

HLB

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THE GLOBAL ADVISORY
AND ACCOUNTING NETWORK

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TRANSFER PRICING IN A CHANGING WORLD

As tariffs, geopolitical developments and evolving OECD guidance reshape the global tax landscape, businesses across Asia-Pacific face new transfer pricing challenges and opportunities. In this inaugural issue, HLB experts examine the developments that matter most.

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OECD Proposes Revisions to Transfer Pricing Guidelines on Intra-group Services

Greater clarity, heightened expectations: proposed changes to the OECD Transfer Pricing Guidelines signal a renewed focus on how multinational groups identify, charge for and document intra-group services in an increasingly scrutinised tax environment.

The OECD is proposing to update and modernise its Transfer Pricing Guidelines governing intra-group services.

The OECD Transfer Pricing Guidelines provide essential guidance on the valuation of cross-border transactions between associated enterprises for tax purposes. The proposed revisions to the guidelines on intra-group services aim to provide greater practical guidance while aligning the treatment of intra-group services with the Guidelines' foundational principles.

Importantly, the OECD states that the proposed revisions are not intended to change the general principles underlying the transfer pricing analysis of intra-group services.

KEY PROPOSED UPDATES

The discussion draft released for public consultation proposes several updates, including:

- Greater emphasis on accurately delineating intra-group services through robust functional analysis.
- Clarification of the distinction between the benefit test and the arm's length pricing analysis.
- Updated guidance on shareholder, stewardship and duplicative activities.
- Refined guidance on the application of transfer pricing methods and documentation requirements for intra-group services.
- Greater clarity and practical illustrations through the inclusion of new examples.

POTENTIAL IMPLICATIONS FOR MNEs

In a global economy where multinational enterprises (MNEs) play a prominent role, transfer pricing continues to be high on the agenda of tax administrations and taxpayers alike.

Although the proposed revisions will not fundamentally change the existing transfer pricing principles, they may encourage MNEs to revisit their intra-group service arrangements, transfer pricing policies and supporting documentation in anticipation of the final guidance.





PUBLIC CONSULTATION

Public consultation on the discussion draft took place from 1 June to 22 July 2026, providing stakeholders with an opportunity to submit their views on the proposed revisions. The OECD published submissions from the public on 24 August 2026, shedding light on the key issues raised by stakeholders. Common themes included:

Benefit Test: A significant focus of discussions centred on the benefit test. The stakeholders preferred an ex-ante (i.e. anticipated or intended) approach of assessing whether any benefit could reasonably have been anticipated at the time the service was delivered, rather than taking a retroactive approach. Additionally, there is a call for flexibility in demonstrating expected benefits with practical business evidence, especially in cases where anticipated benefits do not materialize.

It was also suggested that a project not achieving its intended outcome should not automatically imply that no service was rendered.

Documentation: There is pervasive support amongst the stakeholders for clearer guidance regarding the necessary evidence to validate intra-group services. However, a school of thought simultaneously also expressed that an overly detailed checklist can increase the compliance burden. The emphasis here is on proportionality (i.e. a balanced approach), allowing businesses to illustrate the benefit and substance of a service without the need for extensive documentation for routine or lower-risk operations.

Pricing: The submissions from stakeholders reaffirmed the importance of cost-based methods for routine services. Nonetheless, stakeholders stressed that the choice of Transfer Pricing method should always be based on specific facts and circumstances. Prioritizing profit split method should not make its application automatic just because a service is deemed complex, integrated, or strategically vital.

Shareholder/ Stewardship Activities: Distinguishing between shareholder/ stewardship activities and chargeable intra-group services poses an ongoing challenge. While the activities conducted solely in a parent's capacity as a shareholder should generally not be charged to subsidiaries, the line blurs in areas like group governance, ESG initiatives, cybersecurity, and compliance with Pillar Two. Stakeholders therefore advocated for clearer guidance on these boundaries to ensure consistent treatment of these activities.

Low Value-Adding Services: Lastly, the stakeholders have asserted that the 5% markup utilized in the simplified approach for low-value adding services should not serve as a benchmark or minimum return for other types of services. Services outside the simplified framework should continue to be priced based on the specific facts and circumstances as needed.

TIMING

The OECD has not yet announced an effective date for the proposed revisions. A meeting to discuss the outcomes of the public consultation is scheduled for November 2026 at the OECD Conference Centre in Paris.

