Effective Date: 7 August 2026

TRANSFER PRICING

External Guide

ADVANCE PRICING AGREEMENTS

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1 PURPOSE

a) The purpose of this guide is to expand on how the primary legislation in Part IA of Chapter III of the Income Tax Act, 1962 (the Act) and the secondary legislation (public notices) should be applied in the pilot phase of the implementation of Advance Pricing Agreement (APA) system.

b) Taxpayers may submit their requests to participate in the APA Pilot Programme from 1 September 2026.

2 SCOPE

a) The pilot phase of the implementation of the APA system deals only with double taxation agreement (DTA) APAs.

b) In light of this being a complex new system and the capacity constraints at SARS, the public notices were designed to limit applications in the pilot phase. The public notices and this guide will be updated at a later stage as the implementation of the APA system matures.

c) The pilot is intended to allow SARS to implement the APA system in a controlled manner, to test and refine its internal processes, and to build practical experience in administering APAs with treaty partners. Starting with a pilot phase also allows SARS to manage capacity and assess the effectiveness of the programme before considering its broader implementation or expansion.

d) This guide provides information on DTA APAs, unless the context indicates otherwise, purely for purposes of the pilot phase of implementation by SARS. Reference to a section means a section of the Act, unless indicated otherwise.

e) This guide explains who may apply for a DTA APA, the main steps in the APA process, the applicable fees, and the requirements for an APA concluded with SARS.

f) The provisions and requirements contained in Part IA of Chapter III of the Act, the respective public notices published during July 2026 and this external guide are specifically for processing APA applications in terms of the Act and do not extend to other tax types, like customs and excise. Furthermore, the APA outcomes have no bearing on other tax types.

3 APA CONTEXT

a) An APA is defined by the Organisation for Economic Co-operation and Development (OECD) as an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria for the determination of the transfer pricing for those transactions over a fixed period of time.

b) The purpose of an APA is to promote tax certainty in respect of an affected transaction in order to prevent or minimise double taxation and its associated dispute resolution procedures.

4 APA GUIDELINES

4.1 Persons Eligible to Apply

a) You or your representative[1] can apply to SARS for an APA in relation to an affected transaction only if you meet the following requirements:

   i) Your turnover on a standalone entity basis must have exceeded R10 billion in the year of assessment before the year in which you request a pre-application consultation meeting.
   ii) The affected transaction must relate to one of the following functions:
      A) Distribution;
      B) Manufacturing; or
      C) Intra-group services.

[1] A representative may submit an APA application on your behalf, subject to having obtained the necessary signed power of attorney.

iii) The following affected transactions will be excluded from the pilot programme:
  A) Financial assistance; and
  B) Any affected transaction that constitutes or results in the creation of intangible property.[2]

iv) For each year of assessment covered by an APA, the expected value of the affected transaction must exceed:
  A) R1 billion for a distribution or manufacturing function; or
  B) R300 million for intra-group services.

v) You must be tax compliant as required by section 256(3) of the Tax Administration Act, 2011 (TAA).

vi) You must be a "resident", as defined in section 1 of the Act.

b) SARS may accept or reject your APA pre-application consultation meeting request or APA application based on the nature of the affected transaction, the industry in which you operate and the availability of resources at SARS.

4.2 Fees

a) You must pay the following fees, depending on the relevant stage in the APA application process:

i) Pre-application consultation fee
  A) You must pay a non-refundable pre-application consultation fee of R100 000 within seven days of the date of the invoice that is issued in terms of section 76D(2).

ii) Cost recovery fees
  A) You must pay a cost recovery fee of R1 000 000 for processing the APA application.
  B) You must pay a deposit of R200 000 within seven days of the date of the invoice that is issued in terms of section 76D(2).
  C) SARS will invoice you for the remaining R800 000 in eight equal instalments at 90-day intervals in terms of section 76J(2).[3] You must pay each instalment within seven days of the invoice date. Where the APA application is not proceeded with prior to the issue of all eight invoices, you will not be liable for any remaining instalments not invoiced.
  D) SARS may charge an additional amount to recover ancillary costs related to the APA application. These costs may include travel and accommodation related expenses and fees for consulting an expert. SARS will consult you prior to incurring such costs. Failure to reach agreement on such costs may impact the outcome of the APA application.

