

Tax Alert 税务快讯

Thailand Transfer Pricing Law Approved

泰国转让定价法案已获得通过

The draft transfer pricing law was approved by the National Legislative Assembly on 27 September 2018 and is expected to be enacted and published in the Royal Gazette shortly.

泰国转让定价法案已于2018年9月27日获得国家立法议会批准，预计不久将在皇家公报中颁布并公布。

The wording of the final law will be available to the public once published in the Royal Gazette. The Thai Revenue Department (“TRD”) will also issue Ministerial Regulations to provide more guidance to taxpayers on the application of these laws. Based on information currently available, the key features of the new law are as follows:

最终法案将在皇家公报上公布后向公众公布。泰国税务局还将颁布税法典下部门法规，为纳税人提供更多合规性指导。根据目前我们了解的信息，新法案的主要特点概括如下：

1. The law will be effective for accounting periods commencing on or after 1 January 2019.

该法律将在2019年1月1日或之后开始的会计年度生效。

2. The following levels of documentation will be required:

要求提交的文档报告如下：

- A report (disclosure form) filed with the annual corporate tax return, which provides information on the relationship between entities and the value of intercompany transactions

《关联交易申报表》将与企业年度纳税申报表一起提交，申报表需披露关联方及关联交易金额

- Three-tiered transfer pricing documentation based on the Organization for Economic Co-operation and Development (“OECD”) approach:

遵从经合发展组织(“OECD”)规定的转让定价文档的三层式结构：

- Country-by-country (“CBC”) report 国别报告；
- Master file 主体文档；and
- Local file 本地文档。

The contents of the Master and Local files will be specified in the Ministerial Regulations. We understand that the CBC reporting requirement will be contained in another set of laws.

主体文档及本地文档的具体内容将在税法典下部门法规中详细规定，而国别报告要求则将在另外一套法律中规定。

3. Tax officers, upon approval from the Director-General of the TRD, can request transfer pricing documentation within 5 years after the submission of the report.
税务局官员得到税务局局长批准后，可以要求企业提供自提交转让定价文档日起5年之内的相关转让定价文档。
4. The Local file and Master file will be due 180 days after receiving a notification from the TRD for the first time. Thereafter, the files will be due within 60 days with possible extension to 120 days upon request. The lodgement date for the CBC report is still not clear.
本地文档和主体文档在收到税务局第一次通知后180天内必须提交，即按照法律60天内准备好文档但可以酌情给予120天延期。目前国别报告递交日尚不明确。
5. Failure to lodge the disclosure form or transfer pricing documentation by the due date or lodgement of incomplete/incorrect disclosure form or transfer pricing documentation will result in a fine of Baht 200,000.
未能在截止日期之前提交关联交易申报表或转让定价文档或提交不完整/不正确的关联交易申报表或转让定价文档将导致最低200,000泰铢的罚款。
6. Taxpayers with total revenue less than Baht 200 million are exempted from the requirement to lodge the disclosure form and transfer pricing documentation. Another (higher) revenue threshold may apply for CBC and Master files. Further exemptions may be provided under the Ministerial Regulations and may include, for example, taxpayers operating on the same corporate income tax rate (provided they do not have losses carried forward).
总收入低于2亿泰铢的企业可以免于提交关联交易申报表和本地转让定价文档，而适用于国别报告和主体文档的免除条件的收入门槛将设的更高。税法典下部门法规规定了更多豁免条件，例如，在同一集团内所得税税率相同的企业并且没有结转亏损也许可以获得豁免。
7. Tax refunds resulting from a transfer pricing adjustment can be requested within 3 years from the due date for filing of the tax return or within 60 days of receiving written notice of a transfer pricing adjustment from the tax officer.
转让定价调整产生的退税可以在提交企业纳税申报日后3年内或在收到税务官员转让定价调整书面通知后60天内提出。

With the introduction of the transfer pricing law, taxpayers should ensure transfer pricing compliance. Well-prepared, contemporaneous transfer pricing documentation not only serves as an efficient tool in preparing the disclosure form to be submitted with the annual corporate tax return, but it could also put taxpayers in the better position to defend with the Revenue officers if and when the transfer pricing audit takes place; hence, reducing potential exposures and penalties.

随着泰国转让定价法案正式出台，企业应确保转让定价合规。同期转让定价文档不仅可以辅助与年度企业纳税申报表一起提交的关联交易申报表的准备，而且符合要求的转让定价文档可以在转让定价调查时帮助企业更好地与税务局进行抗辩，从而减少潜在的转让定价风险和罚金。

The Deloitte Thailand transfer pricing team will be arranging a seminar on the new transfer pricing rules in the near future and we will provide details shortly.

德勤泰国转让定价团队将尽快安排新转让定价法规研讨会，我们将在短期内提供详细信息。

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