

A. Effective date of 15 July 2017

Q1. Does this refer to taxpayer's financial year commencing on or after 15 July 2017 **OR** requests/audits initiated by the IRB after 15 July 2017? Specifically, we would like to understand if a taxpayer with 31 Dec 2016 year end (tax return due by 31 Aug 2017) needs to comply with the revised guidance.

ANSWER:

The effective date refers to the taxpayer's financial year period. If the financial year for taxpayers ended at 31/12/2016, the new updated guideline is not applicable for them. If the financial year period is between 01/08/2017 – 31/07/2018 (FYE 2018), the preparation of TP Documentation from financial year 2018 should comply with this new updated guideline.

Q2. Understand the effective date of the updated chapters is 15 July 2017. Hence, does it mean the TP documentation prepare for Financial year 2017 must follow the latest update guideline? How about the TP documentation which has already been prepared in prior years (i.e 2014, 2015 and 2016)? Do we need to revisit the existing document to in line with the latest update?

ANSWER:

The guideline under TPGL2012 is still applicable for the preparation of TP Documentation for FYE 2017 (if it's been prepared before 15.07.2017). If the TP Documentation is prepared or updated after 15/07/2017, the new updated TPGL should be referred. TP Documentation for priors years is not subjected to the new updated TPGL thus does not need to be updated by using the new guideline.

B. Contemporaneous Documentation – Para 11.2.1

Q1. In Chapter XI Documentation - the arm's length transfer price must be determined before pricing is established based upon the most current reliable data that is reasonably available at the time of determination. Does it mean by the limit of financial 2017 data and financial data 2015 or 2016 is available, it can be use to substantiate the arm's length price?

ANSWER :

Yes. For the example, if the preparation of TP Documentation for FYE2017 (01.01.2017-31.12.2017) is been made in December 2016, the financial data of comparables which is available during that time should be used.

“However, taxpayers should review the price based on data available at the end of the relevant year of assessment and update the documentation accordingly.”

(End of Para 11.2.1 – New update Guideline, or Para 25.1(b) TPGL2012)

C. Master File – Para 11.2.5

Q1. If the **foreign** Parent Co has prepared a Master File for financial year ended 31 Dec 2016, does the Malaysian subsidiary have an obligation to file such Master File upon request by the IRB under the revised MTPG Para 11.2.5?

ANSWER :

Yes

Q2. If **Malaysian** Parent Co has prepared a Master File for financial year ended 31 Dec 2016 because it has obligation in a foreign country (e.g. Indonesia), does a Malaysian subsidiary of such Group have an obligation to file the Master File upon request by the IRB under the revised MTPG Para 11.2.5?

ANSWER :

Yes