iii) Fees associated with amending the APA application
  A) If you request an amendment to the APA application, you must pay an additional cost recovery fee in terms of section 76D(1)(c) that is invoiced in terms of section 76D(2). The additional cost recovery fee will be determined based on the facts and circumstances of the case.

iv) Annual maintenance fee for an existing APA
  A) Once an APA has been concluded or extended, you must pay an annual maintenance fee of R100 000 within seven days of the date of the invoice that is issued in terms of section 76D(2).

v) Fee for extending an existing APA
  A) If you apply to extend an existing APA, SARS will advise you of the cost of considering and processing the extension.
  B) The fee for extending an APA will depend on the facts and circumstances of the case but will not exceed the cost recovery fee for an initial application.
  C) The fee for extending the APA must be paid within seven days of the date of the invoice that is issued in terms of section 76D(2).

b) Any fee charged by SARS in the administration of the APA programme is not refundable.

c) Interest at the official rate will be charged on late payments.

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[2] Where upon accurate delineation of the affected transaction it is determined that the transaction results in the development, enhancement, maintenance and protection of intangible property, such transaction will not be eligible for an APA.

[3] Where the APA is successfully concluded prior to the issuance of all eight invoices, the balance of the cost recovery fee of R1 000 000 will be invoiced and is payable within seven days of the date of the invoice.

4.3 Correspondence Language

a) All correspondence with SARS regarding the administration of an APA must be in English.

b) When information about your APA application must be sent to the competent authority of the other country, it must be in the language required by that competent authority.

c) SARS will not accept an application for an APA unless the competent authorities agree, prior to the submission of the application, that the processing of the application and the proceedings will be conducted in English.

4.4 Pre-application Consultation

a) To request a pre-application consultation meeting, download and complete the "Advance Pricing Agreement (APA) Pre-application Form" available on the SARS website at www.sars.gov.za.

b) Submit the completed APA pre-application form and the required information listed on the form by email to: APAapplications@sars.gov.za. Where you have concerns about the volume of the information to be sent via email or the security thereof, SARS will accept information via other secure platforms, as agreed with you.

c) Upon receiving your request, SARS will acknowledge receipt of your request.

d) After reviewing your request, SARS will advise you of the next step in the pre-application consultation process. This may include a response that SARS is likely able or likely not able to proceed further with the request given its available capacity and resources.

e) Once SARS has informed you of the next step in the pre-application consultation process, SARS may send a confidentiality agreement, that must be completed and signed, together with a request for a presentation that includes the information required in terms of section 76E(3).

f) A signed copy of the confidentiality agreement, together with a copy of the presentation must be e-mailed to SARS at APAapplications@sars.gov.za.

g) Upon receipt of the signed confidentiality agreement and the presentation, SARS will issue an invoice for the pre-application consultation fee, and the fee must be paid within seven days of the date of the invoice. The proof of payment must be e-mailed to SARS at APAapplications@sars.gov.za.

h) SARS will arrange a pre-application consultation meeting with you after the invoice for the pre-application consultation fee is paid. SARS will prefer in-person meetings, however, requests for virtual meetings will be considered.

i) During the pre-application consultation meeting, you must present the information required in section 76E(3).

j) Statute of limitations for the relevant years of assessment will be considered and discussed.

k) After the pre-application consultation meeting, SARS will consult the competent authority of the other country on their willingness to accept the APA.

l) After consideration of the relevant facts and circumstances presented to SARS during the pre-application consultation meeting and after consulting with the competent authority of the other country, SARS will inform you whether you may proceed to submit the APA application.

