



Tax update

Transfer Pricing regulations under the
Inland Revenue Act No. 24 of 2017

July 2021

Transfer Pricing (TP) regulations under extraordinary gazette no. 2217/7 (“Regulations”), have been issued under Section 194 of the Inland Revenue Act no.24 of 2017 as amended (“IRA”), replacing the extraordinary gazette notification no.2104/04 issued previously under Inland Revenue Act no.24 of 2017. The Regulations will be effective from 1 April 2020.

These Regulations will apply in the following cases:

- a) International transactions between Associated Enterprises (“AEs”) recognised under Section 76 of the IRA
- b) Domestic transactions amongst AEs as identified below:
 - If tax exemptions have been granted to any AE under the Inland Revenue Act no. 38 of 2000 or Inland Revenue Act no. 10 of 2006 or no. 24 of 2017 or Board of Investment (BOI) of Sri Lanka Law no. 4 of 1978
 - If any difference between income tax rates specified in any schedules to the Act or any income tax rate given in the BOI agreement is applicable to any AE
 - If loss has been incurred by any AE for the year of assessment or immediately the preceding years of assessment, which has been brought forward to that year of assessment

A permanent establishment shall be treated as a distinct and separate entity from its head office and related branches (within or outside Sri Lanka) under the IRA, for the purpose of TP.

This alert provides an update on the key amendments that have been made to the TP framework under the Regulations.

1. Arms length price

Under the Regulations, arm’s length price is determined on the basis of arm’s length range, which is the interquartile range (25th–75th percentiles) of the relevant financial indicators. The Department of Inland Revenue administratively applied this change via the TP guidelines issued on 20 October 2020.

The range is calculated using the most appropriate transfer pricing method as applicable to the enterprise under the Regulations.

2. Definition of AE

Previous definitions	Definition modification/exclusion under the Regulations
Regulation 8(c) “Loans advanced by one enterprise to another enterprise constitute not less than 51% of the book value of the total assets of the other enterprise provided that it is not given by a bank , which is not considered as an associated enterprise under any other item of this Regulation.”	Regulation 8(c) “Loans advanced by one enterprise to another enterprise constitute not less than 51% of the book value of the total assets of the other enterprise provided that it is not given by a financial institution , which is not considered as an associated enterprise under any other item of this regulation.”
Regulation 8(d) “Loans and equity provided by one enterprise to another enterprise constitute not less than 51% of the book value of the total assets of the other enterprise provided that it is not given by a bank , which is not considered as an associated enterprise under any other item of this Regulation.”	Regulation 8(d) “Loans and equity provided by one enterprise to another enterprise constitute not less than 51% of the book value of the total assets of the other enterprise provided that it is not given by a financial institution , which is not considered as an associated enterprise under any other item of this Regulation.”

3. Changes to the transfer pricing documentation requirements

Document	Applicable section	Prior regulation under Gazette No 2104/4	Amended regulation under Gazette No 2217/7
Transfer Pricing Disclosure Form (TPDF)	Threshold Regulation 6(d)*	TPDF must be prepared by enterprises that carry out controlled transactions or categories of controlled transactions with associated enterprises, regardless of the size and nature of those transactions	TPDF must be prepared by enterprises that carry out aggregate controlled transactions that exceed LKR 200 million with associated enterprises, during a year of assessment Note - Enterprises that carry out categories of transactions with AEs below LKR 200 million, need to disclose only the transaction category and details of AEs (Columns I and II). In addition to disclosing the transaction category and details of AEs, enterprises that carry out categories of transactions with AEs exceeding LKR 200 million, must disclose details of the transfer pricing methodology and arm's length price (Columns I to IV)
Local file	Threshold - Regulation 6(a)	To be prepared and maintained by those enterprises that carry out controlled transactions or where each category of controlled transactions with associated enterprises exceed LKR 200 million for each year of assessment	To be prepared and maintained by those enterprises that carry out aggregate controlled transactions with associated enterprises exceed LKR 200 million for each year of assessment
	Information to be included Annexure 1 (Part B)	Applicable for any enterprise that carries out controlled transactions or where each category of controlled transactions with associated enterprises exceed LKR 200 million for each year of assessment	Applicable for the aggregate value of each category of controlled transactions exceeding LKR 200 million for the particular year of assessment.
	Submission deadline Regulation 6(c)	Within 30 calendar days of a written request issued by the Commissioner General of Inland Revenue	Within 60 calendar days of a written request issued by the Commissioner General of Inland Revenue
Masterfile	Threshold Regulation 6(a)	Declared revenue whose value exceeds LKR 7.5 billion for each year of assessment	Declared group revenue whose value exceeds € 50 million or its equivalent in LKR for each year of assessment as recorded in the books of account
	Commencing year Regulation 6(a)		1 April 2020
	Submission deadline Regulation 6(c)	4 Within 30 calendar days of a written request issued by the Commissioner General of Inland Revenue	Within 60 calendar days of a written request issued by the Commissioner General of Inland Revenue
Country by Country Report (CbCR)	Threshold Regulation 6 (I) (iii)**	CbCR must be prepared by group entities whose total consolidated group revenue exceeds LKR 115 billion during the Fiscal Year immediately preceding the Reporting Fiscal Year	CbCR must be prepared by group entities whose total consolidated group revenue exceeds € 750 million or its equivalent in LKR during the Fiscal Year immediately preceding the Reporting Fiscal Year
	Commencing year Regulation 6 (e) (vii)**	Effective for reporting fiscal years of MNE groups beginning on or after 1 April 2019	Effective for reporting fiscal years of MNE groups beginning on or after 1 April 2020

* This change was incorporated in the TP Guide issued on 20 October 2020

** This change was incorporated in the Notification issued on 22 December 2020



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

SJMS Associates is an affiliate of a Deloitte Touche Tohmatsu India LLP a DTTL member firm in India.

This material is prepared by SJMS Associates (“SJMS”). This material (including any information contained in it) is intended to provide general information on a particular subject(s) and is not an exhaustive treatment of such subject(s) or a substitute to obtaining professional services or advice. This material may contain information sourced from publicly available information or other third party sources. SJMS does not independently verify any such sources and is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such sources. None of SJMS, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this material, rendering any kind of investment, legal or other professional advice or services. You should seek specific advice of the relevant professional(s) for these kind of services. This material or information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person or entity by reason of access to, use of or reliance on, this material. By using this material or any information contained in it, the user accepts this entire notice and terms of use.