

# Tax & Legal News Flash

KPMG in Thailand



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Are you ready for Thailand's new transfer pricing law to enter into force from 1 January 2019?

The journey of enacting Thailand's transfer pricing law has come to an end. Royal Decree No.47, which was issued on 18 November 2018 to amend the Revenue Code to introduce the transfer pricing law ("TP Law"), was published in the Royal Gazette on 21 November 2018. We have summarized below the key points under the TP Law.

- A company or juristic partnership who has a relationship with another juristic person(s), as defined by the TP Law, and has annual income of **200 million Baht** or more ("Taxpayer"), is required by the TP Law to do the following ("Taxpayer's Duties"):
  - Mandatory submit to the Thai Revenue Department ("TRD"), along with the "PND 50" annual corporate income tax return, a report on (i) the Taxpayer's relationship with the other juristic person(s); and (ii) the total value of the related party transactions, in the form to be prescribed by the Director-General of the TRD ("Report").
  - Upon request by a TRD officer, which can be made **within five years** after the filing of the Report, submit to the TRD any documents or evidence showing necessary information for the TRD's analysis of the related party transactions.

Such documents or evidence must be submitted to the TRD within 60 days after the Taxpayer receives an official request in writing ("Official Request"). However, the Director-General of the TRD may approve an extension of the submission deadline for a period of up to 120 days. In addition, for the first Official Request only, the documents or evidence can be submitted to the TRD within 180 days after receiving the Official Request.

- The Taxpayer's Duties will enter into force for accounting periods starting on or after 1 January 2019.
- There may be a fine of up to 200,000 Baht for a Taxpayer who fails to comply with the Taxpayer's Duties or submits to the TRD incomplete or incorrect documentation without reasonable cause.

## Key contacts

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## KPMG's Recommendations

As Taxpayers will be required to file the mandatory Report under the new TP Law in 2020 (along with PND 50 for the 2019 fiscal year), we anticipate that tax officers will focus more and more on transfer pricing investigations. In our experience, there have been significant increases in transfer pricing queries and audits conducted by the TRD over the last few years. As a result, KPMG strongly recommends that Taxpayers should pro-actively start preparing for the new Thai TP framework by introducing compliance procedures for transfer pricing disclosure and documentation that are in line with the new TP law, as part of their transfer pricing policy.

Taxpayers should also start preparing robust transfer pricing analysis and documentation. This will be essential for effective management of the risks associated with Thailand's strict documentation requirements and the new detailed transfer pricing regulations that are expected to be issued under the TP Law. Robust transfer pricing documentation will also be key to support negotiations with the tax authorities on future proposed adjustments or the imposition of any penalties.

It would normally take time to prepare appropriate transfer pricing documentation for Thai tax purposes. Therefore, Taxpayers should prepare such documentation early, well in advance of the Report deadline and certainly before receiving an Official Request from the TRD.

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