

# Malaysia

## Transfer Pricing Country Profile<sup>1</sup>

May 2025

	SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>		
1	<p><b>Does your domestic transfer pricing framework<sup>2</sup> make reference to the arm's length principle?</b></p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The main provision governing transfer pricing in Malaysia is subsection 140A(2) of the Income Tax Act (ITA) 1967. This provision indicates that:</p> <p>“(2) Subject to subsection (3), where a person in the basis period for a year of assessment <b>enters into a transaction with an associated person</b> for that year for the acquisition or supply of property or services, then, for all purposes of this Act, that person shall <b>determine and apply the arm's length price</b> for such acquisition or supply.”</p> <p>Besides the main provision, taxpayers in Malaysia also need to adhere to the subsidiary legislation as follows:</p> <ol style="list-style-type: none"><li>1. Income Tax (Transfer Pricing) Rules 2023 – for any controlled transactions entered into from year of assessment (YA) 2023.</li><li>2. Income Tax (Transfer Pricing) Rules 2012 – for any controlled transactions entered into prior to YA 2023</li></ol>	<p><a href="#">Income Tax Act 1967</a>, Section 140A(2)</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 2</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2012</a>, Rule 2</p>

<sup>1</sup> Information in transfer pricing country profiles is provided directly by jurisdictions. By publishing the transfer pricing country profiles on the OECD website, the OECD does not certify the accurateness of the information provided therein. Importantly, transfer pricing country profiles published on the OECD website are made available to stakeholders for information purposes only, and are not intended to be used in substitution to a jurisdiction's legal instruments, jurisprudence, or administrative guidance or practice nor relied on as an accurate and complete description of domestic law.

<sup>2</sup> For purposes of transfer pricing country profiles, the term “domestic transfer pricing framework” refers to a jurisdiction's domestic legislation, regulations, administrative guidance or practice, jurisprudence or governing general principles in the jurisdiction.

		For the purposes of transfer pricing in Malaysia, the reference for the acquisition or supply of properties or services shall include financial assistance received or provided.	
2	<b>Does your domestic transfer pricing framework give the OECD Transfer Pricing Guidelines any role or status (e.g. legal binding effect, subsidiary application in the absence of domestic legislation, source of interpretation of domestic legislation and/or treaty provisions, other)?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The Malaysia Transfer Pricing Guidelines (MTPGL) 2012 and 2024 have been prepared largely based on the OECD Transfer Pricing Guidelines. The information is indicated in the following chapters:</p> <ol style="list-style-type: none"> <li>1. Malaysia Transfer Pricing Guidelines 2012 – Chapter 1 Preliminary</li> <li>2. Malaysia Transfer Pricing Guidelines 2024 – Chapter Introduction and Objective</li> </ol> <p>With effect from 1 January 2024, any guidelines pertaining to tax treatment issued by the Director General of Inland Revenue (DG) under Section 134A of the Income Tax Act 1967 will be legally binding on both the taxpayers and the Inland Revenue Board of Malaysia (IRBM) officers. This regulatory change aims to provide clarity and ensure consistency in the application of tax laws, thereby enhancing compliance and reducing disputes.</p>	<p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter Introduction and Objective</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2012</a>, Rule 2</p>
3	<b>Does your domestic transfer pricing framework provide for a definition of related parties applicable for transfer pricing purposes? If so, please provide the definition contained under your domestic transfer pricing framework.</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>For the purposes of transfer pricing in Malaysia, related parties refer to associated persons. Therefore, any person that engages in a transaction with associated persons will be regarded as a controlled transaction and should comply with the arm's length principle.</p> <p>Section 139, subsection 140A(5) and (5A) of ITA 1967 is applicable in determining whether a person is an associated person or not, while subsection 2(4) of ITA 1967 is used in determining a group of companies. Reference was also made to Section 7 of the Companies Act 2016.</p> <p><b><u>Income Tax Act 1967 (ITA)</u></b></p> <p><b>Section 139(1)</b> For the purposes of this Act, a person shall be taken to have control of a company—</p> <p>(a) if he exercises or is able to exercise or is entitled to acquire control (whether direct or indirect) over the company's affairs and in particular, without</p>	<p><a href="#">Income Tax Act 1967</a>, Subsection 139</p> <p><a href="#">Income Tax Act 1967</a>, Subsection 140A(5)</p> <p><a href="#">Income Tax Act 1967</a>, Subsection 140A(5A)</p> <p><a href="#">Companies Act 2016</a>, Section 7</p> <p>Note: Section 6 of Companies Act 1965 has been amended as Section 7 of Companies Act 2016.</p>