The proposed revisions demonstrate the OECD's continued focus on clarity, consistency and robust analysis of intra-group services. While the general principles of the transfer pricing analysis are not intended to change, the additional guidance may raise expectations around how MNEs delineate, analyse and document their intra-group service arrangements.

Greater clarity may bring greater certainty for taxpayers, but businesses should also be prepared for increased scrutiny of how intra-group services are delineated, analysed, priced and documented



Tariffs and transfer pricing: The friction ramps up

US tariffs are reshaping supply chains and pricing, putting pressure on Thailand's manufacturing sector. MNEs should reassess transfer pricing policies, benchmarking and documentation to reflect changing economic realities.

Historically, customs tariffs and transfer pricing have been treated as distinct areas of tax and trade policies. Tariffs were seen as border-related costs, while Transfer Pricing focused on aligning intra-group pricing with value creation across jurisdictions. However, this separation has become increasingly blurred over the years.

In response to evolving tariff landscapes, multinational enterprise groups are now being called upon to navigate new business models, altered functional profiles, and the economic substance of cross-border inter-company transactions. There are also increasingly complex questions around tested party selection, bench-marking, and documentation. The effects are especially pronounced in countries such as Thailand that serve as regional manufacturing and distribution hubs.

Reassess tested party selection and bench-marking to reflect changing market conditions



NEW TARIFFS AND THEIR GLOBAL CONSEQUENCES

In April 2025, the US took an increasingly assertive stance on trade, particularly concerning China, Canada, Mexico, Brazil, India, and the EU. A new wave of tariffs was introduced, targeting a wide range of Chinese, Canadian, Brazilian, and Mexican exports, including electric vehicles (EVs), semiconductors, batteries, crude oil, energy products, aircraft parts, vehicles, electrical machinery, chemicals, and agricultural and farm products.

Intended to promote domestic manufacturing and address perceived imbalances, these tariffs have had wide-ranging consequences. For multinational groups that previously relied on Chinese-based production and US-based distribution, the sudden increase in tariffs has forced a rapid reconfiguration of supply chains and pricing strategies.

Many MNE groups are now seeking to shift their production bases away from China. India, Thailand, and many other Association of Southeast Asian Nations countries have emerged as alternative hubs due to their infrastructure, cost advantages, and preferential trade agreements.





THAILAND'S EVOLVING ROLE IN GLOBAL SUPPLY CHAINS

Thailand continues to serve as a key manufacturing and export hub for industries that are highly sensitive to tariff changes, such as EVs, electronics, and textiles. In many cases, Thai subsidiaries of MNE groups have historically operated as contract manufacturers under limited-risk models, earning a fixed markup based on their functional profile.

However, as tariffs increase input costs, group entities in the US are experiencing reductions in profit margins. This pressure may be pushed back on to Thai manufacturers, creating tension between the commercial needs of the group and Transfer Pricing policies. This dynamic is especially problematic where a bilateral advance pricing agreement (BAPA) is in force, as illustrated in the following case study.

TESTED PARTY SELECTION AND BENCHMARKING MODELS

The post-tariff shock environment has forced many MNE groups to revisit their existing Transfer Pricing assumptions, particularly around tested party selection and the reliability of bench-marking analyses.

Traditionally, entities in jurisdictions such as Thailand have been selected as the tested party based on the premise that they are less complex, lower risk, and primarily routine in function. However, when a Thai manufacturer starts to absorb operational risks due to shifting responsibilities, such as managing tariff-exposed supply chains or supporting export logistics for the US market, the underlying rationale for its tested party status begins to weaken. The functional profile becomes more complex, making the Thai entity less suitable as the tested party under the comparability criteria.

Benchmarking studies would also become more difficult to support, even with the Thai Revenue Department's preference for local comparables. While the Thai Revenue Department generally requires the use of Thai-domiciled private companies as comparables, recent tariff-related disruptions have created distortions in profitability across sectors. Some local manufacturers are more exposed to tariff-induced cost increases than others, leading to inconsistencies in margins within the same industry set. These shifts challenge the reliability of historical benchmarking sets and may require more frequent updates of comparables.

THE WAY FORWARD

MNEs should reassess their functional analyses to reflect any expanded roles or risks taken on by Thai entities, such as logistics and export compliance. Tested party selection and benchmarking should also be reviewed using the latest financial data, with economic adjustments properly documented.

Existing APAs should be stress-tested against trade disruptions, with proactive engagement where current terms no longer reflect economic realities. Businesses should also maintain contemporaneous supporting documentation, including internal memos, management communications and operational data, to justify pricing decisions in response to tariff-related cost increases or margin pressure.

