

Transfer Pricing Country Profile
(to be posted on the OECD Internet site www.oecd.org/ctp/tp/countryprofiles)

Name of Country: SINGAPORE Date of profile: 31 December 2010

1. Reference to the Arm's Length Principle

(i) Section 34D of Singapore Income Tax Act ("SITA")

Transactions not at arm's length

34D. – (1) Where 2 persons are related parties and conditions are made or imposed between the 2 persons in their commercial or financial relations which differ from those which would be made if they were not related parties, then any profits which would, but for those conditions, have accrued to one of the persons, and, by reason of those conditions, have not so accrued, may be included in the profits of that person and taxed in accordance with the provisions of this Act.

(2) Where a person carries on business through a permanent establishment, this section shall apply as if the person and the permanent establishment are 2 separate and distinct persons.

(3) In this section, "related party" has the same meaning as in section 13(16).

(ii) Sections 32, 33 and 53(2A) of SITA

The concept or use of the arm's length principle is also implicit under the abovenamed provisions.

(iii) Singapore's Comprehensive Double Taxation Agreements ("DTAs")

The arm's length principle is found in all of Singapore's comprehensive DTAs typically in Article 9 (Associated Enterprises).

2. Reference to the OECD Transfer Pricing Guidelines (if any)

Inland Revenue Authority of Singapore (IRAS)'s Circular titled 'Transfer Pricing Guidelines', first published on 23 February 2006 ("IRAS TPG")

Certain paragraphs of the OECD Transfer Pricing Guidelines, 1995 Edition, are cited in the following paragraphs under section 3 (The Arm's Length Principle) of IRAS TPG:

- (i) Paragraph 3.1.6 (Key Concepts & Guiding Principles);
- (ii) Paragraph 3.2.4 (Step 1 – Comparability Analysis); and
- (iii) Paragraph 3.2.5 (Step 2 – Choosing the Appropriate Transfer Pricing Method and Tested Party).

3. Definition of related parties

(i) Section 13(16) of SITA

"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;

(ii) IRAS TPG, Section 2 (Scope), paragraph 2.2

A 'related party', in relation to any entity, means any other entity who, directly or indirectly, controls that entity, or is controlled, directly or indirectly, by that entity, or where both entities, directly or indirectly, are under the common control of a common entity. Hence, related parties include associated enterprises and separately taxable entities of an enterprise, such as permanent establishments of the enterprise.

4. Transfer pricing methods

Paragraph 3.2.5 of IRAS TPG recognises 5 transfer pricing methods recommended by OECD TPG:

- (i) Comparable Uncontrolled Price (CUP) Method
- (ii) Resale Price Method
- (iii) Cost Plus Method
- (iv) Profit Split Method
- (v) Transactional Net Margin Method (TNMM)

IRAS does not have a specific preference for any one method. Instead, the method that produces the most reliable results, taking into account the quality of available data and the degree of accuracy of adjustments, should be chosen.

5. Transfer pricing documentation requirements

Section 4 (Documentation) of IRAS TPG gives guidance to Singapore taxpayers on the recommended preparation and maintenance of documentation to demonstrate compliance with the arm's length principle.

6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

IRAS' Circular titled 'Transfer Pricing Consultation', first published on 30 July 2008, put in place a framework to assess the level of compliance with IRAS TPG and identify potential areas where IRAS can facilitate and advise taxpayers on good practices in TP.

There is no specific provision on transfer pricing penalties under Singapore's legislation. The general provisions relating to offences and penalties are applicable.

7. Relevant regulations on Advance Pricing Arrangements

Section 6 (Advance Pricing Arrangements) of IRAS TPG, and IRAS' Supplementary Circular titled 'Supplementary Administrative Guidance on Advance Pricing Arrangements' first published on 20 October 2008, set out the procedures to Singapore taxpayers for applying for Advance Pricing Arrangements.

8. Link to relevant Government Internet sites

- (i) SITA can be found at Singapore Statutes Online (<http://statutes.agc.gov.sg/>)
- (ii) Singapore's comprehensive DTAs can be found at IRAS Website (<http://iras.gov.sg/irasHome/page.aspx?id=812>)
- (iii) IRAS Transfer Pricing Circulars can be found at IRAS Website (<http://www.iras.gov.sg/irashome/default.aspx>):
 - Quick Links > e-Tax Guides (<http://www.iras.gov.sg/irasHome/page.aspx?id=902>); or
 - Business > For Companies > Transfer Pricing (<http://www.iras.gov.sg/irasHome/page.aspx?id=10584>)
- (iv) Tax treaty and transfer pricing mutual agreement procedure cases should be addressed to the following competent authorities:

Mrs Eng-Tay Geok Lee
Deputy CIR (Business Group)
Telephone: +65 63512479
Facsimile: +65 63512014
E-mail: geoklee@iras.gov.sg

Miss Chai Sui Fun
Assistant Commissioner (Tax Policy & International Tax Division)
Telephone: +65 63512127
Facsimile: +65 63512131
E-mail: suifun@iras.gov.sg

Ms Evelyn Lio Ee Min
Acting Tax Director (International Tax Branch)
Telephone: +65 63512102
Facsimile: +65 63512131
E-mail: evelynlio@iras.gov.sg

9. Other relevant information

N/A

Note

1. Relevant provisions of domestic legislation referring to the Arm's Length Principle.
2. Reference if any to the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations in domestic legislation or regulations.
3. Relevant legislation or regulations containing a definition of related parties or associated enterprises.
4. Relevant legislation or regulations containing guidance on transfer pricing methods including hierarchy among them if any.
5. Relevant regulations if any in relation to transfer pricing documentation requirements.
6. Relevant regulations if any on specific transfer pricing audit procedures and / or specific transfer pricing penalties.
7. Relevant regulations if any on Advance Pricing Arrangements.
8. Addresses of the Internet sites of the relevant authorities in charge of transfer pricing policy, its administration and Advance Pricing Arrangements.
9. Other relevant information, for instance having gone through a peer review, or having new transfer pricing regulations in preparation.