



The CCS Newsletter

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Transfer Pricing Guidelines For Related Party Services

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As Singapore companies continue to expand their presence in international markets, there is an increase in cross border transactions between related parties. Most tax jurisdictions require related parties to conduct their cross-border transactions with each other at “arm’s length” – that is, at market prices that would have been charged if the parties were unrelated. Otherwise, tax authorities may adjust the taxpayer’s income to the amount that would have resulted, had the related party transactions been conducted at arm’s length.

In Singapore, the Inland Revenue Authority of Singapore (IRAS) has issued e-Tax guides setting out the Transfer Pricing Guidelines for its taxpayers on 23 February 2006 and 23 February 2009. Transfer pricing refers to the prices, terms and conditions at which goods, services, etc, are transferred between related parties.

In the e-Tax guides, the IRAS re-affirmed the arm’s length principle to determine transfer prices as in the OECD (Organisation for Economic Co-operation and Development) guidelines and suggest the Comparable Uncontrolled Price (CUP) Method and Cost Plus Method as appropriate methods to determine the arm’s length fee for related party services. Nevertheless, for certain services and cost arrangements, the IRAS is prepared to accept a safe harbor mark-up or zero-mark-up, as discussed below.

Routine Support Services

The IRAS recognises that embarking on a comprehensive transfer pricing analysis to determine arm’s length price may not always be practical or administratively expedient.

For entities that provide “routine support services” to related parties, the IRAS is prepared to accept an amount equivalent to costs incurred plus a mark-up of 5% as a reasonable arm’s length fee for services provided, as is the common practice currently.

The list of “routine support services” is provided in the Annex of the 2009 e-Tax guide and includes the following:-

- Accounting records maintenance; compilation of accounting data, internal audits
- Collation and verification of data on accounts receivable and accounts payable
- Compilation of data for budgeting
- Computer support
- Database administration





The IRAS is specific that only those services currently listed will be accepted as "routine support services"

Transfer Pricing Guidelines For Related Party Services (cont'd)

- Administration of employee compensation and benefit plans
- General administrative functions
- Provision of general legal services by in-house legal counsel
- Payroll
- Handling of corporate communications
- Staffing and recruitment
- Tax services
- Training and employee development

Although the list of services may be modified from time to time, the IRAS is specific that only those services currently listed will be accepted as "routine support services".

The 5% mark-up should be applied to on all direct and indirect costs incurred to provide the services.

Notwithstanding the above, the e-Tax Guide provides that if there is a detailed transfer pricing analysis that supports a mark-up other than 5%, this alternative mark-up should be applied consistently year after year throughout the group unless there are material changes to the circumstances or services provided. Furthermore, this mark-up must be regularly reviewed to determine that it continues to reflect arm's length conditions.

Non-routine services are not defined, but they would include higher value added services. The IRAS expects the provision of non-routine services to be charged and recovered on arm's length basis that is commensurate with industry practice and substantiated with proper benchmarking studies.

Cost Pooling

Cost pooling refers to a situation when related parties enter into an arrangement to centralise the provision of "routine support services" and share the associated costs accordingly. The services acquired/provided are not the principal activities of the group but may be required for the effective functioning of the group.

Provided that the following conditions are met, as a concession, taxpayers need not incorporate a mark-up element in the amounts charged from a centralised service provider:-

- the services are not also provided to third parties
- the provision of the services does not constitute the principal activity of the service provider. Also, such costs should be 15% or less of total expenses of the service provider
- the services must be limited to only the "routine support services"
- adequate documentation should be maintained to support the basis of cost allocation and expected benefits between related parties. The documentation should be endorsed by the related parties involved prior to the effective date of the cost pooling arrangement.

Contributions by related parties have to be in proportion to the nature and extent of expected benefits that each party receives.

The IRAS is specific that the abovementioned cost pooling arrangement does not extend to cost contribution arrangements commonly referred in the OECD transfer pricing guidelines, which are often entered for the specific purpose of developing intangible assets.

Transfer Pricing Guidelines For Related Party Services (cont'd)

Strict Pass-Through Costs

The IRAS clarified that costs for services acquired from third party service providers that are arranged and paid for by a group service provider on behalf of its related parties, can be passed on to the recipient of the service without a mark-up.

The above are usually in respect of costs that the service provider did not add value to and the payments are legally and contractually the obligation of the recipient of the service. Under these circumstances, the payer merely acts as the paying agent.

Conclusion

As Singapore enhance their international economic working relationships, there is an increasing need to share information between tax jurisdictions and this has led to greater vigilance of transfer pricing in Singapore.

Although the IRAS does not require the submission of the transfer pricing documentation, it is prudent for the taxpayer to maintain defensible documentation detailing the nature of services performed, the service recipients, allocation basis used and rationale thereof in support of its related party transactions.

Profile

Sri Rahyu Suratman

Rahyu joined Complete Corporate Services in October 2010.

She was formerly an Accredited Tax Specialist in the Corporate Tax Division (Large Corporation) of the Inland Revenue Authority of Singapore. As Tax Specialist, her areas of responsibility entail examining corporate tax assessment, reviewing tax issues as well as providing clarifications to taxpayers on assessments, tax practices and the application of tax laws.

Rahyu has 5 years of experience with the IRAS and the companies that she has handled spanned across a range of industries, including telecommunication, petrochemicals, airlines and manufacturing. Prior to the IRAS, she spent 6 years with leading accounting firms in Singapore.

She graduated in 1999 from the National University of Singapore with a degree in Business Administration.

Rahyu's other passion is education and believes in developing mutual learning experiences with her colleagues and other tax professionals. Her passion in education is seen in her role as an Assessor with the Association of Taxation Technicians Singapore (ATTS).

During her free time, Rahyu enjoys a good game of tennis, listening to music and spending time with her family and friends.





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The Accounting Solutions Division provides various types of assistance depending on your needs.

- Setting up of accounting systems and procedures
- Update and maintenance of your accounting records and reports
- Payroll administration

Taxation Services Division

The Division offers a broad range of both direct and indirect taxation services, providing you with up to date information and advice to achieve tax effective solutions.

- Tax compliance services
- Tax advisory services

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The Corporate Secretarial Services Division can offer the following services depending on your needs.

- Formation of companies and Singapore branches (foreign companies)
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- Registration of a Business Name, Limited Liability Partnership and representative offices
- Liquidation

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