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THE ROLE OF TRANSFER PRICING LEGISLATION IN MITIGATING BASE EROSION AND PROFIT SHIFTING IN DEVELOPING COUNTRIES WITH A SPECIFIC FOCUS ON ZIMBABWE

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ABSTRACT. In today's interconnected global economy, transfer pricing has emerged as a critical issue for governments worldwide. Tax authorities are particularly concerned about its potential for profit shifting to low-tax jurisdictions, which can significantly reduce overall tax liabilities. This study investigates the role of transfer pricing regulations in mitigating base erosion and profit shifting in Zimbabwe. Utilizing a qualitative systematic review method, the research provides insights into the current state of transfer pricing regulations in Zimbabwe and offers recommendations to enhance their effectiveness. The study also addresses the challenges faced by tax authorities in enforcing these regulations and proposes policy recommendations to improve compliance and effectiveness. The findings indicate that robust transfer pricing regulations can significantly reduce base erosion and profit shifting. The study recommends the implementation of Advanced Pricing Arrangements (APAs), safe harbors, materiality thresholds, and training programs for Zimbabwe Revenue Authority (ZIMRA) G3 Officials to strengthen the effectiveness of transfer pricing regulations in Zimbabwe.

Keywords: Base Erosion, Profit Shifting, Transfer Pricing, Regulations, Zimbabwe

JEL classification: G3, H2, H3

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Introduction and review of literature

Given the increasing globalisation of businesses, there is a rising concern that multinational enterprises (MNEs) frequently use transfer pricing to shift profits from high-tax to low-tax jurisdictions, thereby maintaining a semblance of legality (Sebele-Mpofu et al., 2021a,b). Bhat (2009) also notes that transfer pricing can facilitate profit manipulation across different jurisdictions. Similarly, Teles et al. (2024) assert that profit shifting by multinationals is a significant challenge for low- and middle-income countries (LMICs). Although many nations have introduced anti-profit shifting regulations to combat this form of tax avoidance, the effectiveness of these measures remains largely uncertain. This suggests that transfer pricing could be used as a method for Base Erosion and Profit Shifting (BEPS), thereby affecting corporate tax revenue mobilisation in developing countries (Sebele et al., 2022). Consequently, it is crucial for countries to implement strategies to mitigate tax-motivated transfer pricing in today's interconnected business environment.

Developing countries need to strengthen their policies to protect tax bases and minimize revenue losses (Oguttu, 2018). Transfer pricing, if not properly regulated, can lead to tax avoidance, evasion, and illicit financial flows, causing significant losses. Recognized as a complex issue in international taxation (United Nations Conference on Trade and Development / UNCTAD, 1999), transfer pricing remains a critical challenge for MNEs and tax administrations (Mortished, 2006). This study explores the effectiveness of transfer pricing regulations in preventing profit shifting and enhancing tax revenue collection. Governments must ensure that MNEs report taxable profits accurately, reflecting their economic activities (OECD, 2022). With the evolving tax landscape and OECD's influence, transfer pricing is a priority for tax administrations and taxpayers (KPMG, 2019). MNEs often shift profits from high-tax to low-tax jurisdictions through transfer pricing (Kalra & Afzal, 2023). Research by Crivelli et al. (2016) highlights the impact of profit shifting on developing countries' tax income, economic growth, and equitable taxation. This paper examines the role of transfer pricing legislation in mitigating BEPS in Zimbabwe, a developing country. It explores OECD guidelines, frameworks, and Zimbabwe-specific laws, assessing their effectiveness in curbing BEPS and identifying barriers and opportunities for successful implementation. The insights aim to help policymakers, tax authorities, and businesses make informed decisions to create fair tax policies and improve transfer pricing laws.

