



Tax Espresso

A snappy delight

Greetings from Deloitte Malaysia's Tax services group

Recent developments in Form C and Transfer Pricing Compliance Alert

This issue of the Tax Espresso brings to you the changes in the disclosure requirements in Form C for YA 2014 that mandate the preparation of Transfer Pricing Documentation before the filing deadline.

Changes to Form C YA 2014

The revised Form C for YA 2014 embeds a new item requiring the taxpayer to indicate whether transfer pricing documentation has been prepared by the taxpayer for the relevant YA.

R4 Transfer Pricing Documentation prepared

(Enter X in the relevant box) Yes No

Existing provisions

In Malaysia, Section 140A of the Income Tax Act 1967 read along with the Income Tax (Transfer Pricing) Rules 2012 ("TP Rules") and the Malaysia Transfer Pricing Guidelines 2012 ("MTP Guidelines") issued in July 2012 requires all companies with transactions with associated persons to determine and apply the arm's length price for such transactions. Further, the TP Rules and the MTP Guidelines require a person who enters into a controlled transaction to prepare contemporaneous transfer pricing documentation for the year in which a controlled transaction exists.

The TP Rules and the MTP Guidelines have clearly spelt out the meaning of the term "contemporaneous transfer pricing documentation" as follows:

Issue 5/2014

Quick links:

[Deloitte Malaysia](#)

[Inland Revenue Board](#)

[Sample Company Return
Form and Guidebook
2014](#)

Takeaways:

Update on recent developments in Form C 2014

Transfer Pricing
Compliance Alert

Important deadlines:

Due date for 2015 tax estimates for companies with June year-end (31 May 2014)

6th month revision of tax estimates for companies with November year-end (31 May 2014)

9th month revision of tax estimates for companies with August year-end (31 May 2014)

Statutory filing of 2013 tax returns for companies with October year-end (31 May 2014)

“Contemporaneous transfer pricing documentation” means transfer pricing documentation which is brought into existence

- ✓ *When a person is **developing or implementing** any controlled transaction; and*
- ✓ *Where in a basis period for a year of assessment the controlled transaction is reviewed and there are **material changes**, the documentation shall be updated **prior to the due date** for furnishing a return for that basis period for that year of assessment.*

Implications of the changes in the disclosure in Form C

Under the existing Regulations, the taxpayer is required to maintain contemporaneous documentation for the year in which there are controlled transactions. Further, the law clearly specifies that in the event of occurrence of material changes, the deadline for updating the documentation is prior to the due date of furnishing the return of income.

The above change by way of introduction of the new item in the Form C with respect to the disclosure of the TP Documentation clearly impresses upon the taxpayer that, from YA 2014 onwards, it is mandatory for all taxpayers (falling within the ambit of the Guidelines) to prepare and maintain transfer pricing documentation before the due date of filing of the return, (irrespective of whether or not there are material changes). This means that for YA 2014, the taxpayer would need to have a TP documentation in place before the filing deadline in order to be able to check “YES” to Item R4 in Form C.

Timeline

Year end	Filing deadline for Form C	Deadline to prepare TP Documentation
January 2014	31 August 2014	31 August 2014
March 2014	31 October 2014	31 October 2014
December 2014	31 July 2015	31 July 2015

Following are some of the questions that taxpayers may be challenged with subsequent to the amendment and the required disclosure in Form C YA 2014

1. If the taxpayer has prepared documentation up to YA 2012, can it respond as “YES” to Item R4?
2. If the taxpayer’s turnover and related party transactions are below the thresholds mentioned in the MTP Guidelines, can the taxpayer respond to Item R4 with a “NO”?
3. According to the TP Rules and the MTP Guidelines, a taxpayer is required to update TP documentation only if there are “material changes”. If the taxpayer had prepared documentation for some prior YA, and there has been no change in the functional and risk profiles of the taxpayer, can the taxpayer respond with a “YES” to Item R4?
4. What are the implications of responding with a “NO” in Item R4?
5. Would the taxpayer be subject to penalty (if any) for non-compliance?

Breakfast briefing

If you are a taxpayer facing similar questions and would like to get a better understanding on the changes and its implications on your business from a transfer pricing compliance perspective, we would be pleased to invite you to come and join us in the briefing that we would be conducting on Monday, May 19, 2014. Please refer to details below:-

Venue

Apollo Room, Level 15, Menara LGB, 1 Jalan Wan Kadir,
Taman Tun Dr. Ismail, 60000 Kuala Lumpur
Main: +603 7610 8888

Time

9:30 AM to 11:00 AM

This is a complimentary event. We extend this invitation to accommodate participants on a first-come first-served basis. To reserve a seat, please contact Ingrid Fong at 03 - 7610 8533 or email to bofong@deloitte.com

For any enquiry in relation to the recent development or transfer pricing documentation, please e-mail or call:

Theresa Goh 03 - 7610 8837
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We invite you to explore other tax related information at:
http://www.deloitte.com/view/en_MY/my/mysvc/mytax/index.htm

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