

TP Alert 转让定价快讯

Thailand Transfer Pricing Law submitted to Parliament for approval

转让定价法案提交议会批准

Following the Thai Cabinet approval of the draft transfer pricing law in January 2018, the draft law was submitted to the National Legislative Assembly on 5 June 2018 for enactment. The contents of the draft law, in general, remain the same as those published for public comment by the Thai Revenue Department ("TRD") in July 2017. Nevertheless, key developments on the draft transfer pricing law are summarized below.

继泰国内阁于2018年1月批准转让定价法草案后，法律草案于2018年6月5日提交给国家立法议会制定。法律草案的内容总体上与泰国税务局于2017年7月公布的内容相同。我们在此把转让定价法草案的发展和要求概括如下：

- 1. Disclosure:** Companies/juristic entities that are considered related with other companies/juristic entities and have total revenue not less than the minimum threshold to be announced in the Ministerial Regulations, are required to submit the annual report, together with the tax return form, regardless of whether such relationship exists throughout the accounting period or whether they have related party transactions during the year.
披露要求：如果年收入不低于部级法规即将宣布的最低门槛要求，并且与其他公司或法人判定有关联关系，那么该公司或法人必须连同其年度纳税申报表一起提交年度财务报告，无论关联关系是否在整个会计期间存在，或者在年内是否有关联交易。
- 2. Effective Period:** The law will be effective for the accounting period starting on or after 1 January 2019
生效期：该法律将在 2019年1月1日或之后 开始的会计年度生效
- 3. Secondary laws:** The TRD will subsequently issue four secondary laws to provide more guidance to taxpayers in undertaking further appropriate actions. There is no publicly available detail of secondary laws at this stage, but the framework and tentative timeline are summarized in the below table.
二级法律：泰国税务局随后将颁布四项二级法律，为纳税人进一步采取适当行动提供更多指导。在这个阶段没有公开的二级法律细节，但我们将这些法律框架和暂定时间表总结在下表中：

Summary: Framework of the Secondary Laws 概要：二级法律框架	Timeline 时间表
<p>1. Ministerial Regulations – Calculation of income and expenses of related companies or partnerships 部级法规 – 计算关联公司或合伙企业收入及费用</p> <ul style="list-style-type: none"> Definition of “related companies or partnerships”, “controlled transactions”, “uncontrolled transactions”, “terms and conditions of transactions”, and “advance pricing agreement” “关联企业或合伙企业”、“受控交易”、“非受控交易”、“交易条款和条件”和“预约定价安排”的定义 Considerations of arm’s length principle when comparing terms and conditions of “controlled transactions” vs. “uncontrolled transactions” 比较“受控交易”和“非受控交易”的条款和条件时考虑独立交易原则 Identification of comparability factors 可比性因素考量 Determination of Transfer Pricing Methods for analyzing terms and conditions of the transactions 确定转让定价方法以分析关联交易 Calculation of arm’s length range 计算独立交易原则下的利润区间 Adjustments by tax assessment officer in the case the financial results are outside of the arm’s length range 如果企业利润不在独立交易区间则税务局可以进行调整 Considerations for special transactions, for example intellectual property 考虑特殊交易如知识产权交易 Application for Bilateral Advance Pricing Agreements 双边预约定价申请 	<p>To propose to the Cabinet within 60 days from the date the law comes into force</p> <p>自法律生效之日起 60 日内向内阁提出</p>
<p>2. Ministerial Regulations – Exemption threshold 部级法律 – 免除门槛</p> <ul style="list-style-type: none"> Determination of revenue threshold for exemption from submitting transfer pricing “disclosure form” and “documentation” 确定豁免提交转让定价“披露表”和“文档”的收入门槛 	
<p>3. Notification of the Director-General of the Revenue Department on Corporate Income Tax – Disclosure form 税务局局长通知 – 关于企业所得税-披露表</p> <ul style="list-style-type: none"> Determination of transfer pricing “disclosure form” to be used and submitted together with annual tax return 确定转让定价“披露表”将与年度纳税申报表一起使用和提交 	
<p>4. Notification of the Director-General of the Revenue Department on Corporate Income Tax – Rules, procedures, and conditions for the preparation and submission of documentation for transfer pricing analysis 税务局局长关于企业所得税的通知 – 编制、提交转让定价文档的规则、程序和条件</p> <ul style="list-style-type: none"> Determination of rules, procedures, and conditions for the preparation and submission of documentation for transfer pricing analysis 确定转让定价文档编制和提交的规则、程序和条件 	<p>To announce within 30 days from the date M.R. 1) and M.R. 2) comes into force</p> <p>自 M.R. 1) 和 M.R.2) 生效之日起 30 天内宣布</p>

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The submission of draft transfer pricing law to the National Legislative Assembly marks a significant step in the development of transfer pricing rules and the Bilateral Advance Pricing program in Thailand. It is expected that the transfer pricing law will be enacted within this year. Given the above timeline, taxpayers who have related party dealings will be required to make the first filing by May 2020 (for the accounting period ended 31 December).

向国家立法议会提交转让定价法案标志着制定转让定价法和泰国双边预约定价的发展迈开了重要一步，预计转让定价法将在今年内颁布。鉴于上述时间表，在2020年5月之前（截至12月31日的会计期间）纳税人的关联交易将要进行第一次申报。

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