Defining key terms

Transfer Pricing and the arm's length principle

Transfer pricing is legal in nearly all countries (OECD, 2022; Beebeejaun, 2018). Without it, MNEs could shift profits to low/no-tax jurisdictions, inconsistent with their economic substance. The OECD (2010) defines transfer pricing as setting prices for goods, services, and intangible assets exchanged between related entities, whether in the same or different countries. Eden & Huxham (2016) notes that transfer pricing determines each party's income, crucial for allocating profits and tax liabilities across jurisdictions. However, it has led to increased BEPS (Ngorima, 2016), raising concerns among policymakers and regulatory bodies. MNEs exploit transfer pricing complexities to minimize tax liabilities. This necessitates a review and reform of transfer pricing guidelines to ensure fair taxation. The 'arm's length principle' (ALP) is vital for setting appropriate prices and avoiding double taxation (McNair et al., 2010; OECD, 2022). It is noteworthy that the ALP mandates pricing as if transactions occurred between independent parties, making it an international norm. Further, many double-tax treaties contain provisions for resolving transfer pricing disputes based on the ALP. Beebeejaun (2018), and Dharmapala (2014) assert that the ALP is central to the OECD guidelines for transfer pricing, and this is in line with the above discussion. However, researchers have debated its adequacy and suitability in regulating transactions among related parties. The ALP faces additional challenges in developing countries where economic conditions differ from those of developed nations (Oguttu, 2016, 2018; Mashiri, 2018). These include limited comparability data, evolving business landscapes, and complexities in pricing transactions. Some scholars argue that applying the ALP in developing countries, such as Zambia, Malawi, and Kenya, presents conceptual and practical difficulties (Mashiri, 2018). Increased disputes, tax administration complexities, and compliance burdens also arise from enforcing the principle. Corruption and weak institutional environments complicate transfer pricing regulation in these contexts (McNair et al., 2010).

Profit Shifting

Profit shifting refers to multinational corporations transferring profits from high-tax nations to low-tax jurisdictions or tax havens to minimise tax liability (Oguttu, 2018). This practice involves underreporting profits in countries where the company operates, resulting in reduced or no tax payments in those nations. Hines (2014) asserts that MNEs employ various strategies to minimise their tax liabilities, with profit shifting emerging as a significant concern in the contemporary global business landscape. Even though transfer pricing regulations can help manage tax liabilities, they also carry the risk of being exploited for profit manipulation. Base erosion is mainly caused by MNEs adopting profit-shifting methods, according to KPMG (2019).

It can be deduced that MNEs manipulate transfer pricing by setting prices for goods and services exchanged between subsidiaries to shift profits to low-tax jurisdictions (such as tax havens) while minimising tax liabilities in high-tax countries. Accordingly, tax havens often impose minimal or no corporate taxes and have limited information-sharing requirements to facilitate this tax avoidance. Tax havens encourage aggressive transfer pricing practices by reallocating taxable profits to low-tax countries and reducing local taxes on foreign income (OECD, 2013). In addition, there is an issue of thin capitalisation. This capitalisation is when a company has a high level of borrowing relative to its equity base (PWC, 2015). Sebele-Mpofu et al. (2021a) submit that thin capitalisation is applied when high debt levels are derived from related companies. MNEs often use strategies such as artificially inflating interest payments to affiliated entities in low-tax jurisdictions, leading to excessive interest deductions and reduced taxable profits in developing countries (Dharmapala & Riedel, 2013).

Status of Transfer Pricing Regulations in Zimbabwe

According to Ngorima (2016), in Zimbabwe, transfer pricing regulations are designed to control the pricing of transactions between related parties. These regulations ensure that business dealings occur at arm's length, preventing unfair transfer pricing practices. By doing so, they safeguard the tax system's integrity and address BEPS by multinational businesses (MNEs) (Mashiri, 2018; Sebele-Mpofu et al., 2021b). According to Mashiri (2018) Zimbabwe Revenue Authority (ZIMRA) enforces strict restrictions and monitors compliance to reduce the likelihood of MNEs transferring profits from high-tax to low-tax jurisdictions. As a result, the goal is to adjust prices to reflect what would have been applied under standard commercial conditions between independent entities.

In Zimbabwe, transfer pricing regulations align primarily with guidelines from the OECD (2013; 2022). These regulations were incorporated into Zimbabwean law in 2016 through amendments to the Income Tax Act 23 of 2016 (hereinafter referred to as the ITA). The concept of the arm's length principle has long been part of sections 23, 24, and 98 of the Zimbabwean. Section 24 applies to business or financial dealings involving local and international parties. Section 23(1) explicitly addresses property sales at prices below fair market value, including immovable property. Section 98 deals with tax avoidance schemes related to non-arms-length transactions. Enforcing Section 98 can be challenging for ZIMRA, as they must demonstrate that a transaction was undertaken primarily or solely to evade or delay tax payments. However, guidance on determining whether transactions align with the arm's length principle was introduced by the Zimbabwean Commissioner General on 1 January 2016 (KPMG, 2019).

