

TRANSFER PRICING DOCUMENTATION AND BEPS

Date	Venue	Workshop Code
6 April 2017	Grandis Hotel, Kota Kinabalu	17WS/019
20 April 2017	Waterfront Hotel, Kuching	17WS/020
27 April 2017	Hotel Jen, Penang	17WS/021
8 May 2017	Seri Pacific Hotel, Kuala Lumpur	17WS/022
30 May 2017	Ramada Plaza Melaka	17WS/023
4 July 2017	Mutiara Hotel, Johor Bahru	17WS/024
11 July 2017	Weil Hotel, Ipoh	17WS/025

Time: 9.00am to 5.00pm

INTRODUCTION

The base erosion and profit shifting (BEPS) developments taking place internationally will have significant impacts for multinationals in Malaysia. Taxpayers will not only have to comply with the local transfer pricing documentation and tax return disclosure requirements, but they will also need to undertake a thorough review of their business model and transfer pricing systems to identify where they are at risk of a challenge from transfer pricing authorities. Such a review should also highlight areas where it may be possible to reduce the multinational's overall effective tax rate in the post-BEPS era.

The introduction of country-by-country reporting requirements in Budget 2017 and the widespread sharing of that and other information by tax authorities in the future will ensure that the transfer pricing policies of multinationals are scrutinised like never before. This will lead to more transfer pricing queries by tax authorities, likely leading to challenges, disputes, full-scale audits, adjustments and ultimately double taxation. Multinationals need to act promptly to protect themselves.

A significant volume of global trade consists of international transfers of goods and services, capital (such as money) and intangibles (such as intellectual property) within an MNE group. There is evidence that intra-group trade is growing steadily and arguably accounts for more than 30 per cent of all international transactions. In addition, transactions involving intangibles and multitiered services constitute a rapidly growing proportion of an MNE's commercial transactions and have greatly increased the complexities involved in analysing and understanding such transactions. The structure of transactions within an MNE group is determined by a combination of the market and group driven forces which can differ from the open market conditions operating between independent entities.

In such a situation, it becomes important to establish the appropriate price, called the "transfer price", for intra-group, crossborder transfers of goods, intangibles and services. Transfer pricing refers to the setting of prices for transactions between associated enterprises involving the transfer of property or services. These transactions are also referred to as "controlled" transactions, as distinct from "uncontrolled" transactions between companies that are not associated and can be assumed to operate independently ("on an arm's length basis") in setting terms for such transactions.

There is a risk that taxpayers, especially MNEs, will be faced with a multiplicity of approaches to applying the arm's length standard in practice that can lead to compliance burdens and the risk of unrelieved double taxation. This can be the case even where there is no issue of tax avoidance or evasion, because of the scope for differences of view about what the arm's length price would be in a particular case.

The practical issues and a detailed discussion on the Transfer Pricing Documentation requirements as well as the country by country reporting requirements will be carried out by the speaker during this seminar....

PROGRAMME OUTLINE

- TP Rules and Guidelines
- The arm's length principle
- TP Documentation requirements
- Arm's Length Pricing Methodologies
- Functional analysis – a detailed discussion
- Comparability analysis and the factors determining comparability
- Special rules relating to TP
- TP and Double Taxation Agreements
- Managing the TP function in a MNE
- The base erosion and profit shifting (BEPS) developments
- Country by country reporting requirements
- Case Studies

SPEAKER'S PROFILE

Harvindar Singh is a Fellow of the Chartered Association of Certified Accountants and is a member of the Malaysian Institute of Accountants (MIA) as well as the Chartered Tax Institute of Malaysia (CTIM). Harvindar was attached to the firms of PricewaterhouseCoopers and Ernst & Young as a tax consultant and is currently the Managing Partner of Harvey & Associates, a boutique firm that specialises in taxation consulting services as well as a Partner in SCS Global Consulting (M) Sdn Bhd. He has more than 20 years of experience in the field of taxation. He is currently serving as the Chairman of the Editorial Board of the Budget Commentary and Tax Information Booklet which is produced jointly by MIA, CTIM and the Malaysian Institute of Certified Public Accountants. Harvindar has extensive experience in taxation advisory, transfer pricing documentation preparation, tax planning as well as tax audits and investigations and he serves as a tax consultant to various MNEs and other organisations.

