

**BANPU**

# **Transfer Pricing Guidebook**





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## Summary Table

COUNTRY	TRANSFER PRICING METHOD	TRANSFER PRICING DOCUMENTATION					BENCHMARKING
		MASTER FILE	LOCAL FILE	CbCR	OTHER FORM	LANGUAGE	
Australia	<ul style="list-style-type: none"> <li>Comparable uncontrolled price,</li> <li>Resale price,</li> <li>Cost plus,</li> <li>Transactional net margin and Profit split.</li> </ul>	✓ <ul style="list-style-type: none"> <li>no materiality limit</li> </ul>	✓ <ul style="list-style-type: none"> <li>no materiality limit</li> </ul>	✓ <ul style="list-style-type: none"> <li>annual global income of AUD1 billion</li> </ul>	✓ <ul style="list-style-type: none"> <li>An International Dealings Schedule</li> <li>related party dealings exceed A\$2m</li> </ul>	English	<ul style="list-style-type: none"> <li>local comparable is preference</li> </ul>
		12 months after the end of the financial year	12 months after the end of the financial year	12 months after the end of the financial year	With tax return 7 months and 15 days after the end of the income tax year		
China	<ul style="list-style-type: none"> <li>Comparable uncontrolled price,</li> <li>Resale price,</li> <li>Cost plus,</li> <li>Transactional net margin</li> <li>Profit split and Asset valuation methods.</li> </ul>	✓ <ul style="list-style-type: none"> <li>RMB 1 billion</li> </ul>	✓ <ul style="list-style-type: none"> <li>RMB 200 M tangible assets</li> <li>RMB 100 M financial assets</li> <li>RMB 100 M intangible assets</li> <li>RMB 40 M for other RPT in total</li> </ul>	✓ <ul style="list-style-type: none"> <li>Chinese ultimate holding company which has revenue over RMB 5.5 billion</li> <li></li> </ul>	✓ <ul style="list-style-type: none"> <li>Annual RPT form</li> </ul>	Chinese	<ul style="list-style-type: none"> <li>Chinese local comparable are preferred</li> </ul>
		12 months after year ended	30 June of the following year	31 May of the following year with tax return	31 May of the following year together tax return		

## Summary Table

COUNTRY	TRANSFER PRICING METHOD	TRANSFER PRICING DOCUMENTATION					BENCHMARKING
		MASTER FILE	LOCAL FILE	CbCR	OTHER FORM	LANGUAGE	
Indonesia	<ul style="list-style-type: none"> <li>Comparable uncontrolled price,</li> <li>Resale price,</li> <li>Cost plus,</li> <li>Transactional net Margin and</li> <li>Profit split.</li> </ul>	✓ <ul style="list-style-type: none"> <li>IDR 50 billion of Revenue</li> <li>IDR 20 billion of Tangible asset</li> <li>IDR 5 billion of Others</li> <li>Tax rate of counter party is lower than 25%</li> </ul>	✓ <ul style="list-style-type: none"> <li>Revenue IDR 50 billion</li> <li>Tangible asset IDR 20 billion</li> <li>Other IDR 5 billion</li> <li>Tax rate of counter party is lower than 25%</li> </ul>	✓ <ul style="list-style-type: none"> <li>Revenue IDR 11,000 billion</li> </ul>	✗	Bahasa Indonesia	<ul style="list-style-type: none"> <li>Local and ASEAN region comparable are preferred.</li> <li>It not available, Asia-Pacific regional comparable may be accepted</li> </ul>
		Submit notification by 30 April of following year	Submit notification by 30 April of following year	Submit notification with tax return of the following year)			
Japan	<ul style="list-style-type: none"> <li>Comparable uncontrolled price,</li> <li>Resale price,</li> <li>Cost plus,</li> <li>Transactional net Margin and</li> <li>Profit split.</li> </ul>	✓ <ul style="list-style-type: none"> <li>Ultimate parent entity revenue exceeds 100 billion yen</li> </ul>	✓ <ul style="list-style-type: none"> <li>Ultimate parent entity revenue exceeds 100 billion yen</li> </ul>	✓ <ul style="list-style-type: none"> <li>RPT from 5 billion yen</li> <li>Intangible asset transactions from 300 million yen</li> </ul>	✓ <ul style="list-style-type: none"> <li>Ultimate parent entity notification</li> </ul>	Japanese,  But English document is practically acceptable	<ul style="list-style-type: none"> <li>Local comparable is preference</li> <li>It not available, regional or global comparable may be accepted.</li> </ul>
		(1 year from next day of the ultimate parent entity's fiscal year end)	(45 - 60 days upon request)	(1 year from next day of the ultimate parent entity's fiscal year end)	(Last day of the fiscal year of the ultimate parent entity)		



## Summary Table

COUNTRY	TRANSFER PRICING METHOD	TRANSFER PRICING DOCUMENTATION					BENCHMARKING
		MASTER FILE	LOCAL FILE	CbCR	OTHER FORM	LANGUAGE	
Mongolia	<ul style="list-style-type: none"> <li>The best-method rule is applied,</li> <li>The CUP method is preferred</li> </ul>	X	X	X	✓ • A list of related-party transactions.	Mongolian	• Pan-Asia -Pacific comparable is preferred.
					• 10 February of the following year		
Singapore	<ul style="list-style-type: none"> <li>No specific</li> <li>The most reliable method should be select and applied</li> <li>Loan transaction, CUP method is preferred</li> </ul>	X	X	✓ • Singapore MNE consolidated revenue exceed S\$1.125 billion and • Has two or more entities tax resident in difference country	✓ • RPT	English	<ul style="list-style-type: none"> <li>Local comparable is preference</li> <li>It not available, regional or Pan-Asian region comparable may be accepted.</li> </ul>
				12 months for the end of financial year.	30 November (paper filing) or 15 December (electronic filing) with tax return form.		