	<p>prejudice to the generality of the preceding words, if he possesses or is entitled to acquire the greater part of the share capital or voting power in the company;</p> <p>(b) if he possesses or is entitled to acquire either—</p> <ul style="list-style-type: none"> <li>(i) the greater part of the issued share capital of the company;</li> <li>(ii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed; or</li> <li>(iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members;</li> </ul> <p>(c) if in the event of a winding up he would be entitled to the greater part of the assets available for distribution among members.</p> <p>(2) Where two or more persons together satisfy in respect of a company any of the conditions in subsection (1), they shall be taken to have control of the company.</p> <p>(3) For the purposes of subsections (1) and (2) there shall be attributed to any person any rights or powers of a nominee for him, that is to say, any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.</p> <p>(4) Where the trustees of a trust are members of a controlled company, only one of those trustees shall be deemed to be a member thereof; and, where each of those trustees as such is a person of the kind mentioned in subsection (1) or (2), only one of those trustees shall be taken to be a person of that kind.</p> <p>(5) For the purposes of subparagraph (1)(b)(iii) and paragraph (c), any person who is a loan creditor of a company (otherwise than in respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of a business of banking carried on by him) may be treated as a member, and the references to share capital may be treated as including loan capital.</p> <p>(6) For the purposes of subsection (1) there may be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or of any associate of his or any two or more associates of his, including those attributed to a company or associate under subsection (3) but not those attributed to an associate under this subsection; and such attributions shall be made under this subsection as will result in the company being treated as under the control of five or fewer persons, if it can be so treated.</p> <p>(7) In this section—</p> <p>“associate” means, in relation to a person—</p>	
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(a) a person in any of the following relationships to that person, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner;

(b) the trustee or trustees of a settlement in relation to which that person is, or any such relative of his (living or dead) as is mentioned in paragraph (a) of this definition is or was, a settlor (“settlement” and “settler” here having the same meaning as in section 65);

(c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein;

“member” includes, in relation to a company, any person having a share or interest in the capital or income of the company, and for the purposes of subsection (1) a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire.

**Section 140A(5)** The transactions referred to in subsections (2) and (3A) shall be construed as a transaction between—

(a) persons one of whom has control over the other;

(b) individuals who are relatives of each other; or

(c) persons both of whom are controlled by some other person (in this section referred to as “third person”).

**Section 140A(5A)** Without prejudice to the generality of section 139, for the purpose of subsection (5), “control” refers to persons one of whom owns shares of the other person, or a third person who owns shares of both persons, where the percentage of the share capital held in either situation is twenty per cent or more and—

(a) the business operations of that person depends on the proprietary rights, such as patents, non-patented technological know-how, trademarks, or copyrights, provided by the other person or a third person;

(b) the business activities, such as purchases, sales, receipt of services, provision of services, of that person are specified by the other person, and the prices and other conditions relating to the supply are influenced by such other person or a third person; or

(c) where one or more of the directors or members of the board of directors of a person are appointed by the other person or a third person.

(6) In this section, “relative” and “transaction” have the same meanings assigned to them under subsection 140(8)

**Section 2(4) Where—**

	<p>(a) two or more companies are related within the meaning of section 6 of the *Companies Act 1965;</p> <p>(b) a company is so related to another company which is itself so related to a third company;</p> <p>(c) the same persons hold more than fifty per cent of the shares in each of two or more companies; or</p> <p>(d) each of two or more companies is so related to at least one of two or more companies to which paragraph (c) applies,</p> <p>all the companies in question are in the same group for the purposes of this Act.</p> <p><b><u>Companies Act 2016</u></b></p> <p><b>Section 7.</b> A corporation is deemed to be related to each other if—</p> <p>(a) it is the holding company of another corporation;</p> <p>(b) it is a subsidiary of another corporation; or</p> <p>(c) it is a subsidiary of the holding company of another corporation.</p>	
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### Transfer Pricing Methods

