Singapore IRAS Released 4th Edition of Transfer Pricing Guidelines, what does it mean for you?

On 12 January 2017, the IRAS released the 4th edition of its Transfer Pricing Guidelines. The edition already incorporates BEPS Action 8-10: Final Reports on Aligning Transfer Pricing Outcomes with Value Creation.

The New Guidelines puts greater emphasis on risk analysis, introduce indicative interest rate margin for loan transactions, and add the level of information required in the preparation of transfer pricing documentation, MAP and APA process. We have summarised below the **key changes** that can impact your Company.

1. Functional analysis

The new edition emphasises that 'Profits should be taxed where the real economic activities generating the profits are performed and where the value is created.' With this paragraph, the new edition includes **the substance over form principle** as a key consideration when applying the arm's length principle.

For this reason, a Functional Analysis is **now a crucial step** in any transfer pricing study, and it should include all commercial and economic circumstances to demonstrate that profits earned by a taxpayer are consistent with the economic activities performed.

2. Transfer pricing documentation

Ultimate parent entities in Singapore may now be obliged to submit CbC Report in addition to the regular transfer pricing documentation. The new edition added new information to be included in the TP documentation. At the Group level, a list and a brief description of the group's existing APAs and other tax rulings relating to the allocation of income among countries is to be submitted to explain the Group's financial position. A similar request will also be made at the entity level to complete the description of taxpayers' business. Also at the entity level, all adjustments made to achieve comparability must be presented.

3. TP documentation reliefs

The IRAS is still aware that transfer pricing obligation can be complicated and costly. Therefore, the safe harbours from the third edition have been also included in this edition. Additional safe harbours were included (1) Indicative margin for related party loans with total value of SG$15 million or less (2) Extension of the safe harbour to include guarantee fees (income and expenses) with a total value of SG$ 1 million or less.

4. Indicative interest rate margin for loans

The new indicative interest rate margin will be published in the IRAS's website and will be updated at the beginning of every year. It intends to facilitate TP compliance for loans that comply with the following conditions:

1. Related party loans not exceeding SG$15 million at the time that the loan is obtained or provided.
2. Loans received or provided in any currency. The threshold will be determined in Singapore dollars.
3. If the indicative interest margin is applied, the taxpayer is not expected to prepare TP documentation or benchmarking analysis to support the interest rate.

Questions?

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