## Summary Table

COUNTRY	TRANSFER PRICING METHOD	TRANSFER PRICING DOCUMENTATION					BENCHMARKING
		MASTER FILE	LOCAL FILE	CbCR	OTHER FORM	LANGUAGE	
Thailand	<ul style="list-style-type: none"> <li>• Comparable uncontrolled price,</li> <li>• Resale price,</li> <li>• Cost plus,</li> <li>• Transactional net Margin and</li> <li>• Profit split.</li> </ul>	✗	✗	✗	<ul style="list-style-type: none"> <li>• TP disclosure form</li> <li>• Annual revenue from THB 200 M.</li> </ul>	Thai	<ul style="list-style-type: none"> <li>• No specific,</li> <li>• In practice, Local comparable are requested</li> </ul>
					150 days after each financial year-end		
United State	<ul style="list-style-type: none"> <li>• Comparable uncontrolled price,</li> <li>• Resale price,</li> <li>• Cost plus,</li> <li>• Transactional net Margin and</li> <li>• Profit split</li> <li>• Any other method align to arm's length principle</li> </ul>	✗	✗ For penalty protection, but no required	<ul style="list-style-type: none"> <li>• From 8975 (The CbC report)</li> <li>• The limit is USD 850 M.</li> </ul>	✗	English	<ul style="list-style-type: none"> <li>• No specific,</li> <li>• Foreign, regional or local comparable are acceptable</li> </ul>
				Submit with tax return for the respective year			

## Summary Table

COUNTRY	TRANSFER PRICING METHOD	TRANSFER PRICING DOCUMENTATION					BENCHMARKING
		MASTER FILE	LOCAL FILE	CbCR	OTHER FORM	LANGUAGE	
Vietnam	<ul style="list-style-type: none"> <li>• Comparable uncontrolled price,</li> <li>• Resale price,</li> <li>• Cost plus,</li> <li>• Transactional net Margin and</li> <li>• Profit split.</li> </ul>	✓	✓	✓	✓	Vietnamese	<ul style="list-style-type: none"> <li>• Local comparable is required</li> <li>• It not available, regional comparable may be accepted.</li> </ul>
		<ul style="list-style-type: none"> <li>• RPR from VND 50 billion.</li> <li>• Total revenue from VND50 billion and total RPT from VND30 billion and</li> <li>• Intangible assets VND200 billion</li> </ul>		<ul style="list-style-type: none"> <li>• Vietnam ultimate parent revenue exceed VND18,000 billion</li> </ul>	<ul style="list-style-type: none"> <li>• Related-party disclosure</li> <li>• Form 1 RPT disclosure</li> <li>• Form 2 local file checklist</li> <li>• Form 3 master file checklist</li> <li>• CbCR</li> </ul>		
		Within 15 working days upon request		90 days after the end of the financial year end	90 days after the end of the financial year end		





## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

Australian Taxation Office (ATO)

### b) Relevant transfer pricing regulations

Australia's transfer pricing rules are contained in subdivisions 815-B, 815-C and 815-D of the Income Tax Assessment Act 1997 (ITAA 1997); and subdivision 284-E of the Taxation Administration Act 1953 (TAA 1953).

### c) The effective date

Australia's updated transfer pricing rules are effective for the first income year commencing on or after 29 June 2013

## 2. Transfer pricing documentation requirements

### a) Applicability

Preparation of contemporaneous transfer pricing documentation is not required, but may provide taxpayers with a Reasonably Arguable Position and access to penalty relief.

### b) Transfer pricing documents

Australia has adopted the OECD's three-tiered documentation approach set out in BEPS Action 13.

The requirements are met through lodgments of 2 files; the LCMSF and the CbC Report.

1. The LCMSF, which stands for each of the components provided through the file, being:
  - Local file
  - CbC report notification
  - Master file: The master file is consistent with the OECD format
  - Short form local file
  - Financials

2. The CbC report is consistent with the OECD format.

Australian taxpayers must lodge the CbC Report in Australia

Where the CbC Report is lodged by another entity and is automatically exchanged with Australia, it is sufficient to notify the ATO of this lodgment through the LCMSF file.

### c) Materiality limit or thresholds

There is no materiality limit

### d) Language

English.

### e) Safe harbor availability

There are no formal safe harbors in the Australian transfer pricing legislation.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

- Corporate income tax return

The income tax return is due for lodgment 7 months and 15 days after the end of the income tax year, however it varies depending upon the entity.

