



## Tax Insights

### Simplified Transfer Pricing Record Keeping Options: Update to interest rate thresholds

#### Snapshot

On 17 December 2020, the Australian Taxation Office (ATO) released an updated version of [Practical Compliance Guideline \(PCG\) 2017/2](#) ("the PCG"). The update relates to the eligibility criteria for applying Simplified Transfer Pricing Record Keeping (STPRK) options for low level related party inbound and outbound loans.

The changes to the PCG are:

- **The maximum interest rate for low level related party inbound loans for the 2021 income year is 1.79%**, reduced from a rate of 2.33% which applied for the 2020 income year; and
- **The minimum interest rate for low level related party outbound loans for the 2021 income year is also 1.79%**, reduced from a rate of 2.33% which applied for the 2020 income year.

#### Observations

Taxpayers that meet the criteria in the PCG are eligible for reduced record-keeping requirements in relation to transfer pricing. The criteria for intra-group financing include maximum and minimum interest rate thresholds for inbound and outbound loans respectively (other criteria include, amongst others, a combined cross-border loan balance of \$50 million or less throughout the year for the Australian economic group, as well as an absence of sustained losses and restructuring activity.)

The interest rate thresholds have maintained a downward trend over recent years, as summarised by the table below:

<b>Income Year</b>	<b>Inbound Loans</b>	<b>Outbound Loans</b>
<b>2018</b>	6.45%	3.79%
<b>2019</b>	3.76%	3.76%
<b>2020</b>	2.33%	2.33%
<b>2021</b>	1.79%	1.79%

The interest rate threshold in the 2021 income year has reduced by over 50 basis points from the applicable rate for the 2020 income year. This means that the STPRK option for low level related party inbound loans is likely to be available to fewer taxpayers in the 2021 income year compared to previous years.

On other hand, reducing the interest rate threshold is likely to mean that the STPRK option for such loans will be available to more outbound related party loans in the 2021 income year compared to previous years.

#### **Recommended action**

We recommend that taxpayers with cross-border related party loans assess their eligibility to apply the STPRK options in light of the changes to the PCG. In doing so, it is important to consider all of the relevant eligibility and exclusion criteria (i.e. not just that related to the applicable interest rate) before relying on the options.

If the above changes mean that taxpayers previously eligible to apply the STPRK options to their intra-group loans are now ineligible, we recommend that they review the adequacy of their transfer pricing documentation supporting the arm's length nature of their loans. This is particularly important in light of the ATO's continuing focus on intra-group financing arrangements.

Lastly, we note that PCG 2017/2 is not law and that taxpayers should support transfer pricing filing positions in respect of their intra-group loans with appropriate benchmarking. On this front, it is important to remember that the STPRK options are not safe harbours, and one of options' eligibility factors is that "you have assessed your compliance with the transfer pricing rules."

## Contacts

### Stan Hales

Transfer Pricing  
Partner  
Tel: +61 447 007 929  
[sthales@deloitte.com.au](mailto:sthales@deloitte.com.au)

### Ockie Olivier

Transfer Pricing  
Partner  
Tel: +61 8 9365 7158  
[oolivier@deloitte.com.au](mailto:oolivier@deloitte.com.au)

### Soulla McFall

Transfer Pricing  
Partner  
Tel: +61 3 9671 7814  
[smcfall@deloitte.com.au](mailto:smcfall@deloitte.com.au)

### Jacques Van-Rhyn

Transfer Pricing  
Partner  
Tel: +61 8 9365 7122  
[jvanrhyn@deloitte.com.au](mailto:jvanrhyn@deloitte.com.au)

### Fiona Craig

Transfer Pricing  
Partner  
Tel: +61 2 9322 7770  
[ficraig@deloitte.com.au](mailto:ficraig@deloitte.com.au)

### Geoff Gill

Transfer Pricing  
Partner  
Tel: +61 2 9322 5358  
[gegill@deloitte.com.au](mailto:gegill@deloitte.com.au)

### Paul Riley

Transfer Pricing  
Partner  
Tel: +61 3 9671 7850  
[pbriley@deloitte.com.au](mailto:pbriley@deloitte.com.au)

### Chris Thomas

Transfer Pricing  
Principal  
Tel: +61 2 8260 4539  
[chrisjthomas@deloitte.com.au](mailto:chrisjthomas@deloitte.com.au)

### Cam Smith

Transfer Pricing  
Partner  
Tel: +61 3 9671 7440  
[camsmith@deloitte.com.au](mailto:camsmith@deloitte.com.au)

### Graeme Smith

Transfer Pricing  
Partner  
Tel: +61 3 9322 5632  
[graesmith@deloitte.com.au](mailto:graesmith@deloitte.com.au)

### Aparna Rao

Transfer Pricing  
Partner  
Tel: +61 3 9322 5832  
[aprao@deloitte.com.au](mailto:aprao@deloitte.com.au)

### Stephanie Lucas

Transfer Pricing  
Partner  
Tel: +61 7 3308 7262  
[slucas@deloitte.com.au](mailto:slucas@deloitte.com.au)

### David Letos

Transfer Pricing  
Partner  
Tel: +61 3 9671 6734  
[dletos@deloitte.com.au](mailto:dletos@deloitte.com.au)

### Brad Edwards

Transfer Pricing  
Principal  
Tel: +61 2 9322 5717  
[bradedwards@deloitte.com.au](mailto:bradedwards@deloitte.com.au)

### Priscilla Ratilal

Transfer Pricing  
Director  
Tel: +61 3 9322 5086  
[pratilal@deloitte.com.au](mailto:pratilal@deloitte.com.au)

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