CASE STUDY

Consider a multinational EV group with a manufacturing subsidiary in Thailand operating as a contract manufacturer. Under a BAPA between the Thai Revenue Department and the US Internal Revenue Service, the Thai entity was compensated based on a cost-plus markup of 12% for its manufacturing services. This APA was intended to provide five years of pricing certainty and was structured on the assumption that the Thai entity would bear minimal risk and operate on a routine basis, while the US distribution entity would assume market and strategic risks. The US entity, in turn, earned an average net profit margin of 10% on vehicle sales to US consumers.

However, following recent tariff changes that imposed steep duties on components originating from China and foreign-produced EVs, the group faced a significant increase in product costs. Although the Thai entity sourced some components locally, many high-value inputs still originated from China or other jurisdictions affected by US tariffs. As a result, the product cost of Thai-produced EVs entering the US market rose sharply, reducing the margins of the US distribution entity from 10% to 7%.

To mitigate this impact, the US entity requested a revision of the transfer pricing arrangement, asking the Thai contract manufacturer to accept a reduced markup of 8% instead of 12%, thereby shifting a portion of the cost burden to Thailand. From a commercial standpoint, this internal reallocation would help to preserve the US entity's profitability and avoid losses under increasing cost pressure. However, this request raises serious issues. First, it conflicted with the terms of the existing BAPA, which locked in the Thai entity's return at 12% to reflect its functional profile as a contract manufacturer with limited risk exposure. Any unilateral deviation from that pricing would not only risk violating the APA but could also lead to double taxation if the Thai Revenue Department continued to enforce the agreed markup. Second, the reduction in the Thai entity's markup would effectively recharacterise its function and risk profile, potentially undermining the basis of the APA altogether.

This situation illustrates how tariff shocks can destabilise even well-structured transfer pricing arrangements, especially where existing APAs rely on assumptions that are no longer realistic in a post-tariff shock environment. In this case, neither tax authority had anticipated a shift in trade policy that would distort the economic assumptions underlying the pricing model. The APA might not have included a clause to address external events such as tariffs or supply chain shocks, leaving both entities locked into a pricing structure that no longer reflected economic reality.

From a policy standpoint, the case highlights a broader risk: that rigid APAs may struggle to withstand real-world disruptions. Taxpayers and revenue authorities alike must now consider whether, and how, to build flexibility into future agreements, such as tariff-adjustment clauses, renegotiation triggers, or annual reviews tied to external economic indicators.



GET IN TOUCH

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2026

ITR WORLD TAX

NOTABLE PRACTITIONER

Global trade is being rewired:

What does it mean for businesses in Asia-Pacific?

At HLB's recent Asia-Pacific and Emerging Markets Conference, we explored how geopolitics, tariffs, technology, and changing investment patterns are reshaping international business.

Global trade is increasing and becoming more complex at the same time.

That was one of the clearest messages to emerge from HLB's recent Asia-Pacific and Emerging Markets Conference in Ho Chi Minh City, Vietnam. The event brought together HLB member firms from across the region and beyond to discuss the current opportunities and challenges facing internationally minded organisations.

At the event, we hosted a panel discussion entitled Global Trade Rewired: Navigating Opportunity in an Uncertain World. In this session we explored how geopolitics, tariffs, technology, and changing investment patterns are reshaping international business.

For the clients we advise, there are lessons to be learnt to help tackle two key challenges. Firstly, to better understand the trends and changes that are reshaping global trade. Secondly, to assess what action can be taken to improve the success of a cross-border business strategy.

GLOBALISATION IS GIVING WAY TO REGIONALISATION

Data from UN Trade and Development (UNCTAD) shows that global goods trade reached approximately \$13.7 trillion in the first half of 2026, 12.5% higher than 2025. Meanwhile, services trade also grew by 10.5%. Cross-border trade is growing, despite some difficult headwinds. Tariffs, regulation, and geopolitical tension have stunted the momentum of a decades-long march towards globalisation. So, where businesses have previously built international strategies around globalisation and efficiency, today we are seeing resilience take on just as much importance.

Our expert panel discussed the emergence of more regional trading relationships alongside greater trade fragmentation and protectionism. Businesses are having to think differently about where they invest, who they trade with, and how exposed they are to individual markets.

