MALAYSIA

Questionnaire on the Implementation of the HTVI Approach

	QUESTION	RESPONSE
1	**Has your country adopted the hard-to-value intangibles ("HTVI") approach as defined in Chapter VI of the TPG? If so, under what legal basis?**	No, Malaysia has not yet introduced the HTVI approach as defined in Chapter VI of the Oecd Transfer Pricing Guidelines. However, the domestic legislation under Sec140A of the Income Tax Act 1967 does not restrict its application.
2	**If your country applies the HTVI approach, what are the conditions for the application of the HTVI approach?**	Not applicable, as Malaysia has not yet applied the HTVI approach.
3	**Are transactions falling within the scope of the HTVI approach subject to a transfer pricing analysis differing from the one established in Chapter I and VI, or to other compliance requirements specifically applicable to transfer prices (e.g. domestic anti-abuse rules)?**	Malaysian transfer pricing rules do not provide any specific method to be used when analysing from a transfer pricing perspective transactions that are under the scope of the HTVI approach. However, since the Malaysian Transfer Pricing Guidelines (MTPGL) are largely based on the governing standard for transfer pricing which is the arm`s length principle as set out under the OECD Transfer Pricing Guidelines, the provisions of Chapters I and VI would be taken into consideration.
4	**What is the statute of limitations applicable to transactions falling within the scope of the HTVI approach in your legislation? Does this statute of limitations differ from those applicable to other transactions?**	Not applicable. The existing statute of limitations is applicable for any transactions that fall into the scope of HTVI approach.
5	**Can taxpayers request a bilateral or multilateral advance pricing agreement ("APA") for transactions falling within the scope of the HTVI approach under your legislation?**	Taxpayers may request a bilateral or multilateral advance pricing agreements for all transfer pricing transactions including intangibles property.

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6	**What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?**	Not applicable.
7	**Is it possible for your tax administration to make adjustments under the HTVI approach in open years for closed years?**	Not applicable.
8	**Does your domestic legislation or administrative practice allow the tax administration to make corresponding adjustments under the HTVI approach in open years for closed years?**	Not applicable.
9	**Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?**	Not applicable.

For further information, please see http://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm