IC Advisors Transfer pricing Newsletter
June 2016

Greater Transparency on Transfer Pricing Policies under Country-by-Country Reporting requirements

As an effort to increase transparency and make available greater information to tax administrations, the Base Erosion and Profit Shifting ('BEPS') action plan of Organisation for Economic Co-operation and Development's ('OECD'), released guidelines on Country-by-Country Reporting ('CbCR") as part of its Action plan 13 in February 2015.

To boost such transparency, the Convention has developed the Multilateral Competent Authority Agreement on the Exchange of CBC Reports ('CBC MCAA') whereby the Competent Authorities of the Parties to the Convention mutually agree on the scope of the automatic exchange of information and the procedure to be complied with. The CBC MCAA sets forth the rules and procedures to be followed by the participating parties to automatically exchange CbCRs filed with the respective tax authority.

This initiation has received tremendous response with 39 countries, including Republic of China and India, being signatories to CBC MCAA. Such agreement will allow the tax administrations to obtain understanding as to how MNEs structure their operations in entirety, the contribution of each entity in the value chain of the Group's operations and whether the profits are reported where the economic activities are indeed carried out and value is created.

The CBC MCAA also includes provision for the confidentiality of the information shared. It should be noted that the tax authorities cannot make transfer pricing adjustment based on such information as the purpose of the information sharing is to make available information to the tax authorities in order to assess the transfer pricing risk involved in the given case.

Recent developments

As part of the efforts of Australian Tax Office to ensure that multinationals pay a fair share of tax in Australia, the recent Australian Government, through the recently announced budget, has introduced Diverted Profits Tax ('DPT'). The DPT will target significant global entities, i.e. multinationals with global revenue of $1billion or more, that shift profits offshore through arrangements that result in less than 80 per cent tax being paid overseas than would otherwise have been paid in Australia and where it is reasonable to conclude that the arrangement is designed to secure a tax reduction and lacks economic substance. Where such arrangements are entered into, the Government will impose a penalty tax rate of 40 per cent tax on the diverted profits to ensure that large multinationals are paying sufficient tax in Australia.

The DPT is expected to be effective from 1 July 2017 and apply whether or not a relevant transaction (or series of transactions) was entered into before that date.

The DPT has been introduced following the second limb of the United Kingdom's DPT, which is to address transfer profits earned in the UK to an offshore related party.

Upcoming seminars:

Dr Sowmya Varadharajan will be presenting at the following full day seminars:

a. **Optimizing Transfer Pricing Models in Asia,** on 14th June 2016, organised by CCH – Wolters Kluwer

b. **Transfer Pricing in Asia**, on 16th June 2016, organised by the Singapore Business Federation
c. **Managing Transfer Pricing**, on 13th July 2016, organised by Takx Solutions Pte Ltd

If you would like to attend any of these seminars, please send an email to sowmya@icadvisorsasia.com.