Crucially, this doesn't mean retreating from cross-border opportunities, but rather being more deliberate about international growth. In fact, in our work with clients, we have seen that businesses operating across several markets may actually be better placed to respond when tariffs, regulation, or political relationships change, given they are likely less reliant on any single jurisdiction from a customer, operations, or supply chain perspective.





Dr Can Van Luc, Chief Economist at the Bank for Investment and Development of Vietnam (BIDV), explained how the sudden imposition of new tariffs or restrictions can quickly alter the global trading landscape. He cited the introduction of US tariffs under Section 301 [of the Trade Act of 1974], being applied in response to certain foreign trade practices, or Section 232 [of the Trade Expansion Act of 1962], which allows restrictions on national-security grounds.

For instance, in July 2026, the US announced that it would “adopt, and effectively enforce, a ban on imports made with forced labour”, with 46 economies consequently subjected to a 12.5% tariff rate. This included a number of APAC nations: Australia, China, Hong Kong, New Zealand, Philippines, Singapore, South Korea, Thailand and Vietnam.

DIVERSIFICATION IS CREATING NEW OPPORTUNITIES IN APAC

Diversification in the markets you operate in can help mitigate the risk that comes with sudden changes to the global trading landscape like these.

US-China trade tension is another good example. Imports of Chinese goods into the US dropped from \$536 billion in 2022 to \$308 billion in 2025, while US goods exports to China fell 26% between 2024 and 2025. Subsequently, more organisations are looking to new markets to account for this issue.

“So, who is benefiting the most from that decline [of US-China trade]?” Dr Can Van Luc asked. “Vietnam is right at the top of the list.”

Vietnam’s foreign trade has grown rapidly in 2026, with total import-export turnover reaching 25% higher in the first five months of this year compared to last. Being part of global trade groups like ASEAN and having signed free trade deals with the European Union and other blocs has been important.

China’s international role is evolving too. Victor Tu, International Contact Partner at HLB China, described a shift from simply exporting goods towards Chinese companies establishing operations closer to their customers overseas. Stephanie Yan, Managing Director at GHJ (HLB USA), summarised the change neatly: what was once primarily “made in China” is increasingly “made by China” around the world.

For businesses across Asia Pacific, these shifts create opportunities for new partnerships, customers and investment. But diversification isn’t simply a matter of picking another country on the map. Political stability, regulation, infrastructure, taxation, and the ability to move money between jurisdictions all need to be considered.

Businesses operating across multiple markets may be better positioned to respond to change



THE RULES OF COMPETITIVENESS ARE CHANGING

Another important point from our discussion was that businesses are navigating several transformations simultaneously. Dr Can Van Luc highlighted four in particular: digitalisation, the green transition, energy, and labour.

Sustainability is a good example. Environmental requirements are increasingly influencing trade and investment decisions, while APAC countries (including Vietnam) are looking more selectively at the type of foreign direct investment they want to attract.

Digitalisation is changing business models at the same time. Energy availability and security can influence where businesses invest, particularly in energy-intensive sectors (such as for firms producing electric vehicles, solar panels and batteries), while access to talent remains critical.

Taken in combination, these factors have significantly altered the way in which organisations need to think about potential targets for growth at both a regional and international level. And from a financial perspective, it is critical to how we advise clients on their cross-border business goals.

A decision about where to establish an operation, for instance, may involve tax and labour costs but also energy availability, environmental requirements, digital infrastructure, and future regulation. The best decision on paper may not always be the most resilient one in practice. Both upfront capital expenditure and ongoing operational costs must be considered in light of the various investments required to expand into a chosen market. Mapping out those costs is central to strategic decisions regarding cross-border growth.

BALANCING SPEED WITH EXPERT ADVICE

Perhaps the most practical message from the panel concerned the speed at which businesses now need to respond. Victor Tu stressed that businesses don't have five or ten years to develop an international strategy; they may need to establish a company, hire people or respond to a new commercial opportunity now.

Speed, however, must be balanced carefully against the need for thorough preparation. Stephanie Yan made that point directly: "It's too late when you come to me and say, 'I set up this company in this country'. I want to be in the conversation early on."

Her next observation underlined why seeking advice early is crucial: "When a good deal is structured the wrong way, it becomes a mediocre deal very quickly."

These expansion decisions can create tax, regulatory, employment, financing and reporting consequences across several jurisdictions. Resolving those issues after the event can be considerably harder than addressing them at the outset.

