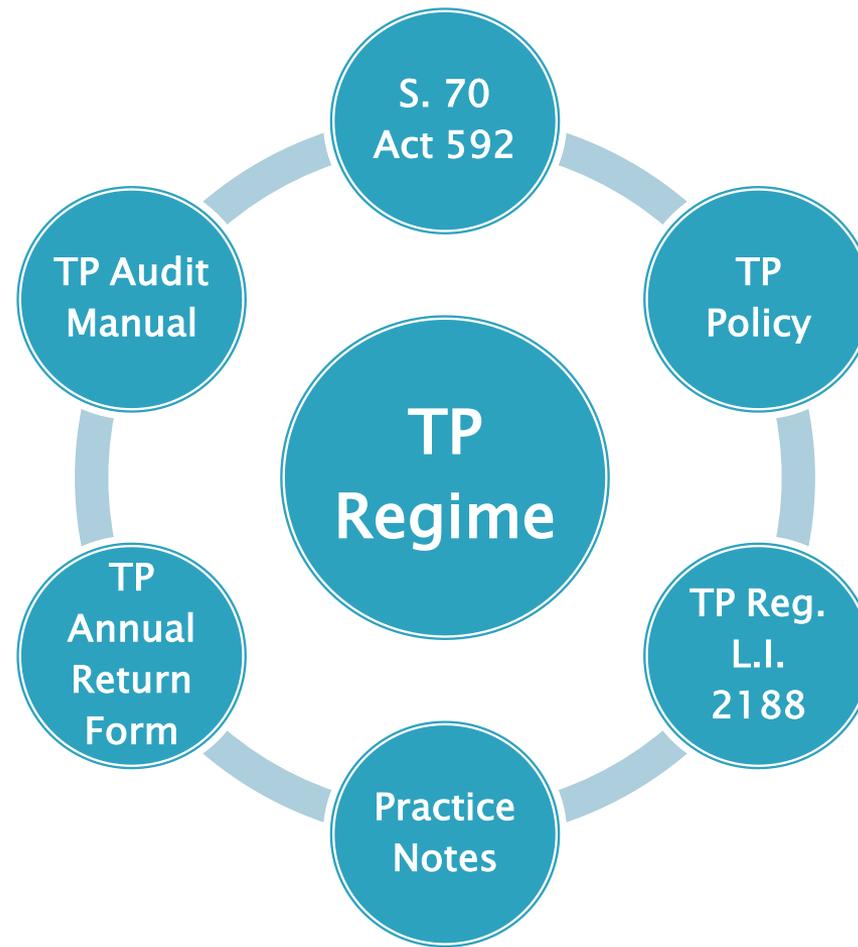




Transfer Pricing Regime

Ghana

Ghana's TP Regime



The Need For TP Regulation



- ▶ In Ghana, over 70 percent of cross border business activities are transacted through Multinational Enterprises.
- ▶ The Large Taxpayer Office of the Ghana Revenue Authority currently administered over 600 companies associated with companies operating outside the jurisdiction of Ghana. These 600 companies include most of the major multinationals.
- ▶ These MNEs operate mostly in all sectors of the Ghanaian economy especially Mining, Oil & Gas, Manufacturing and Services.

The Need For TP Regulation



- ▶ Almost all the MNE have contracts with their associated companies to charge for intra group services, royalties, management and technical fees. How the prices for these were determined in most cases were difficult to ascertain in the absence of comprehensive Transfer Pricing legislation.
- ▶ Some of these MNEs consistently make losses at the end of their financial year.

The Need For TP Regulation



- ▶ The MNEs export almost all the raw materials bought or extracted from Ghana to their associates in other jurisdictions. Most finished products are also imported from related parties in other countries.
- ▶ The situation creates opportunity for these MNEs to put in place a transfer pricing mechanism to ensure that they maximise their global profit at the detriment of tax revenue to Ghana in the absence of a transfer pricing regime adhering to international standards.



The TP Legislation

- ▶ The Transfer Pricing (provision) Section 70 of the Internal Revenue Act, 2000 (Act 592) empowers the Commissioner-General to adjust the price of a transaction between associates to reflect the income as if the transaction had been conducted at arm's length
- ▶ However, the Act failed to
 - define 'arm's length'
 - how to determine an arm's length price; and
 - set out transfer pricing documentation requirements.

TP Policy



- ▶ In April, 2009 Ghana set up committee to draft Transfer Pricing Policy for Ghana
- ▶ In May 2009 Transfer Pricing Policy report was presented to the Ghana Revenue Authority (GRA)
- ▶ In 2010, the GRA and Ministry of Finance with the support of development partners such as the OECD launched a project to put into effect the Transfer Pricing Policy
- ▶ Transfer Pricing Core team made up of personnel from the GRA, Ministry of Finance and the Attorney-General's Department was task to steer the Transfer Pricing Project to success



International Assistance

- ▶ The OECD Tax and Development Programme, working with other development partners such as the EU, GIZ, IFC/World Bank, and others gave us support in building capacity for the team by delivering 7 intensive workshops to date.
- ▶ Ghana participated in the ‘Train the Trainer program in Transfer Pricing’ at the OECD Multilateral Centre in Vienna, Austria and other OECD tax related events.



The Opportunities

- ▶ The Act 592 (the principal tax code) makes provision for addressing such deficiencies as in S. 70 by the following provisions:
 - i. Section 114 empowers the Minister Responsible for Finance to come out with Regulations to bring into effect the effective and efficient implementations of any section(s) of the Act.
 - ii. The Commissioner General of the GRA is empowered under Section 115 to come out with Practice Notes to achieve consistency in the administration of the Act.



Effect of International Assistance

The International Assistance has given us the capacity to

- ▶ Draft the Transfer Pricing Regulations which was passed into law in September, 2012
- ▶ Put in place Transfer Pricing Practice Notes for the guidance of taxpayers and tax officers
- ▶ Design Transfer Pricing Annual Return Form (Transfer Pricing Risk Assessment Tool)
- ▶ Training of tax auditors of LTO, MTO and STO of the GRA



Further Work Required

- ▶ Assess whether to subscribe to a database –a tool for comparables searches
- ▶ Development of Transfer Pricing Audit Manual
- ▶ Further training for the Transfer Pricing Specialists
- ▶ TP Workshop for the Judiciary and Security Agencies
- ▶ Follow-up of the ‘Train the Trainers in TP Program’ now in ‘Advanced TP’ for the training of Tax Auditors in LTO, MTO and STO



Thank you