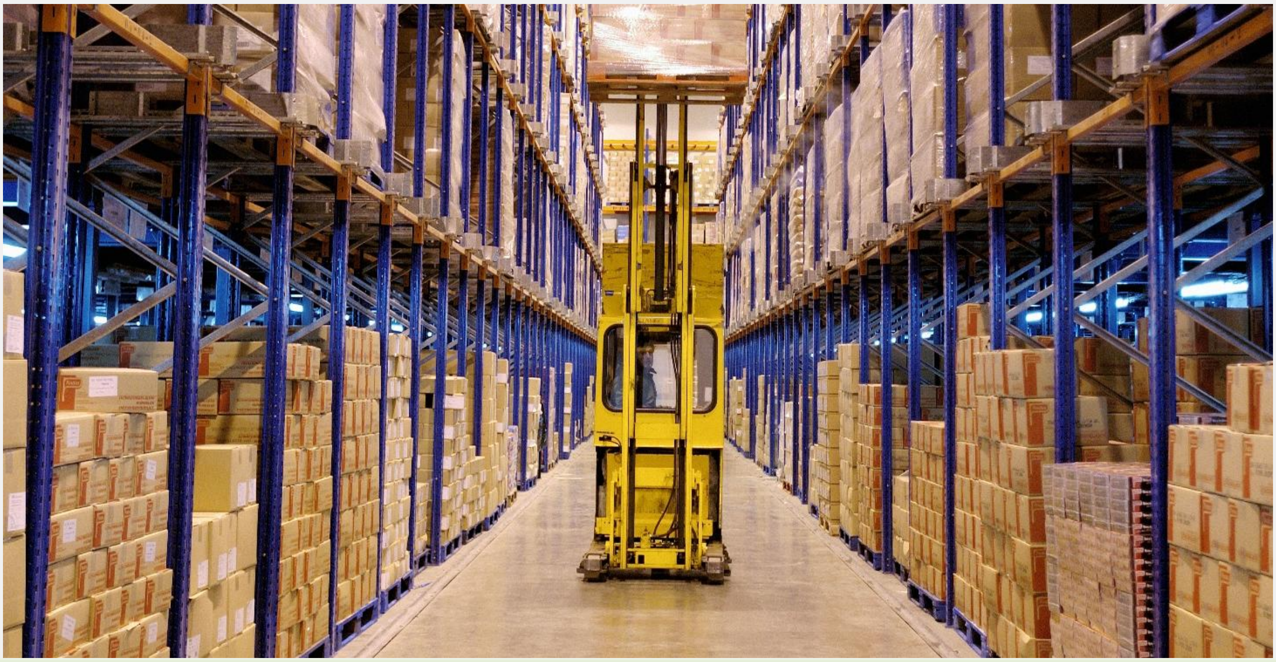
SMEC International Ltd v Uganda Revenue Authority (TAT No. 75 of 2019), the Tax Appeals Tribunal handled a tax assessment dispute stemming from transfer pricing and denied deductions.

In the case, TAT observed that generic information was not sufficient to substantiate the extent of services rendered, reinforcing the practical importance of evidence for intra-group charges.

Next Steps

The OECD's public consultation period for this discussion draft remains open until 22 July 2026, with a public consultation meeting scheduled for November 2026. This presents stakeholders with an opportunity to provide input and influence the development of the proposed guidance.

MNEs should carefully evaluate the proposed revisions and consider their potential implications for existing intra-group service arrangements and transfer pricing policies. As the proposals are still at the discussion stage, businesses should closely monitor further developments and assess whether submitting comments to the OECD would be beneficial. We also recommend that MNEs engage proactively with their tax advisors to understand the potential impact of the changes and to prepare for any adjustments that may be required to their transfer pricing policies and documentation frameworks.



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