

Transfer Pricing in Malaysia

Latest Developments in the Malaysian Transfer Pricing Environment

Are you ready for Transfer Pricing Audit?

New Forms MNE [1/2011] and JCK/TP/1/2011

The Inland Revenue Board ("IRB") has recently issued new Forms MNE [1/2011] and JCK/TP/1/2011 that will be sent to selected corporate taxpayers. Based on the information required in the Forms, it would indicate that the IRB is now bringing under its microscope over transactions with related parties both locally and overseas in the following areas:-

- *Sales and purchases of goods, assets and services;*
- *Transfer and use of know-how, copyrights and trademarks;*
- *Loan and interest payments;*
- *Cost-sharing arrangements;*
- *Management and administrative fees;*
- *Unusual economic transactions and arrangements;*
- *Research and development expense allocation; and*
- *Sale, purchase and other commission payments.*

The issuance of the Forms MNE(1/2011) and JCK/TP/1/2011 is a strong indication of the need for taxpayers to prepare and maintain contemporaneous transfer pricing documentation in Malaysia.

Thin Capitalisation

The Ministry of Finance has recently informed the professional bodies that the effective implementation of the thin capitalization rules has been further deferred to the end of December 2012.

Based on the announcement, it appears that thin capitalisation rules would take effect from January 2013.

How we can help?

Early identification of existing issues and compliance with local regulatory requirements is important in managing transfer pricing risks.

Our integrated national and international network of transfer pricing specialists assist taxpayers meet their specific and unique transfer pricing requirements. These experts work collaboratively with international tax teams in order to optimise the commercial and fiscal structure of multi-national groups. Our expertise covers both industry specific and transaction based transfer pricing issues.

Please contact us for further information!

RSM! RKT Group
Celebrating 33 Years

RSM Tax Consultants
1st Floor, Wisma RKT, Block A
No.2, Jalan Raja Abdullah
Off Jalan Sultan Ismail
50300 Kuala Lumpur
Malaysia

T: 603 2610 2888
F: 603 2691 6886

rktax@rsmi.com.my

www.rsmi.com.my
www.rsmrktgroup.com

Contacts



Dato' Robert Teo
Managing Director
T: 603 2610 2888
roberteo@rsmi.com.my



Wong Yok Chin
Director
T: 603 2610 2833
wongyc@rsmi.com.my



Rob Mander
Transfer Pricing Specialist



Ang Heng Ann
Manager
T: 603 2610 2830
angha@rsmi.com.my

Transfer Pricing

Our services include:

Assistance in preparation/review of supporting transfer pricing documentation

Whatever size your business, you must be able to document and justify the arm's length nature of your related party transactions. Small to medium sized businesses have less onerous documentation requirements than large businesses. The absence of any documentation, whatever size your business, provides the Inland Revenue Board ("IRB") with a strong case to adjust your transfer pricing arrangements. It should be noted that there are no time limits on proposed transfer pricing adjustments - unlike other areas of tax law.

Support of arm's length intragroup financing arrangements - loans and guarantee fees

This is an extremely complex and controversial area of transfer pricing and should you have any inter-group financing issues we strongly recommend that you contact your local transfer pricing expert. In particular, the interaction of the transfer pricing rules and the thin capitalisation rules has been an area of intense debate.

Defending the commercial and business rationale of group restructures

It is inevitable that at a given point in time a business needs to restructure its operations and its commercial and legal structure. Taxpayers need to be aware that they are required to demonstrate that any restructure was done purely for "commercial" reasons and not to gain any tax advantage. Failure to demonstrate the commerciality of any restructure may result in significant tax charges.

Transfer pricing and international tax advice relating to inbound and outbound investments

Whether your business wishes to invest overseas or in Malaysia it is imperative that the appropriate international tax and transfer pricing advice is taken. RSM RKT Group is able to utilise its global network of experienced professionals in multiple jurisdictions to assist taxpayers achieve an optimum outcome.

Supply chain restructuring to maximise the commercial benefits to a multinational group with associated tax benefits

When multinational groups restructure there is an opportunity to review the location, function and risk profile of each operational unit in the supply chain to ensure the appropriate arm's length remuneration for each individual unit. In addition, it may be possible for tax savings to be made. For example, moving a manufacturing unit to a lower taxed jurisdiction or a location where a tax holiday can be taken. Our experts would assist you in meeting your commercial objectives whilst at the same time seeking to manage your overall effective group tax rate.

Intellectual property valuation

The identification, location and valuation of intellectual property are critical for many businesses. This is particularly true in R&D intensive industries, or where brand, trademarks and other forms of intellectual property are critical to the overall success of that business.

An optimum transfer pricing policy is far more than a mere compliance issue. Transfer pricing provides taxpayers with an opportunity to review their commercial operations, international structure, and their domestic and global direct and indirect tax issues (including management of effective tax rates). A well documented, justified, operationally and commercially robust transfer pricing policy that maximises shareholder value is an optimum transfer pricing policy.

Transfer pricing is a dynamic global discipline which is being more closely scrutinised than ever before, both domestically and in foreign jurisdictions. Transfer pricing is also becoming more and more litigious. There have been numerous domestic and international cases on transfer pricing issues, interpretation and practice in recent times. We do not envisage this trend to dissipate.

At RSM RKT Group our multi-disciplinary and collaborative approach to providing solutions enables us to assist taxpayers both domestically and internationally in achieving their transfer pricing objectives.