



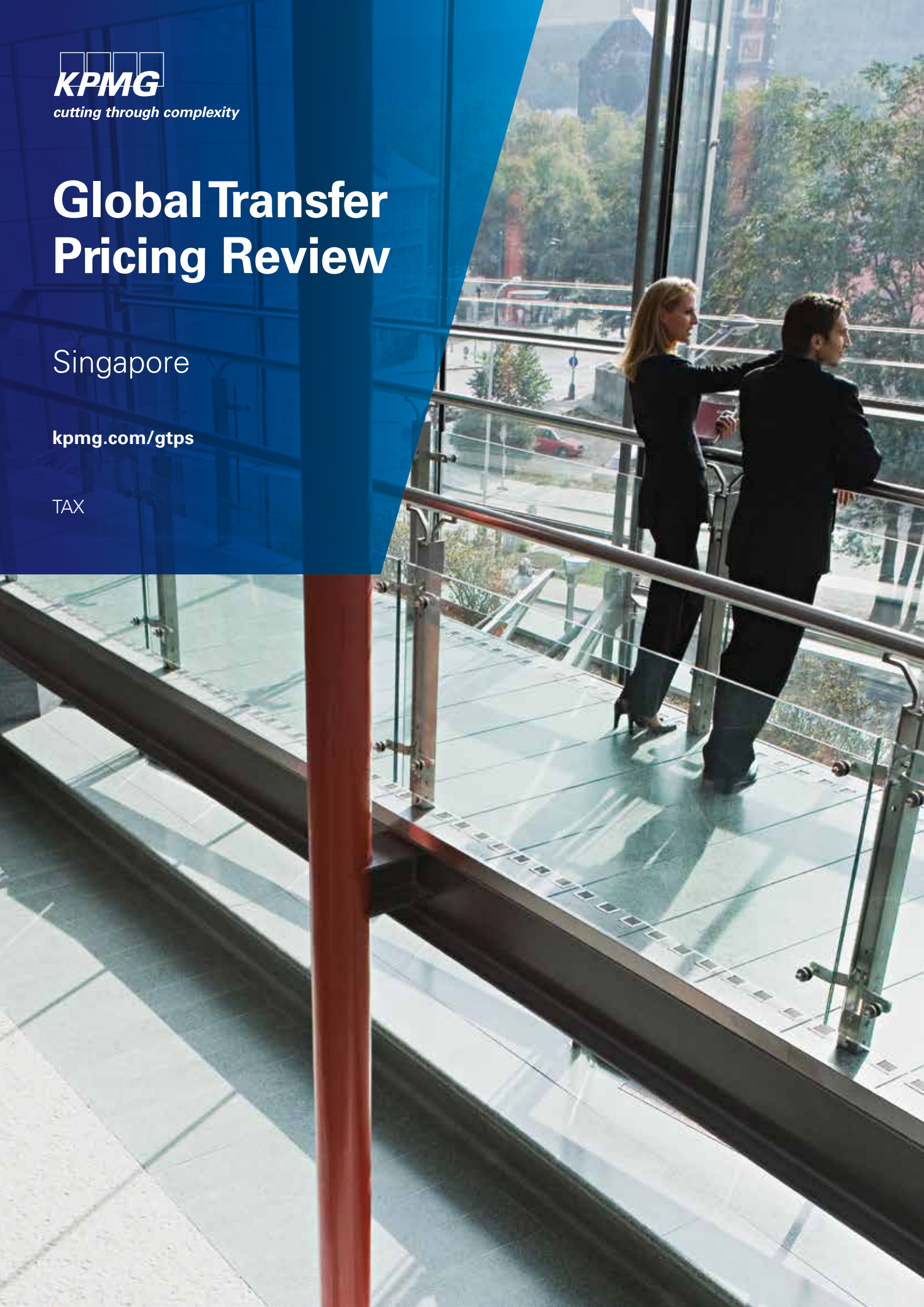
*cutting through complexity*

# Global Transfer Pricing Review

Singapore

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TAX



# Singapore



## KPMG observation

With the addition of Section 34D (Transactions not at arm's length) to the Singapore Income Tax Act (the Act) in 2010, the Inland Revenue Authority of Singapore (IRAS) has become more focused on enforcing transfer pricing compliance in Singapore.

