



# DISCUSSION ON TRANSFER PRICING

Portfolio Committee on Trade  
and Industry



# Transfer Pricing

**Transfer pricing** is the setting of the price for goods and services sold between controlled (or related) legal entities within an enterprise. For example, if a subsidiary company sells goods to a parent company, the cost of those goods is the transfer price. Legal entities considered under the control of a single corporation include branches and companies that are wholly or majority owned ultimately by the parent corporation. Transfer pricing results in the setting of prices among divisions within an enterprise.

Source: Wikipedia



# Transfer Pricing

In principle a **transfer price should match either what the seller would charge an independent, [arm's length](#) customer, or what the buyer would pay an independent, arm's length supplier.** While unrealistic transfer prices do not affect the overall enterprise directly, **they become a concern when they are misused to lower profits in a division of an enterprise that is located in a country that levies high taxes and raise profits in a country that is a [tax haven](#) that levies no or low taxes.**<sup>[1]</sup> **Transfer pricing is the major tool for corporate [tax avoidance](#)**<sup>[2]</sup> also referred to as **[Base Erosion and Profit Shifting \(BEPS\)](#).**

Source: Wikipedia



# TRANSFER MISPRICING

- Due to their relationship, entities in Multi National Enterprises have the ability to distort transfer prices and ultimately profits reflected in particular jurisdictions, thereby eroding the TAX BASE and DEPRIVING COUNTRIES OF THEIR CORRECT SHARE OF TAXES.
- For this reason tax administrations have cause for concern where transfer prices are incorrect or mispriced.
- Transfer pricing is thus an essential feature of cross-border activities of MNEs and its outcomes may be perfectly acceptable, but “transfer mispricing” is not!

Source: SARS



# **NUM'S VIEW ON TRANSFER PRICING**

- 1. TRANSFER PRICING = NON MEANINGFUL ESOPS FOR EMPLOYEES**
- 2. TRANSFER PRICING = RETRENCHMENTS TO EMPLOYEES**
- 3. TRANSFER PRICING = LOW AND UNEQUAL SALARIES/ WAGES FOR EMPLOYEES**
- 4. TRANSFER PRICING = INADEQUATE INVESTMENT ON SKILLS DEVELOPMENT**
- 5. TRANSFER PRICING = POOR IMPLEMENTATION OF SLP AND COMMUNITY PROJECTS**
- 6. TRANSFER PRICING = TO LESS INVESTMENT ON HEALTH AND SAFETY STARDARDS (RESULTING IN INJURIES AND FATALITIES)**

**Source: NUM**



# **Defeats the objectives of the Minerals & Petroleum Resources Development Act 2002, which states:**

- 1. Promote equitable access to the nations minerals to all people of South Africa;**
- 2. Substantially and Meaningfully expand opportunities for Historically Disadvantaged Persons, including women, to enter the mineral and petroleum industries and to benefit from the exploitation of the nation's mineral and petroleum resources;**
- 3. Promote Economic growth, mineral and petroleum resources development in the Republic; and lastly**
- 4. Promote Employment and advance the social and economic welfare for all South Africans amongst others.**

# **TRANSFER PRICING VS EMPLOYEE SHARE OWNERSHIPS SCHEMES**



- 1. REDUCTION IN PROFITS = NO DIVIDEND DECLARED TO MINORITY SHAREHOLDERS (INCLUDING ESOPS TRUSTS)**
- 2. NO DIVIDEND DECLARED = EMPLOYEES NOT SHARING IN COMPANY PROFITS**
- 3. NO PROFITS = NON ECONOMICALLY MEANINGFUL TRUSTS/SCHEMES FOR EMPLOYEES**
- 4. NON MEANINGFUL TRUST= NON COMPLIANCE WITH MINING CHARTER**
- 5. CHARTER NON COMPLIANCE= SECTION 93, 47, 98 & 99 OF THE MPRDA**

# TRANSFER PRICING VS RETRENCHMENTS/DOWNSCALLING



- 1. REDUCTION IN PROFITS = BLOATED OVERHEADS / COST RATIO'S**
- 2. BLOATED OVERHEADS = REDUCED NET PROFIT AFTER TAX (NPAT)**
- 3. REDUCED NPAT = LACK OF EXPANSION ON DEVELOPMENTAL GREENFIELDS EXPLORATION**
- 4. REDUCED NPAT= REDUCTION IN LABOUR COSTS**
- 5. REDUCTION IN LABOUR COSTS = RETRENCHMENTS**
- 6. RETRECHMENTS = REDUCTION IN BASE INCOME FOR A FAMILY OF FIVE**



# TRANSFER PRICING VS LOW/UNEQUAL SALARIES



- 1. REDUCTION IN PROFITS = PUSH FOR LOWER OVERHEADS**
- 2. PUSH FOR LOWER OVERHEADS = UNREASONABLY LOW WAGE/SALARIES MARGIN**
- 3. LOW SALARIES = COST OF LIVING TOO HIGH**
- 4. LOW SALARIES = NEED FOR A LIVING WAGE**

**NB: IRONICALLY MANAGERMENTS STILL GET ABOVE INFLATION INCREASES**



# Way forward

- 1. The DTI Parliamentary Portfolio Committee convenes an urgent meeting with the DMR, DOE, DED , DAFF and Finance portfolio committees on this matter.**
- 2. All transformation sector charter councils should be vigorous in monitoring transfer (mis) pricing**
- 3. SARS should be mandated to invest more resources in monitoring and detection of these illicit transactions.**
- 4. Financial Intelligence Centre should investigate the role of financial institutions in promoting these illicit transactions and tax evasions or avoidance.**
- 5. THE BEE Commission urgently established and investigates all non meaningful empowerment transactions.**
- 6. All sector charters alignment to the amended BBEE should not be voluntarily or sector negotiated, but compulsory.**



# **NUM SAYS NO TO XENOPHOBIA**

**Thank you !!!!!!!**