



# Tax News Flash

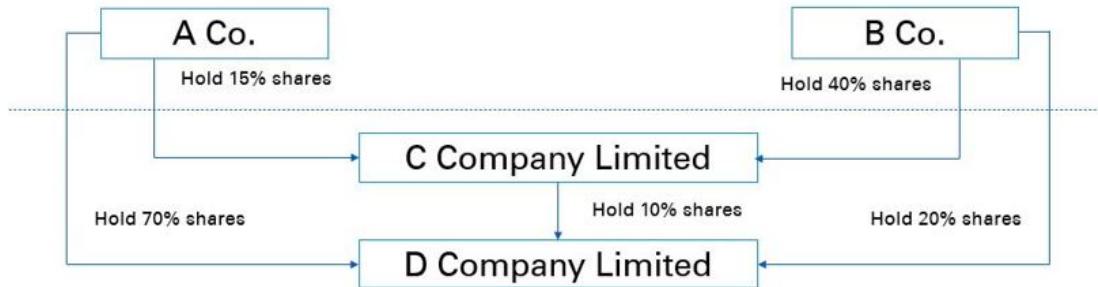
KPMG in Thailand



## Issue 125 : March 2022 Related Parties Through the Same Group of Shareholders

In March 2022, the Thai Revenue Department has issued the new template of Transfer Pricing Disclosure Form ("TPDF") for accounting year 2021 and also the additional explanation on the TPDF. One of the new explanations and Q&A for the TPDF which provides a clearer position from the TRD is about the definition of the related party. The consideration of related parties is still based on the definition from Clause 2 (1) and (2) of Section 71 bis of the Thai Revenue Code ("TRC"). The definition from Clause 2 (3) of Section 71 bis has not been enforced yet.

Regarding definition of related party under Clause 2 (1) and (2) of Section 71 bis, the TRD provides many examples of corporate structure in the explanation document. One of the examples is as below.



**Question:** Are C Company Limited and D Company Limited become related party companies?

**Answer:** C Company Limited and D Company Limited are related party companies according to Section 71 bis Clause 2 (2) of the TRC, as C Company Limited has the same shareholders as D Company Limited. In other words, A Co. and B Co. are shareholders of both companies. A Co. and B Co. directly hold 55% of C Company Limited shares combined, and A Co. and B Co. directly hold 90% of D Company Limited shares combined.

(Source: Unofficially translated from example 12 of TPDF explanation note).

## KPMG's Observations and Recommendations

It is important to note that the same concept should be applied for the individual shareholders (e.g., Mr. A and Mr. B). If the same group of shareholders holds together at least 50% of total shares of C Company Limited and D Company Limited, both parties are related parties by this example. If this is the case, C Company Limited should be required to prepare the TPDF and report D company Limited as its related party.

It is recommended that all companies carefully review their lists of related parties. Especially if it is a family-owned business, it is recommended that the management should have a discussion with shareholders to obtain a full picture of all entities whose shares are held by them and then evaluate whether it meets the criteria of related parties as per Section 71 bis Clause 2 (2) of the TRC.

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