4.5 Applying for an APA

a) Where SARS invites you to apply for an APA, SARS will issue a notification in terms of section 76E(4).

b) Upon receipt of the notification in terms of section 76E(4), you may:

i) Download and complete the "Advance Pricing Agreement (APA) Application Form" available on the SARS website at www.sars.gov.za.
ii) Submit the completed APA application form by email to: APAapplications@sars.gov.za.

c) As part of the application, you must confirm whether the other party to the affected transaction has submitted an application to the competent authority of the other country.

d) After considering the APA application, SARS will enter into discussions with the competent authority of the other country on the feasibility of the APA application. You will be consulted where additional information or confirmation is required during the application process.

e) Once SARS has made a determination on accepting your application, this will be communicated to you. If the competent authority of the other country similarly accepts your application, further engagement between the competent authorities will follow.

4.6 Amending an APA Application

a) Where an amendment to an APA application is required, you may submit a written request to the following email address: APAapplications@sars.gov.za.

b) SARS may allow an amendment to the APA application if it does not materially alter the nature of the application originally submitted. A material alteration may include, but is not limited to, a change to the nature of the affected transaction, the characterisation of the parties, or the transfer pricing methodology selected and applied.

4.7 Withdrawing an APA Application

a) Where you want to withdraw your APA application, you must submit a written request for a withdrawal to the following email address: APAapplications@sars.gov.za.

b) You may withdraw an APA application only before SARS issues you with the preliminary APA.

c) The withdrawal does not absolve you from the liability for fees that are due and payable in terms of section 76D.

4.8 Rejection of an APA Application

a) SARS will reject your APA application in any of the following circumstances:

i) The application does not meet any of the requirements prescribed in Part IA of Chapter III of the Act.
ii) Any of the additional circumstances prescribed by public notice issued in terms of section 76I(b), as listed below:
A) The proposed APA would not reflect the economic reality of the affected transaction.
B) Your application would require SARS to look only at the legal form of an affected transaction and not its substance.
C) An affected transaction appears to lack commercial substance or to have been entered into mainly to avoid tax.
D) Your application requires the interpretation of a general or specific anti-avoidance provision or doctrine.
E) Your application relates to an issue that is the same as, or substantially similar to, an issue that is subject to:
I) a proposed amendment to a tax Act that has been published;
II) dispute resolution[4] under Chapter 9 of the Tax Administration Act or an Article in an agreement for the avoidance of double taxation; or

[4] The issue subject to dispute resolution under Chapter 9 of the TAA (from the point that an appeal has been lodged against an assessment or decision as defined), must directly or indirectly affect the APA application. The facts and circumstances of each application will be considered before it is accepted or rejected.

III) a voluntary disclosure programme application by you.

F) Your application concerns the tax effects of affected transactions already covered by another agreement[5] with SARS.

G) Your application is materially different from the details you gave during the pre-application consultation stage.

H) Your application is submitted for academic purposes.[6]

I) Your application concerns a frivolous or vexatious issue.

J) You fail or refuse to provide additional information that SARS requests.[7]

K) You do not pay the fees prescribed in section 76D.

L) The competent authority of the other country does not agree to be party to the APA.

M) You are not tax compliant as required by section 256(3) of the Tax Administration Act.

b) The above rejection reasons are applicable throughout the APA process (both at the APA application stage and during the processing of the APA application).

c) SARS will engage with you throughout the APA process and may request additional supporting information or clarification before deciding whether to reject the APA application.

d) Where SARS rejects your APA application, SARS will inform you accordingly with the reasons for the rejection.

4.9 How SARS Processes an APA Application

a) SARS will notify you of your acceptance into the APA programme.

b) All APA applications will be processed in accordance with the following requirements specified in the public notice issued in terms of section 76J(1):

i) Development of an APA project plan

A) Once SARS has agreed to process your APA application, SARS will consult you and the competent authority of the other country to agree on a project plan for processing the application.

