IRAS Releases Revised Transfer Pricing Guidelines

On 6 January 2015, the Inland Revenue Authority of Singapore (IRAS) released expanded transfer pricing guidance in the form of a substantive e-Tax Guide -- Transfer Pricing Guidelines (Second Edition). This document (“TPG”) is an amalgamation and expansion of previous IRAS transfer pricing guidance. It is supported by certain sections of the Singapore Income Tax Act, including Section 34D (Transactions not at arm’s length), as well as sections 32 and 53.

Key takeaways from the TPG

The TPG elaborates on a number of transfer pricing items and concepts, as well as IRAS' viewpoints on how taxpayers should treat them accordingly.

These items and concepts include:

- when (definition of “contemporaneous”) and how should transfer pricing documentation be prepared;
- preparation of transfer pricing analysis and additional information to be included in transfer pricing documentation (e.g. more value-chain oriented information on intangibles, etc.);
- insights on the use of various transfer pricing methods and profit level indicators (e.g. Berry Ratio);
• documentation exemption -- for related-party transactions that fall under certain low thresholds, or under certain circumstances, for domestic transactions between two Singapore taxpayers with the same tax rate;
• safe harbour cost plus mark-up, albeit only for a short prescribed list of routine support services and subject to certain conditions;
• transfer pricing audit and selection of taxpayers for audit;
• penalties and other adverse implications for non-compliance and inadequate documentation;
• IRAS' view and treatment of year-end, corresponding, compensating, retrospective adjustments (depending on whether it is upwards or downwards); and
• other administrative procedures and requirements for Mutual Agreement Procedures and Advance Pricing Arrangements.

A noteworthy consideration is that even if the transaction is exempted from documentation, it should still be compliant with arm’s length pricing.

Our observations and comments
With the TPG, IRAS hopes to foster greater transfer pricing compliance, not only through clarification of its expectations, but also through reminders of its audit program and penalties for non-compliance. On the other hand, the IRAS recognises the need to reduce the compliance burden for taxpayers with small related-party transactions or transactions with little risk of tax leakages.

As a next step, it will be important for companies to review their transfer pricing compliance and whether their existing documentation is adequate, given the expanded requirements in the TPG. Accordingly, companies with significant related-party transactions will need to carefully evaluate the extent of their transfer pricing compliance in a systematic manner.

For further details or clarification, please do not hesitate to contact us and our contact details are listed on the right.