- Transfer pricing documentation

The documentation does not need to provide to ATO, but must be on hand by the date of lodging the corporate tax return to achieve penalty protection.

- Other transfer pricing disclosures and return

If international related party dealings exceed A\$2m (including average loan balances), an International Dealings Schedule must be lodged as part of the corporate tax return.

## b) Documentation preparation deadline

Transfer pricing documentation must be prepared and available to the taxpayer by the date the entity files its income tax return for the period.

## c) Documentation submission deadline

There is no filing deadline for the submission of transfer pricing documentation,

however transfer pricing documentation must be provided upon request by the ATO.

The taxpayer generally has to submit the transfer pricing documentation within 28 days upon request by the ATO.

### • Local file

If required, an Australian Local File must be filed 12 months after the end of the financial year of the taxpayer.

### • Master file

If required, must be filed 12 months after the end of the financial year of the taxpayer unless the taxpayer has received a Replacement Reporting Period, in which case the deadline is 12 months after the end of the RRP.

### • CbC report submission or notification

If required, the CbC report is due 12 months after the end of the financial year of the taxpayer unless the taxpayer has received a replacement reporting period, in which case the deadline is 12 months after the end of the RRP.

If the CbC report is lodged with another revenue authority with whom the ATO has a formal information exchange, the Australian taxpayer is able to notify on its Australian Local File, and the ATO then obtains a copy of the CbC report directly from the unlikely to grant such an extension unless there are clear, compelling reasons supporting the request.

## 4. Transfer pricing methods

Australia applies the 'most appropriate method approach' for the selection of transfer pricing method(s). Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## 5. Benchmarking

The ATO's preference is that local comparable companies are selected. However, the ATO may accept non-Australian based comparable companies where the taxpayer can demonstrate that they have searched for, but could not identify, sufficient Australian-based comparable companies.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

- The ATO may apply a penalty rate of up to 50% to any tax avoided for transfer pricing arrangements.

### b) Penalty relief

- Penalties may be reduced in certain circumstances by 20% for voluntary disclosure after notification of an audit, or by 80% for voluntary disclosure before notification of an audit.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

State Administration of Taxation (SAT)

### b) Relevant transfer pricing regulations

Comprehensive transfer pricing rulings have been in place since 2009.

The ruling has been gradually updated /expanded since 2016 for the latest BEPS action

### c) The effective date

The new transfer pricing regulation is effective from 1 January 2016.

## 2. Transfer pricing documentation requirements

### a) Applicability

There are transfer pricing documentation rules

### b) Transfer pricing documents

China adopted BEPS Action 13 for transfer pricing documentation effective 1 January 2016.

- Local File,
- Master File
- Special Purpose File.
- Disclosure of segmented P&L of the Local File
- CbCR is part of the annual tax return.

### c) Materiality limit or thresholds

- **Local File**, becomes mandatory for a Chinese entity, if its annual amount of intercompany transactions crosses any of the following thresholds:

- RMB 200 million for normal buy-sell
- RMB 100 million for buy-sell of financial assets
- RMB 100 million for buy-sell of intangible properties
- RMB 40 million for non-buy-sell dealings (for example, service fee, royalty, interest and etc.)
- **Master File**, becomes mandatory for a Chinese entity, if its annual amount of intercompany dealings is over RMB 1 billion under aggregated basis, or if its ultimate parent company has prepared a Master File as so requested by its own country ruling.
- **CbCR**, Chinese ultimate parent company of a group whose consolidated revenue in the previous year exceeded RMB5.5 billion, are required to file a CbC report.

### d) Language

Chinese

### e) Safe harbor availability

This is not applicable.

## 3. Transfer pricing documentation and disclosure timeliness

For Local File and Special Purpose File, the due date is 30 June the following year, while the Master File is due within 12 months of the ultimate parent company's fiscal year end.

Submission of any of the three files is not mandatory unless so requested by the in-charge tax authority, in which case the Chinese entity has 30 days to oblige.

### a) Filing deadline

- Corporate income tax return
- 31 May of the following year.

- Other transfer pricing disclosures and return.

31 May of the following year.

- CbCR notification

Not applicable

- CbC report preparation or submission

31 May of the following year.

#### b) Documentation preparation deadline

The local file and special item files should be ready by 30 June of the following year.

The master file should be ready within 12 months after the financial year-end of the ultimate parent company.

#### c) Documentation submission deadline

The documentation should be submitted within 30 days upon request.

## 4. Transfer pricing methods

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and asset valuation methods.

## 5. Benchmarking

Chinese local comparable are preferred, and if there is an insufficient sample size then APAC comparable are commonly accepted. Non-APAC comparable are normally challenged or rejected by the tax authority.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

The failure to file transfer pricing disclosure forms with the annual tax return Taxpayers, failing to fulfil tax filing obligations or failing to provide such information to tax authorities upon request may be fined between RMB2,000 and RMB10,000 and 5% interest surcharge

### b) Penalty relief

The 5% interest surcharge can be avoided if transfer pricing disclosure forms are filed and contemporaneous documentation requirements are met.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

Directorate General of Taxes (DGT)

### b) Relevant transfer pricing regulations

The local transfer pricing laws are covered under PMK-213/PMK.03/2016.