B) The project plan will set out the stages of the application process, the key milestones for each stage, and the expected duration of each stage.

ii) Gathering information

A) After the project plan is finalised, SARS will take the steps needed to prepare for discussions with the competent authority of the other country, which may include:

I) requesting further information deemed relevant to review and evaluate the application, including information relating to the multinational enterprise as a whole;

II) conducting functional analysis interviews with relevant persons;

III) engaging any industry experts; and

IV) conducting benchmarking studies, data and information gathering and analysis of comparable entities.

iii) Coordinating the information-gathering process

A) During the information-gathering phase, SARS will coordinate this process with the competent authority of the other country, based on the facts and circumstances of each case.

B) Where practical, functional analysis interviews, site visits, and information gathering will be coordinated and conducted jointly.

iv) Providing information to competent authorities

A) You must submit any requested information to both competent authorities at the same time, even where the request was made by only one competent authority.

B) You must provide the information by the date agreed between the parties.

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[5] Such as a settlement agreement covering the years of assessment to which the APA application relates.

[6] Hypothetical scenarios, transactions not seriously contemplated and academic questions will be rejected.

[7] SARS will provide you with a reasonable opportunity to remedy your failure to provide information, depending on the facts and circumstances of your case, before rejecting the APA application.

v) Position paper and discussions between competent authorities
   A) Once all relevant information has been received and considered, SARS will prepare a position paper to share with the competent authority of the other country.
   B) You will not be directly involved in preparing position papers or in participating in negotiations between the competent authorities. You will be consulted where additional information or confirmation is required during the processing of the application.

c) From the date SARS receives your APA application, SARS will provide you with a progress report every 90 days as required in terms of section 76J(2), issue invoices required in terms of section 76D(2) and issue an APA account statement. However, SARS will only commence invoicing you once both competent authorities have accepted an APA application for processing.

d) SARS will prepare a preliminary APA.

e) SARS will engage with the competent authority of the other country on the preliminary APA to enable that competent authority to decide whether it agrees with the position in the preliminary APA, after considering the applicable agreement for the avoidance of double taxation.

f) SARS will notify you in writing once this process has been completed.

g) If the competent authority of the other country agrees in writing with the position in the preliminary APA, SARS will send the preliminary APA to you for your acceptance or rejection.

4.10 Finalising an APA

a) If you accept the preliminary APA, you will be required to sign the agreement and return it to SARS at the following email address: APAapplications@sars.gov.za.

b) Once you have signed, the preliminary APA will be signed by at least two duly delegated SARS officials, one of whom will be the competent authority of SARS. Thereafter, SARS will send the APA to you and to the competent authority of the other country.

c) The APA takes effect once sections 76K(1), 76K(2), and 76K(3) have been complied with.

d) An APA may apply for up to five consecutive years of assessment, starting on the day after the end of the year of assessment in which SARS receives the APA application.

e) Upon request, SARS may allow for a rollback of the APA to apply for up to three consecutive earlier years of assessment ending on the last day of the year of assessment in which SARS receives the APA application, if this does not result in a cumulative decrease in taxable income or increase in assessed losses for those years.

f) The total duration referred to in paragraph e) above is additional to the total duration referred to in paragraph d) above.

4.11 Submitting a Compliance Report

a) You must submit a compliance report to SARS for each year of assessment that the APA or APA extension is applicable to, by the due date of the income tax return for that year of assessment. Where years of assessment covered under the APA have already been assessed prior to the conclusion of the APA, the compliance reports for those years must be submitted, as indicated in the underlying terms and conditions of the APA.

b) You must submit the compliance report in the prescribed form and manner, and it must include the following information:

   i) Any changes to the information you provided in the APA application.
   ii) Details of an affected transaction in an APA that has been concluded or is still being concluded.
   iii) Confirmation and evidence that you have complied with the terms and conditions of the APA.

c) You are still required to adhere to the statutory transfer pricing compliance obligations.

d) Where the APA is successfully concluded, you must submit the relevant amended tax return, applying the transfer pricing methodology in terms of the APA, within 21 days after finalisation of the APA. [8] The provisions of the Act and TAA, relating to secondary adjustments, penalties and interest are applicable to the APA, including the remedies available to a taxpayer in relation to penalties.

