



## Issue 111 : October 2021

### New Transfer Pricing Requirements for Information/Documents for Local File

On 30 September 2021, the Director-General of the Revenue Department (“TRD”) issued Notification of the Director-General No. 407 on the transfer pricing requirements for (i) the information/documents for a local file; and (ii) criteria for benchmarking study exemption, which are effective for all accounting periods starting on or after 1 January 2021. The key highlights are as follows:

#### **List of information/documents for a local file**

Overall, the information and documents required when preparing a local file are as follows:

- business model, management structure, local organization chart with headcount numbers, value chain, key suppliers, customers and competitors, business strategy and economic circumstances;
- relationship structure including shareholding information;
- an explanation of business restructuring between related parties and its impacts;
- an explanation of intangible assets received from or transferred to related parties and their impacts;
- the nature and amounts of controlled transactions with counterparties and countries;
- an explanation of and transfer pricing policy for each controlled transaction with assumptions used in setting prices unless such controlled transactions are insignificant;
- agreements relevant to those controlled transactions with a summary of key information, conditions and prices stated in agreements;
- functions, assets, and risks analysis;
- financial information used in determining prices;
- the transfer pricing method applied for each transaction with reasons for selecting or not selecting a method and an indication of counterparties to such controlled transactions for transfer pricing testing purposes;
- an explanation of uncontrolled comparable transactions or independent comparable companies with financial indicators, independent compensation ranges, search methodologies, and sources of information (“Benchmarking Study”);
- any other necessary documents or evidence not listed above but requested by assessment officers with approval from the Director-General.

The local file, along with the associated information and documents listed above, must be prepared in Thai. The submission of a local file is considered complete only if a taxpayer receives a document receipt number or any other evidence of receipt from the TRD.

#### **Criteria for Benchmarking Study exemption**

A taxpayer does not need to submit a Benchmarking Study if the conditions listed below are met:

1. If the submission taxpayer has the following characteristics:
  - having income from business or related business in this accounting period not exceeding THB 500 million
  - having no controlled transactions with related parties paying a different corporate income tax rate from the submission taxpayer
  - having no controlled transactions with overseas related parties
  - having no loss carry forward used in this accounting period and related parties in controlled transactions having no similar loss.

- If the submission taxpayer has requested an Advance Pricing Agreement or any obligations under a Double Tax Treaty with concluded agreement from government bodies during agreed periods.

## KPMG's observations and recommendations

The list of information or documents required when preparing a local file mostly aligns with OECD Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 ("BEPS 13"). It is worthwhile noting that the analyses of transfer pricing policies and benchmarking studies are required not only for overall business, but also for each controlled transaction. In addition, if taxpayers would like to be eligible for benchmarking study exemption, those taxpayers would have the burden of proof and would need to disclose related counterparties' information to demonstrate that they meet the criteria.

It is strongly recommended that taxpayers should pro-actively start preparing robust transfer pricing analyses and documentation. If taxpayers have prepared your local file on overall business, you may consider conducting deeper analyses by each type of controlled transaction to meet this new transfer pricing requirement. Especially during the period of this COVID-19 pandemic, it is worthwhile for taxpayers to revisit their transfer pricing policies, as well as re-evaluating arm's-length observations for important controlled transactions in detail.

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