### c) The effective date

30 December 2016.

## 2. Transfer pricing documentation requirements

### a) Applicability

There are transfer pricing documentation rules

### b) Transfer pricing documents

Indonesia the transfer pricing rules follows the BEPS actions 13. The company that have related party transactions should prepare and submit the transfer pricing documents as follow;

- Master File
- Local File,
- CbCR.

### c) Materiality limit or thresholds

- **Master file and Local File**, Under PMK-213, Indonesian taxpayers are required to prepare a Master File and a Local File where the taxpayer meets any of the following criteria:
  1. the taxpayer has gross revenues in the prior fiscal year of more than Rp 50 billion
  2. the taxpayer conducted related party transactions in the prior fiscal year with a value of:
    - more than Rp 20 billion of tangible

goods transactions

- more than Rp 5 billion for each service, interest payment, utilization of intangible properties or other affiliated transactions
  - Conducts transactions with related parties in countries with income tax rates lower than the Indonesian corporate income tax rate of 25%.
- **CbC Report** is required to be prepared and filed in Indonesia by:
    1. an Indonesian parent entity group who has consolidated gross revenues at least Rp 11 trillion million
    2. an Indonesian taxpayer whose parent entity is a foreign taxpayer in a country that:
      - does not require the parent entity to submit a CbC Report
      - does not have an exchange of information agreement for taxation purposes with Indonesian Government
      - Has an agreement with Indonesian Government on the exchange of information for taxation purposes, however, the CbC Report information could not be obtained by the Indonesian Government from that country.

### d) Language

Bahasa Indonesia.

### e) Safe harbor availability

There are no specific requirements for safe harbor availability.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

#### • Corporate income tax return

The corporate income tax return filing



deadline is 4 months after the fiscal year-end.

- **Other transfer pricing disclosures and return.**

Disclosures related to transfer pricing must be attached with the CITR (Form 3A/3B and Summary Form).

- **CbCR notification**

For 2017 and thereafter, the deadline is 12 months after the year-end.

- **CbC report preparation or submission**

For 2017 and thereafter, the deadline is 12 months after the year-end.

The receipt from the CbCR filing must be attached to the CITR for the subsequent fiscal year.

#### b) Documentation preparation deadline

The master and local files must be available no later than 4 months after the taxpayer's fiscal year-end.

For 2017 and thereafter, the CbCR report must be available within 12 months after the year-end.

#### c) Documentation submission deadline

The taxpayer has seven days upon request by the tax office or 30 days if it is in the tax audit process.

## 4. Transfer pricing methods

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## 5. Benchmarking

Both global and regional comparable companies will be accepted. For the external comparable companies, generally the bureau van dijk database such as Orbis and Oriana and used. Similarly, the Indonesian tax office is using the Orbis database for searching the comparable companies.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

- Appropriate disclosure of information regarding related-party transactions may be construed as an act of fraud that could lead to an administrative penalty of up to 400% of the tax underpayment.
- There will be penalties of 2% per month – up to 48% – on any tax underpayment arising from adjustments to income and costs corresponding to related-party transactions
- The 2% per month penalty mentioned above reflects an interest charge.

### b) Penalty relief

There are no provisions for penalty relief in Indonesia.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

National Tax Agency (NTA)

### b) Relevant transfer pricing regulations

The local transfer pricing laws are contained in Article 66-4 (6) of the Special Taxation Measures Law and Article 22-10 of STML enforcement regulation.

### c) The effective date

YA 2016.

## 2. Transfer pricing documentation requirements

### a) Applicability

Japan has transfer pricing documentation rules.

### b) Transfer pricing documents

For fiscal years beginning on or after 1 April 2017, companies are required to prepare a contemporaneous local file by the time of filing the corporate income tax return (i.e., annually). The regulations do not specify the extent of updates required.

### c) Materiality limit or thresholds

- **Master file:** companies with global consolidated sales of from JPY100 billion
- **Local file:** companies with transactions with a single overseas entity from JPY5 billion (all transactions including intangible transactions) or intangible transactions from JPY300 million (again with a single overseas counterparty)
- **CbCR:** MNE groups with a consolidated total revenue for the ultimate parent entity's preceding fiscal year of less than JPY100 billion.

### d) Language

The local file need not be submitted in the local language. CbCR must be prepared in English, and the master file can be prepared in English or Japanese. However, for the master file and local file, the tax examiner may request translation of all or part of the documentation when not in Japanese

### e) Safe harbor availability

No specific safe harbor is available in Japan.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

#### • Corporate income tax return

This should be filed within 3 months after year-end including an extension if the taxpayer files a stand-alone corporate income tax return. If the taxpayer files a consolidated corporate income tax return, this should be filed within 4 months after year-end including an extension.

#### • Other transfer pricing disclosures and return.

This is the same as above.

#### • CbCR notification

Notification must be submitted by the end of the ultimate parent's fiscal year-end.

#### • CbC report preparation or submission

The CbC report must be submitted within 1 year of the day following the one when the ultimate parent entity's fiscal year ends.

A master file is required to be submitted within one year of the year-end of the ultimate parent.



