



South Africa

WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	Yes
Since when does a TP documentation requirement exist in your country?	2016
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Which TP methods may be applied?	All OECD methods
Are any TP methods preferred over others?	As per the OECD guidelines.
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR, MF/LF implemented
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	Local file prepared into Practice Note 7 of 1999 (to be replaced), the OECD guidelines and Section 29 of the Tax Administration Act. Master File prepared into OECD guidelines and SARS guidance. CbC incorporated into OECD guidelines and SARS guidance issued and to be issued.
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:	Section 31 of Income Tax Act, Practice Note 7/99 (to be updated), Section 29 of Tax Administration Act, OECD guidelines.

2. Master File (MF)	
	Yes
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	A Reporting Entity (other than a Surrogate Parent Entity) resident in South Africa must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to the CbC Report, master file and the local file. If the aggregate of a person's potentially affected transactions for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million, the person must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to the master file and the local file.
Euro Equivalent	EUR 6,802,119.54
As from which year does this obligation exist?	Must submit returns for the Reporting Fiscal years and financial years commencing on or after 1 January 2016 and the subsequent Reporting Fiscal Years and financial years.
When does the Master File need to be available?	At the time the return needs to be filed.
When does it need to be submitted?	Due date for submitting a return: A return must be submitted within 12 months from the last day of the Reporting Fiscal Year.
How and where should the MF be filed?	SARS e-filing
Does the MF have to be prepared in the relevant local language ?	No, must be filed in English
Is documentation in English permissible?	Yes

What are the possible consequences of not having the MF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	No
To which extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?	Consistent with OECD requirements.

3. Local File (LF)	Yes
What is the threshold requirement for the obligation to prepare a LF?	A Reporting Entity (other than a Surrogate Parent Entity) resident in South Africa must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to the CbC Report, master file and the local file. If the aggregate of a person's potentially affected transactions for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million, the person must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to the master file and the local file.
Euro Equivalent	EUR 6,802,119.54
As from which year does this obligation exist?	Must submit returns for the Reporting Fiscal years and financial years commencing on or after 1 January 2016 and the subsequent Reporting Fiscal Years and financial years.
When does the LF need to be available?	At the time the return needs to be filed .
When does the LF need to be submitted?	Due date for submitting a return: A return must be submitted within 12 months from the last day of the Reporting Fiscal Year.
How and where should the LF be filed?	SARS e-filing
Does the LF have to be prepared in the relevant local language?	No. Must be filed in English.
Or is documentation in English permissible?	Yes
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	No
To which extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?	Consistent with OECD requirements.

4. Country-by-Country Reporting	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	The ultimate parent entity, resident in South Africa, of a multinational group with a total consolidated group revenue of R10 billion or more for the previous financial year must submit the required information on a return in the format as specified in the Business Requirements Specification (BRS): Country-by-Country and Financial Data Reporting. The BRS can be found on the SARS website. Local filing of a CbC Report by others members of an MNE Group is required in the circumstances described in Article 2(2) read with Article 2(3) of the CbC Regulations.
Euro Equivalent	EUR 698,219,000
As from which year does this CbCR obligation exist?	Must submit returns for the Reporting Fiscal years and financial years commencing on or after 1 January 2016 and the subsequent Reporting Fiscal Years and financial years. A return must be submitted within 12 months from the date on which the ultimate parent entity's financial year ends.
When and how do the tax authorities need to be notified who the reporting entity is?	Notifications pertaining to the entity responsible for filing these reports must be provided to SARS no later than 12 months after the last day of the financial year of an MNE Group. The notification must until further notice be forwarded to the following email address: Bus_Sys_CDsupport@sars.gov.za
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	Must be provided to SARS no later than 12 months after the last day of the financial year of an MNE Group.
Are there any deviating submission deadlines for the secondary mechanism?	No
Does your country have a requirement that the financial figures of the group need to be aligned with?	No
Does your country have a requirement that the financial years of the group need to be aligned with?	No
Where is the CbCR to be submitted ?	The CbC Report will be presented in a CbC01 form. A return must be submitted electronically by using the SARS eFiling platform. The notification must until further notice be forwarded to the following email address: Bus_Sys_CDsupport@sars.gov.za
How is the CbCR to be submitted, specifically, is there any prescribed standard?	A return must be submitted electronically by using the SARS eFiling platform. The notification must until further notice be forwarded to the following email address: Bus_Sys_CDsupport@sars.gov.za
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	No
To which extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?	Consistent with OECD requirements.
Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	Yes
Did your country enter into other information exchange agreements, such as on a bilateral basis?	No

Can a taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?	Yes
---	-----

5. TP disclosure in tax return or transfer pricing specific returns

Does a taxpayer need to disclose information regarding TP documentation in his tax return?	Yes
What would be the filing deadline?	When return is submitted
When a taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect transfer pricing, what could be the legal consequences?	Adjustments/ penalties/ interest
What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?	If intentional could have criminal and civil liability implications.
Does a taxpayer need to file TP-specific returns?	No

6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	No
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	No
Does your country apply the general guidance by the OECD to prepare a new benchmarking search every three years and an update of the financial data of the accepted comparable in year 2 or 3?	No
Or is a new search every three years without any financial updates in year 2 and 3 sufficient?	Yes

7. Year-end adjustments

Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	No

8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	Inter group services, use of intellectual property and certain industries.
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	No

Your contact person:

Mr. Nico Kruger
Nico@wts-southafrica.com