



Deloitte Africa Tax & Legal Transfer Pricing Alert

*Keeping you up to date on the latest transfer pricing
developments impacting your business*

New transfer pricing regulations in Ghana

Ghana has introduced new transfer pricing regulations, the Transfer Pricing Regulations, 2020 (L.I. 2412), with effect from November 2020.

The new regulations revoke the Transfer Pricing Regulations, 2012 (L.I. 2188) introduced in September 2012. However, L.I. 2188 will continue to apply to assessments pending under L.I. 2188 before entry into force of the new regulations.

In this update, we highlight the documentation and filing requirements.

Documentation and filing

Key changes

In addition to the annual transfer pricing return, the new regulations have introduced an obligation to file country-by-country (CbC) reports for each fiscal year. Further, companies are now required to file electronic copies of their local files and master files with the Commissioner-General not later than four months after the end of each fiscal year.

The new documentation and filing requirements are summarised as follows:

Requirement	Deadline
Annual transfer pricing return	Not later than four months after financial year end
CbC report	Not later than 12 months after financial year end
Contemporaneous documentation: <ul style="list-style-type: none">• Local file• Master file	Not later than four months after financial year end

The modalities required for electronic filing of the contemporaneous documentation, and the standard template for the CbC report, are however yet to be provided by the tax authority.

[Download](#) the Deloitte Ghana Tax Update for further reading on key changes in the new regulations and the expected shift in the transfer pricing compliance environment.

OECD guidance on the transfer pricing implications of the COVID-19 pandemic

On 18 December 2020, the OECD released Guidance on the transfer pricing implications of the COVID-19 pandemic (the guidance). It focuses on how the arm's length principle and OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines) apply to issues that may arise or be exacerbated by the COVID-19 pandemic.

Deloitte comments

The guidance recognises the **practical challenges** for the application of the arm's length principle as a result of the economic conditions arising from the COVID-19 pandemic and government responses. It is not an expansion of the OECD Guidelines but an application of the arm's length principle.

The guidance focuses on four priority issues: **comparability analysis, losses and the allocation of COVID-19 specific costs, government assistance programmes, and advance pricing agreements (APAs).**

Businesses will welcome any additional clarity as they seek to apply the transfer pricing rules for 2020, and other financial years affected by the COVID-19 pandemic. However, it remains clear that each situation and transaction is likely to have to be considered and accurately delineated, alongside an assessment of which party bears economically significant risks, in some detail. The guidance sets out the possibility that a limited risk entity might at arm's length make a loss in some circumstances.

The guidance recommends practical approaches to dealing with difficulties that will arise in relation to comparability, including the use of comparisons with forecast information and reasonable commercial judgement. These will be helpful as businesses seek to navigate applying transfer pricing rules to COVID periods. In addition, the guidance emphasises the potential need for collaborative and flexible approaches to APAs, both existing and future, recognising many businesses' desire for certainty.

Collecting relevant contemporaneous evidence remains a priority for businesses, and will be particularly valuable in preventing or resolving any future disputes.

The OECD Guidelines should continue to be relied upon when performing a transfer pricing analysis but it is recognised that, for the financial years impacted by the COVID-19 pandemic, novel issues may arise and some transfer pricing issues may be exacerbated. The four priority issues identified should be considered together within the framework of the OECD Guidelines in order to find a reasonable estimate of an arm's length outcome. The guidance represents the consensus view of the 137 countries participating in the G20/OECD Inclusive Framework on BEPS.

[Click here](#) to download the full update as prepared by the Deloitte UK transfer pricing team.

Key contacts

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Resources that would be of interest to you

- [Updates on transfer pricing developments](#)
- [Deloitte's 2020 Guide to fiscal information: Key economies in Africa](#)
- **Deloitte School of Tax & Legal** – [Register](#) for our latest online training courses.
- Visit the **Deloitte COVID-19 Tax & Financial Measures microsite** [here](#) and access a high-level summary of tax and fiscal COVID-19 measures that have been announced by governments.
- **Deloitte tax@hand** – Get timely COVID-19 global and regional tax news, information and resources as developed by Deloitte firms around the world. Subscribe and access the site [here](#).
- **COVID-19 Signal Topic Alerts** – Stay up-to-date with the latest government tax and fiscal responses to COVID-19. To sign up to receive Signal Topic Alerts, email signal@deloitte.com.
- [GoWork – COVID-19 Immigration Digital Map](#) - Provides information in real time, so companies can access the most up-to-date information on travel restrictions, quarantine and immigration in relation to COVID-19.

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