"Businesses don't have five or ten years to develop an international strategy; they may need to establish a company, hire people or respond to a new commercial opportunity now"

Victor Tu; International Contact Partner, HLB China



"It's too late when you come to me and say, 'I set up this company in this country'. I want to be in the conversation early on. When a good deal is structured the wrong way, it becomes a mediocre deal very quickly."

Stephanie Yan; Managing Director, GHJ (HLB USA)





TURNING UNCERTAINTY INTO OPPORTUNITY

There are very few things you can be certain of in business, but the fact that the geopolitical and economic landscape will continue to change is one. Global trade is always evolving and, for the most part, that is out of your control; businesses can't dictate the direction of tariffs, the outcome of elections, or write the next trade policy. The changes in the APAC region over recent years underline this point.

What you – and we – can control is how best to prepare for and respond to change.

For all of us across HLB's global network, that means helping clients look beyond individual transactions and understand the wider implications of their international decisions. It also means connecting expertise across our network so that a business considering an opportunity in Vietnam, China, Singapore, or elsewhere can combine local knowledge with a genuinely international perspective.

While global trade continues to grow, the world is becoming more fragmented. This means that opportunities still exist, but the right strategy is more important than ever, and our advisory teams are ready to support your organisation's journey.

Businesses cannot control the direction of tariffs, elections or trade policy, but they can prepare for and respond effectively to change



Singapore transfer pricing: Recent developments and practical implications

Singapore's transfer pricing landscape has seen recent targeted developments, with IRAS focusing on practical compliance, transparency and alignment with international standard

Singapore's transfer pricing landscape has seen several targeted developments over the past six to eight months. While there has been no fundamental change to the arm's length principle, recent guidance from the Inland Revenue Authority of Singapore (IRAS) reflects a continued focus on practical compliance, greater transparency and alignment with international transfer pricing developments.

The key developments include new guidance on share-based compensation, the introduction of a simplified approach for certain baseline distributors and an updated indicative margin for related-party loans.

SHARE-BASED COMPENSATION

The IRAS published the ninth edition of its transfer pricing guidelines on 4 June 2026, updating the Frequently Asked Questions at paragraph 5.120 on the treatment of share-based compensation costs in the cost base used to determine the service income of intra-group services priced under the Transactional Net Margin Method with a cost-plus mark-up.

This is relevant for Singapore entities that provide related-party services through employees participating in group share-based compensation arrangements, such as employee stock option plan.

The three possible scenarios in relation to share-based compensation are:

- A. Incurred – charged by the related party and recognised in the Singapore entity's financial accounts;
- B. Uncharged – should have been charged by the related party but is neither charged nor recognised in the financial accounts; or
- C. Notional – not charged by the related party but recognised in the Singapore entity's financial accounts in accordance with the relevant Financial Reporting Standards.

For all three scenarios above, the share-based compensation must be included in the cost base for purpose of applying the mark up.

For uncharged and notional share-based compensation from Year of Assessment 2026, the guidance provides that the underlying amount does not have to be included in the service income charged to the related party.



This is particularly important for multinational groups with Singapore companies providing regional management, administrative, technical or other support services. Equity-based employee compensation can otherwise create differences between accounting costs, transfer pricing calculations and intercompany charges.

Businesses should review existing cost-plus arrangements where employee share plans are material. Transfer pricing calculations, intercompany agreements and invoicing practices should be considered together to ensure that the new treatment is applied consistently.

SIMPLIFIED APPROACH FOR BASELINE DISTRIBUTORS

From 1 January 2026, Singapore began piloting the OECD's simplified and streamlined approach for qualifying baseline marketing and distribution activities. The pilot is scheduled to run until 31 December 2028.

The approach is optional and can provide an arm's length outcome for qualifying distributors without requiring a conventional transfer pricing benchmarking exercise. It is potentially relevant to Singapore entities performing routine marketing and distribution functions where the business does not assume significant commercial risks or own unique intangibles.

The approach could reduce compliance costs and provide greater certainty for businesses with straightforward distribution models. However, eligibility depends on the actual functions performed, assets used and risks assumed.

Businesses should also consider the position in the counterparty jurisdiction. Although Singapore may accept the simplified approach, the overseas tax authority may apply different requirements. Groups should therefore assess whether adopting the simplified approach is likely to provide a consistent outcome across the relevant jurisdictions.

