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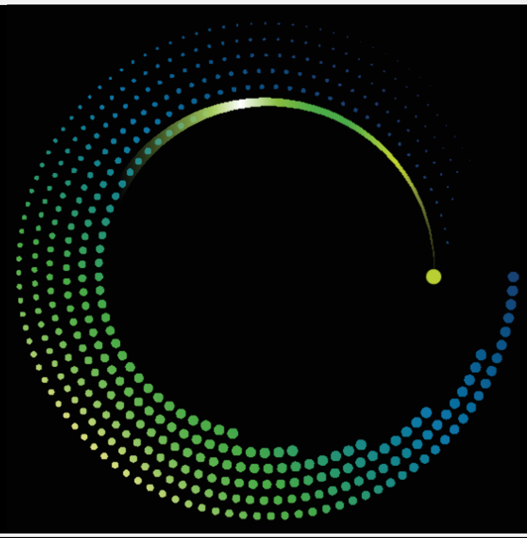

Tax Bytes

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Greetings from your Tax & Legal team at Deloitte Singapore.

We are pleased to share with you the latest Transfer Pricing (TP) updates announced by the Inland Revenue Authority of Singapore (IRAS):

1. 2024 amendments to the Income Tax (Transfer Pricing Documentation) Rules 2018

Existing subsidiary legislation under the Income Tax Act 1947 (ITA) governing the form and content requirements of Singapore's transfer pricing documentation, The Income Tax (Transfer Pricing Documentation) Rules 2018 (the "**TPD Rules**"), were recently amended by the Income Tax (Transfer Pricing Documentation) (Amendment) Rules 2024 (the "**2024 Amendments**"), published on 7 June 2024 in the Government eGazette and taking effect on Monday, 10 June 2024.

2. IRAS e-Tax Guide—Transfer Pricing Guidelines (Seventh Edition)

Following these gazetted amendments above, IRAS also published the Seventh Edition of the Singapore TP Guidelines on Friday, 14 June 2024 (the "**2024 SG TPG Updates**").

Broadly, we see the 2024 Amendments and 2024 SG TPG Updates indicating:

- Alignment of pricing certain intra-group financing arrangements to market practices and the arm's length standard;
- IRAS' firmer attitude towards enforcement of TP compliance requirement;

- IRAS' continuous effort to provide enhanced administrative concessions to ease compliance burden; and
- IRAS' clarification of certain existing practices to help taxpayers better understand the appropriate TP approaches and to align Singapore TP practices to global practices.

Summary of the 2024 Amendments and 2024 SG TPG Updates

The major changes are summarised as follows:

- Loans between domestic related parties (domestic loans) entered into or re-financed on or after 1 January 2025 will require arm's length interest rates, even where the lender and the borrower are not in the business of borrowing and lending. IRAS will also cease to use interest deduction restriction as a proxy to the arm's length principle for such domestic loans. Taxpayers with such domestic loans may opt to apply the indicative interest margin published by IRAS (and if so, such loans will be exempted from TP documentation) or determine the interest rate through an arm's length analysis or benchmarking (documentation of such arm's length analysis would be required).

- For years of assessment (YA) 2026 and after, simplified TP documentation prepared based on declarations confirming that qualifying past TP documentation (QPTPD) is applicable must specify the date on which such declaration was made. Such declaration needs to be made by 30 November of the relevant YA, to be considered contemporaneous.

- For YAs 2026 and onwards, the dollar value thresholds for TP documentation exemptions by transaction category for the following categories of related party transactions have been increased from SGD 1 million to SGD 2 million per transaction category:
  - Provision and receipt of services
  - Income and expense connected with the right to use movable property
  - Leasing of property to and from related parties
  - Provision or receipt of guarantee
  - Any other transaction (in aggregate per transaction category)

For a more detailed discussion on the 2024 Amendments and 2024 SG TPG Updates, please refer to the link here.

Deloitte Singapore's views

As with the previous amendments to the Singapore TP Guidelines and TPD Rules, the latest 2024 Amendments and 2024 SG TPG Updates reflect a continuation of the development of the Singapore TP regime, comprising changes made to certain existing TP treatment, formal and additional guidance on specific technical issues, clearer messaging on IRAS' expectations on compliance requirements and enforcement, as well as extension of certain concession and compliance relief.

The requirement to now price a domestic loan with an arm's length interest from 1 January 2025 onwards will impact many taxpayers, as the use of interest free loans is a widespread practice. Taxpayers with such loans should review and consider its group financing approach accordingly, and take immediate action in the preparation for the new TP treatment starting with effect from 1 January 2025. It should be noted that unlike cross border loans, IRAS will be able to subject any TP adjustment on such domestic loans to Singapore tax and impose a surcharge.

Given the IRAS' ongoing focus on TP compliance, taxpayers should also take heed of the clarifications on various aspects of contemporaneous TP documentation requirements clarified in the 2024 SG TPG Updates, particularly the requirement of dating the declaration for Simplified TP Documentation, the need for review of the features and circumstances of loan transactions in subsequent years of the loan, as well as the clarification that a past documentation must have been prepared contemporaneously to be considered as a QPTPD. Where any of these aspects are relevant to a taxpayer, we envisage that the IRAS will now assess the taxpayer's compliance with documentation requirements based on these clarified positions in the new guidelines.

Taxpayers should also note the firmer tone and stance with regards to IRAS' enforcement of the arm's length principle, through increased reviews, audits and adjustments, as well as the imposition of penalties and surcharges. As mentioned, the increased stringency is already observed in practice, and the 2024 SG TPG Updates merely reflect such IRAS' posture towards stricter compliance and adherence to the arm's length principle.

It is also important to note a taxpayer subjected to surcharges and penalties would be precluded from being eligible for remission of surcharges in future years, under the newly clarified conditions for remission of surcharges (what constitutes "*good compliance record*").

Taxpayer should hence ensure its TP documentation and process are robust and that they continue to be fit for purpose in the current TP environment, in anticipation of IRAS' TP reviews and audits, and to mitigate the risk of being subject to adjustments, penalties and surcharges in potential disputes with IRAS.

In meeting with the increasing compliance requirement and heightening scrutiny from IRAS, taxpayers should also seek to rely on the various, increased scope of compliance relief provided in the 2024 SG TP Updates, including the application of the indicative margin for loans, the higher threshold for exemption from TP documentation, and the clarification on documentary evidence required for strict pass-through costs, to mitigate compliance costs and risks, where applicable.

Lastly, with the guidance on government assistance formally included in the latest guidelines, we envisage that the TP treatment of such items would now need to be addressed and documented in accordance with the new guidance. Before the guidance was first published on the IRAS website, there was some uncertainty on the TP treatment of government assistance. Though the guidance as it first appeared on the IRAS website during the COVID-19 pandemic was then largely applied to COVID-19 government assistance (such as Job Support Scheme etc), the same principles would be applicable to other government assistance. A taxpayer in receipt of such items should ensure that its TP policy and treatment, as well as documentation, are in accordance with this new guidance.

Read more

Contacts

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