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Singapore News:

Singapore Transfer Pricing Profile

Published By The OECD

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Following the revision of the Transfer Pricing Guidelines published by the OECD resulting from the Base Erosion Profit Shifting – “Beps” – Project, many countries have reflected the new changes in their respective domestic laws.

The OECD has conducted a survey of the changes among 31 countries by way of a questionnaire. Participant countries have filled out the questionnaire on a voluntarily basis and returned it to the OECD for publication.

Based on it, the OECD has published a per-country profile reflecting the current countries’ domestic legislation regarding transfer pricing.

We have reproduced hereafter the transfer pricing profile of Singapore as published in October 2017 by the OECD¹.

¹ Source: OECD Website (<http://www.OECD.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm>)

The Arm's Length Principle

1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>Singapore provides guidance on determining the arm's length price (i.e. transfer pricing methods, comparability adjustments, etc.) in the Singapore Transfer Pricing Guidelines which are outside the transfer pricing legislation.</p> <p>The Singapore Transfer Pricing Guidelines followed largely the key principles laid down in the OECD Transfer Pricing Guidelines. The Guidelines also mentioned that Singapore takes guidance from the OECD Transfer Pricing Guidelines, including the guidance in the Actions 8-10: 2015 Final Reports on Aligning Transfer Pricing Outcomes with Value Creation. (See section 4 of Singapore Transfer Pricing Guidelines.)</p> <p>In addition, the Singapore Transfer Pricing Guidelines laid down expectations and practices that are specifically relevant to the Singapore taxpayers. For example:</p> <ul style="list-style-type: none"> - The process to observe when Singapore taxpayers make application for advance pricing arrangement and mutual agreement procedure. - The 5% mark-up for routine support services and indicative margin for related party loans which Singapore taxpayers can choose to apply. - The circumstances under which year-end true up adjustments made by Singapore taxpayers are allowable under the domestic tax law.
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The definition of related parties is provided under section 13(16) of the Singapore Income Tax Act as follows:</p> <p>"related party", in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that person, or where he and that other person, directly or indirectly, are under the control of a common person;</p>

Transfer Pricing Method

4	Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="501 1684 1214 1816"> <thead> <tr> <th>Cup</th> <th>Resale Price</th> <th>Cost Plus</th> <th>Tnmm</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table> <p>The Singapore Transfer Pricing Guidelines set out the transfer pricing methods that taxpayers can use to price their transactions with related parties.</p>	Cup	Resale Price	Cost Plus	Tnmm	Profit Split	Other (If so, please describe)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cup	Resale Price	Cost Plus	Tnmm	Profit Split	Other (If so, please describe)									
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>									
5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	<p>Please check all that apply:</p> <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (if so, please explain)												

6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the Tpg is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain) <input checked="" type="checkbox"/> Other (if so, please explain) Singapore does not have specific guidance on commodity transactions. The arm's length principle and the transfer pricing rules set out in the Singapore Transfer Pricing Guidelines will apply to commodity transactions. Singapore also make reference to the guidance contained in paragraphs 2.18-2.22 of the OECD Transfer Pricing Guidelines.
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Comparability Analysis

7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter Iii of the Tpg?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The Singapore Transfer Pricing Guidelines provide guidance on comparability analysis. In addition, Singapore takes guidance from the OECD Transfer Pricing Guidelines.
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No As far as possible, taxpayers should use local comparables in their comparability analysis. When taxpayers are unable to find sufficient reliable local comparables, they may expand their search to regional comparables.
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10	Does your legislation allow or require the use of an arm's length range and/ or statistical measure for determining arm's length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No It is generally difficult to arrive at a specific price or margin that is the arm's length price or margin. Thus, the use of a range of prices or margins is acceptable and the Singapore Transfer Pricing Guidelines provide the following guidance: - A wide range of prices or margins may suggest the existence of comparability issues or defects that cannot be identified and/ or quantified in the comparability analysis and are therefore not adjusted. In such a situation, outliers such as the minimum and maximum data points should be excluded. To enhance the reliability of the comparability analysis, taxpayers could apply the interquartile range to determine the arm's length remuneration. - A full range (i.e. from minimum to maximum) may occasionally be considered as the arm's length price range when all the points in the range can be established to be equally reliable. An example of such a circumstance is where the taxpayer has applied the Cup method and demonstrated that all observations in the full range are equally reliable.
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Comparability adjustments are made where appropriate to increase the reliability of the results.