RELATED-PARTY FINANCING

Related-party financing remains another area requiring attention. For 2026, the Inland Revenue Authority of Singapore's indicative margin for qualifying related-party loans referencing risk-free rates is 180 basis points, compared with 170 basis points for 2025. The indicative margin can generally be applied to qualifying related-party loans not exceeding S\$15 million, subject to the applicable conditions. Singapore also provides a compliance concession for certain domestic related-party loans between Singapore taxpayers where neither party is in the business of borrowing and lending.

The concession does not remove the need for careful analysis of cross-border related-party financing. Multinational groups should distinguish domestic arrangements from cross-border loans and consider whether the interest rate, loan terms, credit profile and other conditions remain supportable on an arm's length basis.

The compliance concession does not remove the need for careful analysis of cross-border related-party financing



PRACTICAL IMPLICATIONS FOR BUSINESSES

The recent developments illustrate a broader direction in Singapore's transfer pricing regime: targeted simplification for lower-risk arrangements alongside greater scrutiny of compliance and reporting.

Overall, businesses should consider whether the recent guidance creates an opportunity to simplify existing arrangements, while ensuring that any simplified approach is properly supported. A timely review can help identify inconsistencies, update documentation and reduce the risk of transfer pricing adjustments and associated compliance costs.

Recent guidance provides opportunities to simplify arrangements while maintaining robust transfer pricing compliance



GET IN TOUCH

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India transfer pricing:

Key developments and emerging trends in 2026

How legislative reforms, expanded safe harbours and increasing APA activity are reshaping transfer pricing compliance and dispute management in India.



The Indian transfer pricing landscape has seen several important developments in 2026, with the focus increasingly shifting towards greater certainty, simplified compliance and more efficient dispute resolution. The implementation of the new Income-tax Act, 2025, the introduction of block transfer pricing assessments and significant changes to the safe harbour framework are among the key developments. At the same time, recent tax rulings continue to demonstrate that management support services, outstanding receivables and marketing expenditure remain areas of close scrutiny.

NEW INCOME-TAX ACT AND CHANGES TO THE TRANSFER PRICING FRAMEWORK

The Income-tax Act, 2025, which came into effect from 1 April 2026, represents a significant restructuring of India's direct tax legislation. While the transfer pricing principles remain broadly aligned with the existing framework, the provisions have been reorganised, and certain processes have been streamlined.

One of the more significant changes for multinational businesses is the formal introduction of a block approach to transfer pricing assessments. Under the new framework, where the prescribed conditions are satisfied, the arm's length price determined for a transaction in a base year can be applied to similar transactions for the following two years. The taxpayer is required to exercise the option in the prescribed manner, and the Transfer Pricing Officer must validate the option.

The block assessment mechanism could materially reduce repetitive transfer pricing proceedings for taxpayers whose business models, functions and transaction terms remain substantially consistent across years. It may be particularly relevant for captive service providers and other businesses undertaking recurring transactions with associated enterprises. However, taxpayers will need to closely monitor changes in functions, risks, pricing, business circumstances and transaction characteristics before opting for the mechanism.



SIGNIFICANT EXPANSION OF THE SAFE HARBOUR FRAMEWORK

The safe harbour framework has also undergone significant changes in 2026. Information technology services, including software development, information technology enabled services, knowledge process outsourcing and certain contract research and development services relating to software development, have been consolidated into a single category with a common operating margin of 15.5% on operating costs. crore. The revenue threshold for these transactions has increased substantially from ₹300 crore to ₹2,000 crore.

For large Indian technology and business process service providers, this could make safe harbour a more practical alternative to annual benchmarking exercises, particularly where the prescribed margin is commercially acceptable. Taxpayers should, however, compare the prescribed safe harbour margin with their historical margins, existing benchmarking results and the potential litigation cost before making an election.

INCREASED USE OF ADVANCE PRICING AGREEMENTS

The government's continued emphasis on advance pricing agreements is another notable trend. The Central Board of Direct Taxes reported 219 advance pricing agreements signed during financial year 2025-26, including 84 bilateral agreements, taking the cumulative number of agreements signed since inception to 1,034. The year also saw India's first bilateral advance pricing agreements with France, Ireland, Indonesia and Sweden.

The increasing use of bilateral agreements is particularly relevant for multinational groups as they can provide greater certainty while also helping address the risk of double taxation. Businesses with recurring, high-value or complex cross-border transactions may increasingly consider advance pricing agreements as part of their broader tax risk management strategy.

MANAGEMENT SUPPORT SERVICES REMAIN UNDER SCRUTINY

Payments for intra-group management and support services continue to attract significant attention from Indian tax authorities. Centralised group functions such as finance, human resources, legal, information technology, strategy and corporate support are commonly provided by overseas group entities on a cost-plus basis.