<p>4</p> <p><b>Does your domestic transfer pricing framework provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="676 949 1540 1105"> <thead> <tr> <th>CUP</th><th>Resale Price</th><th>Cost Plus</th><th>TNMM</th><th>Profit Split</th><th>Other (<i>If so, please describe</i>)</th></tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> </tbody> </table> <p>In determining the arm's length price of a controlled transaction, taxpayers may choose a transfer pricing method from the traditional and transactional transfer pricing methods. Other methods should only be used if it can be proven that they can provide the highest degree of comparability between controlled and uncontrolled transactions as compared to those traditional and transactional methods.</p> <p>Please refer to Rule 6 of the Income Tax (Transfer Pricing) Rules (TPR) 2023 and paragraphs 3.9 – 3.67 of the Malaysia Transfer Pricing Guidelines 2024.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )	<input checked="" type="checkbox"/>	<p><a href="#"><u>Income Tax (Transfer Pricing) Rules 2023</u></a>, Rule 6</p> <p><a href="#"><u>Malaysia Transfer Pricing Guidelines 2024</u></a>, Chapter 3, paragraph 3.9 to 3.67</p>					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )									
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>									

5	<p><b>Which criterion is provided for in your domestic transfer pricing framework for the application of transfer pricing methods?</b></p>	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>Taxpayers should use the most appropriate transfer pricing method in determining the arm's length price of a controlled transaction. They can choose from traditional or transactional methods or other methods that may be allowed if the other method is proven to provide the highest degree of comparability between controlled and uncontrolled transactions. However, the DG may substitute the taxpayer's transfer pricing method if, in his review, he believes that the transfer pricing method chosen is not the most appropriate transfer pricing method to determine the arm's length price. In such cases, the DG will provide justification for the substitution.</p> <p>Please refer to Rule 6 of the Income Tax (Transfer Pricing) Rules (TPR) 2023 and paragraphs 3.9–3.67 of the Malaysia Transfer Pricing Guidelines 2024.</p>	<p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 6</p>
6	<p><b>Does your domestic transfer pricing framework contain specific guidance on commodity transactions?</b></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic transfer pricing framework provides for the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> No</p>	<p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 10</p>
<b>Comparability Analysis</b>			
7	<p><b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Reference can be made to Chapter 4 Comparability Analysis of the Malaysia Transfer Pricing Guidelines 2024.</p>	<p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 4</p>

8	<p><b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p> <p>The Inland Revenue Board of Malaysia (IRBM) prefers Malaysian local comparables for benchmarking analysis purposes to accurately reflect the economic and commercial realities of market conditions in Malaysia. However, the usage of foreign comparables may be accepted provided that the information on the foreign comparables is able to be furnished to the IRBM upon request. Taxpayers must ensure that the foreign comparables used are accurate, sufficient, and verifiable. Reasonable justification on the use of the foreign comparables should also be included in the Transfer Pricing Documentation (CTPD) to ensure contemporaneity and compliance with Malaysia's regulatory framework.</p>	<p><a href="#"><u>Frequently Asked Questions (FAQ) on Matters Pertaining to Transfer Pricing (TP) 2.0</u></a></p>
9	<p><b>Does your domestic transfer pricing framework permit the use of secret comparables for transfer pricing assessment purposes?</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p> <p>Malaysia does not allow the use of any secret comparables for transfer pricing purposes.</p>	
10	<p><b>Does your domestic transfer pricing framework allow or require the use of an arm's length range and/or statistical measure (e.g. the interquartile range or other percentiles) for determining arm's length remuneration?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p> <p>Effective from YA 2023, Malaysia has introduced its arm's length range, which refers to a range of figures or a single figure falling between the value of the 37.5 percentile and 62.5 percentile of the data set and acceptable by the DG. If a controlled price is found to be within this arm's length range, the controlled price may be regarded as the arm's length price. However, if the controlled price falls outside this arm's length range, then the arm's length price shall be the midpoint of the arm's length range.</p> <p>The DG may adjust the controlled price even if the controlled price falls within the arm's length range if there is evidence of comparability defects that are not quantified, identified, or adjusted, or the usage of comparables with a lesser degree of comparability.</p>	<p><a href="#"><u>Income Tax (Transfer Pricing) Rules 2023</u></a>, Rule 13</p> <p><a href="#"><u>Malaysia Transfer Pricing Guidelines 2024</u></a>, Chapter 2</p>
11		<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>	<p><a href="#"><u>Income Tax (Transfer Pricing) Rules 2023</u></a>, Rule 7</p>

