

Ref #:777033

Submission File

8 April 2026

South African Revenue Service
Large Business & International
Transfer Pricing Unit
Woodmead North Office Park

[REDACTED]

[REDACTED]

SAICA SUGGESTION ON SIMPLIFIED FILING OF TRANSFER PRICING LOCAL FILE

The Transfer Pricing Committee, on behalf of the South African Institute of Chartered Accountants ('SAICA'), welcomes the opportunity to make representation to the South African Revenue Service ('SARS') on our proposal for a simplified transfer pricing local file where the only cross-border connected persons transaction is the receipt or payment of dividends.

We once again thank SARS for the ongoing opportunity to provide constructive comments in this regard.

SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges and should you wish to clarify any of the above matters please do not hesitate to contact us.

Yours sincerely

Christian Wiesener
Chair: Transfer Pricing Committee

Lesedi Seforo
Lead Tax Advocacy: Tax Law

The South African Institute of Chartered Accountants





Transfer pricing documentation requirements

1. On 20 October 2017, SARS issued a notice¹ requiring taxpayers to file transfer pricing documentation with effect for Reporting Fiscal Years commencing on or after 1 January 2016, for financial years commencing on or after 1 October 2016. This was in terms of section 25 of the Tax Administration Act, 2011.

1. The notice requires

2.3 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, and that person is a resident, the person must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to a—

2.3.1 master file, where the ultimate holding company in respect of the Group that the person is a member of is a resident, or where a master file that substantially conforms with Annex I to Chapter V of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017 is prepared by any other entity within the Group that the person is a member of; and

2.3.2 local file.

2. The BRS² states that a taxpayer:

whose aggregate of potentially affected transactions without offsetting any amounts for the year of assessment exceeds or is reasonably expected to exceed R100 million) must file Master File and/ or Local File returns, i.e. within 12 months from the date on which the Entity's financial year ends.

3. The BRS outlines the conditions and purpose of the Local File.
4. Notably that *it supplements the master file and helps to meet the objective of assuring that the Entity of the MNE has complied with the arm's length principle in its material transfer pricing positions affecting a specific jurisdiction*³.
5. The Local File further *focuses on information relevant to the transfer pricing taking place between a local country affiliate and associated enterprises in different countries and which is material in the context of the local country's tax system. Such information would include relevant financial information regarding specific transactions, a comparability analysis, and the selection and application of the most appropriate transfer pricing method.*

¹ **South African Revenue Service, 2017.** Public Notice No. 1117, Government Gazette No. 41186, 20 October 2017: Notice requiring taxpayers to submit transfer pricing documentation (Master file, Local file, and Country-by-Country report) in terms of section 25 of the Tax Administration Act 28 of 2011.

² External Business Requirements Specification: Country-by-Country Reporting (CbC) v2.5.

³ Page 33



2. The BRS further states that when completing the Country-by-Country Reporting (“CBCR”), revenue which constitutes dividends received from other constituent entities should be excluded.⁴
6. The OECD guidance on the treatment of dividends states that dividends from other Constituent Entities are excluded from Revenue in completing a CBCR, which the SARS BRS follows.
7. However, the guidance does not provide specific instructions as to whether or not dividends from other Constituent Entities should be included in the Master File or Local File documents. The fact that the OECD recommends income and expenditure treated as a dividend should be excluded from the CBCR, is indicative that such income or expenses should therefore be excluded from the revenue tests for the Master File and Local File reporting.

Problem statement

8. Where a South African taxpayer has no other potentially affected transactions other than the payment of, or receipt of dividends which exceed the R100 million threshold, the current documentation requirements mean the taxpayer must complete a Master File and Local File.
9. This is because, although dividend income is specifically excluded from determining the revenue threshold for the CBCR, the same is not true of the Master File and Local File.
10. In addition, the SARS Guide: *How to complete and submit your Country-by-Country information External Guide*⁵ states, in paragraph 8 on page 36, that a taxpayer should include the amount in respect of cross-border dividends in the calculation of whether or not the R100 million threshold has been met.
11. The OECD Guidelines in Chapter V identify three objectives of transfer pricing documentation:
 1. *to ensure that taxpayers give appropriate consideration to transfer pricing requirements in establishing prices and other conditions for transactions between associated enterprises and in reporting the income derived from such transactions in their tax returns;*
 2. *to provide tax administrations with the information necessary to conduct an informed transfer pricing risk assessment; and*
 3. *to provide tax administrations with useful information to employ in conducting an appropriately thorough audit of the transfer pricing practices of entities subject to tax in their jurisdiction, although it may be necessary to supplement the documentation with additional information as the audit progresses.*
12. Dividends are a distribution of post-tax profits, not influencing taxable income. In the event the entity has no other transactions with the entity it is either paying a dividend

⁴ Refer table on page 46 of BRS

⁵ <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/GEN-ENR-01-G07-How-to-complete-and-submit-your-Country-by-Country-information-External-Guide.pdf>



to, or receiving a dividend from, there can be little risk of any transfer pricing mischief or shortchange the South Africa fiscus. In *ABD Limited v Commissioner for SARS* (IT14302, Tax Court, 14 February 2024), the court explicitly commented on whether the taxpayer had any motive to *shortchange the South African fiscus* through its inter-company royalty arrangements. The court ultimately found **no such motive existed** and that SARS was “*fighting a case where there appeared to be no rationale for the taxpayer to have any motive to shortchange the South Africa fiscus.*”

13. Requiring taxpayers in these circumstances to prepare onerous documentation is arguably unnecessary, and inconsistent with OECD guidance in this regard.

14. The OECD guidance states:⁶

"Taxpayers should not be expected to incur disproportionately high costs and burdens in producing documentation. Therefore, tax administrations should balance requests for documentation against the expected cost and administrative burden to the taxpayer of creating it."

15. Submission: Our recommendation, therefore, is that the BRS should be updated to specifically state that the R100 million threshold applies to revenue or expenditure from potentially affected transactions. Revenue and expenditure should be defined as revenue or expenditure included in the determination of taxable profit.

16. Alternatively, where a taxpayer exceeds the R100 million threshold merely because of cross-border dividend payments, a simplified Local File should be considered which simply outlines the counter-party to the dividends, and the amount received or paid should be documented.

17. SAICA will gladly assist with suggestions regarding what the specific requirements of such a simplified Local File could be.

END.

⁶ Paragraph 5.28 OECD Transfer Pricing Guidelines