

Tax alert

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Singapore Transfer Pricing Guidelines (Seventh Edition) and Singapore TP rules issued

The Inland Revenue Authority of Singapore (IRAS) published the seventh edition of the e-Tax Guide on Transfer Pricing Guidelines (TPG7) on 14 June 2024. The relevant legislative changes to the Transfer Pricing Documentation Rules were made on 7 June 2024. This KPMG Tax Alert focuses on the key changes and how taxpayers in Singapore might be affected.

Main Changes and Implications

The notable changes and implications arising from the updates to the Transfer Pricing (TP) Documentation Rules and TPG7 are summarised below.

1. Discontinuation of using interest restriction as a proxy to the Arm's-Length Principle for domestic loans

Domestic related-party loans commencing on or after 1 January 2025 will no longer be able to apply interest restriction¹ as a proxy for the arm's-length principle. All domestic loans must apply an arm's-length interest rate, either supported by relevant TP analysis or is based on the indicative margin provided by IRAS. Unless other exemption criteria are met, taxpayers will be required to prepare contemporaneous TP documentation for such domestic loans.

This change aligns Singapore's TP regime with more established jurisdictions and eliminates the simplified approach for managing domestic financing arrangements. Taxpayers using Singapore as a funding hub may need to reevaluate their intragroup loan TP model holistically based on TPG7.

While historical financing arrangements that

are entered prior to 1 January 2025 are grandfathered (provided the lender is not in the business of borrowing and lending), it is important to consider if changes to historic loans made after 1 January 2025 will constitute a refinancing arrangement (i.e. a new loan).

2. TP Audits and Application of Section 34E – Surcharge on TP Adjustments

The history of TP audit scrutiny in Singapore began as a consultation exercise. Over time, with the introduction and refinement of TP legislation, IRAS has strengthened its stance and increased its expectations for related-party transactions to be conducted at arm's length.



¹ To limit the interest deduction available to the lender to the amount of corresponding interest income it derives from its domestic related-party loans

In TPG7, IRAS has adopted a more assertive stance by removing consultation with taxpayers as a step prior to issuing TP adjustments. This reflects IRAS' audit experience and its expectation for taxpayers to produce robust and timely documentation during audits. The update indicates a move towards enhanced compliance and increased scrutiny.

While the key conditions for the remission of surcharge remain unchanged, IRAS has elaborated on what constitutes a good compliance record. This includes having no history of surcharges or penalties being imposed or remitted/compounded over the current and two preceding years of assessment (YAs). This underscores IRAS' position that repeat offenders should not expect remission of surcharge.

Taxpayers must prepare for heightened TP audit scrutiny, with more cases expected to receive TP adjustments and surcharges from IRAS. Taxpayers will then have to go through the formal objection and appeal process if they were to disagree with the adjustments.



These revisions mark a significant shift in IRAS' approach to TP audits and adjustments, transitioning from a supportive role to one characterised by stringent and proactive oversight. We expect further increases in TP audits, with more cases receiving TP adjustments and surcharges from IRAS, continuing the trend.

3. Contemporaneous TP Documentation

Transaction exemption threshold

From financial year (FY) 2025 or YA 2026, the transaction threshold for exemption from TP documentation will be increased from S\$1 million to S\$2 million for services, grant of right to use immovable property, leases, guarantees and "other" transactions. The threshold exemption for goods and loans transaction remains unchanged at S\$15 million for purchase, sales and loan principal respectively.

This change reduces the compliance burden for smaller transactions and aligns with IRAS' broader objective of streamlining documentation requirements to focus efforts on higher-risk scenarios.

Annual review and refresh of TP Documentation for long term loans

The IRAS has clarified that the requirement to review and refresh TP documentation annually does apply to long-term loans with related parties. Factors such as changes in the economic environment, value of collateral, and the borrower's financial status can impact the terms and conditions of the loan over time.

These changes might affect the assessed arm's length interest rate or lead to the loan, or part of the loan being considered as having equity characteristics.

Practically, this means that even if a loan is extended for, say, five years, IRAS expects TP documentation to be prepared on the year when the loan was extended, then supported by simplified or new TP documentation on year two and year three, and followed by a full update of the analysis in year four, which may necessitate repricing the loan.

The practical application of such requirements, as well as the potential impact on the counterparty jurisdiction requires further consideration. We recommend a specific discussion based on your facts and circumstances.