	<b>Are comparability adjustments required under your domestic transfer pricing framework?</b>	For the purposes of transfer pricing in Malaysia, a comparability adjustment is warranted in a situation where the economically relevant characteristics of the uncontrolled and controlled transactions are not similar and the differences have a material impact on the price. Therefore, a comparability adjustment should be undertaken before proceeding to the next course of action.	<a href="#"><u>Malaysia Transfer Pricing Guidelines 2024</u></a> , Chapter 4, paragraph 4.23
<b>Intangible Property</b>			
12	<b>Does your domestic transfer pricing framework contain guidance specific to the pricing of controlled transactions involving intangibles?</b>	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VI of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p>	<a href="#"><u>Income Tax (Transfer Pricing) Rules 2023</u></a> , Rule 11 <a href="#"><u>Income Tax (transfer Pricing) Rules 2012</u></a> , Rule 11 <a href="#"><u>Malaysia Transfer Pricing Guidelines 2024</u></a> , Chapter 8
13	<b>Are there any other rules outside your transfer pricing framework that are relevant for the pricing of controlled transactions involving intangibles?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	As far as our knowledge, only the transfer pricing framework is applicable in pricing the controlled transactions involving intangibles in Malaysia.
<b>Hard-to-Value Intangibles</b>			
14		<p><input type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow the guidance on HTVI in Chapter VI of the TPG?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p>	

	<p><b>Does your domestic transfer pricing framework contain guidance specific to hard-to-value intangibles (HTVI)?<sup>3</sup></b></p>	<input checked="" type="checkbox"/> No  <p>Currently, Malaysia does not have any specific guidance on the hard-to-value intangibles (HTVI). Based on audit activities carried out so far, there has not been any issues of HTVI recorded. If there are such cases, the guidance described in Chapter VI of the OECD Guidelines may be applicable.</p>	
18	<p><b>Can taxpayers request a bilateral or multilateral advance pricing agreement (“APA”) for transactions falling within the scope of the HTVI approach under your domestic transfer pricing framework?</b></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Even though Malaysia does not have specific guidance on HTVI, taxpayers may request bilateral or multilateral APA for all transfer pricing transactions including intangible property.</p>	
<b>Intra-group Services</b>			
23	<p><b>Does your domestic transfer pricing framework provide guidance specific to intra-group services transactions?</b></p>	<input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VII of the TPG? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please provide further explanations below) <input type="checkbox"/> No  <p>Malaysia does provide specific guidance on intra-group services transactions as follows:</p> <ol style="list-style-type: none"> <li>1) Income Tax (Transfer Pricing) Rules 2023, Rule 9</li> <li>2) Income Tax (Transfer Pricing) Rules 2012, Rule 9</li> <li>3) Malaysia Transfer Pricing Guidelines 2024, Chapter 6</li> <li>4) Malaysia Transfer Pricing Guidelines 2012, Chapter 6</li> </ol>	<p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 9</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2012</a>, Rule 9</p> <p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 6</p>
24	<p><b>Does your domestic transfer pricing framework provide for or allow the</b></p>	<input checked="" type="checkbox"/> Yes. If so, does it follow (largely follow) the low value-adding services approach in Chapter VII?	<p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 6, paragraph 6.19</p>

<sup>3</sup> In the case of jurisdictions that do not apply the HTVI approach (i.e. they responded “no” to question 14), it is not necessary to respond to the remaining questions in the HTVI section and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

	<p><b>application of a simplified approach for low value-adding intra-group services?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No (please provide further explanations below)  <input type="checkbox"/> No</p>	
		<p>The application of a simplified approach for low value-adding intra-group services has been incorporated in Chapter 6 of the Malaysia Transfer Pricing Guidelines 2024.</p>	
25	<p><b>Are there any other rules outside your transfer pricing framework for pricing intragroup services?</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>	
		<p>As far as our knowledge, only the transfer pricing framework is applicable in pricing the intra-group services.</p>	
<b>Financial Transactions</b>			
26	<p><b>Does your domestic transfer pricing framework provide guidance specific to financial transactions?</b></p>	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter X of the TPG?  <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No (please provide further explanations below)  <input type="checkbox"/> No</p>	<p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 12  <a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 9</p>
27	<p><b>Are there any other rules outside your transfer pricing framework that are</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>	<p><a href="#">Income Tax Act 1967</a>, Section 15A</p>

