

Key amendments made to Singapore Transfer Pricing Guidelines (7th edition) and relevant takeaways

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About the speaker



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- Sahil specializes in the field of Transfer Pricing and has around 16 years of rich experience spanning across 2 Big 4 firms in India and with another reputed mid-tier firm in Singapore. His expertise is spread across various domains like compliance, advisory and litigation with a significant length, breadth, and depth covering all kinds of Transfer Pricing assignments and projects.
- Sahil has been assisting various clients in developing appropriate inter-company Transfer Pricing policies, undertaking detailed diagnostic reviews of existing transactions and business models, highlighting the potential red flags and suggesting the appropriate arm's length prices while conducting robust economic analyses for intercompany services, manufacturing, distribution, loan benchmarks, royalty fee, license fee, trademark fee etc.
- He has also assisted clients in terms of Transfer Pricing compliance (Documentation and Planning assignments) and advisory assignments in accordance with the 3-tiered documentation rules as per OECD's BEPS Action Plan 13 and other Action Plans as well. He has also assisted many clients on Transfer Pricing aspects related to Advance Pricing Agreements, Permanent Establishment attribution issues etc with significant experience across various industries.
- He has also been actively involved in various Transfer Pricing webinars, seminars and professional body discussions as one of the leading speakers and has also drafted various technical articles on different topics related to Transfer Pricing.

Agenda

Concept of Transfer Pricing (TP), Arm's Length Price (ALP) and importance of ALP

Singapore TP Compliance requirements

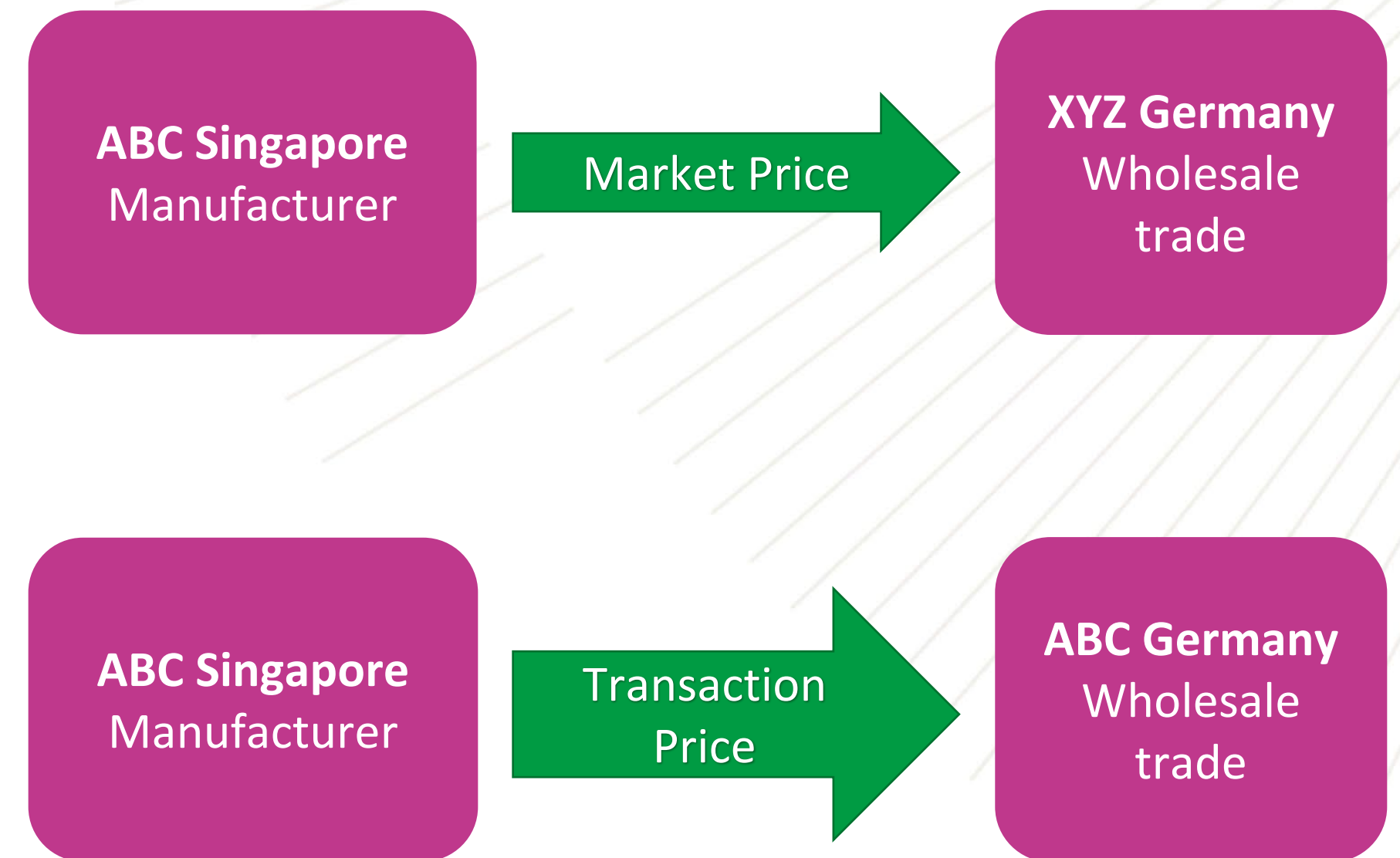
Key and Significant amendments made to Singapore TP Guidelines (7th edition)

