



## 香港税务快讯： 香港税务局发布关于转让定价及同期文档最新指南

香港税务局于 7 月 19 日发布了[税务条例释义及执行指引第 58 号、59 号及 60 号](#)（DIPNs），提供了香港税务局对“2018 年税务（修订）（第 6 号）条例”（IRO）所载香港最新转让定价法规的释义及执行指引。

关联人士或非香港居民常设机构之间的交易如有不适用于 IRO 中转让定价相关条款的情形，仍可参考 DIPN 45 和 46 处理。

本次最新发布的 DIPNs 包含以下要点：

- 转让定价原则不会改变香港一直执行的地域来源征税体系；
- 香港转让定价调整以单向调整的方式运作，并且仅用于增加应评税利润或减少准予列支损失；
- 指明本地交易可受豁免的情况亦可以适用于特定存在时间性差异的交易和部分的无息贷款；
- 符合经济合作与发展组织（OECD）第十三项行动计划要求的主体文档和本地文档（包括集团层面准备的合规文件），只要相关转让定价政策在实际中得到执行，该转让定价文档将可以得到香港税务局认可作为降低或免除转让定价调整罚款的依据；
- 如果最终母实体所在税务管辖区与香港之间签订的国际协议不存在自动信息交换条款（例如美国），则无需在香港进行国别报告的次级申报；
- 通过金融服务和非金融服务行业分支机构的案例，强调不能接受香港分支机构采用 100% 债务融资所进行的利息扣抵。同时，如何采用经合组织认可方法（AOA）来决定分支机构的无息资本金额将成为一个重大挑战；

- 同时，以前未向其分支机构分配较高资金利息成本的纳税人，可以考虑通过重新债务融资分类，部分或全部抵消由于债务融资重新分类为权益而产生的利息无法扣抵的影响。

最新 DIPNs 表明了香港将致力于实施 OECD 税基侵蚀及利润转移（BEPS）包容性框架协议，并设法解决其在实施过程中的不确定性。尽管如此，税务局如何在实际操作中通过审查和风险评估程序来执行新的税务规则仍有待观察，相信这也是纳税人最关心的议题。

德勤税务评论将继续发布更多细节介绍和评论，以解释最新 DIPNs 对香港纳税人的影响。

**税务快讯**专向德勤的客户及专业服务人员发布，其内容为一般性的最新税务信息。在根据此简讯内的任何信息行事之前，敬请咨询有关税务咨询师。

如有任何疑问，请联系我们的专业服务团队：

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## Hong Kong Tax Newsflash:

### IRD issues new guidance on Transfer Pricing and Documentation rules

The Inland Revenue Department (IRD) released [Departmental Interpretation and Practice Notes nos. 58, 59 and 60](#) (DIPNs) on 19 July. This guidance sets out the IRD's views on Hong Kong's new transfer pricing rules and requirements as contained in the Inland Revenue (Amendment) (No. 6) Ordinance 2018 (IRO).

Transactions between associated persons or non-Hong Kong resident persons' permanent establishments in Hong Kong, to which the transfer pricing-related provisions in the IRO do not apply, should be dealt with in accordance with DIPNs 45 and 46.

Some key takeaways from the newly released DIPNs include:

- Transfer pricing principle will not change Hong Kong's long-standing territorial source system;
- Transfer pricing adjustment operates as a '*one-way street*' in Hong Kong and acts only to increase assessable profits or decrease allowable losses;
- Specified domestic transactions are exempt even where timing differences exist and for certain interest-free loans;
- Master File and Local File documentation meeting OECD Action 13 requirements (including compliant group documentation) are acceptable to the IRD and effectively provide penalty protection as long as those policies are actually implemented;
- Secondary filing of the Country-by-Country (CbC) Report in HK is not required if the Ultimate Parent Entity (UPE) is resident in a jurisdiction where automatic exchange is not allowed under an international agreement with Hong Kong (e.g. the US);
- Significant focus has been placed on the disallowance of interest deductions for branches that are 100% debt funded, with worked examples for both financial services and non-financial services companies. Applying the Authorised OECD Approach (AOA) to determine the level of free capital is expected to be a significant challenge for many branches; and
- Financial service companies may consider how to price intra-company debt. This means taxpayers which have

not allocated higher rate funding to their branches previously may be able to mitigate some, or all of the disallowance that may arise from reclassifying debt funding to equity.

The new DIPNs demonstrate Hong Kong's commitment to the OECD's BEPS Inclusive Framework and help address some uncertainties on its practical implementation. Nevertheless it still remains to be seen how the IRD will apply and enforce the new rules through its examination and risk assessment process, and that may ultimately be of greater interest to taxpayers.

Further details and our comments on what the new DIPNs mean for Hong Kong taxpayers will be published shortly in a Deloitte Tax Analysis.

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