<p><b>relevant for the tax treatment of financial transactions? (e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</b></p>	<p>Besides the transfer pricing framework, Malaysia does have other rules or income tax provisions that specify tax treatment for financial transactions. Those rules:</p> <p><b>Income Tax Act 1967</b></p> <p>Section 15 – Derivation of Interest and Royalty Income in Certain Cases      Section 109 – Deduction of Tax from Interest or Royalty in Certain Cases      Section 109C – deduction of Tax from Interest Paid to a Resident      Section 140B – Special Provision Applicable to Loan or Advance to Director      Section 140C – Restriction on Deductibility of Interest</p> <p><b>Specific Rules</b></p> <p>Income Tax (Restriction on Deductibility of Interest) Rules 2019      Income Tax (Restriction of Deductibility of Interest) (Amendment) Rules 2022</p>	<p><a href="#">Income Tax Act 1967</a>, Section 109</p> <p><a href="#">Income Tax (Restriction on Deductibility of Interest) Rules 2019</a></p> <p><a href="#">Income Tax (Restriction on Deductibility of Interest) (Amendment) Rules 2022</a></p> <p><a href="#">Restriction on Deductibility of Interest Guidelines 2022</a></p>
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### Cost Contribution Arrangements

<p>28 <b>Does your jurisdiction allow cost contribution arrangements?</b></p>	<p><input checked="" type="checkbox"/> Yes. If so, does your domestic transfer pricing framework follow (or largely follow) the guidance in Chapter VIII of the TPG?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No (please provide further explanations below)</p> <p><input type="checkbox"/> No</p> <p>References can be made to the following documents:</p> <ol style="list-style-type: none"> <li>1) Income Tax (Transfer Pricing) Rules 2023, Rule 10</li> <li>2) Income Tax (Transfer Pricing) Rules 2012, Rule 10</li> <li>3) Malaysia Transfer Pricing Guidelines 2024, Chapter 7</li> <li>4) Malaysia Transfer Pricing Guidelines 2012, Chapter 7</li> </ol>	<p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 10</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2012</a>, Rule 10</p> <p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 7</p>
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## Transfer Pricing Documentation

29	<p><b>Does your domestic transfer pricing framework require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG  <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG  <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG  <input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)  <input checked="" type="checkbox"/> Other (specify): Details on the controlled transactions are required to be declared in income tax returns on annual basis</p>	<p><a href="#">Income Tax (Transfer Pricing) Rules 2023</a>, Rule 14</p> <p><a href="#">Income Tax (Transfer Pricing) Rules 2012</a>, Rule 4</p> <p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 11</p> <p>Tax Return Form for companies</p> <p><a href="#">Return Form (RF)</a></p> <p><a href="#">Sample Return Form for Companies, Item F9, Information on Controlled Transaction</a></p>
30	<p><b>Please briefly explain the relevant requirements related to each transfer pricing documentation requirement (i.e. timing for preparation or submission, languages, etc.)</b></p>	<p><b>Timing for preparation:</b> A person who enters into a controlled transaction shall prepare and complete contemporaneous transfer pricing documentation prior to the due date for furnishing a return in the basis period for a year of assessment in which a controlled transaction is entered into.</p> <p><b>Language:</b> The contemporaneous transfer pricing documentation should be prepared either in Bahasa Malaysia or in English only. If the supporting documents are in other language apart from Bahasa Malaysia or English, a translation should be provided upon submission.</p> <p><b>Record Retention Period:</b> Apart from the records of transactions that need to be kept up to seven (7) years, contemporaneous transfer pricing documentation should also be maintained for the same period.</p> <p><b>Location of document:</b> All contemporaneous transfer pricing documentation and its supporting documents shall be kept in Malaysia.</p> <p>Any other information pertaining to contemporaneous transfer pricing documentation can be referred to Chapter 11 of the Malaysia Transfer Pricing Guidelines 2024.</p>	<p><a href="#">Malaysia Transfer Pricing Guidelines 2024</a>, Chapter 11</p>
31	<p><b>Does your domestic transfer pricing framework provide for specific transfer pricing penalties and/or</b></p>	<p><input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No</p>	<p><a href="#">Income Tax Act 1967</a>, Section 113B</p>

