

Transfer pricing regulations in Taiwan were introduced to protect Taiwan source income from being evaded via international related party dealings.

Overview

Transfer Pricing Audit Regulations were first introduced in Taiwan in late 2003. In 2017, Taiwan's Ministry of Finance further announced the adoption of the OECD recommendations which require taxpayers meeting certain criteria to prepare three layers of transfer pricing documentation as follows:

- A master file giving an overall perspective on the business
- A local file containing information for each country
- A country by country reporting file.

These regulations were developed specifically to regulate prices set for goods and services provided under international agreements between related parties.

The Transfer Pricing Audit Regulations require related party transactions to be undertaken on a commercially justifiable arm's-length basis in order not to shift taxable profits from Taiwan to another jurisdiction. The rules potentially apply to the movement of all goods and services, including the use of both tangible assets and intangible assets.

In order to protect the Taiwan source income base, the Ministry of Finance announced that the following types of business entities would be targeted for transfer pricing investigations:

- multinational enterprises
- business entities that have one or more related parties established in "tax haven" countries
- business entities that transact business with related parties at high frequency and significant value

- business entities that continue to expand and yet generate tax losses

Regulatory environment in Taiwan

Large numbers of business entities in Taiwan conduct international trade and have set up related entities outside of Taiwan. In the past, the Taxation Administration rarely challenged taxpayers on transfer pricing due to lack of regulations and enforcement mechanisms. This has changed fundamentally following the introduction of the Transfer Pricing Audit Regulations.

Effective from 2005, Taiwan taxpayers bear the burden of proof to justify that the transfer price set between related parties is within arm's length. Taxpayers are now required to prepare the following documentation:

- a listing of related parties and the nature of the relationship
- an organizational chart illustrating relationships
- a summary of related party transactions carried out over the past year (by category and by amount)
- a brief description of the business
- a transfer pricing analysis report

The Ministry of Finance requires corporate taxpayers to indicate on their tax returns whether the above documents are complete and ready at the time tax returns are submitted. Any indication that the required documents are not ready may trigger a tax investigation.

What this means for business entities in Taiwan

Business entities need to carefully examine whether they meet the documentation requirements outlined in the Transfer Pricing Audit Regulations and other related tax rulings. In cases when full disclosure and documentation is required, business entities should carefully assess whether the transfer pricing set between related parties is within arm's length. If no transfer pricing study report has been done in the past, one should consult a tax advisor and seek to complete preliminary benchmarking prior to the end of the year so as to allow room to make necessary pricing adjustments.

As the onus of proof is on the shoulder of the taxpayer, a taxpayer that fails to fulfill this obligation will be deemed to have agreed to allow the Taxation Administration the right to adjust the transfer price.

How Grant Thornton can help you

As a leading tax adviser, Grant Thornton understands the necessity of compliance with the new transfer pricing legislation in a way that is both cost-effective and does not consume too much of company management's time.

Our transfer pricing team can provide a comprehensive solution suited to your needs after understanding the objectives of management and the exact nature of the transactions. The process may include the following:

- **Planning** – Grant Thornton tax experts will work with you to set timelines and milestones for work to be completed.
- **Fact-finding exercise** – We will analyze the functions performed and risks assumed by each entity.
- **Selection of an appropriate transfer pricing method** and identification of the tested parties.
- **Benchmarking analysis** – Grant Thornton will search for internal comparables available. If none are identified initially, we will use the Standard and Poor's database (the same database used by Taiwan's Taxation Administration) to identify comparables and conduct an economic and financial analysis.
- **Documentation** – We collate results into a report and prepare the required documentation.
- **Advanced pricing arrangements** are made on your behalf with the Ministry of Finance to seek approval of the proposed transfer price.

- **Special applications** – We will apply on your behalf for approval to exempt any deemed related party relationship.
- **Dispute resolutions** – Grant Thornton will assist your business entity in defending your transfer pricing policies before the tax authorities.

Transfer pricing is an increasingly complex issue facing taxpayers. Our specialized transfer pricing team in Taipei understands your needs and has the experience necessary to guide you through the regulations. You can rest assured that Grant Thornton's practical approach to providing transfer pricing solutions protects your business from incurring onerous tax penalties for transfer pricing adjustments and non-compliance with legislative requirements. Grant Thornton can also identify beneficial changes to business processes that may result in both substantial worldwide tax savings and other commercial benefits to your business.

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