


TANZANIA REVENUE AUTHORITY
ISO 9001: 2008 CERTIFIED

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Tanzania Case Study

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Coverage

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1.0 Introduction



- International Taxation Unit (ITU) was established in 2011 at LTD, TRA.
- Handles all issues related to International Taxation
- Provides technical advice to the TRA Management and Government on the taxation of international (cross-border) transactions matters.
- In summary issues dealt at ITU include:
 - ✓ Transfer pricing audits to the MNC's
 - ✓ Permanent Establishment (PE)
 - ✓ Tax Treaties (DTA) Negotiations in collaboration with MOF
 - ✓ Exchange of Information, etc.
- To date, the unit has Manager with two Assistant Managers leading a team of 10 specialists coming from various professional backgrounds such as Economics, Statistics, Law, Accountancy and Taxation.

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2.0 Transfer Pricing Rules in Tanzania



- We have TP Rules in Tanzania: Income Tax (Transfer Pricing Regulations) 2014.
- Tanzania TP Regulations and Guidelines are largely based on the governing standard for TP which is the arm's length principle as set out under:
 - ✓ Section 33, 34 of the ITA, 2004 and section 8 of Tax Admin Act (TAA) 2015
 - ✓ OECD TP Guidelines
 - ✓ United Nations (UN) Practical Manual on TP for Developing Countries.
- **Specific local TP rules in Tanzania.**
 - ✓ Hierarchy in applying TP methods
 - ✓ Fine/Imprisonment for not complying to TP documentation
 - ✓ Definition of PE – just '**place of business**' not necessary 'fixed place of business'
- Most taxpayers follow TP rules; however, there are some cases being litigated through legal appeal mechanism.
- Most Common TP Issues in Tanzania are:
 - ✓ Management fees
 - ✓ Royalties
 - ✓ Transfer prices for tangible goods and Other payments for services.

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2.0 Transfer Pricing Rules in Tanzania (Cont'd.)

List of Non-ATAF Member Countries most Taxpayers having transactions with in Tanzania

- Togo
- Congo Brazzaville
- Congo DRC
- Mali
- Djibouti
- Ethiopia
- Ivory Coast

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3.0 Transfer Pricing Methods Mostly Used by Taxpayers in Tanzania

- Mostly, Transactional Net Margin Method (TNMM)
- Followed by Cost Plus
- In some cases CUP -intangibles

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4.0 Databases Used for Comparables in Transfer Pricing Analyses

- BvD TP Catalyst (Orbis Database)
 - ✓ Royalty Agreements Module (Kt Mine)
 - ✓ Intercompany Financial Transactions (Cuft Analytics)
 - ✓ Full Access to Orbis II Database for Risks & Research Purposes (Daily Updates automatically on various issues worldwide such as merger & acquisitions, sale of shares abroad, etc.

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5.0 Future of Transfer Pricing in Tanzania

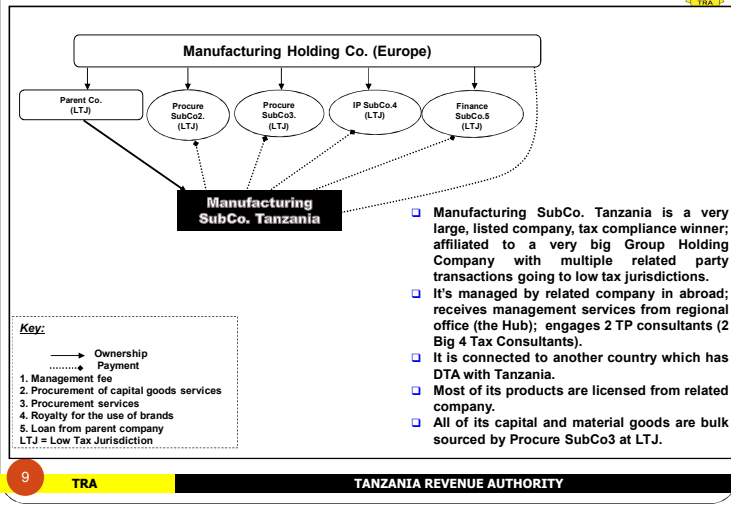
- More legislation and guidance-BEPS Action plans
- More TP Audits to MNCs
- Tax Treaties network in Tanzania (Review & Initiate)
- Exchange of Information (EOI) - Global Forum, TIEA
- Advanced Pricing Agreements (APAs) in future
- Deployment of more staff and capacity building

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6.0 Transfer Pricing Case Study Dealt in Tanzania



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6.0 TP Case Study Dealt in Tanzania (Cont'd...)

OUR APPROACH:

- Carrying out very intensive interview and fact gathering
 - To understand business operations
 - Run comparability analysis based on functions performed, assets employed and risks assumed
 - Study Taxpayer's TP report and challenge it.
 - Apply TP Methods
 - Test the Arm's length price
- Three transactions failed the test in the **Manufacturing SubCo. Tanzania** analysis above:
 - Centralized procurement of goods done by **Procure SubCo.3** and **IP SubCo.4** all at low tax jurisdictions.
 - Management services provided by **Parent Co** at LTJ.
 - Payment of royalty for the licensed products which some were originated in Tanzania and licensed abroad at LTJ. (**IP SubCo.4**)

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6.0 TP Case Study Dealt in Tanzania (Cont'd...)

Summary of TP Audit Results

| Transaction | Issue | Problem | TRA Position |
|-------------------------------|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Procurement Services | Purchase from associates who act as a group procurement agents | Manufacturing SubCo. Tanzania paid Procure SubCo. 3 a mark-up based on cost of goods sold. | Payment should have been based on cost of performing procurement function. |
| Royalty for the Use of Brands | 4.5% of Gross Price (i.e. Taxes inclusive) The 4.5% is not an arm's length | Inclusion of parameters which are not business in nature. Marketing and development of the brand is done by Manufacturing SubCo. Tanzania | The normal licensing charge is net selling price Reduce the royalty rate to 2% (Benchmarked) |
| Management Service Fee | Parent Co. is paid 3.5% of Turnover which is against best practice. | Intra-group services are remunerated based on cost of service provision plus a mark-up. | The actual costs incurred by "Hub" was used with a 5% mark-up to adjust Manufacturing SubCo. Tanzania costs. |

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