Recent litigation demonstrates that having an inter-company agreement and a cost-plus pricing policy may not, by themselves, be sufficient. Taxpayers should be able to demonstrate the nature of services actually received, the commercial need for the services and the benefit derived by the Indian entity. Evidence such as correspondence, reports, presentations, service logs, employee details, invoices and other contemporaneous records can be important in supporting the position.

Inter-company agreements and cost-plus pricing alone may not be sufficient to support intra-group service arrangements



OUTSTANDING RECEIVABLES: CONTINUED FOCUS ON THE FINANCING ELEMENT

Outstanding receivables from associated enterprises continue to be examined separately by tax authorities and appellate forums. The key question is whether the period of outstanding receivables represents an independent financing benefit provided to the associated enterprise.

Indian jurisprudence indicates that notional interest adjustments on outstanding receivables are generally unwarranted when the taxpayer has made appropriate working capital adjustments under Transactional Net Margin Method or the receivables are realized within a reasonable credit period. However, in cases where receivables remain unpaid beyond the agreed credit period without justification, tax authorities may consider imputing notional interest, treating the delay as a separate international transaction.

For taxpayers, this reinforces the need for a transaction-level review of receivables rather than relying solely on the overall operating margin of the entity.

MARKETING EXPENDITURE AND MARKETING INTANGIBLES REMAIN CONTENTIOUS

Advertising, marketing and promotion expenditure incurred by Indian subsidiaries of multinational groups remains another area of continuing controversy. The central issue is whether expenditure incurred by an Indian entity in promoting products or brands owned by an overseas associated enterprise represents an independent international transaction requiring compensation.

Recent proceedings continue to reflect differing positions on whether such expenditure should be separately benchmarked or considered as part of the overall distribution or business activity.

For businesses, the continuing litigation reinforces the importance of clearly documenting the commercial purpose of marketing expenditure, the functions performed by the Indian entity, the ownership and use of relevant intangibles and the overall pricing arrangement with the associated enterprise.

LOOKING AHEAD

Taken together, these developments indicate a transfer pricing environment increasingly focused on certainty and process simplification, while continuing to scrutinise transactions where the underlying commercial substance or benefit is questioned. The block assessment and expanded safe harbour regimes may reduce recurring compliance and litigation for eligible taxpayers, while the growing use of advance pricing agreements provides another route to long-term certainty.

At the same time, recent disputes demonstrate that documentation remains critical. Multinational groups should periodically review their inter-company arrangements, transaction terms, receivable cycles, intra-group services and marketing activities to ensure that their transfer pricing policies are supported by contemporaneous commercial evidence and remain aligned with the substance of their Indian operations.



GET IN TOUCH

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Malaysia updates its Transfer pricing framework

Malaysia's Income Tax (Transfer Pricing) (Amendment) Rules 2026 introduce targeted clarifications, revised definitions and a new offsetting adjustment mechanism, with retrospective effect from YA 2023.



Malaysia has gazetted the Income Tax (Transfer Pricing) (Amendment) Rules 2026 on 27 August 2026, introducing several amendments to the existing Income Tax (Transfer Pricing) Rules 2023 (the Rules). The amendments are deemed to have effect from the year of assessment (YA) 2023.

Although the amendments are targeted in nature, they contain several important clarifications to the Rules and introduce a new offsetting adjustment mechanism. The amendments come shortly after the release of the Inland Revenue Board of Malaysia (IRBM)'s new guidelines on controlled financial transactions on intra-group loans, signalling continued scrutiny of transfer pricing compliance in Malaysia. As the amendments apply retrospectively from YA 2023, businesses should evaluate the potential impact on existing transfer pricing arrangements, documentation from YA 2023 onwards, ongoing transfer pricing audits and unresolved assessments.

KEY AMENDMENTS

Definition of "Service"

The amendment revises the definition of "service" under Rule 3 by replacing the phrase "facilities provided, or are to be provided" with "facilities, that are or to be, provided".

From a practical perspective, this appears to be a drafting refinement rather than a substantive policy change. The scope of services covered by the transfer pricing rules is not expected to change.

Definition of a Multinational Enterprise Group (MNE Group)

The amendment replaces the existing definition of a MNE Group under Rule 4(4). Under the revised provision, an MNE Group is defined as a group of associated enterprises that have business establishments in two or more jurisdictions.

