KPMG

Tax Alert

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IRAS issues COVID-19 Transfer Pricing Guidance

As part of its COVID-19 Support Measures and Tax Guidance, the Inland Revenue Authority of Singapore (IRAS) has published FAQ-style guidance on transfer pricing considerations for taxpayers affected by COVID-19.

- The first half of the guidance addresses the options that might be available to taxpayers in relation to the preparation of transfer pricing documentation if their operations have been severely affected by COVID-19.
- The remainder of the guidance relates to the impact on Advance Pricing Arrangement (APA) applications (whether new or currently under review), as well as on existing APAs arising as a result of COVID-19.

This Tax Alert summarizes IRAS' commentary and details the key transfer pricing takeaways for Singapore taxpayers to consider in light of the impact of COVID-19 to their business.

Transfer pricing documentation for taxpayers affected by COVID-19

Given that businesses have been impacted differently by COVID-19, IRAS acknowledged that there could be significant and varying implications on taxpayers' transfer pricing position.

Most notably, IRAS has indicated that taxpayers may apply multi-year testing (generally over three years e.g. utilizing a three-year weighted average margin over FY 2018 to 2020) rather than annual testing, for the Year of Assessment (YA) 2021. This is a one-off concession that might help to smoothen out volatile results resulting from the impact of COVID-19. In general, multi-year testing is only allowed under exceptional circumstances and after consultation with IRAS.

In addition, IRAS has prescribed a list of additional information that taxpayers may consider including in their transfer pricing documentation which would help to substantiate the arm's length nature of their transfer pricing arrangements during this period. These partly rely on established transfer pricing concepts that include among others:

- decision making authorities/ capabilities
- the allocation of risks in substance and based on the contractual arrangements
- details regarding COVID-19 government assistance received

Impact on APAs arising as a result of COVID-19

COVID-19 has caused unexpected global economic disruptions that present a threat to the understanding between a tax authority and a taxpayer under an APA if a taxpayer's business has been significantly impacted to the point where the terms and conditions of the APA cannot be adhered to.

IRAS has provided the following guidance with respect to APAs:

- IRAS has highlighted that new applications or renewal requests can continue to be filed by taxpayers whose business operations have not been significantly impacted by COVID-19.
- Taxpayers who have an APA application under review/ negotiation should review and assess if there are any transfer pricing implications as a result of COVID-19 that would impact the APA application and provide details to IRAS. In the case of significant anticipated uncertainties, IRAS may put the case on hold and review the application at a later stage.
- Taxpayers with an existing APA agreement should assess if any critical assumptions have been breached as a result of COVID-19 and if so, notify IRAS as soon as possible. IRAS would subsequently evaluate the next steps based on the merits of each case.

Key insights

In summary, IRAS has clearly laid the expectation that taxpayers will need to provide details on how its operations and profitability have been impacted by COVID-19 and the need to support this with a thorough and robust analysis as well as evidence. At least though, it seems IRAS is expecting and is prepared to consider that there may be unexpected outcomes during these unusual times. The fact that multi-year testing will be allowed – if only for YA 2021 – is an indication of this open mindset. That being said, COVID-19 should not be used as an excuse to explain any transfer pricing outcome and the onus is on taxpayers to clearly substantiate the impact of COVID-19 with the relevant quantitative and/ or qualitative evidence.

While the immediate focus for most Singapore taxpayers is on transfer pricing compliance for YA 2020, it would be prudent to proactively consider the necessity for adjustments to their transfer prices, including potential year-end adjustments, for YA 2021 before their financial year end.

As the COVID-19 impact will likely continue to be felt by businesses across all industries in 2021 and possibly beyond, it remains to be seen whether IRAS will update and modify its guidance going forward.

How we can help

With IRAS signalling a continued focus on transfer pricing even in this uncertain climate, it is important that taxpayers continue to determine that any changes to their transfer pricing arrangements as a result of COVID-19 are appropriately considered, supported by contemporaneous evidence, as well as properly documented using sound transfer pricing principles. We welcome the opportunity to discuss how the COVID-19 guidance may impact your business.

To uncover more insights on the global tax implications of COVID-19, read our COVID-19 Global Tax Developments Summary

Read more of our insights and perspectives at the KPMG in Singapore Webpage

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