

Key Features of Taiwan's Transfer Pricing Regulations

Understanding Taiwan's tax regulations

Grant Thornton Taiwan recommends that clients review their transfer pricing policy regularly and take any needed action to address documentation requirements before the corporate income tax filing deadline.

Understanding transfer pricing regulations is an essential part of doing business in Taiwan. Below, Grant Thornton Taiwan has highlighted some of the key features of Taiwan's transfer pricing requirements so that you know what you must do to stay compliant in this complex regulatory environment.

The following tax rulings play an important role in transfer pricing practice in Taiwan.

- Transfer Pricing Audit Regulations
- Tax Ruling Tai Tsai Shui 09404587580 (transfer pricing disclosure requirements)

Disclosure Requirements for Corporate Income Tax Filing

Disclosure requirements vary from one situation to another. No disclosure, limited disclosure, or full disclosure may be required, depending on factors such as company stock, taxes, and related party transaction amounts.

No Disclosure

A business entity meeting one of the following criteria does not need to disclose related party transactions on its corporate income tax return:

- Combined business revenue and non-

business revenue is less than TWD 30 million for the filing year.

- The business has no related party entities outside of Taiwan, claimed tax incentives for less than TWD 500,000 per annum, applied offset against reserved tax losses for less than TWD 2 million per annum, and has total business and non-business revenue of less than TWD 300 million per annum.

Limited Disclosure

A non-exempt business that carried out transactions with related entities amounting to less than TWD 50 million per annum, or with one or more related individuals amounting to less than TWD 25 million per annum only needs to disclose "significant" related party transactions.

Significant transactions refer to transactions carried out with a related entity amounting to TWD 12 million or more in value or those with a related individual amounting to TWD 6 million or more in value.

Full Disclosure

A non-exempt business that has carried out transactions with related entities amounting to TWD 50 million or more per annum, or with one

or more related individuals amounting to TWD 25 million or more per annum, must disclose all related party transactions undertaken, irrespective of the value of each transaction.

For more information on transfer pricing disclosure requirements, please refer to Tax Ruling Tai Tsai Shui 09404587580.

Alternative Supporting Documents in Lieu of a Transfer Pricing Report

A business entity meeting one of the following criteria can elect to use alternative supporting documents to justify its transfer pricing instead of preparing a full transfer pricing report.

- Combined business revenue and non-business revenue is less than TWD 300 million for the filing year.
- Combined business revenue and non-business revenue is equal or more than TWD 300 million but less than TWD 500 million for the filing year, and the business entity has not claimed tax incentives in excess of TWD 2 million, has not offset against any reserved tax losses in excess of TWD 8 million for the tax filing year and has no related entities outside of Taiwan.
- The total value of related party transactions is less than TWD 200 million per annum.

Alternative Supporting Documents

Alternative supporting documentation can include any one of the following:

- Public tender documents
- Market price information
- Immovable property valuation report issued by a qualified professional body
- A transfer pricing study report prepared by a foreign related party (if the contents of the global transfer pricing report deviate substantially from Taiwan's Transfer Pricing Audit Regulations, it will need to be tailored and amended as appropriate).
- Any other document that can satisfy Article 7 of the Transfer Pricing Audit Regulations.

Article 7 requires the principles be followed:

- 1. Comparability principle
 2. The adoption of the most appropriate Arm's-length Method
 3. The Evaluation on a specific transaction basis
 4. The use of the current year data
 5. Use of arm's-length range
 6. Analysis of Reasons for losses
 7. Separate evaluation of revenue and expenditures
 8. Other Arm's-length principles prescribed by the MOF.

According to Article 22 of the Transfer Pricing Audit Regulations, if the total amount of revenue and the amount of Controlled Transactions of a profit-seeking enterprise engaged in Controlled Transactions falls below the disclosure requirements (as explained above), then an alternative supporting document can be used to benchmark related party transactions in lieu of a full transfer pricing report.

Procedures to be Completed on Corporate Income Tax Returns

Business entities must check a box on their corporate income tax return to indicate whether or not they need to prepare a full transfer pricing report. If a full report is required, then the business will need to check a second box to indicate whether the transfer pricing report is complete and ready for presentation at the time of filing the corporate income tax return.

When a business entity is required to prepare a transfer pricing report, the CPA appointed to conduct the entity's tax compliance audit must state in the tax audit report whether the transfer pricing report has been prepared in compliance with Taiwan's Transfer Pricing Audit Regulations and whether any tax adjustment is needed.

One-Time Year-End Transfer Pricing Adjustments

A multinational group may make a one-time transfer pricing adjustment before the close of its fiscal year, provided the participants in the controlled transactions have agreed in advance to the relevant transaction terms and pricing factors, the resulting receivable or payable is recorded in the financial accounts, and the other participants make corresponding adjustments. The adjustment must be implemented consistently for all relevant taxes and charges. For imported goods, the import declaration must identify the transaction as subject to a fiscal-year one-time transfer pricing adjustment, and the taxpayer must follow the prescribed customs deposit and valuation procedures and apply to Customs within one month after the fiscal year-end to finalize the customs value. Depending on the nature of the transaction, related VAT, commodity tax, withholding tax, invoicing, and corporate income tax disclosure requirements may also apply. A year-end adjustment should therefore be planned and documented before year-end, rather than treated merely as a post-closing journal entry.

Burden of Proof

The burden of proof that transfer pricing arrangements are within arm's length rests on the shoulder of the taxpayer. Business entities are urged to exercise caution and ensure that proper documentation is in place.

Deadline Extensions

Article 22 of the Transfer Pricing Audit Regulations allows a business entity to obtain a maximum two-month extension to present its transfer pricing report (or alternative supporting document) upon request by a tax officer. The corporate income tax filing deadline is 5 months after the end of the fiscal year. If a business entity checks the box on its corporate income tax return stating that the transfer pricing report is not yet ready, this action by itself may alert tax officers, who may in turn conduct a tax inspection. Such an inspection could not only

consume considerable time and energy of the taxpayer in preparing a defense, but it could also lead to subsequent tax adjustments.

Recommendations:

Grant Thornton Taiwan recommends that clients review their transfer pricing policies regularly and take any necessary action to address documentation requirements before the corporate income tax filing deadline.

Businesses eligible to use alternative supporting documents must still ensure that their related-party transactions comply with the arm's-length principle. If suitable alternative supporting documents are not available, we recommend consulting our transfer pricing specialists to assess appropriate documentation and risk-management options.

Contact



Jay Lo

Managing Partner

T +886 2 2789-0887 ext 1314

E jay.lo@tw.gt.com

www.grantthornton.tw