



IC Advisors Transfer pricing Newsletter September 2015

Hong Kong

The Hong Kong Inland Revenue Department (HK IRD) has recently scrutinised the allocation and re-charges from head office or service companies. Some of the information required by the IRD to support the mark-up applied on the service costs are:

- Details of employees who provide the head office services
- Functions performed and the benefits attained by the taxpayer in HK
- Breakdown, nature, date and amount of the allocated costs and the corresponding invoices
- Remaining allocated costs that is paid by other related parties
- Documentation of the basis, method, detailed calculation of cost allocation, corresponding benchmarking study, explanation on the inconsistency of allocation if existing

It is important to note that the IRD may challenge the accuracy/legitimacy of benchmarking studies and the inconsistency of cost allocation if it exists.

Australia

On 6th August 2015, the Australian government followed up with measures to tackle multinational tax avoidance as announced in the 2015 Budget in May 2015. The draft laws follow standards under the OECD/G20 base erosion and profit shifting (BEPS) plan - Action 13 (Re-examine the transfer pricing documentation).

The OECD guidance on transfer pricing documentation and country-by-country (CbC) reporting through a 3 tiered standardized approach was published in September 2014 and consists of the following reports:

- A master file – report with a high level standardized information of the multinational enterprise (MNE) group
- A local file – report of local entity's business operations and material related party transactions
- CbC report – report containing certain information relating to the global allocation of the MNE group's income and taxes paid together with certain indicators of the location of economic activity within the MNE group

In addition, the draft legislation also doubled the tax avoidance administrative penalties - the maximum administrative penalty will be revised to 120% from 60%. The subsequent enactment of the draft rules mean that the TP documentation is mandatory to companies with annual global revenue of AUS \$1 billion. Multinational companies in Australia should put in effort to avoid additional tax penalties that may be imposed.

Korea

On 6th August 2015, the Ministry of Strategy and Finance of South Korea released a draft legislation that amends Articles 11 and 12 of the Korean Law. Likewise, the draft legislation follows BEPS Action 13 that implement the OECD BEPS initiatives for transfer pricing.

The current law only requires taxpayers to file a schedule of international transactions with the corporate tax filings. Upon enactment of the legislation, effective 1 January 2016, taxpayers are required to submit the local and the master file by the due date of the filing of the tax returns. The penalty for failing to file would be a maximum of 10 million Korean won.

CbC reporting is however not yet part of the draft Korean legislation. It is notable that Australia has also just followed the BEPS initiatives including CbC reporting. It is expected that many countries such as Singapore, Japan and even Korea might adopt CbC reporting in future hence taxpayers need to be prepared to produce the required documents to the tax authorities.

Upcoming seminars:

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. Inter-company Loans and Financing – What you need to know, 4 September 2015, organised by ISCA
- b. Transfer Pricing Documentation Masterclass, on 17-18 September 2015, organised by CCH Singapore
- c. China vs India – A battle of transfer pricing regimes, on 19 October 2015, organised by ISCA
- d. Preparing Transfer Pricing Documentation, on 16 November 2015, organised by CCH Malaysia in Kuala Lumpur, Malaysia

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