

Busting Common Singapore Transfer Pricing Myths



It appears that the Singapore transfer pricing landscape has become quieter based on the frequency of updates from its peak of annual updates to the IRAS e-tax guide on Transfer Pricing Guidelines from 2015 to 2018 with the last IRAS issued guidelines in 2021. Or is this just the calm before the storm?

With the recent stability of the Singapore transfer pricing guidelines, it is an opportune time to share and bust the common Singapore transfer pricing myths.

Myth 1: Transfer pricing is only applicable to the large multinational enterprises similar to the likes of Starbucks, Google and Amazon. Transfer pricing is not applicable to me as I am a SME.

Transfer pricing refers to the rules and methods for pricing transactions between related parties, regardless of size. With effect from the year of assessment 2019, taxpayers which meet certain conditions are required to prepare mandatory contemporaneous transfer pricing (“TP”) documentation under Section 34F of the Income Tax Act (“ITA”). While large multinational enterprises generally meet the conditions in which it is mandatory for them to prepare contemporaneous TP documentation, some SMEs may meet those conditions as well. In addition, even if the taxpayers are exempt from preparing mandatory contemporaneous TP documentation, taxpayers should still ensure that the transactions with related parties are at arm’s length. Thus, transfer pricing is applicable to the SMEs as well if the SMEs have related party transactions.



Myth 2: If I do not meet the threshold to prepare mandatory contemporaneous transfer pricing documentation, I do not have to do any further work.

This is similar to myth 1 but does not just apply to SMEs. While it may not be mandatory to prepare TP documentation for certain situations, taxpayers must still ensure that the related party transactions are at arm's-length. There are many ways to ensure and demonstrate that the related party transactions are at arm's-length without preparing the TP documentation. The specific method(s) used will depend on the specific facts and circumstances of the case.

In addition, in the Transfer Pricing Guidelines, it is also indicated that to better manage transfer pricing risk, taxpayers which do not have to prepare TP documentation under Section 34F of the ITA are nonetheless encouraged to do so using the TP Documentation Rules and the information in the Transfer Pricing Guidelines as a guide.

Myth 3: I only have domestic related party transactions so I am not required to prepare mandatory contemporaneous transfer pricing documentation.

Taxpayers are exempt from preparing TP documentation for the transactions undertaken with their related parties in a basis period when those transactions come within any of the cases specified in Rule 4 of the TP Documentation Rules. Not all domestic transactions are covered by the exemption. The exemption is only applicable to 2 specific domestic related party transactions where:-

- i) the related party domestic transaction is subject to same tax rate; and
- ii) a related party domestic loan is provided between the taxpayer and a related party in Singapore and the lender is not in the business of borrowing and lending money.

This means that taxpayers will still have to ensure that that they have to prepare mandatory contemporaneous TP documentation for all other domestic related party transactions not covered by these specific exemptions.

Myth 4: I can apply just 5% mark-up on the provision of management services to my related parties without performing any transfer pricing analysis.

Management services is a very generic term used. We have to determine what is the nature of the management services to determine if taxpayers can apply the administrative practice of 5% cost mark-up that are applicable to certain routine support services. Only if the strict conditions are met can the taxpayers rely on this administrative practice. Otherwise, taxpayers should still perform a transfer pricing analysis to determine the arm's length nature of the management services which include the appropriate mark-up to be applied.

Myth 5: I can decide on what to charge to my related parties and I will worry about whether this meets the transfer pricing regulations at a later stage. At most, I will do a year end adjustment.

Having the transfer prices right from the start goes a long way in managing your transfer pricing and tax risks. In fact, transfer pricing can be used as a strategic tool for effective tax planning. Even if the transfer prices are corrected in time at year end, having large year-end adjustments will have impact in other areas such as cash management as well as customs implications. It is usually difficult to unwind past transfer pricing decisions especially when the operations have scaled significantly from the time when the transfer prices were first decided as this affects not only the tax department but also other departments involved which include the Finance and IT departments.

Myth 6: I have to find a large professional services firm to help me with my transfer pricing requirements as mid-tier firms do not provide transfer pricing services nor have the expertise to do so

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