The regulations by the Zimbabwean Commissioner General mandate that taxpayers prepare documentation for their annual statutory returns. This documentation should cover an overview of the business operations, organisational chart, group structure, and group operational structure. Taxpayers must justify their transfer pricing method and explain why it's the best choice for a specific transaction. The ITA outlines five methods, each suitable for different types of transactions. Commonly recommended methods include cost-plus, resale, and comparable unit prices (OECD, 2022). However, they can be used if other approaches better fit the situation. While the Comparable Uncontrolled Price (CUP) method is straightforward, it may not suit complex transactions. Having documentation prepared by someone well-versed in the nuances of these methods is advantageous for taxpayers.

In addition, the Zimbabwean regulations also necessitate adjustments to ensure compliance (Mashiri, 2018). These compliance adjustments account for jurisdiction-specific characteristics. For instance, a location adjustment may be made if the taxpayer benefits from region-specific advantages (such as savings) or faces political or economic risks that could impact pricing. Consequently, the charged price may vary based on these considerations. Conclusively, the transfer pricing legislation governs the buying and selling of goods, components, or raw materials; provision of services; financial transactions including guarantees; transactions involving intangible assets such as acquisition, sale, or licensing; share transactions including internal restructuring, transactions involving in-kind exchanges such as capital contributions or dividends, and dealings with administrators and shareholders such as salaries.

International Standards and Guidelines

OECD (2013) developed guidelines to combat profit shifting and promote equitable transfer pricing practices. These guidelines establish the arm's length principle, ensuring that transfer prices align with those negotiated between unrelated parties (OECD, 2022). By adhering to these guidelines, nations can mitigate profit shifting and ensure fair market value transactions. The OECD's Transfer Pricing Guidelines (2010) provide detailed instructions for multinational enterprises and tax authorities on applying the arm's length principle across borders. Meanwhile, the UN (2013) focus on transfer pricing concerns, especially for developing nations. Both emphasise documentation, but the UN offers simplified requirements tailored for countries with limited capabilities. These guidelines foster international cooperation and data exchange among tax authorities, addressing challenges posed by the global operations of multinational enterprises.

The OECD's transfer pricing regulations have drawn both praise and criticism. However, critics like Durst (2019) argue that the OECD guidelines are unrealistic for developing nations. The arm's length principle, central to these guidelines, can be challenging due to transactions between affiliated companies that don't mirror those between independent entities. Durst (2019) further critiques the "comparable" price requirement, especially for global companies with integrated operations. On the other hand, Oguttu (2018) defends the arm's length principle, emphasising its positive outcomes and the risks of rejecting it. The OECD faces criticism for its interactions with tax havens and its focus on wealthy nations (Oguttu, 2016). The UN also created guidelines based on the OECD's recommendations for developing economies (UN, 2013). These discussions highlight ongoing debates and the evolving landscape of transfer pricing regulations.

Challenges in implementing transfer pricing regulations

There are many challenges in implementing transfer pricing regulations in developing countries, including capacity and expertise. Eden (2009) asserts that tax authorities in developing nations often lack the necessary knowledge and resources to effectively monitor and enforce transfer pricing rules. This implies a shortage of skilled tax professionals and limited technological infrastructure can hinder their efforts. In addition, there is an issue of data limitations. Access to comparable data is crucial for applying the arm's length principle. PWC (2015) cites that developing countries face difficulties due to limited resources and a lack of local comparables. Without robust data, determining fair market value becomes challenging, and countries like Zimbabwe operate in unique economic environments, which introduces additional complexities. Political pressure from MNEs significantly contributes to the local economy and can impact transfer pricing enforcement. A further challenge is the alignment with the international standards. Picciotto (2017) concludes that harmonising local transfer pricing regulations with international standards (such as those set by the OECD) can be tricky. This is because differing economic priorities and contexts may require tailored approaches.

Referring to Table 1, Zimbabwe, emphasise the arm's length principle. With an amendment to the ITA, Zimbabwe established transfer pricing regulations in 2016. These clauses are based on the ITA's sections 19, 24, and 98 and the Fourth and Fifth Schedules. Extra guidance on evaluating arm's length consideration in cross-border related party transactions is given in Practice Note 7. From the table, Zimbabwe does not have any specific transfer pricing methods outlined in its legislation.

