



## Angolan Tax Authorities apply penalties for failure to file transfer pricing documentation

### Framework

In Angola, the legal deadline to file transfer pricing documentation was 30 June 2015 with respect to fiscal year 2014, as established in article 12 of Presidential Decree no. 147/13 of 1 October 2013, for companies listed as Large Taxpayers, as well as taxpayers considered Large Taxpayers by nature, such as: (i) large public companies, (ii) financial companies, (iii) oil and diamond companies, and (iv) telecommunications companies, to the extent their turnover exceeded 7 billion AOA<sup>1</sup> in the applicable fiscal year.

### Penalties associated with the failure to file transfer pricing documentation

Accordingly, the Angolan Tax Authorities (ATA) have started to notify Large Taxpayers that failed to file transfer pricing documentation for the payment of a tax fine under the General Tax Code (GTC), namely no. 2 of article 198, due to the lack of a specific tax penalty regime applicable to transfer pricing matters.

Although the amount of the tax fine does not seem too high (range is from AOA 10,000 to AOA 50,000),<sup>2</sup> additional tax consequences/penalties may arise from the lack of compliance with this obligation. Existing notifications indicate that the maximum amount of the range is being applied. In addition, the application of penalties in this regard will imply a reputational risk to the company, as it will be considered as “non-compliant.”

Moreover, it also should be noted that Presidential Decree no. 66/11, of 18 April 2011 establishes that non-compliant taxpayers will not be allowed to perform capital, current invisible<sup>3</sup> or trading operations. The check on this compliance obligation

### EY Global Tax Alert Library

Access both online and pdf versions of all EY Global Tax Alerts.

- Copy into your web browser:

<http://www.ey.com/GL/en/Services/Tax/International-Tax/Tax-alert-library#date>



Building a better  
working world

falls under ATA´s responsibility, which communicates to the National Bank of Angola (NBoA) the list of compliant taxpayers with their situation duly in place (compliant with tax obligations). Such taxpayers are the only ones eligible to perform the aforementioned operations.

As such, the risk of the ATA beginning to apply this tax fine is closely associated with the likelihood of the NBoA blocking the foreign exchange activity of the company with foreign countries.

### **Actions**

Taxpayers impacted by this development should consult with their local tax advisor and consider the following actions:

- ▶ Submit an application to the ATA, requesting no communication to the NBoA regarding the lack of compliance with the tax obligation of delivery of the transfer pricing file, as well as the communication of the delivery of the referred file within a reasonable timing
- ▶ Prepare transfer pricing documentation to be delivered to the ATA (i.e., Large Taxpayers Office)
- ▶ Submit an application to the NBoA communicating the compliance associated with the delivery of the transfer pricing file, although after the legal deadline, including, in attachment, proof of delivery to the ATA, to demonstrate the taxpayer´s good faith

---

### **Endnotes**

1. Approximately US\$55.5 million.
2. Approximately US\$80 to US\$400.
3. Current invisible operations mean current transactions that do not involve merchandise namely with respect to travel and transfers, payment and receipt of services and income, when between national territory (i.e., Angola) and foreign territory or between residents (Angolan residents) and nonresidents, when the maturity is lower than 360 days. In other words, this relates to foreign exchange activity that will be blocked to non-compliant taxpayers.

For additional information with respect to this Alert, please contact the following:

**Ernst & Young Angola, Limitada, Luanda**

- ▶ Luís Marques +244 222 371 390 luis.marques@pt.ey.com  
Mobile: +244 926 951 647/+351 937 912 214
- ▶ Paulo Mendonça +244 222 371 390 paulo.mendonca@pt.ey.com  
Mobile: +244 924 516 158/+351 937 912 045
- ▶ Rui Henriques +244 222 371 390 rui.henriques@pt.ey.com  
Mobile: +244 927 561 851/+351 937 912 028

**Ernst & Young, S.A., Angolan Tax Desk, Lisbon**

- ▶ Antonio Neves +351 217 912 295 antonio.neves@pt.ey.com  
Mobile: +351 937 912 249

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

© 2015 EYGM Limited.  
All Rights Reserved.

EYG No. CM5706

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](http://ey.com)**