### b) Documentation preparation deadline

The transfer pricing local file must be prepared by the time of lodging the tax return

### c) Documentation submission deadline

- **The master file** is required to be submitted within 1 year of the year-end of the ultimate parent
- **The local file** submission deadline depends on whether transactions covered require contemporaneous documentation.
  - If transactions require a contemporaneous local file, it should be submitted by the date designated by the tax examiner can be a maximum of 45 days upon the request during a corporate or transfer pricing examination
  - If transactions are exempt from the contemporaneous local file requirement, documents considered as important to calculate arm's-length prices (documents equivalent to the local file) should be submitted to an examiner by the day designated by the tax examiner, which can be a maximum of 60 days upon the request in the course of a corporate or transfer pricing examination.

## 4. Transfer pricing methods

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## 5. Benchmarking

The tax authorities prefer local comparable. Where local comparable are not available, regional or global comparable may be accepted.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

A fine of up to JPY300,000 will be imposed if corporations fail to submit a CbC report or a master file to the District Director by the deadline without good reason.

The underpayment penalty tax is computed as 10% of the additionally assessed tax (or 15% on the amount of additionally assessed tax that exceeds the larger of the tax originally paid or JPY500,000).

And there is no interest accrued on a refund as a result of a correlative adjustment.

### b) Penalty relief

There are no specific provisions for reductions of underpayment penalties.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

General Department of National Taxation (GDNT)

### b) Relevant transfer pricing regulations

There is no single, all-encompassing piece of transfer pricing legislation in Mongolia. Transfer pricing rules are contained in the General Taxation Law (GTL), Corporate Income Tax (CIT) Law, Personal Income Tax (PIT) Law, Customs Law, Value- Added Tax (VAT) Law and double tax treaties. In addition, various implementation guidelines by the Government of Mongolia, Ministry of Finance and GDNT govern transfer pricing in Mongolia. Among these guidelines, the decree issued by the Ministry of Finance on 24 December 2015 provides the main implementation guidelines (hereafter referred to as Benchmarking Guidelines 2015).

### c) The effective date

The revision of the tax laws will be effective starting from 1 January 2020.

## 2. Transfer pricing documentation requirements

### a) Applicability

According to Benchmarking Guidelines 2015, taxpayers are required to maintain contemporaneous transfer pricing documentation to comply with the arm's-length standard.

### b) Transfer pricing documents

Mongolia currently doesn't require master and local files. The Related Party Transaction Disclosure Form.

### c) Materiality limit or thresholds

There is no materiality limit set out by law

### d) Language

The documentation should be submitted to taxing authorities in Mongolian language only.

### e) Safe harbor availability

There are no specific safe harbor rules in Mongolia.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

#### • Corporate income tax return

The annual CIT return must be filed by 10 February of following the year-end.

#### • Other transfer pricing disclosures and return.

The Related Party Transaction Disclosure Form is filed biannually: by 20 July for the first half of the year and by 10 February of the following year for the full annual transactions.

#### • CbCR notification

This is not applicable.

#### • CbC report preparation or submission

This is not applicable.

### b) Documentation preparation deadline

According to Benchmarking Guidelines 2015, documentation should be prepared at the time of executing related-party transactions and must be provided to the GDNT upon request.

### c) Documentation submission deadline

There is no specific timing requirement to be followed for submitting the documentation in Mongolia.

### b) Penalty relief

There is no penalty relief available in Mongolia for transfer pricing adjustments made by the GDNT.

## 4. Transfer pricing methods

The best-method rule is applied for determining the arm's-length prices. The regulations provide a best-method rule for determining the appropriate method to be applied by the taxpayer for each intercompany transaction. However, The CUP method is preferred.

## 5. Benchmarking

Comparable of Pan Asia-Pacific are preferable to the extent possible and if they are available.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

The failure of tax filing obligations or the failure of transfer pricing documentation is subject to penalties ranging from MNT1.5 million to MNT4 million per noncompliance event.

Transfer pricing adjustments are subject to a 30% penalty of tax payable.

Daily interest is charged on transfer pricing adjustments, based on a predetermined interest rate that is an average of commercial banking lending rates.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

Inland Revenue Authority of Singapore (IRAS)

### b) Relevant transfer pricing regulations

The Income Tax Act (ITA) was updated in 2017 and the main transfer pricing laws are contained in Sections 34D, 34E and 34F of the ITA. Section 34D

Singapore brought in contemporaneous rules, effective from YA2016 via Guidelines. Section 34F of the ITA now contains contemporaneous transfer pricing documentation legislation.

Singapore issued the first edition of Transfer Pricing Guidelines (Singapore Transfer Pricing Guidelines) in 2006. The latest edition was published in 2018.

### c) The effective date

The arm's length principle is enacted in section 34D of the ITA. Section 34E and 34F on transfer pricing surcharge and transfer pricing documentation will be effective YA2019.

## 2. Transfer pricing documentation requirements

### a) Applicability

Singapore has compulsory transfer pricing documentation with effect from YA 2019.

### b) Transfer pricing documents

The IRAS has not adopted the application of the BEPS master file and local file concepts as separate documents.