Table 1. Comparison of Zimbabwean Transfer Pricing Regulations with International Guidelines

CATEGORY	INTERNATIONAL GUIDELINES		ZIMBABWE
	OECD	UN	
Documentation	A three-tier structure is outlined in Chapter V of the OECD guidelines: (i) a master file with standardised information pertinent to all MNE group members; (ii) a local file that specifically mentions significant transactions made by the local taxpayer; and (iii) a Country-by-Country (CbC) report with specific information about the worldwide distribution of the MNE's income and taxes paid. According to the standards, a thorough functional analysis and a complete comparability study must be the foundation for the transfer price analysis. Nevertheless, only MNEs with at least €750 million in revenue should be obliged to file the CbC report, as per the OECD/G20 Final Documentation Report. This code complied with BEPS Action 13, which focuses on reevaluating documentation related to transfer pricing (Ernst and Young, 2021).	While adhering to the OECD documentation guidelines, the UN suggests that guidelines for the content of the local file incorporate materiality thresholds that take the size and characteristics of the MNE into account. It recommends that the materiality levels be tailored to the local laws as revenue/cost thresholds or a set amount. It also promotes SMEs to be exempt from thresholds based on transaction volume or freed from maintaining documentation (C2.4.4).	Documentation should be contemporaneous and filed with the annual tax returns.
Deadline	The OECD leaves the prescription of deadlines to domestic law.	The UN leaves the prescription of deadlines to domestic law.	The necessary documentation needs to be in place when the income tax return is filed, and it needs to be turned in to the Commissioner-General within 30 days of the Commissioner-General sending out a written request.
Advanced Pricing Agreements (APAs)	The Mutual Agreement Procedure (MAP) Advance Pricing Agreement (APA) is an initiative by the OECD to support agreement banks. The primary goal of the MAP APA process is to eliminate any possibility of double taxation. According to the OECD, governments often favour bilateral or multilateral agreements.	The UN acknowledges that both bilateral and multilateral APAs need a lot of resources, but it nonetheless supports them (C.4.4.2.2).	The Income Tax Act allows taxpayers to enter into APAs with ZIMRA.
Dispute resolution	Effective conflict resolution systems are encouraged by BEPS Action 14 for nations (Ernst and Young, 2021).	The UN supports having an independent judicial system that treats tax cases with impartiality, which can enhance investor confidence.	All tax complaints, even those involving transfer pricing, appear to fall under the usual dispute resolution processes.
Penalties	The OECD recommends that tax authorities implement penalty regimes for transfer pricing that encourage the timely and accurate preparation of transfer pricing documents to foster compliance. To ensure the effectiveness of these documentation requirements and deter non-compliance, the OECD endorses sanctions specific to the documentation (D7 para. 5.40).	The UN indicates penalties for non-compliance with documentation requirements or refusal to pay taxes. Requirements (C.2.4.3).	Non-compliance with the transfer pricing regulations may result in penalties, including transfer pricing adjustments, interest charges on unpaid tax, and potential penalties for inaccuracies or omissions in the documentation.
Databases/ Comparable data	Paragraph A4.3 prohibits tax authorities from employing transfer pricing methods using information not disclosed to taxpayers. However, it permits the usage of external databases if internal databases are unavailable.	According to the UN, failing to meet filing requirements or not paying taxes can lead to penalties (C.2.4.3). Furthermore, the UN encourages using internal databases as a first step before turning to external ones (C5.6.4).	The ITA acknowledges that the internal databases may be unavailable, so other sources are permissible. Reliability thereof is considered on a case-by-case basis.
Transfer pricing methods	The OECD outlines five transfer pricing methods, which can be generally classified into two categories: profit-based methods and traditional methods.	It borrows five transfer pricing methods from the OECD.	Zimbabwe does not have specific transfer pricing methods outlined in its legislation.

Source: Own compilation based on Ngorima (2016); the OECD Transfer pricing guide (2010), UN Manual on Transfer Pricing (UN, 2013)

Note: It is noteworthy that the international guidelines' sections/categories, that is both OECD and UN are indexed in letters A-D, which represent specific sections within these guidelines.