In January 2015, the IRAS released significantly expanded transfer pricing requirements. The IRAS' objective is for the new requirements to foster greater transfer pricing compliance, and alignment with broader international transfer pricing developments such as the Base Erosion and Profit Shifting (BEPS) initiative.

Most notably, there is now a requirement for taxpayers to prepare adequate and contemporaneous transfer pricing documentation by their tax filing due date. To provide legislative weight to the publication, the IRAS makes explicit references to certain sections of the Act – including the aforementioned Section 34D and Section 94(2) (General penalty).

The IRAS continues to use computer analytics to select transfer pricing audit targets, and continues to send out transfer pricing questionnaires to taxpayers to assess their transfer pricing compliance levels. These questionnaires are usually seven to eight pages in length, with detailed questions on transfer pricing arrangements and availability of supporting documentation. Depending on the response received, the case may progress through a transfer pricing consultation process that includes further rounds of questioning and field audits.

## Transfer pricing study snapshot

### The purpose of a transfer pricing study

	Applicable	Not applicable	Required to be contemporaneous
Legal requirements	●		●
Protection from penalties		●	
Reduce risk of adjustment	●		●
Shifts burden of proof	●		●

## Basic information

### Tax authority name

Inland Revenue Authority of Singapore (IRAS).

### Citation for transfer pricing rules

IRAS e-Tax Guide: Transfer Pricing Guidelines (Second Edition) (2015), and

Section 34D of the Singapore Income Tax Act (Transactions not at arm's length) (2010).

### Effective date of transfer pricing rules

Transfer pricing guidelines were first issued in 2006, and this was subsequently updated and expanded in

2015. Explicit legislative reference was included in Section 34D of the Singapore Income Tax Act (Transactions not at arm's length) in 2010.



What is the relationship threshold for transfer pricing rules to apply between parties?

Under direct/indirect common control or significant influence.

What is the statute of limitations on assessment of transfer pricing adjustments?

From FY 2007, five years from the fiscal year in which the transaction occurred.

## Transfer pricing disclosure overview

Are disclosures related to transfer pricing required to be submitted to the revenue authority on an annual basis (e.g. with the tax return)?

No. Not directly. However, the audited financial statements of the taxpayer have to be submitted and material related party transactions must be disclosed in the notes to the financial statements.

What types of transfer pricing information must be disclosed?

Not applicable.

What are the consequences of failure to submit disclosures?

Not applicable.

## Transfer pricing study overview

Can documentation be filed in a language other than the local language? If yes, which ones?

No, English.

When a transfer pricing study is prepared, should its content follow Chapter V of the Organisation for Economic Co-operation and Development (OECD) Guidelines?

No. It should follow the Singapore transfer pricing guidelines, which provide guidance on the content expected, in order for the transfer pricing study to be considered adequate.

Does the tax authority require an advisor/tax practitioner to have specific designation in order to prepare or submit a transfer pricing study?

No.

## Transfer pricing methods

Does your country follow the transfer pricing methods outlined in Chapter II of the OECD Guidelines? If exceptions apply, please describe.

Yes.

## Transfer pricing audit and penalties

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? And if so, how many days?

Yes, 30 days.

When the tax authority requests a taxpayer's transfer pricing documentation, are there timing requirements for a taxpayer to submit its documentation? Please explain.

IRAS is empowered to invoke the relevant sections of the Singapore Income Tax Act to request documentation be submitted within 30 days from the date of request. The taxpayer may ask for an extension to submit documentation. However, this may lower the taxpayer's compliance rating and increase the risk of a full transfer pricing audit.

If an adjustment is proposed by the tax authority, what dispute resolution options are available?

Domestically through the objections and appeals process, or through MAP/APA processes.

If an adjustment is sustained, can penalties be assessed? If so, what rates are applied and under what conditions?

Yes. Up to 400 percent of tax evaded and even incarceration. However, most penalties are in the 100 percent to 200 percent range of tax under-declared. There are also penalties for failure to produce documentation in a timely manner.