### c) Materiality limit or thresholds

#### Master File and local file

The IRAS has not adopted the application of the BEPS master file and local file concepts

as separate documents.

### CbCR

CbCR is required for an MNE group in relation to a financial year, where Singapore-resident ultimate parent entities (UPEs) of the following two types of multinational enterprise (MNE) groups are required to submit a country-by-country (CbC) report to the comptroller (or an authorized person):

- **Type A group:** An MNE group with consolidated revenues of at least S\$1.125 billion (US\$850 million) and has two or more entities that are tax residents in different countries
- **Type B group:** An MNE group with consolidated revenues of at least S\$1.125 billion and has a single entity that is tax resident in one country, but is also subject to income tax for its business carried out through a permanent establishment in another country

### Other Transfer Pricing form

Taxpayers must prepare transfer pricing documentation for their related-party transactions undertaken in a basis period when either of these two conditions is met:

- a) The gross revenue from their trade or business for the basis period concerned is more than S\$10 million.
- b) They were required to prepare transfer pricing documentation under Section 34F of the ITA for the basis period immediately before the basis period concerned.

Transfer pricing documentation is not required when the related-party transaction does not exceed certain value as follows:

- a) SGD15 million for purchase or sale of goods (respectively)
- b) SGD15 million for loans owned to or by related parties (respectively)

- c) SGD1 million for all other categories of transactions (e.g., service income and expenses, royalty income and expense, rental income and expense, and guarantee income and expense)

#### d) Language

English

#### e) Safe harbor availability

Safe harbor is available for routine services and related-party loans if certain conditions are met (refer to paragraph 12.26 of the 2018 Singapore Transfer Pricing Guidelines for routine services and paragraph 13.28 of the 2018 Singapore Transfer Pricing Guidelines for related-party loans).

### 3. Transfer pricing documentation and disclosure timeliness

#### a) Filing deadline

##### • Corporate income tax return

Corporate income tax return should be filed by 30 November (paper filing) or 15 December (electronic filing).

##### • Other transfer pricing disclosures and return.

Related- Party Transactions Form should be filed by 30 November (paper filing) or 15 December (electronic filing) together with Form C.

##### • CbCR notification

There is no CbCR notification requirement in Singapore.

Singapore-headquartered MNEs which have a filing obligation in Singapore will be required to provide the following information to the IRAS at least 3 months before the filing deadline

#### b) Documentation preparation deadline

The transfer pricing documentation is required to be prepared no later than the statutory deadline for the filing of the

income tax return.

#### c) Documentation submission deadline

Taxpayers should have evidence and submit within 30 days upon request.

### 4. Transfer pricing methods

IRAS does not have a specific preference for any one method outlined in the OECD Guidelines.

The method that produces the most reliable results, taking into account the quality of available data and the degree of accuracy of adjustments, should be selected.

### 5. Benchmarking

In general, the IRAS's preference is that local comparable companies are selected if they can be identified.

However, the IRAS may accept non-Singaporean based comparable companies

### 6. Transfer pricing penalties and relief

#### a) Penalty exposure

The failure to prepare the required transfer pricing documentation, penalty can be up to S\$1,000.

A penalty of up to S\$10,000 (US\$7,600) applies to the filing of false or misleading CbCR information. The responsible person may also be imprisoned for up to 2 years.

a surcharge of 5% will be applied to the adjusted amount.

#### b) Penalty relief

Adequate and contemporaneous transfer pricing will help in mitigating penalties, but it will not mitigate the surcharge of 5% on the transfer pricing adjustments



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

Thai Revenue Department (TRD)

### b) Relevant transfer pricing regulations

Thailand's Transfer Pricing Act (TP Act) was published in the Royal Gazette on 21 November 2018. The TP Act adds 3 new provisions (i.e., section 35 ter, 71 bis and 71 ter) to the TTC to stipulate the annual compliance requirements concerning transactions between related parties. The new provisions are to apply to financial years commencing on or a key feature of the TP Act is that a taxpayer with related party is required to prepare a report (TP disclosure form)

### c) The effective date

The mandatory transfer pricing documentation will be effective YA2019.

## 2. Transfer pricing documentation requirements

### a) Applicability

Thai transfer pricing guidelines, i.e., DI 113, outline the content requirements for Thai transfer pricing documentation.

### b) Transfer pricing documents

TRD has not adopted the application of the BEPS master file and local file concepts as separate documents.

Tax payers are required to prepare and submit the transfer pricing disclosure form if they meet the condition

### c) Materiality limit or thresholds

#### Master File and local file

This is not applicable.

### CbCR

Relevant requirements were not yet released at the time of this publication.

### Other Transfer Pricing disclosure form

A taxpayer having annual revenue not exceeding THB200 million (US\$6 million) per year will be exempted from the requirement to submit the TP disclosure form for each applicable fiscal year.

### d) Language

Local Thai language may be required for documentation; taxpayers should review the request from the Thai tax.

### e) Safe harbor availability

There are no specific safe harbor rules in Thailand.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

#### • Corporate income tax return

The tax return is submitted within 150 days after each financial year-end of the taxpayer. There are various financial year-ends that may be applicable, and therefore there is no standard tax return date.