Materials and Methods

This paper used a qualitative systematic review method inspired by Tay et al. (2022) study, following Mpofu's (2021) definition of systematic reviews. These reviews involve systematically searching, identifying, extracting, analyzing, and synthesizing information based on pre-established guidelines. The outcomes can be qualitative or quantitative (Snyder, 2019). This approach ensures replicability and standardization, enhancing trustworthiness and credibility (Paré & Kitsiou, 2017; Mpofu, 2021). Tay et al. (2022) focused on two areas: the establishment and adoption of transfer pricing legislation across countries, and how such regulations in developing countries like Zimbabwe address BEPS. They explored the role of transfer pricing legislation in promoting revenue growth and its implications for stakeholders.

The researchers conducted a comprehensive literature search across databases like Elsevier, Springer, Emerald, Science Direct, ProQuest, and Scopus, using terms related to transfer pricing, BEPS, and compliance strategies. They included peer-reviewed articles, working papers, and reports from organizations like the OECD and UN. Qualitative data analysis continued until saturation, defined as the point where no new codes or themes emerged (Mpofu, 2021). Thematic analysis was used, following Attride-Stirling's (2001) framework and Braun & Clarke's (2006, 2019) process.

Results and Discussion

This part of the paper discusses the established results about the role of transfer pricing legislation in mitigating BEPS. The discussion of the results is organised as follows: (1) features and objectives of transfer pricing legislation, (2) the adequacy of the existing legislation, (3) effectiveness and sufficiency of regulations, (4) possible challenges in implementing the legislation, and (5) recommendations.

Objectives of transfer pricing regulations

This paper established that the transfer pricing legislation seeks to foster tax compliance and documentation, act as an oversight and regulation of the transfer pricing practices of MNEs operating across countries, cover domestic related party transactions and prevent BEPS. These objectives are individually discussed in detail below:

Tax compliance and documentation requirements

The ITA's transfer pricing provisions and regulations (Statutory Instrument [SI] 109-2019) aim to promote tax compliance and prevent profit shifting for fair taxation and revenue generation. Based on the reporting by KPMG (2019), Zimbabwe has implemented robust transfer pricing methods to tax profits where economic activities and value creation occur. Hence, taxpayers must maintain comprehensive documentation, including functional and comparability analyses, detailed business descriptions, and evidence supporting chosen transfer pricing methods (OECD, 2022).

As per the discussion earlier, five different pricing methods can be used to set prices following the arm's length principle. The names of the methods that can be used are the comparable uncontrolled price method, the resale price method, the cost-plus method, the transactional net margin method, and the transactional profit split method (OECD, 2022). Taxpayers must choose the most appropriate method based on the nature of the transaction and available data (OECD, 2022). Documentation should be prepared contemporaneously with transactions and be accessible for ZIMRA to review. This transparency enhances compliance and better assesses reported transfer prices. Consequences for non-compliance encourage voluntary adherence to the regulations, and it is noteworthy that tax compliance regulations should be context-based.

Multinational enterprises oversight

Mashiri (2018) asserts that transfer pricing regulations aim to oversee and regulate the practices of MNEs. These regulations ensure that transactions between related entities occur at arm's length, preventing artificial profit shifting and safeguarding the countries' tax base. The Zimbabwean transfer pricing regulations require related-party transactions, such as those between subsidiaries and parent companies, to be conducted at arm's length prices). MNEs in these countries must maintain comprehensive transfer pricing documentation, including transaction details, pricing methodologies, and supporting analyses. Annual transfer pricing disclosure forms are mandatory, providing information on related-party transactions and resulting profit allocations. Non-compliance can lead to penalties, encouraging adherence to the regulations.

Prevention of base erosion and profit shifting

The systematic review highlights that SI 109/2019 aims to prevent profit shifting by accurately allocating taxable income based on Zimbabwe's economic activities. This safeguards the country's tax base against manipulative transfer pricing practices. According to Ngorima (2016) the regulations ensure that MNEs operating in Zimbabwe allocate profits appropriately, preventing

BEPS. By enforcing the arm's length principle, the regulations create a fair tax environment, curbing profit shifting to low-tax jurisdictions. These regulations promote fair pricing in related-party transactions, enhance transparency, and encourage compliance. However, some scholars argue that these regulations alone are insufficient to comprehensively address profit-shifting issues, as transfer pricing regulations in Zimbabwe are still a work in progress and continue evolving (Sebele-Mpofu et al., 2021b).

