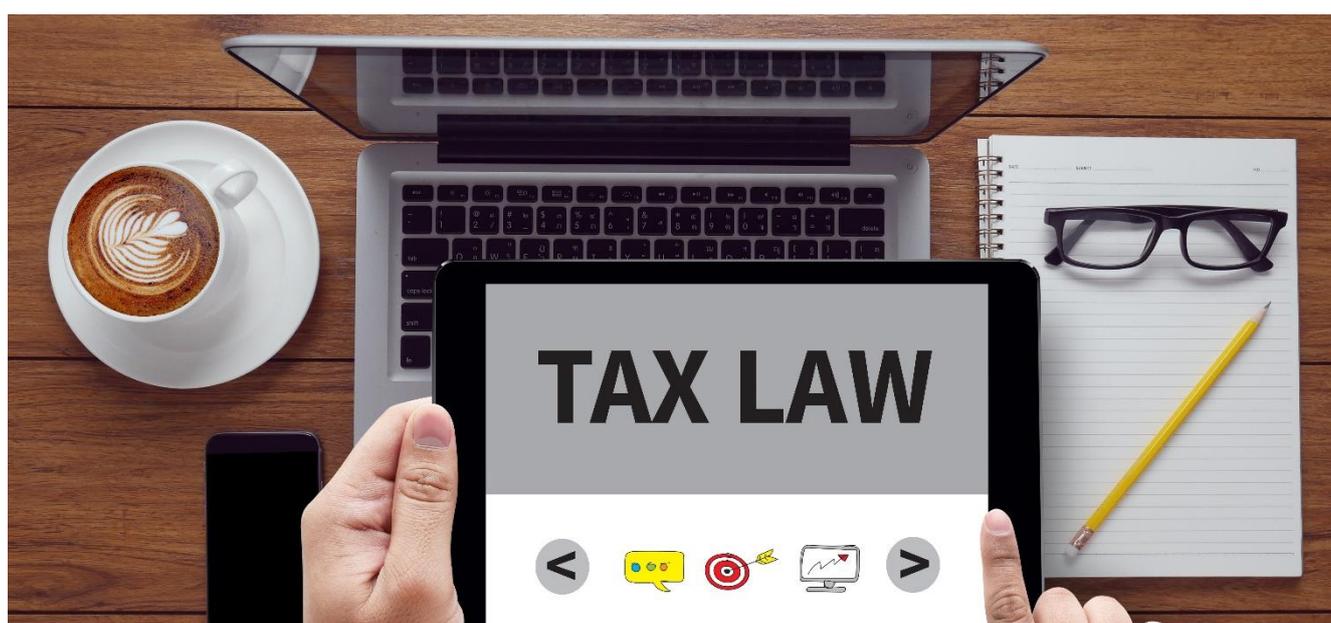


## Draft Transfer Pricing Legislation



### Overview

On 19 June 2017, Singapore's Ministry of Finance released the draft Income Tax (Amendment) Bill 2017 (Draft Bill) which details the proposed amendments to the Singapore Income Tax Act.

The key transfer pricing-related amendments are as follows:

- Expansion of Section 34D to provide clarification on the meaning of arm's-length conditions. Of particular interest, the proposed amendments provide for re-characterisation of related-party transactions if it is found that arm's-length parties would not have entered into similar arrangements. In addition, it is proposed that any amount of income that is increased under Section 34D be treated as accruing in, derived from or received in Singapore.
- New Sections 34E and 34F formally legislate the existing requirement for taxpayers to maintain contemporaneous and adequate transfer pricing documentation. Specific surcharge for non-compliance with the arm's-length principle is to

be applied on adjustments made by the Inland Revenue Authority of Singapore (IRAS). The foregoing are applicable from Year of Assessment (YA) 2019 onwards.

- Lifting of the statutory time bar for IRAS to make an additional assessment for cases under the Mutual Agreement Procedure.
- Clarification that any appeal under Section 93A on an assessment raised by the IRAS arising from transfer pricing must be supported by contemporaneous and adequate transfer pricing documentation.

On 21 June 2017, Ministry of Finance also announced that Singapore will sign the Multilateral Competent Authority Agreement (MCAA) in relation to the exchange of country-by-country reports. This MCAA will provide the multilateral framework for bilateral cooperation on Automatic Exchange of Information (AEOI). Singapore will be entering into bilateral AEOIs with the signatories of the MCAA.



### **Our observations and comments**

This development provides an insight to the continued focus on transfer pricing in Singapore. The introduction of formal legislation and penalties for non-compliance is in line with our observation of increased transfer pricing enforcement by the IRAS.

The proposed legislation will formalise the existing transfer pricing requirements and provide for a five percent surcharge on adjustments made by the IRAS, beyond existing penalties. Hence, taxpayers who have yet to prepare and maintain contemporaneous transfer pricing documentation may wish to look into this on a priority basis.

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*Asia Tax Firm of the Year; Asia International Tax Firm; Asia Indirect Tax Firm; Asia Global Executive Mobility Firm and National Firm for Transfer Pricing in Singapore - Asia Tax Awards 2016, International Tax Review.*

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