

Key features of Taiwan's transfer pricing regulations

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)
- tax ruling Tai Tsai Shui 09404587590 (defining circumstances whereby an alternative supporting document can be used to benchmark related party transactions in lieu of a full transfer pricing report)

Disclosure requirements for corporate income tax filing¹

Disclosure requirements vary from one situation to the next. 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, has not claimed tax incentives in excess of TWD 500,000 per annum, has not offset against reserved tax losses in excess of 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 are those with a related entity exceeding TWD 12 million in value or those with a related individual exceeding TWD 6 million in value.

Full Disclosure

A non-exempt business which has carried out transactions with related entities amounting to more than TWD 50 million per annum, or with one or more related individual amounting to more than TWD 25 million per annum, must disclose all related party transactions undertaken, irrespective of the value of each transaction.

Alternative supporting documents in lieu of a transfer pricing report

A business entity meeting one of the following criteria can elect to justify its transfer pricing through alternative supporting documents rather than prepare 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 more than TWD 300 million but less than TWD 500 million for the filing year, and the business entity has not claimed any tax incentive in excess of TWD 2 million, has not offset against any reserved tax losses in excess of TWD 8 million for the filing year and has no related entities outside of Taiwan.

¹ For more information on transfer pricing disclosure requirements refer to tax ruling Tai Tsai Shui 09404587580.

- The total value of related party transactions is less than TWD 200 million per annum.

Alternative supporting documents²

Alternative supporting documentation can include any one of the following:

- public tender document
- 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 7-1 of the Transfer Pricing Audit Regulations

Three layers of transfer pricing documentation

Effective from 2017, taxpayers meeting certain criteria need to prepare three layers of transfer pricing documentation. See quick overview below.

Type of document	Criteria
Master File	Annual revenue plus non-operating income for the Taiwan entity exceeds NTD 3 billion, and carried out related-party transactions in excess of NTD 1.5 billion per annum.
Local TP file	Same as existing criteria: annual revenue exceeding NTD 300 million and related-party transaction amounts of more than NTD 200 million
Country by Country report (CbCR)	Consolidated total group revenue for the prior year is in excess of NTD 27 billion.

Deadline for filing Master File and CbCR is end of the following year.

² For more information about circumstances whereby an alternative supporting document can be used to benchmark related party transactions in lieu of a full transfer pricing report, please refer to Tax Ruling Tai Tsai Shui 09404587590.

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 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.

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 upon request by a tax officer. The corporate income tax filing deadline is five months after 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 policy regularly and take any needed action to address documentation requirements before the corporate income tax filing deadline.

Business entities that can use alternative supporting documents as a substitute for a full transfer pricing report still need to ensure that related party transactions are carried out within arm's length. If no appropriate alternative supporting documents can be identified, we recommend that the business entity work with our transfer pricing tax specialists to plan alternative solutions.

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