Practical implications/takeaways

Q&A

Concept of TP, ALP and importance of ALP

- **TP** - TP refers to the rules and methods for pricing transactions between related parties.
- **ALP** – It requires the transaction with a related party to be made under comparable conditions and circumstances as if it was a transaction with an independent party
- Typical related party transactions that take place within an MNE Group include:
 - Manufacturing of goods (raw materials, semi-finished or finished)
 - Sale or purchase of goods (raw materials, semi-finished or finished)
 - Provision or receipt of services (like marketing support, software development support, technical support, operations support etc)
 - Provision or receipt of management or intra-group services (like finance, HR, strategy etc)
 - Payment or receipt of fee related to use or transfer of intangibles
 - Financing transactions (like intercompany loans, borrowings etc)



Objective of TP - Ensure appropriate local compliance, avoid erosion of tax base and prevent shifting of profits

Importance of ALP

- Helps to promote consistency and transparency amongst all the related parties who are part of the same MNE Group
- Prevents shifting of profits by ensuring that such profits are taxed where the real economic activities are performed and where value is created
- Assists in ensuring that related party and independent party transactions are being treated equally for tax purposes
- Further, helps to prevent or reduce incidence of TP adjustments and improve the resolution of ongoing TP disputes
- Likelihood of double taxation can also get reduced to a considerable extent

If taxpayers do not comply with the arm's length principle and have understated their profits, the local tax authority will adjust their profits upwards as provided in the Singapore Income Tax Act

