



FY2026 SEA TP Guide: Malaysia

Deloitte.

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Regulatory framework

Governing laws and guidelines	<ul style="list-style-type: none"> • Income Tax Act 1967 • Income Tax (Transfer Pricing Rules) 2023* • Malaysian Transfer Pricing Guidelines 2024* • Malaysia Transfer Pricing Audit Framework 2024 • CbCR Rules and Guidelines • Advance Pricing Arrangement Rules and Guidelines • Mutual Agreement Procedure Guidelines 2023 <p>*Older rules and guidelines will apply for financial year ending before 2023.</p>
OECD alignment	<p>Largely aligned with the OECD Guidelines, except for a few areas adapted to reflect certain local circumstances</p>



Documentation requirements

Type of requirement	<ul style="list-style-type: none"> • Annual contemporaneous documentation required: <ul style="list-style-type: none"> ○ Schedule 1 (akin to Masterfile with certain variation) ○ Schedule 2 (akin to OECD local file with certain additional information) ○ Schedule 3 (pertains to CCA) ○ CbCR Reporting
Threshold	<ul style="list-style-type: none"> • For Local File (also referred as CTPD), apart from certain prescribed exceptions for preparation of TP documentation in case of individuals, controlled transaction value <MYR 1 Mil and person who solely enters into domestic controlled transactions, the contents of the TP documentation are governed by the following entity-level thresholds: <ol style="list-style-type: none"> a) Gross income of more than MYR 30 million and the cross-border controlled transactions totaling MYR 10 million or more annually; or b) Receives or provides controlled financial assistance of more than MYR 50 million annually. <p>Person shall prepare a full CTPD as provided under the Rules if the person fulfils any of the above condition. If both the thresholds are not met, Minimum TP documentation can be prepared. There are prescribed contents for Minimum documentation outlined in Paragraph 11.12 of TP Guidelines 2024. Based on clarification provided by Malaysia Tax Authority, Schedule 1 does not apply to cases where taxpayer prepares Minimum TPD based on the eligibility criteria.</p> <p>Above thresholds and exemption do not apply to local file required to be prepared by PE/ branches and need to prepare full CTPD.</p> • As per the TP Rules 2023 that apply to any financial year ending on or after 1 January 2023, all taxpayers which are part of a Multinational Enterprise Group are required to prepare Schedule 1. Schedule 1 content requirement is largely aligned to the contents prescribed under OECD TP

Guidelines on master file. Based on clarification provided by Malaysia Tax Authority, Schedule 1 applies to all taxpayers required to prepare full TP documentation and part of a Multinational Enterprise Group, irrespective of applicability of CbCR.

Based on the clarification provided by Malaysia Tax Authorities, in case an MNE Group has prepared a Master File as per OECD TP Guidelines, such a file can be leveraged / referred to comply with Schedule 1 requirement.

Schedule 1 as per the TP Rules 2023 comes into effect for any financial year ending on or after 1 January 2023.

Prior to the above, master file prepared as per OECD TP Guidelines would suffice the requirement.

- For **CbCR**, groups with a consolidated revenue of MYR 3 billion or more in the financial year preceding the reporting financial year.

Deadline

- CTPD including Schedule 1 must be completed by tax return deadline and submitted within 14 days upon request. Date of comparable search should be stated in the CTPD. For any financial year ending on or after 1 January 2023, the date of completion of CTPD has to be stated within the CTPD
- CbCR notification:
 - The constituent entity filing “Form C” or “Form LE1” of the tax return must submit the information with the income tax return; and
 - A constituent entity filing other forms of the tax return must submit the notification on or before the last day of the reporting financial period
- CbCR: report: Must be submitted no later than 12 months after the last day of the reporting financial year

Country-specific requirements

- Schedule 2 captures most of the contents outlined in OECD Local File, however, there are additional information required over and above the contents laid out in OECD's local file. TP Guidelines 2024 have also prescribed an Appendix A which lists down the additional documentation requirements for specific controlled transactions - Business restructuring, Intra-group services, LVAS, Cost Contribution Arrangement, Intangibles and Financial transactions. Schedule 3 captures the specific information, if the taxpayer is party to a cost contribution arrangement with an associated person.
- Schedule 1 (akin to the **Master File**) has certain additional requirements and have to be more contextualised in relevance to the Malaysia business of the taxpayer, such as all supply chains relevant to Malaysia operations, business models and strategies, information about industry, market, regulatory and economic conditions. Only information directly relevant to the MNE group's Malaysian business should be included.
- From financial year 2023 and onwards, the arm's length range is defined as 37.5th to 62.5th percentile, and median is the midpoint of the arm's length range $((37.5\text{th} + 62.5\text{th percentile})/2)$
- For the financial year 2022 and prior, tax authority often applies median as point of comparison
- Tax authority highly prefers the usage of local comparables.