	<p><b>compliance incentives regarding transfer pricing documentation?</b></p> <p>Section 113B of the ITA 1967 has been introduced on 1 January 2021 to cater for failure to furnish contemporaneous transfer pricing documentation within the stipulated timeframe.</p> <p>Section 113B indicates that any taxpayer who fails to furnish the contemporaneous transfer pricing documentation within fourteen days (14) from the date of written notice being served by the IRBM has committed a criminal offence under subsection 113B(1) of the ITA and can be prosecuted for that offence.</p> <p>Upon conviction, the taxpayer is liable to a fine not less than RM20,000 and not more than RM100,000, or to imprisonment for a term not exceeding six months, or to both, for each failure year of assessment.</p> <p>In the event where no prosecution was instituted, Subsection 113B(4) of the ITA allows the DG to impose administrative monetary penalties ranging from RM20,000 to RM100,000 for each year of failure if no prosecution was instituted for the offence of not providing contemporaneous transfer pricing documentation.</p> <p>Section 113B is effective for YA 2023 and subsequent YAs.</p>
32 <b>Does your domestic transfer pricing framework provide for exemption from transfer pricing documentation obligations?</b>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Currently, the following persons are not require to prepare contemporaneous transfer pricing documentation –</p> <ul style="list-style-type: none"> <li>(a) individuals not carrying on a business;</li> <li>(b) individuals carrying on a business (including partnerships) who only engage in domestic controlled transactions;</li> <li>(c) person who entered into controlled transactions with a total amounting to not more than RM1 million; or</li> <li>(d) person who entered solely into domestic controlled transactions with another person where both parties – <ul style="list-style-type: none"> <li>(i) do not enjoy tax incentives;</li> <li>(ii) are taxed at the same headline tax rate; or</li> <li>(iii) do not suffer losses for two consecutive years prior to the controlled transactions.</li> </ul> </li> </ul> <p>However, these persons are still required to comply with the arm's length principle for all controlled transactions they entered into and must ensure to keep all relevant documents that are related to the controlled transactions, including those that can support and prove arm's length price.</p>

## Administrative Approaches to Avoiding and Resolving Disputes

33	<p><b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b></p> <p>Please check those that apply:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Rulings</li> <li><input checked="" type="checkbox"/> Enhanced engagement or cooperative compliance programmes</li> <li><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)           <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Unilateral APAs</li> <li><input checked="" type="checkbox"/> Bilateral APAs</li> <li><input checked="" type="checkbox"/> Multilateral APAs</li> </ul> </li> <li><input type="checkbox"/> International Compliance Assurance Programme (ICAP)</li> <li><input checked="" type="checkbox"/> Mutual Agreement Procedures</li> <li><input checked="" type="checkbox"/> Other (<i>please specify</i>): A dispute resolution process is an initiative by the IRBM to give taxpayers the opportunity to resolve an appeal or application for relief without the need for it to be forwarded to the Special Commissioners of Income Tax (SCIT) for a decision. In the context of the IRBM, this process is a platform for an alternative means of dispute resolution whereby the Dispute Resolution Department, IRBM or State Director's Office, IRBM acts as a neutral party during a discussion or proceeding held with a taxpayer in an effort to reach an out of court settlement.</li> </ul> <p>Please refer to the Malaysia MAP profile for further information.</p>	<p><a href="#">Malaysia MAP Profile</a></p> <p><a href="#">Tax Corporate Governance Framework – IRBM (11.04.2022)</a></p>
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## Simplified and Streamlined Approach for Baseline Marketing and Distribution Activities

34	<p><b>Does your domestic transfer pricing framework allow the application of the simplified and streamlined approach for baseline marketing and distribution activities in the relevant Annex of Chapter IV of the TPG<sup>4</sup>?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Other (<i>please elaborate</i>): We have yet to decide the adoption of Amount B to resident companies engage in baseline marketing and distribution activities</p> <p>We are currently conducting the impact assessment analysis on the adoption of Amount B in Malaysia. Based on this impact assessment analysis, we hope to</p>	
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<sup>4</sup> In the case of jurisdictions that do not apply the simplified and streamlined approach (i.e. they responded “no” to question 34), it is not necessary to respond to questions 35, 36 and 38 and these questions will not be published as part of jurisdiction’s transfer pricing country profile.

