



Singapore Transfer Pricing Developments

Singapore releases guidelines on Country-by-Country Reporting

Overview

The Inland Revenue Authority of Singapore (“IRAS”) has on 11 October 2016 released guidelines on Country-by-Country Reporting (“CbCR”) for Singapore. This is following its announcement on 16 June 2016 on Singapore’s commitment to implement the four minimum standards under the Base Erosion and Profit Shifting (“BEPS”) project as follows:

- (a) the standards on countering harmful tax practices;
- (b) preventing treaty abuse;
- (c) transfer pricing documentation; and
- (d) enhancing dispute resolution.

Key guidance points

The key guidance points in IRAS’ CbCR guidelines are summarised as follows:

Introduction

The re-examination of transfer pricing documentation is part of the action items under the action plan for the BEPS project undertaken by the G20 and the Organisation for Economic Cooperation and Development (“OECD”), and is termed BEPS Action 13. Under BEPS Action 13, CbCR would constitute part of the transfer pricing documentation to be maintained by multinational enterprises (“MNEs”).

The CbC report comprises three tables, and requires aggregate jurisdiction-wide information relating to the global allocation of income, taxes paid and certain indicators of the location of economic activity among tax jurisdictions in which the reporting MNE group operates. The report also requires a listing of all the entities for which financial information is reported, including the tax jurisdiction of incorporation, as well as the nature of the main business activities carried out.

CbCR requirements in Singapore

The CbCR guidelines issued by IRAS is generally aligned with the Transfer Pricing Documentation and Country-by-Country Reporting Action 13: 2015 Final Report issued by the OECD.

CbC reports will be required for the financial years starting on or after 1 January 2017 onwards, and is required for a MNE group where:

- a) the MNE group is a Singapore MNE group;
- b) the consolidated group revenue in the preceding financial year is at least S\$1,125 million; and
- c) The MNE group has subsidiaries or operations in at least one foreign jurisdiction.

The CbC report should be submitted by a MNE group’s ultimate parent entity to the Comptroller within 12 months from the end of that financial year. As such, the first filing date for Singapore-headquartered MNEs should be 31 December 2018 (for a financial year ending on 31 December 2017).

IRAS is currently developing e-services for receiving and sending CbC Reports. It will identify taxpayers affected by CbCR and provide further information on the submission of CbC reports in the first half of 2018. Taxpayers who fail to submit their CbC reports may be penalised under Section 105M of the Singapore Income Tax Act.

IRAS is also responsible for the exchange of CbC reports with the tax authorities of the relevant jurisdictions identified in the CbC reports, if there is an agreement with the relevant tax authority for the automatic exchange of CbCR information.

Uses of the CbC report

The CbC report will be used by IRAS for the following purposes:

- (a) to assess high level transfer pricing risk;
- (b) to assess other BEPS-related risks; and
- (c) for economics and statistical analysis.

The CbC report is viewed as a supplement to the transfer pricing documentation of Singapore companies and the information in the CbC report should not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It should also not be used by tax administrations to propose transfer pricing adjustments.

Other key issues

Other note-worthy points addressed by IRAS in the guidelines include the following:

- Associated companies and joint ventures accounted for under the equity method and partnerships that are not consolidated under applicable accounting rules should not be considered as constituent entities of an MNE group.
- Singapore does not provide for surrogate filing for foreign MNE groups, only Singapore MNE groups are required to submit CbC reports to IRAS.
- IRAS will enter into agreement with jurisdictions for exchange of CbC reports only after establishing that the jurisdictions have a strong rule of law and are able to ensure confidentiality of information exchange and prevention of its unauthorised use.

Conclusion

Transfer pricing will continue to be a focal point for IRAS, and its adoption of CbCR has further affirmed this position. The implementation of CbCR (by Singapore and other countries) heralds a new landscape of greater disclosure and exchange of information, which would inevitably give rise to greater TP scrutiny and challenges, resulting in the heightened need for proper and robust transfer pricing documentation to substantiate the arm's length nature of related party transactions or arrangements.

Beyond complying with the CbCR reporting and submissions, companies still anticipate the likely actions that would arise from the information submitted and disclosed under these reports, and take pro-active and strategic steps to develop adequate documentation and support for related party transactions / arrangements, as well as appropriate restructuring.

Find out more

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Ms Lee Siew Ying is a Tax Partner at Deloitte Singapore's transfer pricing practice. She has extensive experience on projects relating to the preparation of master file documentation for group companies, review of intra-group services, including assisting companies with the implementation of the recommended methodology, as well as advising on transfer pricing policies and planning strategies. Siew Ying has also assisted clients to successfully negotiate for APAs with tax offices, and supported clients in their transfer pricing audit defense.

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