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Tax Update: Transfer Pricing July 2024

We are pleased to present the latest edition of our Tax Update. In this issue, we bring you essential information and also a gentle reminder on the importance of timely preparation of TPD in light of the issuance of the updated TP Rules 2023.

INTRODUCTION

As highlighted in our earlier e-newsletter (dated June 2023), the updated TP Rules 2023 were gazetted on 29th May 2023 and will take effect from YA 2023 and subsequent YAs, while the TP Rules 2012 would continue to be applicable for prior YAs.

To recap, the notable revisions introduced in the TP Rules 2023 include:

1 Preparation of a Contemporaneous TPD*

- TPD must be **COMPLETED** and **DATED** prior to the filing due date of the Company's tax return submission (typically 7 months after the financial year-end).
- There is no requirement for TPD to be submitted along with the tax return, but it must be made available to the MIRB **within 14 days** upon request.

**A TPD prepared in accordance with the provisions of Section 140A of the ITA, TP Rules, and the standards of MTPG*

2 Significant Information Requirements

- The MIRB has expanded the list of information that needs to be included in the Contemporaneous TPD.
- This list resembles the disclosure requirement in a Master File* i.e. information listed in Schedules 1, 2, and 3 under the TP Rules 2023.

**Previously, this requirement is only applicable to MNE groups with consolidated revenue of EUR750 Million/ RM3 Billion (whichever threshold is applicable)*

3 Redefinition of Arm's Length Range

- Determination of the arm's length range has been changed from 25th percentile to 37.5th percentile for the Lower quartile, and from 75th percentile to 62.5th percentile for the Upper quartile. Whereas the "Median" means the value at the mid-point of this arm's length range.

4 Determination of Arm's Length Price

- The arm's length price must be determined based on the most current information reasonably available at the time of determining the arm's length price. Please note that multiple-year averages are no longer allowed.



IMPORTANT REMINDERS

Penalties for Non-Compliance:

- Failure to prepare TPD can result in substantial penalties ranging from RM20,000 to RM100,000 per YA, imprisonment, or both.
- A surcharge of up to 5% may be imposed on TP adjustments made by the MIRB, irrespective of whether there is additional tax payable arising from such adjustment.

Submission Requirement:

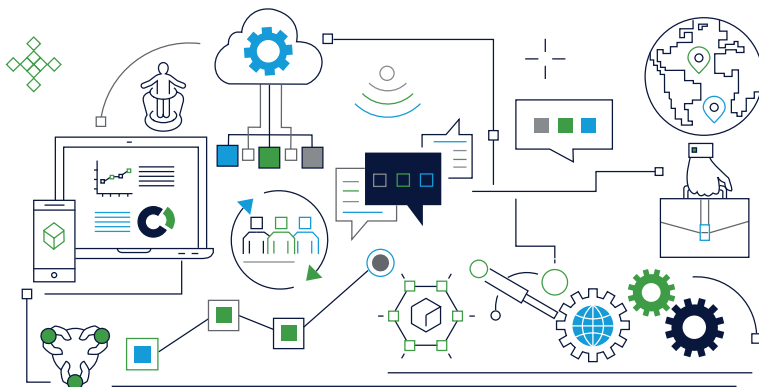
TPD must be made available for submission within 14 days upon request by MIRB.

Latest Requirement for TPD:

A TPD would need to be **completed** and **dated** prior to the tax filing deadline (for YA 2023 and onwards).

GLOSSARY

Abbreviation / Acronym	Description
MIRB	Malaysian Inland Revenue Board
ITA or the Act	Malaysian Income Tax Act 1967
TP Rules 2012	Income Tax (Transfer Pricing) Rules 2012
TP Rules 2023	Income Tax (Transfer Pricing) Rules 2023
MTPG	Malaysian Transfer Pricing Guidelines
TP	Transfer Pricing
TPD	Transfer Pricing Documentation
YA	Year of Assessment
MNE	Multinational Enterprise
RM	Ringgit Malaysia
EUR	European Union Currency



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