	<ul style="list-style-type: none"> • Foreign comparables can be considered provided verifiable supporting documents are available such as comparable financial statement • Only single year data is acceptable for the purpose of arm's length testing. For the purpose of CTPD, latest single year data can be considered. During audit, financial data within the same basis year as tested party will be evaluated • Documentation must be provided in either English or Bahasa Malaysia
Safe harbors	<ul style="list-style-type: none"> • Applicable to services that fits the definition of Low-Value Added Services (LVAS) prescribed in MTPG 2024. Benchmarking is accordingly not required and taxpayer to apply 5% mark-up on the total cost of management services
Penalties	<ul style="list-style-type: none"> • CTPD and CbCR: Penalty of MYR 20,000 to MYR 100,000, or imprisonment up to 6 months if convicted. • Penalties for late CTPD submission will be increased by RM20,000 for every 7-day delay interval, capped at RM100,000. • Surcharge/penalty applicable would depend on the basis period being audited: <ul style="list-style-type: none"> ○ Before 1 January 2021 – Penalty subsection 113(2) would be applicable to any undercharged taxes ○ After 1 January 2021 – Surcharge of up to 5% will be imposed on the transfer pricing adjustment

Transfer pricing forms and reporting deadline

Type of requirement	Transfer pricing disclosures form part of the income tax return (Form C).
Deadline	As per tax return deadline - within 7 months after the financial year end for manual filing, and 8 months for e-filing

Alternate dispute resolution

Advance pricing arrangements (APAs)	<ul style="list-style-type: none"> • Only applies to cross-border transaction. • Treaty partner: – bilateral or multilateral. • Non-treaty partner: – unilateral. • An application is only allowed if: <ul style="list-style-type: none"> ○ Prescribed threshold based on revenue and transactions value are met. ○ Covered transactions is not exempted from tax. ○ Taxpayer is not under tax audit ○ Not a newly commenced entity/business ○ APA does not lead to reduction of operating margin beyond 3 or 5% (depending if there's a change of FAR)
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<p>Advance pricing arrangements (APAs)</p>	<ul style="list-style-type: none"> • APA period can be between 3-5 years, and can be more for BAPA/MAPA, subject to CA's agreement • Rollback of up to 3 years are allowed for bilateral and multilateral APA • Pre-filing meeting request is required within 12 months from the first proposed APA period. Taxpayer is also requested to have preliminary discussion prior to the pre-filing meeting. • Formal filing is possible once taxpayer is notified of the merit of the case. • In the case of APA renewal, formal filing is required 6 months prior to the expiry of previous APA. Prefiling meeting is required prior to the formal renewal application. • APA application may get cancelled if tax authority information request is not addressed within 30 days • Application fees range from MYR 5,000 to MYR 10,000 • Penalty may apply to the rollback period should there's any TP adjustment from the APA • Annual compliance report (ACR) required to be submitted within 7 months from the financial year end • CTPD is required till the time APA is not signed
<p>Mutual agreement procedure (MAP)</p>	<ul style="list-style-type: none"> • The time limit for filing depends on the relevant tax treaty. If not specifically mentioned in tax treaty, the time limit is three years from the first notification such as notice of assessment • Pre-filing meeting is encouraged • MAP request does not suspend tax collection • Resolution does not have a fixed timeframe but is aimed to be within two years
<p>Voluntary disclosure (VD)</p>	<ul style="list-style-type: none"> • Lower surcharge rate of 0-4% applies to VD cases. • Only possible after the tax return filing and before the audit commencement. • Application should include the prescribed form and information listed in the framework. • Preliminary discussion with the tax authority is encouraged. • Post formal application, the tax authority may: <ul style="list-style-type: none"> ○ Accept the application as is ○ Adjust the comparable analysis ○ Request for additional information, which may include an audit visit • Application may be rejected if information provided is insufficient (without reasonable ground) • A notification will be issued before assessment is raised



Other local peculiarities

Tax audits

- An audit can cover up to 6 years, and assessment can be raised up to 7 years.
- Case selection can be based on the following:
 - Tax authority internal risk assessment criteria
 - If there is a restructuring, and
 - Information provided by third party
- Information request letter will be issued initially and to be addressed within 14 calendar days.
- Audit visit/commencement letter will be issued subsequently. This indicates the official commencement of the TP audit.
- Prior to the audit visit, the taxpayer is required to prepare presentation slides. The slides should be submitted within 7 days prior to the audit visit, and the contents should align with the requirement stated in the audit letter and framework.
- During the audit visit, the taxpayer will present the above slides, and the selected taxpayer personnel/department will be interviewed by the tax authority.
- TP audit is aimed to be completed within 450 calendar days.
- An audit finding letter will be issued before any assessment is being made, and the taxpayer has 21 calendar days to revert.
- If a TP adjustment is made on domestic controlled transaction, an offsetting adjustment may be considered upon formal application by the other transacting party, and audit will be carried out.

Secondary adjustments

- No provision

Contacts



Subhabrata Dasgupta

Partner
Deloitte Malaysia

+ 60 3 7610 8376
sudasgupta@deloitte.com



Gagandeep Nagpal

Partner
Deloitte Malaysia

+ 60 3 7610 8876
gnagpal@deloitte.com

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