Intangible Properties

12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	Section 19B of the Singapore Income Act provides that the capital expenditure incurred for intellectual property rights for the purpose of writing-down allowances must be based on open-market price.
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (Htvi)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Intra-Group Services

15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The guidance specific to intra-group services transactions are provided in the Singapore Transfer Pricing Guidelines.
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Taxpayers can choose to apply the 5% cost mark-up for routine support services as an alternative to performing detailed transfer pricing analysis provided: <ul style="list-style-type: none"> a) The services fall within the list of routine support services; b) The service provider does not offer the same routine support services to an unrelated party; and c) All costs including direct, indirect and operating costs relating to the routine support services performed are taken into account in computing the 5% mark-up.
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost Contribution Agreements

18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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Transfer Pricing Documentation

19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If affirmative, please check all that apply: <input type="checkbox"/> Master file consistent with Annex I to Chapter V of the Tpg <input type="checkbox"/> Local file consistent with Annex li to Chapter V of the Tpg <input checked="" type="checkbox"/> Country-by-country report consistent with Annex lii to Chapter V of the Tpg <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify):
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	Currently, taxpayers are expected to prepare transfer pricing documentation under the transfer pricing guidelines. Taxpayers are to submit the transfer pricing documentation within 30 days upon request by the Inland Revenue Authority of Singapore ("Iras"). The content of the transfer pricing documentation is largely similar to the OECD Master file and Local file. The transfer pricing documentation must be prepared in English or translated to English. The guidance on preparing transfer pricing documentation is provided in the Singapore Transfer Pricing Guidelines.
21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Currently, we apply the general penalty provision under section 94(2) of the Singapore Income Tax Act for failure to comply with record keeping requirements to penalise taxpayers if they are unable to provide the transfer pricing documentation upon request by Iras.
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	The Singapore Transfer Pricing Guidelines listed down the types of transactions and value of transactions for which transfer pricing documentation is not required.

Administrative Approaches To Avoiding And Resolving Disputes

23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (Apa)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral Apas</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral Apas</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral Apas</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (please specify):</p>
24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>In addition to the 5% cost mark-up for routine support services mentioned in item 16 above, from 1 January 2017, Singapore has put in place an indicative margin which taxpayers can choose to apply to each related party loan that does not exceed Sgd15 million at the time the loan is obtained or provided. Taxpayers would decide the appropriate base reference rate on which to apply the indicative margin to arrive at the interest rate.</p>
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<p>Routine support services provided on a cost-pooling basis:</p> <p>Payments may be charged without mark-up to a related party for its proportionate share of the cost of services in a cost-pooling arrangement on the conditions that:</p> <p>(a) Each participant's share of the costs must be borne in the form of cash or other monetary contributions;</p> <p>(b) The services are not provided to any unrelated party;</p> <p>(c) The provision of services to the related parties is not the service provider's principal activity, i.e. the costs of providing the services do not exceed 15% of the service provider's total expenses;</p> <p>(d) The services fall within the list of routine support services; and</p> <p>(e) There is transfer pricing documentation for the arrangement.</p>

Other Legislative Aspects Or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Singapore will accept year-end adjustments made by taxpayers to ensure that their tax-reported results are consistent with the arm's length prices stated in their transfer pricing analyses and policies when the following conditions are met:</p> <p>(a) Taxpayers must have in place transfer pricing analyses and contemporaneous transfer pricing documentation to establish the arm's length prices;</p> <p>(b) Taxpayers should make the year-end adjustments symmetrically in the accounts of the affected related parties. This is to avoid double taxation or double non taxation; and</p> <p>(c) Taxpayers must make the adjustments before filing their tax returns.</p>
27	Does your jurisdiction make secondary adjustments?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing	Nil
29	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	<p>On 2 October 2017, the Income Tax (Amendment) Bill 2017 was passed. The amendments to the Income Tax Act include making it mandatory for taxpayers with turnover more than Sgd10 million to prepare transfer pricing documentation unless they are exempt from doing so. Taxpayers will be required to submit the transfer pricing documentation within 30 days upon request by Iras. Taxpayers will also be penalised for non-submission of transfer pricing documentation upon request or when transfer pricing adjustments are made by Iras.</p> <p>The transfer pricing documentation requirement and penalties will be from the year of assessment 2019 (i.e. financial year 2018) onwards when the legislation comes into effect.</p>

For further guidance, information and assistance please feel free to contact us anytime.



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