



TRANSFER PRICING FLASH

20th January 2025

Malaysian Transfer Pricing Guidelines 2024

The *Malaysian Transfer Pricing Guidelines 2024* ["MTPG 2024" or the "Guidelines"] has recently been issued by the Inland Revenue Board ["IRB"] on 24th December 2024. The MTPG 2024 is now issued to align with the Income Tax (Transfer Pricing) Rules 2023 ["TP Rules 2023"] and supersedes the previous Malaysian Transfer Pricing Guidelines 2012, revised in 2017 ["MTPG 2012"]. Here is an insight of the salient points of the new MTPG 2024.

When is MTPG 2024 effective?

The MTPG 2024 has effect from the year of assessment ["YA"] 2023 and subsequent years of assessment.

What are the key changes or add-ons?

1. Preparation of Contemporaneous Transfer Pricing Documentation ["CTPD"]

Similar to what has been laid out in the TP Rules 2023, the MTPG 2024 stresses on the importance of timely completion of the CTPD of taxpayers who have entered into controlled transactions ["CT"] in a specific year of assessment. Taxpayers shall ensure that the CTPD is brought into existence prior to the **due date for furnishing a return** for the year of assessment in which a CT is entered into.

For example, a company with financial year ["FY"] ended **31st December 2024**, that has entered into CT during the financial year, shall ensure that the CTPD for FY 2024 be completed and dated prior to **31st August 2025**, which is the due date for filing of the company's Form e-C for YA 2024.

2. Exemption from Preparing CTPD

The Guidelines have now expanded the scope of exemptions from the preparation of a CTPD for the following taxpayers:-

- i. Individuals not carrying on a business;
- ii. Individuals carrying on a business (including partnerships) who **only engage in domestic CT**;
- iii. Person who entered into CT with a total amounting to **not more than RM1 million**; or
- iv. Person who entered **solely into domestic CT** with another person where both parties-

- do not enjoy tax incentives;
- are taxed at the same headline tax rate; or
- do not suffer losses for two consecutive years prior to the CT.

However, taxpayers exempted from the preparation of a CTPD must still comply with the arm's length principle for all CT entered into and must keep all relevant documents that are related to the CT, including **any documentation used to support and prove the determination of the arm's length price**. In connection to this, we wish to highlight that the Transfer Pricing Tax Audit Framework 2024 ["TPTAF 2024"], which was also recently issued, clearly emphasises that the CTPD is an essential document to demonstrate compliance with the arm's length principle.

3. Thresholds for Preparation of Full CTPD

The table below summarises the old and new thresholds for the preparation of full CTPD as stipulated in the MTPG 2012 and MTPG 2024 respectively:-

	Threshold (MTPG 2012)	Threshold (MTPG 2024)
Non-Financial Assistance Transactions		
Threshold of Income	Gross income > RM25 million	Gross business income > RM30 million
Threshold of CT	Total CT > RM15 million (excluding financial assistance)	Cross-Border CT \geq RM10 million (excluding financial assistance)
Financial Assistance Transactions		
Threshold	Financial assistance transactions that exceeded RM50 million	Receives or provides financial assistance > RM50 million annually

A flowchart providing guidance on the scope and application for preparation of a CTPD is available in para 1.11 of the MTPG 2024.

4. Preparation of CTPD for Permanent Establishment ["PE"]

According to the Guidelines, a PE is required to prepare a full CTPD separately from its head office and related branches irrespective of whether the PE exceeds the thresholds for preparation of full CTPD.

5. Requirements for CTPD

As mentioned above, the CTPD is to be prepared by a taxpayer before the due date for furnishing a tax return for the year of assessment in which a CT is entered into. The documents and contents required for a full CTPD as per para 11.7 of the MTPG 2024 are consistent with those set out in subrule 4(2) of the TP Rules 2023.

Meanwhile, the reduced requirements of the minimum CTPD consist of the following:-

- Worldwide organisational group structure;
- Organisational structure;
- Details on CT; and
- Details on pricing policies of CT.

The information required on the CT and its pricing policies are only confined to the **key CT** of a taxpayer, as defined below:-

- i. CT that are related to the taxpayer's principal activity; and
- ii. CT other than (i) above that constitutes 20% or more of the taxpayer's operating revenue in each year of assessment.

6. **Simplified Approach for Low Value Adding Intra-Group Services**

The MTPG 2024 introduces a new simplified approach for Low Value-Adding Services ["LVAS"] which may be adopted by taxpayers when determining the arm's length charges for the provision of such services.

LVAS refers to services which are supportive in nature and are not part of the core business of a group. The provision of LVAS also does not require the use of unique and valuable intangibles and would not lead to creation of such intangibles. The provision of such services also does not involve assumption or control of substantial or significant risk by the service provider and would not give rise to the creation of significant risk for the service provider. Examples of LVAS are laid out in para 6.26 of MTPG 2024.

A **fixed mark-up of 5%** on all relevant costs relating to provision of LVAS can be applied for all forms of LVAS, irrespective of the categories of services. The mark-up under this approach does not need to be justified by a benchmarking study, but all relevant documents should be prepared and maintained by the taxpayers accordingly.

7. **Intra-Group Financial Assistance Transactions**

It was mentioned in the MTPG 2024 that separate guidelines will be issued to address transfer pricing requirements in relation to the intra-group financial transactions due to the complexity and extent of analysis required for determining the arm's length price of such transactions.

8. **Business Restructuring**

The MTPG 2024 emphasises on the considerations to be given for business restructurings from transfer pricing perspective, including changes in business characterisations, commercial rationality, availability of other options and the adoption of arm's length principle in a business restructuring exercise.

To conclude, the Guidelines emphasize on the requirements as laid out in the previously gazetted TP Rules 2023 while introducing some exemptions from preparing a CTPD, which aim to lighten the burden of some categories of taxpayers.

Having said that, the Guidelines along with the relevant legal provisions place the burden of proof of an arm's length price in a CT on the taxpayer. The CTPD has to be prepared based on the requirements set forth in the TP Rules 2023 and MTPG 2024 to justify that the taxpayer's pricing of its CT is at arm's length. Failure to furnish a CTPD upon being served a notice of request by the IRB may result in a fine of RM20,000 to RM100,000 or imprisonment term up to six months or both if convicted as an offence under Section 113B of the Income Tax Act 1967 ["ITA 1967"]. The penalties are applicable for each year of assessment of the offence.

Kindly refer to our [Transfer Pricing Flash dated 15th January 2025](#) on TPTAF 2024 for more in-depth understanding of the imposition of penalties under S113B of the ITA 1967.

Legend

CT	=	Controlled Transactions
CTPD	=	Contemporaneous Transfer Pricing Documentation
FY	=	Financial Year
IRB	=	Inland Revenue Board
ITA 1967	=	Income Tax Act 1967
LVAS	=	Low Value-Adding Services
MTPG 2012	=	Malaysian Transfer Pricing Guidelines 2012, revised in 2017
MTPG 2024 or the Guidelines	=	Malaysian Transfer Pricing Guidelines 2024
PE	=	Permanent Establishment
TP Rules 2023	=	Income Tax (Transfer Pricing) Rules 2023
TPTAF 2024	=	Transfer Pricing Tax Audit Framework 2024
YA	=	Year of Assessment

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