BSL TAX ALERT

IMPORTANT UPDATES ON TRANSFER PRICING FROM INLAND REVENUE AUTHORITY OF SINGAPORE

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On 14 June 2024, the Inland Revenue Authority of Singapore released its seventh edition of the Transfer Pricing ("TP") Guidelines. Amongst the various updates and changes, we highlight the following two significant updates and changes that may affect many of our clients:

1. Increase the Exemption Threshold:

- Starting from year of assessment 2026, the exemption threshold for TP Documentation ("TPD") for certain non-domestic transactions, such as services, royalties, guarantees and any other transactions (excluding sales, purchases and loans) has been increased from S$1 million to S$2 million.
- This change aims to ease the compliance burden for taxpayers. However, regardless of the TPD requirement, all related party transactions should still comply with the arm's length principle.

2. New TP Rules for Domestic Related Party Loans:

- Starting from 1 January 2025, a new safe harbour regime will be applied for interest pricing of domestic related party loans where neither the borrower nor the lender is in the business of borrowing and lending money. Under the new rules, the interest rate charged on domestic related party loans should reflect the interest rate charge between unrelated parties for similar loans under similar circumstances.
- Taxpayers must no longer rely on the simplified approach of interest restriction. Instead, they should apply IRAS's new safe harbour regime to determine the interest rate which will be accepted as the arm's lenght rate by IRAS.
- IRAS has clarified that the interest rate to be charged on domestic related party loans which are floating rate loans will be the base reference rates which are risk free rates plus IRAS' indicative margin. For fixed rate domestic related party loans which are denominated in Singapore dollars, taxpayers can consider applying an appropriate Singapore Government Securities ("SGS") yield or the swap rate as the base reference rate.
- The taxpayers who choose not to apply IRAS' safe harbour indicative margin, must perform a detailed transfer pricing analysis and documentation to determine the arm's length interest rate.
- Please note that the above IRAS' indicative margin rates can be applied to the domestic loan regardless of the quantum of the domestic related party loan, unlike the cross-border related party loan that requires such loans to be below the S$15 million threshold.

Conclusion

It's important to note that IRAS may make TP adjustments to increase taxpayers' profit or reduce their losses if the arm's length principle is not complied with. Once an adjustment is made, it is subject to a 5% surcharge. Companies and taxpayers should take note of the significant change in the application of the arm's length principle relating to domestic related party loans made from 1st January 2025 onwards. It's essential to ensure compliance with the new arm's length principle regime to avoid any TP adjustment, which may result in additional tax payable, where applicable, and incur a 5% surcharge on the adjustment.

Writers' Caveat

Please bear in mind that these articles provide a broad overview of the subject matter and are not intended to be comprehensive. It's crucial to consult your professional advisers before taking any specific action based on this information.

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