The emphasis on the possibility that a loan could evolve into an arrangement more akin to equity, suggests a shift in how taxpayers should support and document the arm's length nature of long-term loans. This change means that annual reviews should include broader considerations about whether a purported loan remains a loan over time. This also signals that IRAS may place greater TP audit focus on loans going forward.

Simplified TP Documentation

The IRAS clarified that simplified TP documentation must adhere to the same standards as TP documentation prepared under Section 34F of ITA as prescribed by the TP Documentation Rules. This means the rules and compliance requirements apply equally to both new and simplified TP documentation. Specifically, the clarification emphasises that simplified TP documentation must be prepared on a contemporaneous basis and dated accordingly.

Taxpayers should be aware of IRAS' increasing focus on contemporaneously prepared TP documentation, which is commonly scrutinised during routine tax queries and specific TP audits.

4. Capital Transactions

IRAS has confirmed that TP adjustments would not be made in respect of capital transactions which are not taxable or deductible under the Income Tax Act. However, if the sale or transfer of fixed assets between related parties are not conducted at arm's length, IRAS may adjust to reflect the open-market price and determine the relevant capital allowance or balancing adjustment accordingly.

From a documentation perspective, IRAS clarified that taxpayers are not required to prepare TP documentation for capital transactions including the sale and transfer of fixed assets. However, given the risk of review, particularly for material fixed assets transfers, it is important to ensure that relevant analyses are duly undertaken and documented.

These positions align with current practice and the explicit confirmation in TPG7 offer more certainty to taxpayers engaging in such transactions. These updates on capital transactions also serve as a prelude to separate guidance on the application of the arm's length principle for capital transactions under Singapore's Domestic Top-up Tax. Further details on the guidance is expected to be issued in the coming months.

5. Clarifications on Strict Pass-Through Costs

IRAS' overall position with regards to the treatment of Pass-Through Cost remains unchanged i.e. Singapore continues to be stricter than the OECD in this particular aspect, requiring the ultimate recipient of the cost to also bear the legal and contractual liability of the cost. In response to feedback relating to the compliance burden associated with having a written agreement, IRAS has provided clarifications that written agreement can include e-mail correspondence between the relevant related parties within the group. This clarification would be welcomed by taxpayers since it clarifies the main historic point of uncertainty relating to the strict pass-through costs criteria.

6. TP Considerations for Government Assistance

TPG7 has introduced a new section relating to the TP treatment for government assistance, a topic that gained prominence during Covid-19 when government assistance was widespread. With new measures such as [refundable investment credits](#), this guidance is timely.

The guidance aligns with general TP principles and the OECD's guidance on the TP implications of the Covid-19 pandemic, acknowledging the practical challenges of performing a comparability analysis owing to the lack of detailed, reliable and timely public data. Compared to the FAQs released during the Covid-19 pandemic, IRAS now introduces a "rebuttable presumption" that an independent party acting commercially would retain the benefits from government assistance.

In practice, taxpayers may struggle to obtain the reliable evidence suggested by IRAS to show that independent parties might not retain such benefits. This could remain an area where additional dialogues with IRAS will be helpful.

4. Other Updates in TPG7

For completeness, other updates included in TPG7, but not covered in detail here are:

- Additional guidance on working capital adjustments for comparability analysis
- Update of the MAP process to remove pre-filing meetings
- Updates of guidance on analysis of services
- Further guidance and examples relating to the transition from IBOR to risk-free overnight loan base rates

Key Takeaways

TPG7 reflects IRAS' response to taxpayers' ask for greater clarity as well as its experience in administering the TP guidance and legislation over the last 18 years. This covered some longstanding practices like working capital adjustments, commonly sought clarifications such as requirements for strict pass-through cost, TP documentation, government assistance.

IRAS' stance on TP audits is now more assertive, consistent with recent trends observed in TP audits.

A significant change is the discontinuation of the using interest restriction as a proxy to the arm's-length principle for domestic related party loans. This aligns Singapore's TP guidance with international practices but has considerable impacts for many taxpayers.

The clarification that long-term loans should undergo annual reviews, reflects the evolving landscape of loan analysis. This necessitates careful consideration of how intercompany loans are structured, including interest rates and specific loan conditions (e.g. lock-in periods, early repayment and refinancing clauses).

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.



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