#### • Other transfer pricing disclosures and return.

TP disclosure form should be submitted within 150 days after each financial year-end of the taxpayer, along with the corporate income tax return.

#### • CbCR notification

Relevant requirements were not yet released

### b) Documentation preparation deadline

Full transfer pricing documentation is typically required to be submitted upon request.



## Thailand

### c) Documentation submission deadline

Within five years from the date of filing the TP disclosure form, the tax authorities can request additional documents or evidence necessary to analyze the related-party transactions.

The taxpayer is required to submit the additional documents (i.e., full transfer pricing documentation) within 60 days after receiving a request letter.

If necessary, the taxpayer can request a 120-day extension to respond to the additional information requests. A 180-day extension is available for taxpayers if it is their first time receiving such request letter.

For tax shortfalls in general, if the TRD assesses a company, a penalty of 100% or 200% of the tax shortfall applies.

A 1.5% per-month surcharge may be imposed. The 1.5% monthly surcharge is capped at 100% of the tax shortfall amount.

### b) Penalty relief

In the event of a transfer pricing adjustment, there is no formal penalty relief for having transfer pricing documentation in place.

Penalties may be reduced to half, or waived, if the taxpayer voluntarily files a return and accounts for the tax shortfall. Surcharges are a form of interest and cannot be reduced. Contemporaneous documents cannot be used to reduce the penalty for a transfer pricing shortfall.

## 4. Transfer pricing methods

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## 5. Benchmarking

Only local comparable companies will be accepted. The tax authorities do not accept regional or global comparable companies.

## 6. Transfer pricing penalties and relief

### a) Penalty exposure

The failure to comply with the transfer pricing disclosure, or submitting incorrect information, will be subject to a penalty of not exceeding THB200,000.



## 1. Tax authority and relevant transfer pricing regulations or rulings

### a) Name of tax authority

Internal Revenue Service (IRS)

### b) Relevant transfer pricing regulations

The local transfer pricing laws are contained in the Internal Revenue Code (IRC) Section 482 which lays out the Transfer Pricing framework and this is further elaborated in Treasury Regulations Section 1.482. In addition, transfer pricing related adjustments and penalties are discussed in IRC Section 6662 and the regulations are promulgated thereunder.

### c) The effective date

16 December 2011.

## 2. Transfer pricing documentation requirements

### a) Applicability

Transfer pricing documentation is not required by law, although, in practice, it is recommended that taxpayers maintain contemporaneous documentation to avoid penalties.

The existence of documentation need not be either disclosed on, or provided with, the return.

### b) Transfer pricing documents

The US has adopted BEPS Action 13 in the local regulations limited to CbCR, but not covered to the master and local files

Under regulations issued in 2010, certain taxpayers must also disclose their uncertain tax positions (UTPs) on Schedule UTP

Taxpayers are required to file forms 5471, 5472 and 8865 regarding transactions with related parties.

### c) Materiality limit or thresholds

#### Master file and Local File

This is not applicable.

#### CbCR

The limit is USD850 million

### d) Language

English is the accepted language for all documentation requirements.

### e) Safe harbor availability

There are no safe harbors per se. However, Treas. Regs. Section 1.482 provides taxpayers the opportunity to use applicable federal rates (AFRs) for intercompany loans and advances; further, under certain conditions, only a charge of fully loaded cost may be used for intercompany services transactions.

## 3. Transfer pricing documentation and disclosure timeliness

### a) Filing deadline

#### • Corporate income tax return

The deadline is 15 March; extension is available until 15 October.

#### • Other transfer pricing disclosures and return.

The deadline is 15 March.

#### • CbCR notification

Filing is due with the tax return for the respective year.

### b) Documentation preparation deadline

If the documentation is prepared to help protect against penalties, then it must be in place by the filing date of a US tax return that has been filed in a timely manner.



### c) Documentation submission deadline

Taxpayers must provide the documentation to the IRS within 30 days of an examiner's request.

## 4. Transfer pricing methods

For tangible goods, the IRS accepts the CUP, resale price, cost-plus, CPM, profit split and unspecified methods. For intangible goods, the IRS accepts the comparable uncontrolled transaction (CUT), CPM, profit split and unspecified methods.

For services, the IRS accepts the services cost, comparable uncontrolled services price, gross services margin, cost of services plus, CPM, profit split and unspecified methods.

For CSA buy-ins, the IRS accepts the CUT, income, acquisition price, market capitalization, residual profit split and unspecified methods.

The regulations provide a best-method rule for determining the appropriate method to be applied by the taxpayer for each intercompany transaction.

## 5. Benchmarking

The Internal Revenue Service (IRS) generally prefers the best information available. Regional comparable companies are generally relied on when performing the comparable profits method/transactional net margin method analyses.

However, if deemed appropriate in certain industries/organizations, the search parameters may be broadened to include a more comprehensive geographical universe, if that's deemed to increase the level of comparability in the analysis.