Effectiveness and Sufficiency of the Transfer Pricing Regulations

Significant changes in business operations or pricing strategies remain scarce despite improvements in documentation and reporting. This suggests that many corporations comply superficially, adhering to existing transfer pricing policies that may not fully align with arm's length principles. In this section, we explore the effectiveness of Zimbabwe's existing transfer pricing regulations in curbing profit shifting and ensuring equitable taxation.

Adequacy of current regulations

According to Wealth et al. (2022), Zimbabwe's current transfer pricing regulations may not fully address domestic transfer pricing complexities. KPMG (2019) suggests that safe harbours and Advance Pricing Agreements (APAs) could simplify processes and enhance clarity for tax authorities and taxpayers. On the other hand, the existing measures, such as transfer pricing regulations, thin capitalisation rules, and documentation requirements, partially mitigate profit shifting. In conclusion, as Zimbabwe's regulatory framework matures, ZIMRA's expertise in handling transfer pricing issues is expected to improve as individuals receive education and training on transfer pricing issues.

Cases and Awareness of Profit Shifting

Sebele-Mpofu et al. (2021a) assert that ZIMRA authorities and taxpayers are familiar with the concept of transfer pricing, and their definitions of it are influenced by their epistemological perspectives, which are shaped by their experiences and professional backgrounds. However, despite the familiarity with transfer pricing regulations, direct encounters with profit shifting are uncommon. Scholars are not aware of profit-shifting strategies, such as charging high management fees or manipulating interest rates, but direct evidence of such activities is limited, and this is in line with Dharmapala (2014) findings. It can be concluded that while MNEs and tax authorities are aware of profit-shifting conceptually, the literature indicates indirect encounters rather than concrete cases. This suggests that profit shifting may be subtle or underreported in Zimbabwe.

Compliance efforts by multinational corporations

According to Ngorima (2016) transfer pricing regulations have prompted increased compliance efforts among taxpayers. In support, several researchers have highlighted the benefits of adopting transfer pricing regulations, including protecting the tax base, stabilising the investment climate, and attracting foreign direct investment (Mashiri, 2018). This means they must now maintain detailed documentation and justify their transfer pricing policies. Some MNEs have adjusted their practices to align with the arm's length principle, although changes in underlying business operations remain limited (Sebele-Mpofu et al., 2021a). This implies that some companies have restructured their operations by operating divisions within a single entity rather than as separate legal entities to simplify compliance. This shift reflects the impact of transfer pricing regulations in Zimbabwe.

Enforcement, Monitoring and Penalties

The ZIMRA enforces SI 109/2019, conducting tax audits and reviewing taxpayer documentation to ensure compliance with the arm's length principle. ZIMRA has the authority to adjust taxable income if transfer prices reported by taxpayers deviate from arm's length conditions. Penalties for non-compliance include fines and adjustments based on ZIMRA's assessment. These penalties act as a deterrent, encouraging voluntary compliance and accurate tax assessment.

Operational challenges in implementing transfer pricing regulations in Zimbabwe

This section of the chapter explores the operational challenges that hamper the implementation of transfer pricing regulations in Zimbabwe.

Administrative and Compliance Burden

Compliance with the regulations imposes a significant administrative burden on businesses, particularly smaller enterprises that may lack the resources to maintain extensive documentation. According to Mashiri (2018), compliant taxpayers and the ZIMRA authorities face significant administrative burdens. The complexity of complying with transfer pricing regulations is a notable challenge, often leading to frustration among taxpayers. Oguttu (2016) argues that while revenue authorities aim to combat profit shifting, the regulations are burdensome for compliant taxpayers. From the ALP perspective, the ALP imposes extensive documentation, information, and professional resource requirements that the need for diverse documentation makes the ALP application costly and time-consuming. Information asymmetry and lack of resources often favour MNEs over tax authorities (Sebele-Mpofu et al., 2021b). This complexity burdens developing countries' tax systems and benefits tax consultants (Picciotto, 2017). The ALP increases administrative and compliance burdens, creating opportunities for tax planning and avoidance.

Zimbabwe is considered to have high taxes, and the high cost of compliance feels punitive (Mpofu & Wealth, 2022; Sebele-Mpofu et al., 2021b). This is because every transaction, regardless of its magnitude, must be disclosed, making compliance costly. This points out that annual updates to transfer pricing documents are expensive. It can be inferred that the regulations, though well-intended, impose significant costs on taxpayers.

