MALAYSIAN TRANSFER PRICING GUIDELINES 2012 (MTPGL2012)

SCOPE AND APPLICATION FOR THE PREPARATION OF A CONTEMPORANEOUS TRANSFER PRICING DOCUMENTATION (TPD)

START

Para 1.2.1 MTPGL2012	Are you a person having controlled transaction as defined under Section 140A, ITA1967? → No → TPD is not required Yes ↓	Taxpayers who do not have controlled transactions (as defined under S.140) do not have to prepare a TPD
Para 1.3.1 MTPGL2012	Are you a person carrying on a business? → No → TPD is not required Yes ↓	Only taxpayer carrying on a business should prepare a TPD
Para 1.3.1 (a) or (b) MTPGL2012	Do you meet the following THRESHOLD? 1. For a person carrying on a business, Gross business income > RM25M & controlled transactions > RM15M OR 2. where a person provides financial assistance, such financial assistance > RM50M (Financial Institutions are excluded) → No → Required to prepare a minimum TPD (*may opt to prepare a full TPD*) Yes ↓	**MINIMUM TPD** → Para 11.2.4 (a) - Organisational structure; → Para 11.2.4 (c) - Controlled transaction[1]; and → Para 11.2.4 (d) - Pricing policies[2] [1] For a minimum TPD, taxpayers may only provide a general business description of all the relevant associated person. [2] For a minimum TPD, taxpayers do not have to prepare a complete comparability study and may apply other than the five methods as described in the Malaysian TPGL provided it result in, or best approximates, arm's length outcomes. (As an example, taxpayer may use a price list to justify the price used for both controlled and uncontrolled transaction)
Para 1.3.3 MTPGL2012	Do you have any controlled transactions with related person(s) outside Malaysia? → Yes → Prepare a full TPD No ↓	
Para 1.3.3 Para 11.2.2 MTPGL2012	Are those related persons chargeable to tax in Malaysia? → No → Is the non-chargeability being due to any person(s) enjoying tax incentives or suffers from continual losses? → No → Prepare a full TPD Yes → TPD is not required (*but encouraged to prepare a full TPD*) Yes ↓	
Para 1.3.3 Para 11.2.2 MTPGL2012	Is there any person(s) enjoys tax incentives or suffers from continual losses, or is taxed at a different rate, where any adjustments made may alter the total tax payable? → No → TPD is not required Yes ↓	**FULL TPD** As required under TP Rules; and Any relevant information as explained under the MTPGL (including documentation on specific transactions in Appendix A)
Para 1.3.4 MTPGL2012	Prepare a full TPD	**A PE should prepare full TPD regardless of the threshold as provided under para 1.3.1**