The previous definition contained more detailed requirements relating to ownership or control relationships, consolidated financial statements, tax residence and permanent establishments.



The revised wording adopts a simpler formulation focused on cross-border business presence. Taxpayers should review whether the change has any impact on their transfer pricing documentation and reporting processes.

Deletion of Rule 10(3)

Rule 10(3), which formed part of the cost contribution arrangement provisions, has been deleted.

The deleted provision previously set out circumstances under which persons would be regarded as associated persons for purposes of Rule 10, including relationships involving control, family relationships and common control.

With the deletion of Rule 10(3), the determination of whether parties are associated for purposes of a cost contribution arrangement would appear to fall back on the broader associated person and control concepts under Section 140A of the Income Tax Act 1967, as supplemented by the guidance in the Malaysia Transfer Pricing Guidelines 2024.

The express reference to individuals who are relatives of each other has also been removed. Family-owned groups may therefore wish to consider whether related party relationships continue to be demonstrated under the broader control and association concepts.

The introduction of offsetting adjustments provides taxpayers with a statutory mechanism to seek relief from economic double taxation arising from transfer pricing adjustments



Introduction of Offsetting Adjustments

The most significant amendment is the introduction of new Rule 13(1A), which provides for an offsetting adjustment mechanism. Under the new provision, where a transfer pricing adjustment is made to a person involved in a controlled transaction, a corresponding adjustment may be made to the assessment of the other person involved in the same controlled transaction, upon request and subject to the approval of the Director General.

Prior to this amendment, the Rules expressly empowered the Director General to make transfer pricing adjustments but did not provide a specific mechanism for a corresponding adjustment to the counterparty in the same transaction.

This is a welcome development as it provides a statutory basis for taxpayers to seek corresponding relief from economic double taxation arising from transfer pricing adjustments. However, the relief is not automatic. Taxpayers must submit a request and approval remains at the discretion of the Director General.

A practical consideration is that the new mechanism appears most relevant where the other party to the controlled transaction is also subject to a Malaysian tax assessment capable of being adjusted. Where the counterparty is a non-resident and no corresponding Malaysian assessment exists, the practical operation of Rule 13(1A) may be limited.

NEW GUIDELINES ON CONTROLLED FINANCIAL TRANSACTIONS: INTRA-GROUP LOANS

Separately, the IRBM issued the Malaysia Transfer Pricing Guidelines on Controlled Financial Transactions: Intra-Group Loans on 30 July 2026. The guidelines provide detailed guidance on the application of the arm's length principle to intra-group financing arrangements.

The guidelines emphasise that transfer pricing analysis for intra-group loans extends beyond determining an arm's length interest rate. Taxpayers are expected to accurately delineate the transaction, assess whether a purported loan should properly be regarded as debt or equity, evaluate the borrower's creditworthiness and consider the impact of group membership on financing arrangements. The IRBM also indicates that financing arrangements may be scrutinised based on their commercial substance and may be recharacterised where the facts and circumstances do not support the legal form adopted.

The guidelines provide detailed discussion on the application of the Comparable Uncontrolled Price (CUP) Method and Cost of Funds Method in pricing intra-group loans, while also introducing a simplified approach for certain qualifying financing arrangements, allowing taxpayers to apply prescribed Bank Negara Malaysia reference rates without undertaking a full benchmarking exercise, subject to specified conditions. The guidelines further emphasise the importance of maintaining contemporaneous documentation, including loan agreements, credit assessments and support for the pricing methodology adopted.

OVERALL PRACTICAL IMPLICATIONS FOR BUSINESSES

The amendments and the new IRBM guidelines reinforce the increasing focus on transfer pricing compliance and documentation in Malaysia. Given the retrospective application from YA 2023, businesses should review whether existing transfer pricing documentation remains aligned with the amended Rules and assess the potential impact on ongoing audits, disputes and unresolved assessments.

Taxpayers should also evaluate whether the new offsetting adjustment mechanism may provide relief from economic double taxation arising from transfer pricing adjustments. For groups with related party financing arrangements, the new IRBM guidelines signal greater scrutiny of the commercial substance of financing transactions. Taxpayers should ensure that intercompany loans are supported by appropriate documentation, including loan agreements, creditworthiness assessments and evidence supporting the arm's length nature of the pricing adopted. In particular, arrangements that may not be consistent with the economic substance of the transaction could attract increased attention from the IRBM.



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MAKE IT HAPPEN**



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