Hence, the enforcement of transfer pricing regulations by ZIMRA is hampered by administrative burdens and limited capacity. Mashiri (2018) cites that ZIMRA's skills are still developing, and they lack the leverage of consulting firms. As a result, there is a need for capacity building within ZIMRA, noting a skills gap and insufficient enforcement since the regulations were introduced in 2016.

The learning curve for transfer pricing legislation

The learning curve for transfer pricing in Zimbabwe is steep for taxpayers and authorities. Sebele-Mpofu et al. (2021b) found that the current transfer legislation is a learning curve and a foundation to build on. They further established that implementing transfer pricing legislation is essential but emphasised that challenges on the effectiveness of transfer pricing legislation must be addressed. The challenges include the lack of skills, expertise and financial resources, unavailability of comparable data and databases, corruption and many other issues that need to be dealt with urgently to make the current legislation more fruitful. In affirmation, Ngorima (2016) asserts that since the regulations were introduced in 2016, there has been a lack of clarity and understanding. As a result, taxpayer training and digital platforms are needed to provide compliance guidance. Overcoming these challenges will require time and effort from both sides.

Benchmarking and data access issues

Accessing relevant data and benchmarking tools is a significant challenge, including the issue of comparable data. Wealth et al. (2022) aver that while data for leasing transactions is easily accessible from real estate companies and financial transaction data is regulated by the Reserve Bank of Zimbabwe obtaining data for other transactions is challenging. The data is crucial for MNEs to apply transfer pricing methods like the Comparable Uncontrolled Price as required by Zimbabwean transfer pricing legislation. This limitation adds to the already high compliance costs, such as, producing transfer pricing documentation. It can be inferred that the lack of local comparables and the high cost of international databases hinder taxpayers and ZIMRA from accurately establishing arm's length prices. Ngorima (2016) highlighted Zimbabwe's unique economic conditions, such as hyperinflation, which complicate the use of international benchmarks and submits that authorities also lack access to these databases, affecting their ability to interpret results. Addressing these issues requires collaborating to develop a robust, accessible, and reliable database.

Recommendations for Strategic Improvement

Introduction of Advanced pricing Arrangements and establishing safe harbours

The analysis shows a consensus on the need for advanced mechanisms like safe harbours and APAs to simplify compliance. Mpofu & Wealth (2022) adduce that APAs could provide certainty and reduce disputes by allowing taxpayers and ZIMRA to agree on transfer pricing methods in advance. In affirmation, Wealth et al. (2022) state that simplified mechanisms, such as safe harbours for low-risk transactions, could reduce administrative burdens and let ZIMRA focus on high-risk areas. This would ensure that APAs and safe harbours help establish predetermined prices, prevent disputes, and enhance business certainty.

Enhancing training and capacity building

The researchers concluded that enhancing ZIMRA officials' capacity and expertise through targeted training is crucial for effective enforcement. In support, Sebele-Mpofu et al. (2021a), and Wealth et al. (2022) affirm the need for more education and training to enhance competencies on issues related to transfer pricing and adoption of the regulations in place.

Introduction of materiality threshold

Introducing revenue-based thresholds for transfer pricing regulations could reduce unnecessary burdens on smaller entities, such as the Small-Medium Enterprises (SMEs). Researchers suggest that every transaction, regardless of size, must be disclosed without a threshold, which is costly for taxpayers. A threshold would alleviate this burden by requiring disclosure only for transactions above a certain amount, allowing taxpayers to focus on more significant transactions and reducing administrative costs.

Conclusions

In conclusion, the paper's findings indicate that transfer pricing regulations in Zimbabwe have made significant progress in curbing profit shifting. By enforcing the arm's length principle and rigorous documentation requirements, these regulations ensure closer scrutiny of intercompany transactions, thus reducing profit- shifting opportunities. However, their effectiveness relies heavily on robust enforcement and access to reliable benchmarking data. While these regulations adhere to international standards such as OECD, UNCTAD and promote fair tax practices, challenges such as administrative burdens, limited data access, and capacity constraints within ZIMRA hinder their effectiveness. To address these challenges, capacity building, simplified compliance mechanisms, and improved data accessibility are crucial.

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