



**IC Advisors Transfer pricing Newsletter
October 2014**

OECD – Transfer pricing documentation and country-by-country (CbC) reporting

On 16 September 2014, the Organisation for Economic Cooperation and Development (“OECD”) released the finalized guidelines on transfer pricing documentation and country-by-country (“CbC”) reporting. These guidelines will replace Chapter 5 of the current OECD Transfer Pricing Guidelines.

The objective of revising these guidelines was to ensure that tax payers provide sufficient information for risk assessment and tax enforcement needs by providing a more complete picture of their global operations. The revised guidelines suggest a three-tiered approach consisting of the following documents:

- Masterfile: high level overview of MNE group business;
- Local file: detailed information on specific group transactions at the local entity level; and
- CbC report-aggregated data by tax jurisdiction and segmented analysis of revenue, profit before tax, tax paid and accrued, capital accumulated earnings, employee headcount and tangible assets.

The OECD recommends to review and update the above documentation yearly, and permits leverage from the prior year documentation.

These transfer pricing guidelines have been introduced by the OECD Transfer Pricing Guidelines, and it remains to be seen how local tax authorities will modify their existing transfer pricing guidelines to reflect the changes introduced by the OECD.

OECD – Transfer pricing aspects of intangibles

In addition, the OECD also provided interim guidance on transfer pricing outcomes with respect to intangibles. The revision to the OECD Guidelines included guidance on the:

- Definition of intangibles
- Identification of transactions involving intangibles
- Determination of arm’s length conditions
- Transfer pricing treatment of local market features and corporate synergies

In determining the arm’s length price of related party transactions, legal ownership and contractual agreements serve only as a reference point for identifying and analysing controlled transactions on a risk-adjusted basis. On the other hand, parties contributing to the development, enhancement, maintenance, protection and exploitation of the intangibles will be appropriately remunerated with respect to the functions performed, risks assumed and assets employed. Hence this interim guidance emphasises that transfer pricing outcomes with respect to intangibles should be attributed to functional value creation.

These guidelines are considered “interim” as changes that will be made in the other action items may impact these guidelines.

Comments on IRAS' Transfer Pricing Consultation

In our last newsletter, we noted that IRAS had requested comments on proposed changes to the transfer pricing guidelines in Singapore. We are pleased to share our comments with you.

[Can you please do a hyper-link to the comments – which is provided to you in a separate PDF?]

Upcoming Seminars

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. Managing Transfer Pricing Risks in Asia, on October 13, organised by CCH
- b. Transfer Pricing in Malaysia, on October 15, organised by CCH Malaysia
- c. Transfer Pricing in Singapore on October 27, organised by AcClarity International Pte Ltd

If you would like to attend any of these seminars, please drop us an email at service@icadvisorsasia.com.