



**IC Advisors Transfer Pricing Newsletter  
June 2017**

**ATO sets out risk assessment framework for cross border related party financing arrangements**

The risk assessment framework as per Practical Compliance Guidelines (“PCG 2017/D4) provides self-assessment guidance to taxpayers in respect of their financing arrangements with related parties by using the colour spectrum approach (the risk zone are assigned a colour White, Green, Blue, Yellow, Amber, Red) for assessing the tax risk in relation to funding arrangements, alike the Marketing hubs guidance of the ATO.

These guidelines are effective from 1 July 2017 and applicable to all the existing and new transactions relating to cross border financing arrangements, whether inbound or outbound. The risk framework aims to assist the taxpayer in assessing their compliance risk as the Commissioner may generally not perform compliance review for taxpayers with low risk. However, these guidelines indicate that it should not be construed as safe harbour or proxy for maintaining the documentation.

The taxpayers are required to indicate their rating in the Reportable Tax Position (RTP) schedule on an annual basis.

Our opinion: As the taxpayers are perform such assessment for each of the transactions, a taxpayer with different risk rating is classified under the highest risk zone amongst all the transactions. Accordingly, taxpayer may be exposed to compliance review even if one the transactions has high risk. We recommend that all taxpayers must consider to revisit their financing arrangements depending on the risk rating as per the risk framework and maintain robust documentation to support their pricing if it is assessed as high risk.

**OECD publishes discussion draft on Implementation Guidance on Hard-to-value Intangibles**

OECD aims at providing guidance for tax administrations on the implementation of the approach for Hard to value Intangibles (“HTVI”) to improve consistency and reduce the risk of economic double taxation. It is an effort to tackle the issue of information asymmetry between the information available to taxpayer and the absence of information available to the tax administration.

It provides the guidance on application of arm’s length principle in ex post outcomes (i.e. valuation of actual transfer of HTVI based on the actual sales in following years) where the transactions were entered into based on ex ante pricing arrangement (ie pricing of transfer of HTVI based on the sales and other projections). The importance is laid on appropriateness of the ex-ante pricing by the tax payer. Few factors illustrated are:

- Accuracy of the sales projections;
- Risks factored in by the taxpayer;
- Probability of unforeseen factors considered;
- And other similar data points used by the taxpayer

Our opinion: Transactions involving transfer pf HTVI should be based on accurate projections to the extent possible and taxpayers must maintain robust documentation to illustrate the basis of projections. Taxpayer must also consider the third party data to the extent available for pricing of such transactions including the sales of similar products.

## **Singapore's IRAS: Cost-plus mark-up basis available for service companies**

The Inland Revenue Authority of Singapore (IRAS) has clarified its administrative practice to allow services companies providing "routine support services" to adopt the cost-plus mark-up method. As a practice, IRAS is prepared to allow this adoption on the premise that the business transactions of such companies are classified as simple – meaning, they do not undertake risks or own significant assets (including intellectual property rights) and that their expenditures are typically operating expenses.

IRAS has made the following clarifications

- The cost-plus mark-up basis is strictly for service companies providing certain routine services only to related parties
- When the cost-plus mark-up basis is adopted, the chargeable income is computed based on a 5% mark-up of total expenditures (without any further adjustments).

Companies that fall outside the scope of the cost-plus mark-up basis but adopted the cost-plus mark-up basis will have to move to the normal trading company (NTC) basis of assessment.

Services companies using the cost-plus mark-up basis that are seeking to maximise tax adjustments and claims would also need to move to the NTC basis of assessment since the cost-plus basis would no longer be relevant for them.

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

- a. [Introduction to Transfer Pricing – 25th Run](#) on 29<sup>th</sup> June 2017, organised by Takx Academy
- b. [Understanding Transfer Pricing](#) on 6<sup>th</sup> June 2017, organised by Singapore Business Federation
- c. [A Practical Overview on Transfer Pricing: Understanding the Recent Trends and Critical Updates](#) on 14<sup>th</sup> June 2017, organised by CCH Singapore

If you would like to attend any of these seminars, please send an email to [sowmya@icadvisorsasia.com](mailto:sowmya@icadvisorsasia.com).