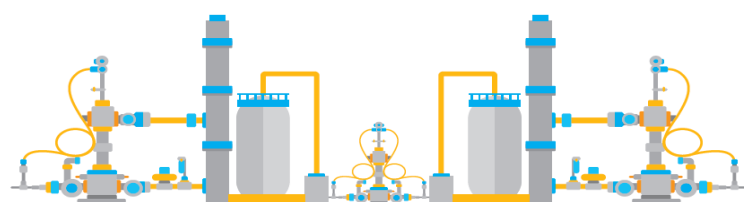
## 6. Transfer pricing penalties and relief

### a) Penalty exposure

Taxpayers may be liable for either a 20% or 40% penalty for an underpayment of tax attributable to a substantial or gross valuation misstatement, respectively. The penalties are calculated as a percentage of the underpayment, or the penalty may apply to a valuation misstatement. There is no penalty for failure to have documentation; however, documentation may help avoid a penalty.

### b) Penalty relief

Penalties may be avoided by establishing reasonable cause and good faith via the preparation of documentation of the taxpayer's application of Internal Revenue Code, Section 482.



## Vietnam

### 1. Tax authority and relevant transfer pricing regulations or rulings

#### a) Name of tax authority

General Department of Taxation (GDT)

#### b) Relevant transfer pricing regulations

The Law on Tax Administration article 37 articulates the arm's-length principle and the detailed transfer pricing regulations are included in Decree 20/2017/ND-CP (Decree 20) and Circular 41/2017/TT-BTC (Circular 41). However, in practice, based on the verbal instruction of the tax authority, we understand that Decree 20 and Circular 41 cover the taxpayers' year ending after the effective date of Decree 20 and Circular 41.

#### c) The effective date

1 May 2017

### 2. Transfer pricing documentation requirements

#### a) Applicability

There is transfer pricing documentation in Vietnam.

#### b) Transfer pricing documents

The three-tiered transfer pricing documentation (local file, master file and CbCR)

The disclosure of the related-party transactions on forms 01, 02 and 03 attached to Decree 20.

#### c) Materiality limit or thresholds

##### Master file and Local File

Clause 2, Article 11 of Decree 20 provides the exemption cases as follow:

- The taxpayer shall be responsible for the declaring of its related-party transactions in Form 01 attached to the Appendix of this Decree but shall be

exempted from preparation of the transfer pricing documentation in the following circumstances:

- Taxpayer who engaged in related-party transactions but its total revenue generated within the tax period is less than VND50 billion and the total value of its related party transactions within the tax period is less than VND30 billion
- Taxpayer who signed an Advance Pricing Agreement (APA) and submitted the annual report in accordance with legislation on Advance Pricing Agreement – for those related-party transactions which are not covered by the APA, taxpayers are obliged to comply with the aforesaid transfer pricing documentation requirements referred to in Article 10 hereof
- Taxpayers performing business activities by exercising routine functions; neither generating any revenue nor incurring any cost from the use of intangible assets; generating sales of less than VND200 billion; achieving the required ratio of net operating profit before loan interest and corporate income tax relative to sales revenue that is provided for the following businesses:
  - Distribution: at least 5%
  - Manufacturing: at least 10%
  - Toll manufacturing or processing: at least 15%

In case taxpayers do not apply the profit margins stipulated above, they are required to prepare transfer pricing documentation in accordance with this Decree.

**CbCR**

If the taxpayer cannot provide the country-by-country report of the ultimate parent company prepared for the tax period relative to the tax finalization period of the taxpayer, it is obliged to provide the country-by-country report of the ultimate parent company prepared in the financial year preceding the tax period of the taxpayer instead, together with a written explanation for the case (legal basis for why it cannot provide the CbCR of the ultimate parent company for the current year).

If the taxpayer cannot provide the country-by-country report of the ultimate parent company, it must provide a written explanation for the case.

**d) Language**

Vietnamese.

**e) Safe harbor availability**

There is no safe harbor available in Vietnam.

### 3. Transfer pricing documentation and disclosure timeliness

**a) Filing deadline**

- **Corporate income tax return**

90 days from the end of the financial year

- **Other transfer pricing disclosures and return.**

90 days from the end of the financial year

- **CbCR notification**

There is no CbCR notification requirement in Vietnam.

**b) Documentation preparation deadline**

Transfer pricing documentation typically must be finalized by the time of lodging the final CIT return to achieve penalty protection.

**c) Documentation submission deadline**

The taxpayer has to submit the transfer pricing documentation within 15 working days.

## 4. Transfer pricing methods

Decree 20 and Circular 41 permit the use of the following methods: CUP, resale price, cost-plus, TNMM, or profit split.

There is no hierarchy among the methods specified, but recent practices suggest that the Vietnam tax authority has a growing preference for the use of the CUP method if reliable information on CUP is available.

## 5. Benchmarking

There is a legal requirement for local country comparable. Where no local comparable are available, comparable in other countries within regions that have comparable conditions of industries and level of economic development are acceptable.

## 6. Transfer pricing penalties and relief

**a) Penalty exposure**

The failure to comply with transfer pricing disclosure will be penalties ranging from VND700,000 to VND5 million.

The penalty of 20% of additional tax in the case of an incorrect declaration and Additional penalties of up to 3 times the outstanding tax if there is a finding of tax evasion or fraud.

The interest penalty of 0.03% per day.

**b) Penalty relief**

Penalties may be mitigated by timely and adequate disclosure of the related-party transaction.