4.12 Extending an APA

a) You or your representative may request SARS to extend the APA, provided this is done at least 60 days before the end of the last year of assessment covered by the APA.

b) A request for an extension of an APA must be emailed to: APAapplications@sars.gov.za.

c) Your request for an extension must be in the prescribed form and manner and must include the following:

    i) Any changes to the information you provided in the APA application.
    ii) Confirmation that you have complied with all the terms and conditions of the existing APA.
    iii) Any changes that should be considered in the extended APA, such as economic, technical, product, industry or geographical developments.

d) SARS may extend an APA in writing for up to three consecutive years of assessment, starting on the day after the end of the last year of assessment covered by the initial APA.

e) The provisions of Part IA of Chapter III of the Act also apply to the extension of an APA, with the necessary changes.

f) SARS may reject a request to extend an APA and may require you to submit a new APA application.

4.13 Terminating an APA

a) A party to an APA may terminate the agreement prospectively by giving the other parties written notice and the reasons for doing so. The party must allow the other parties a reasonable opportunity to respond before a decision is made to terminate.

b) SARS may terminate an APA prospectively in writing if any of the following circumstances exist:

    i) The legislation on which the agreement is based is amended, unless the amendment does not affect the general interpretation on which the agreement is based.
    ii) The agreement for the avoidance of double taxation on which the agreement is based changes, unless the change does not affect the general interpretation on which the agreement is based.
    iii) A court overturns or changes an interpretation of the legislation on which the agreement is based, unless:
        A) the judgment is under appeal;
        B) the judgment is fact-specific and does not affect the general interpretation on which the agreement was based; or
        C) the reference to the interpretation on which the agreement was based was *obiter dicta.*
    iv) You failed to comply with the terms and conditions of the agreement.

c) SARS may terminate an APA retrospectively in writing if any of the following circumstances exist:

    i) It was issued in error, and:
        A) you have not yet commenced an affected transaction under the agreement or have not yet incurred significant costs in relation to that transaction;

[8] Request for extension to submit the revised tax returns as provided for in the public notice issued in terms of section 76J(3) will be considered on a case by case basis.

B) a person other than you will suffer a significant tax disadvantage if the agreement is not terminated; or

C) the effect of the agreement will materially erode the tax base of the Republic.

ii) A critical assumption is breached and the breach is not remedied within a period acceptable to SARS.

iii) An affected transaction was carried out in a materially different manner to what was disclosed in the APA application.

iv) There is fraud, misrepresentation, or non-disclosure of a material fact by you.

d) A party to an APA must inform the other parties in writing, within 30 days, after becoming aware of the conditions in paragraphs (b) and (c) above that may lead to the agreement being terminated.

e) SARS will inform all parties to the APA in writing of the date from which the agreement is terminated.

4.14 Keeping Records

a) In addition to the records required under a tax Act, you must keep sufficient records to allow SARS to verify whether you are complying with the APA.

5 DEFINITIONS AND ACRONYMS

a) Refer to section 76A for the applicable definitions.

6 REFERENCE TO ROLE, FUNCTIONAL AREA, OR DIVISION

Where an organisational structural change occurs with or without modifications, any reference in this document to a role, functional area, or division under the former organisational structure, unless the contrary intention appears, shall be construed to be a reference to that role, functional area, or division under the new organisational structure.

DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take precedence over the legislation and readers who are in doubt regarding any aspect of the information in the guide should refer to the relevant legislation or seek a formal opinion from a suitably qualified individual at SARS.

For more information about the contents of this publication, you may:

i) E-mail SARS at APAQueries@sars.gov.za; or

ii) Visit the SARS website at www.sars.gov.za.