KPMG

Tax Alert

ISSUE 04 | **JANUARY 2017**

New Transfer Pricing Guidelines

On 12 January 2017, the Inland Revenue Authority of Singapore ("IRAS") released new transfer pricing guidance in the form of an e-Tax Guide -- Transfer Pricing Guidelines 4th Edition ("TPG4").

OVERVIEW OF THE NEW GUIDELINES

In summary, TPG4 expands upon the guidance released by the IRAS over the past two years.

As with previous iterations, the content of TPG4 details transfer pricing concepts and methods, as well as how taxpayers should apply them. There are also sections on Mutual Agreement Procedures ("MAP") and Advance Pricing Arrangements ("APAs"), and the administrative details thereof.

Of importance, transfer pricing requirements such as the need for contemporaneous documentation to be completed by the taxpayer's filing due date remain unchanged.

Compared to previous IRAS guidance, most of the changes in TPG4 are focused in the following areas.

- Following last year's announcement that Singapore has joined the Inclusive Framework for implementing measures against Base Erosion and Profit Shifting ("BEPS"), TPG4 contains sections which are aligned to BEPS concepts. For example, in addition to endorsing the arm's length principle, the IRAS subscribes to the principle that profits should be taxed where real economic activities generating the profits are performed and where value is created.

- The section detailing the treatment of risk have been significantly expanded. When analysing risks, taxpayers should:

  (a) determine the risks assumed and the functions performed to manage that risk;

  (b) demonstrate capacity to assume the risk and the capability to mitigate or control the risk; and

  (c) reflect the consequences of risk assumption and the remuneration for risk management into the transfer price.

- Contents of transfer pricing documentation have been expanded to include, where applicable, disclosure on the group's existing APAs and tax rulings, as well as the filing of a Country-by-Country Report.

- Tweaks to the sections on MAP and APAs include:

  (a) commentary on the spontaneous exchange of information on cross-border unilateral APAs, which the IRAS will agree to if certain conditions are met;

  (b) some flexibility on the bilateral or multilateral APA roll-back years beyond the usual two year rollback period;

  (c) commentary that the IRAS is unlikely to take a position that will be at odds with that determined by Singapore tribunals and courts; and

  (d) clarifications on the deadlines involved during the APA filing process.

- As an alternative to performing detailed benchmarking, taxpayers may opt to apply an indicative margin for committed related-party loans that do not exceed SGD 15 million. The indicative margin, which is published on the IRAS website and updated annually, is currently 250 basis points for the 2017 calendar year. The margin must be added to an appropriate base reference rate such as the Singapore Interbank Offered Rate (SIBOR) or others.

OUR OBSERVATIONS AND COMMENTS

Since joining the Inclusive Framework, Singapore has been taking steps to stay abreast of OECD requirements. In line with this, the IRAS has recently mandated Country-by-Country Reporting and a form for reporting related-party transactions, both of which are to be filed in 2018 by Singapore taxpayers meeting certain conditions and thresholds.

With TPG4, the IRAS continues its trend of stressing transfer pricing compliance, in particular the need for robust transfer pricing documentation. Accordingly, companies with significant related-party transactions will need to carefully evaluate the extent of their transfer pricing compliance in a systematic manner.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

Contact us

Chiu Wu Hong
Head of Tax
T: +65 6213 2569
E: wchiu@kpmg.com.sg

Geoffrey K. Soh
Head of Transfer Pricing
T: +65 6213 3035
E: geoffreysoh@kpmg.com.sg

Felicia Chia
Partner, Transfer Pricing
T: + 65 6213 2525
E: fchia@kpmg.com.sg

KPMG
16 Raffles Quay
#22-00 Hong Leong Building
Singapore 048581
T: +65 6213 3388
F: +65 6227 1297
E: tax@kpmg.com.sg

Find out more about our services at **kpmg.com.sg**

Asia Tax Firm of the Year; Asia International Tax Firm; Asia Indirect Tax Firm; Asia Global Executive Mobility Firm and National Firm for Transfer Pricing in Singapore – ITR Asia Tax Awards 2016.

Ranked Tier 1 Firm in Singapore – World Tax 2017, International Tax Review.

For more details of our Tax services, please click here.

About Tax Alert

KPMG’s Tax Alerts highlight the latest tax developments, impending change to laws or regulations, current practices and potential problem areas that may impact your company. As certain issues discussed herein are time sensitive it is advisable to make plans accordingly.

“Tax Alert” is issued exclusively for the information of clients and staff of KPMG Services Pte. Ltd. and should not be used or relied upon as a substitute for detailed advice or a basis for formulating business decisions.

kpmg.com.sg/socialmedia