

GLOSSARY

Arm's length price

An amount that would have been the transfer price of a transaction had the persons in the transaction dealt with each other at arm's length.

Balancing payment

A payment, normally from one or more participants to a cost contribution agreement (CCA) to another, to adjust participants' proportionate shares of contributions, that increases the value of the contributions of the payer and decreases the value of the contributions of the payee by the amount of the payment.

Buy-in payment

A payment made by a new entrant to an already active CCA for obtaining an interest in any results of prior CCA activity.

Buy-out payment

Compensation that a participant who withdraws from an already active CCA may receive from the remaining participants for an effective transfer of its interests in the results of past CCA activities.

Cash boxes

Capital-rich entities without any other relevant economic activities.

Contemporaneous transfer pricing documentation

Transfer pricing documentation which is brought into existence –

- (a) when the person is developing or implementing any controlled transaction; **or**
- (b) where in the basis period for a year of assessment the controlled transaction is reviewed and there is material changes, the documentation shall be updated prior to the date for furnishing a return for that basis period for a year of assessment.

Controlled transaction

Transaction for acquisition or supply of property or services 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;

Economic owner

One who is not registered as an owner but is considered to own the intangible/tangible asset by virtue of bearing the costs and risks relating to the intangible/tangible asset, as is often the case in CCAs.

Financial assistance

Includes a loan, interest bearing trade credit, advance or debt and the provision of any security or guarantee.

Financial institution

Includes:

- (a) Bank or finance company which are licensed under the Financial Services Act 2013 [Act 758] to carry on banking business, insurance business or investment banking business.
- (b) Bank or finance company which are licensed under the Islamic Financial Services Act 2013 [Act 759] to carry on Islamic banking business, takaful business, international Islamic banking business or international takaful business.
- (c) A Development Financial Institutions (DFIs) prescribed under the Development Financial Institutions Act 2002
- (d) Lembaga Tabung Haji established under the Tabung Haji Act 1995
- (e) Malaysian Building Society Berhad incorporated under the Companies Act
- (f) Borneo Housing Mortgage Finance Berhad incorporated under Companies Act 1965
- (g) Cooperative society incorporated under Co-operative Societies Act 1993

Functional analysis

A method of finding and organizing facts about a business in terms of its functions, assets (including intangible property) and risks. It aims to identify how these are divided between the parties involved in the transaction under review.

Intangible property

Includes patents, inventions, formulae, processes, designs, models, plans, trade secrets or know-how.

Intentional set-off

A benefit provided by one associated enterprise to another associated enterprise within the group that is deliberately balanced to some degree by different benefits received from that enterprise in return.

Interest

Includes finance charge, discount, premium or other considerations.

Intragroup services

Services rendered between companies in the same group.

Legal owner

The registered owner of an intangible/asset.

Marketing intangible

Includes an intangible that is concerned with marketing activities, which aids in the commercial exploitation of the property or has an important promotional value for the property concerned.

Permanent establishment

Subject to the meaning assigned to it in the arrangement made under section 132 of the Act, a fixed place of business of a particular person through which the business of the person is wholly or partly carried on or a fixed place of business of another person, through which the particular person makes supplies, in which case the permanent establishment shall be treated as a distinct and separate enterprise from its head office and related branches.

Person

Includes a company, a body of persons and a corporation sole.

Property

Includes any goods, movable or immovable thing, intangible property and beneficially owned property.

Related party

Refers to associated persons as described in 5.2.

Relative

Within the meaning of controlled transaction, means a parent, a child (including a stepchild and a child adopted in accordance with any law), a brother, a sister, an uncle, an aunt, a nephew, a niece, a cousin, an ancestor or a lineal descendant.

Service

Any rights, benefits, privileges or facilities that are, or to be, provided, granted or conferred under an arrangement for or in relation to any work and assistance including financial assistance.

Tested party

The participants in a controlled transaction that is the party by reference to whom a particular transfer pricing method is applied.

Traditional transactional method

The comparable uncontrolled price method or the resale price method or the cost plus method.

Transaction

Any trust, grant, covenant, agreement, arrangement or other disposition or transaction made or entered into orally or in writing (whether before or after the commencement of the Income Tax Act, 1967), and includes a transaction entered into by two or more persons with another person or persons.

Transactional profit method

The profit split method or the transactional net margin method.

Transfer price

An amount paid or payable or an amount received or receivable, as the case may be, by a person in a transaction for the acquisition or supply of property or services.

Uncontrolled transactions

Transactions carried on by independent persons dealing with one another at arm's length