

# Transfer Pricing Country Summary Haiti

July 2018

## Legislation

### **Existence of Transfer Pricing Laws/Guidelines**

The legal framework for transfer pricing includes:

- Decree of 29 September 2005 as amendment to that of 29 September 1986, relative to Income Tax Law (l'Impôt sur le Revenu 2005)<sup>1</sup>;
- Decree of 29 September 2005 relative to the tax identification card (Décret du 29 September 2005 relatif à la Carte d'Identification Fiscale).

### **Definition of Related Party**

There is no statutory definition of the term “related party” in the Decree of Income Tax.

### **Transfer Pricing Scrutiny**

According to article 66 of the Income Tax Law, for the establishment of the income tax due by companies that are under dependency or that have the legal or de facto control of companies located outside Haiti, the profits indirectly transferred to the latter by way of increase or decrease purchase and sale prices, or by any other means, will be incorporated into the results as the accounts. The same apply with respect to companies that are under the dependence of another which also controls companies located outside Haiti.

In the absence of specific evidence to make the adjustments provided for in the preceding paragraph, the taxable income shall be determined by comparison with similar businesses operated normally. The assessment shall be notified to the taxpayer, which has a period of thirty days from the receipt of such notification to send its acceptance or make observations.

### **Transfer Pricing Penalties**

There is no specific transfer pricing penalties. However, corporate tax penalties and interests apply. The taxpayer is obliged to pay a fine of HTG 1,000 per month or part the month of delay, but not exceeding HTG 10,000, of the declaration to the Directorate General of Taxes, if it misses that deadline of 01 October to 30 October.

### **Advance Pricing Agreement (APA)**

Not applicable.

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<sup>1</sup> See <http://www.dgi.gouv.ht/forms/intra2013.Decret%20impot%20sur%20le%20revenu.Haiti.pdf>

## Documentation and Disclosure Requirements

### **Tax Return Disclosures**

Taxpayers must disclose the amounts paid during the previous fiscal year to members and beneficiaries named as interest, fees, arrears, directors' fees, commissions, brokerage fees, wages, salaries, allowances, lump-sum grants, fees and all values with the aim of transferring the company's heritage of income to that of shareholders or members and all persons having any obligation, productive income in business.

Tax return disclosures must be submitted from 01 October to 31 October of each fiscal year for the previous fiscal year.

### **Level of Documentation**

No specific requirement to maintain / submit transfer pricing documentation but contemporaneous documentation is encouraged.

### **Record Keeping**

At least 5 years.

### **Language for Documentation**

Documentation that is to be submitted to the tax authorities should be in French.

### **Small and Medium Sized Enterprises (SMEs)**

Not applicable.

### **Deadline to Prepare Documentation**

No requirement.

### **Deadline to Submit Documentation**

Upon request by the tax authorities, documentation must be submitted within 1 month.

## Statute Of Limitations

5 years from the end of the tax year, according to article 184 of the Income Tax Law

## Transfer Pricing Methods

Not applicable.

## Comparables

Haiti does not have its official database of comparable information.