To what extent are transfer pricing penalties enforced?

Increasingly so.

What defenses are available with respect to penalties?

Transfer pricing documentation represents the first line of defense against transfer pricing audits and is crucial for mitigating transfer pricing risk.

What trends are being observed currently?

IRAS continues to issue transfer pricing questionnaires to companies and a considerable number of these cases have progressed to full transfer pricing audits. Increasingly, non-transfer pricing specialists within the IRAS are raising queries and reassessments on related party transactions in the course of their review of taxpayers' annual corporate tax computations.

## Special considerations

Are secret comparables used by tax authorities?

No. IRAS is of the view that use of secret comparables is not conducive to transparency and that it can hamper competent authority procedures.

Is there a preference, or requirement, by the tax authorities for local comparables in a benchmarking set?

IRAS indicates that taxpayers should use local comparables due to a higher degree of comparability in terms of their market and economic circumstances.

Do tax authorities have requirements or preferences regarding databases for comparables?

No.

Does the tax authority generally focus on the interquartile range in a TNMM analysis?

Yes, always.

Does the tax authority have other preferences in benchmarking? If so, please describe.

IRAS is of the view that loss-generating comparables (i.e. weighted average loss for the tested period, or losses incurred for more than half of the tested period) should be excluded. Use of multiple-year data for establishing a comparable set is preferred.

### What level of interaction do tax authorities have with customs authorities?

Low interaction as very few items attract custom duties in Singapore.

### Are there limitations on deductibility of management fees beyond the arm's length principle?

Yes. Management fees are generally tax deductible in Singapore if they are charged to the Singapore entity on an arm's length basis and are incurred wholly and exclusively in the production of the taxpayer's income, and not prohibited under any provisions of the Singapore Income Tax Act.

### Are management fees subject to withholding?

Yes.

### Are there limitations on the deductibility of royalties beyond the arm's length principle?

Yes. Royalties are generally tax deductible in Singapore if they are charged to the Singapore entity on an arm's length basis and are incurred wholly and exclusively in the production of the taxpayer's income, and not prohibited under any provisions of the Singapore Income Tax Act.

It should be noted that Singapore has various special incentives with respect to companies investing in productivity and innovation, and intellectual property.

### Are royalties subject to withholding?

Yes.

### Are taxpayers allowed to file tax return numbers that differ from book numbers?

Yes. It is possible to deem additional taxable income in the taxpayer's tax return which will then be subject to tax.

### Other unique attributes?

Exemption from documentation (but not from the arm's length principle) is possible for transactions whose value falls below certain low thresholds.

## Tax treaty/double tax resolution

### What is the extent of the double tax treaty network?

Extensive. There are more than 70 comprehensive tax treaties in place.

### If extensive, is the competent authority effective in obtaining double tax relief?

Almost always. As at 31 March 2014, IRAS has 17 MAPs at different stages of completion.

### When may a taxpayer submit an adjustment to competent authority?

Within the time limit specified in the MAP Article of the relevant double tax treaty. Taxpayers are advised to contact the IRAS early and not to settle their cases with the overseas tax authority before submitting an adjustment to the competent authority.

### May a taxpayer go to competent authority before paying tax?

No. Any late payment will be subject to late penalties.

## Advance pricing agreements

### What APA options are available, if any?

Unilateral, bilateral, multilateral.

### Is there a filing fee for APAs?

Yes. A filing fee is only applicable for unilateral APAs where the related party transactions involve a jurisdiction with which Singapore does not have a tax treaty. There is no filing fee for bilateral or multilateral APAs as the Singapore tax authorities view this as part of their treaty obligations.

### Does the tax authority publish APA data either in the form of an annual report or through the disclosure of data in public forums?

Yes.

### Are there any difficulties or limitations on the availability or effectiveness of APAs?

No. In 2013/2014, IRAS completed 11 unilateral and bilateral APAs. As at 31 March 2014 IRAS has 33 ongoing unilateral, bilateral and multilateral APAs. IRAS is particularly encouraging to taxpayers to submit bilateral APA applications.

## KPMG in Singapore

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