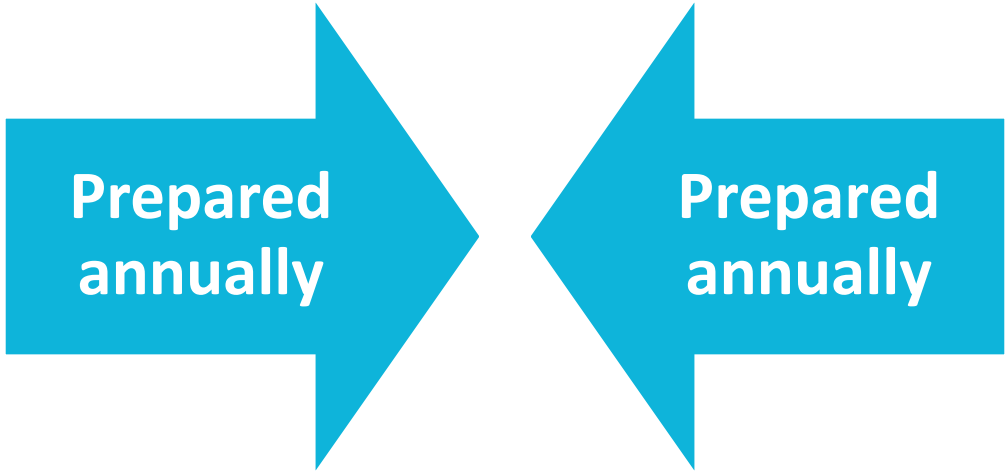
Singapore TP Compliance requirements

- As a general rule and principle, taxpayers must review and refresh their TP documentation annually. This will result in taxpayers having to prepare a TP documentation for each basis period. This is the most important and critical requirement for each taxpayer to determine the appropriate arm's length price.
- TP documentation would either be a full version or a simplified version (in other words, a TP memo), depending on the below thresholds. **However, a Group level documentation or Master File** will not suffice as a local TP documentation/memo is required, as per the guidelines.

1. Full-version

Applicable to Singapore taxpayers with a gross revenue of **Singapore Dollars (SGD) 10 million or more in the relevant financial year** and having intercompany transactions like sales/purchases/loans/services/any other transactions, exceeding the thresholds, **must prepare the full-version**

Compulsory/Mandatory preparation by the due date to avoid penalties



2. TP memo

Singapore taxpayers with a gross revenue of less than SGD 10 million in the relevant financial year **But** having intercompany transactions exceeding the thresholds, should prepare a TP memo to determine the appropriate arm's length price

Recommended from a local regulations' perspective to satisfy the arm's length principle

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Nature of Amendment

1. Transaction thresholds

Effective 1 January 2025, the threshold for benchmarking Intercompany services or Any other transaction (except for Sales or Purchases*) **will be S\$ 2 million** (instead of the previous threshold of S\$ 1 million)

2. Related party domestic or cross-border loans

For such loans entered into on or after 1 January 2025 – Singapore taxpayers must either apply the IRAS indicative margin **or** determine the interest rate based on arm's length principle

3. Disregard of interest free related party loans

Interest related party loans shall now be concluded as **Non complaint** with the arm's length principle

4. Working Capital Adjustment (WCA)

IRAS has provided guidance on conducting WCA (including determination of interest rate) when either applying transactional net margin method or resale price method or cost plus method, if it leads to an overall improvement of comparability analysis

**Threshold for Sales or Purchases remains the same as S\$ 15 million*

Key and Significant amendments made to Singapore TP Guidelines (7th edition)

Nature of Amendment

5. Disclosure regarding receipt of government assistance

Further, the amended guidelines have laid down the relevant information (primarily 3 elements) that needs to be adequately captured in the TP documentation pertaining to receipt of government assistance

6. Updation of TP audit process

Detailed guidance on TP audit process has been provided in the amended guidelines in terms of the information and documents required and points of examination/discussion during the audit

7. Other noticeable amendments

- Elimination of the requirement for a pre-filing meeting for MAP application
- No TP adjustment relating to any gain, loss or deduction arising from capital transactions between related parties **only if** such a transaction is not taxable or deductible under the law (**Except for sale or transfer of fixed assets**)
- No mark-up required on strict pass-through costs subject to meeting specific requirements

Practical implications/Takeaways

Details

Greater emphasis on the preparation and maintenance of an appropriate TP documentation or memo to determine the arm's length price for the covered transactions (subject to meeting thresholds) to ensure adequate compliance

Intercompany loan arrangements must be carefully analyzed and evaluated with an appropriate interest rate, determined as per the guidelines

Supporting documents like intercompany agreements, invoices, debit/credit notes, e-mail correspondence must also be maintained to validate the arm's length price analysis conducted and to submit during TP audit process

TP documentation must essentially capture the required information as per the amended guidelines (**Example** – information on government assistance received, if applicable)

Proper reasoning and justification must be provided while:

- Undertaking any comparability adjustment or any other self-initiated TP adjustment
- Not charging mark-up towards a specific cost item
- Not including any specific item in the total cost base for mark-up purposes
- Proposing for a specific transaction to be covered in a MAP or APA application

Q&A

Growth beyond boundaries

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