		achieve results that may assist Malaysia in deciding on the adoption of Amount B and prepare ourselves on any implantation challenges.	
37	<b>Does your jurisdiction respect the outcome of the application of the simplified and streamlined approach by a covered jurisdiction in line with the Inclusive Framework political commitment?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No N/A: As responded in Q34, Malaysia has yet to decide on the adoption of Amount B.	
<b>Safe Harbours and Other Simplification Measures</b>			
39	<b>Does your jurisdiction provide for any safe harbours or other simplification measures in respect of certain industries, types of taxpayers, or types of transactions (not listed in other sections of this questionnaire)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Currently, Malaysia only offers simplification measures for low-value intra-group services.	
<b>Other Legislative Aspects or Administrative Procedures</b>			
40	<b>Does your domestic transfer pricing framework allow downward corresponding adjustments in the absence of a mutual agreement procedure (e.g. unilateral corresponding adjustments)?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Malaysia only allows downward corresponding adjustments that arise from audits of transfer pricing cases. The request for a corresponding adjustment should be made by the other party of the transaction in writing and submitted to the respective IRBM office. However, the corresponding adjustment will not automatically be given, and audits will be carried out as a check before any approval.	<a href="#">Malaysia Transfer Pricing Guidelines 2024</a> , Chapter 4, paragraph 4.29  <a href="#">Transfer Pricing Tax Audit Framework</a> , paragraph 7.5.4
41	<b>Does your domestic transfer pricing framework allow or require taxpayers to make year-end adjustments?</b>	<input type="checkbox"/> Yes. Year-end adjustments are required. <input checked="" type="checkbox"/> Yes. Year-end adjustments are allowed. <input type="checkbox"/> No  In Malaysia, taxpayers are allowed to make year-end adjustments when they revisit or update the benchmarking results based on the current year's financial data. If the revisit warrants an upward transfer pricing adjustment, then the taxpayers are	

		<p>advised to make voluntary disclosure to reflect the appropriate arm's length pricing for the controlled transactions.</p> <p>A surcharge rate of not more than 5% may be imposed on any transfer pricing adjustment, and a reduction in the surcharge rate may only be allowed in voluntary disclosure cases.</p> <p>Any request for downward transfer pricing adjustment due to the updated benchmarking analysis will not be entertained since no legal provision is provided in Malaysia for such measures.</p>	
42	<b>Does your domestic transfer pricing framework provide for secondary adjustments?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
<b>Attribution of Profits to Permanent Establishments</b>			
43	<b>Which version of Article 7 of the OECD Model Tax Convention on Income and on Capital do your tax treaties contain?</b>	<p><input checked="" type="checkbox"/> Article 7 as it read before 2010.</p> <p><input checked="" type="checkbox"/> If so, please indicate in how many treaties: 74 treaties</p> <p><input type="checkbox"/> Article 7 as it reads after 2010.</p> <p><input type="checkbox"/> If so, please indicate in how many treaties:</p> <p><input type="checkbox"/> Other (please provide additional details)</p>	
44	<b>For tax treaties containing Article 7 as it read before 2010, does your jurisdiction apply the authorized OECD approach (AOA)?</b>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No (please explain the approach used and which tax treaties are concerned)</p>	
		<p>Malaysia has not adopted the AOA in its tax treaties.</p> <p>As stated in Malaysia's position on Article 7 and on the Commentary in the OECD Model Tax Convention, Article 7 will be interpreted as it read before the 2010 Update in line with the relevant Commentary as it stood prior to that update.</p>	

45	<p><b>Does your domestic transfer pricing framework contain specific guidance for the attribution of profits to permanent establishments of non-resident entities? If so, please provide a summary of the main features of this guidance.</b></p>	<p><input type="checkbox"/> Yes, they follow the AOA as described in the 2008 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they follow the AOA as described in the 2010 Report on the Attribution of Profits to Permanent Establishments</p> <p><input type="checkbox"/> Yes, they do not follow the AOA (please provide a summary of the main features of these rules)</p> <p><input checked="" type="checkbox"/> No</p>	
<b>Other Relevant Information</b>			
46	<p><b>Other legislative aspects or administrative procedures regarding transfer pricing</b></p>	N/A	
47	<p><b>Other relevant information</b> (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)</p>	N/A	

For more information, please visit: <https://www.oecd.org/en/topics/sub-issues/transfer-pricing/transfer-pricing-country-profiles.html>