



**Issue 41 : June 2018**

**Draft Transfer Pricing law proposed to the National Legislative Assembly for enforcement for Fiscal Year 2019**

Referring to [the approval by the Cabinet of Thailand on the draft transfer pricing law on 3 January 2018](#), the Government submitted the draft of law amending the Revenue Code on transfer pricing to the National Legislative Assembly for consideration on 5 June 2018. The key changes and updates are summarized below.

- The transfer pricing law will be in force for the accounting periods starting on or after 1 January 2019. This means that the first filing date of the transfer pricing disclosure form (which will need to be filed with an annual tax return) will be on 30 May 2020 for the fiscal year ended 31 December 2019 and 28 August 2020 for the fiscal year ended 31 March 2020.
- The latest draft states clearly that taxpayers who pass the income threshold will need to prepare and submit an annual report disclosing relationship between related parties and the amount of related party transactions, **regardless of whether such relationship exists throughout the entire accounting period, or whether the related parties had any intercompany transactions during the year**".
- After the law is approved, the Revenue Department will subsequently propose the following secondary legislations to the Cabinet of Thailand.

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| Secondary legislations  | Framework  | Tentative timelines  |
|---|--|--|
| 1. Ministerial regulation – Calculation of revenue and expenses of a Related Entity or Related Juristic Partnership | <ul style="list-style-type: none"> <li>• Definition of “Related Entity or Related Juristic Partnership”, “Controlled Transaction”, “Uncontrolled Transaction”, “Transaction Condition”, and “Advance Pricing Arrangement”</li> <li>• Consideration of arm’s length principle</li> <li>• Comparability analysis</li> <li>• Calculation/ determination of arm’s length range</li> <li>• Tax assessment through the adjustment of revenue and expenses</li> <li>• Consideration of condition for special transactions, e.g. intangible transactions</li> <li>• The request for Advance Pricing Arrangements (APAs)</li> </ul> | To be proposed to the Cabinet within 60 days after the law is enforced |

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|---|--|--|
| 2. Ministerial regulation - Determination of revenue base of an Entity or Partnership which is not subject to Section 71 ter  | Determination of revenue base, as well as categories of excluded income, for the purpose of exempting a company or juristic partnership from the annual transfer pricing disclosures and/or transfer pricing documentation | To be proposed to the Cabinet within 60 days after the law is enforced |
| 3. Notification of the Director-General of Revenue Department – Details of the transfer pricing disclosure form   | Details of the form to be submitted together with an annual tax return filing under Section 69   | To be announced within 30 days after no. (1) and (2) are enforced      |
| 4. Notification of the Director-General of Revenue Department – Requirement for preparation and submission of documents or evidence in order to perform an analysis of related party transactions | The requirement for a company or juristic partnership to disclose information and prepare documents/ evidence as specified under this Notification   | To be announced within 30 days after no. (1) and (2) are enforced      |

### KPMG's comments and observations

The draft transfer pricing law has reached the next significant milestone in the legislative process. With the proposed enforcement date starting on or after 1 January 2019, it may be implied that the law may be enacted within this year. With the tentative first filing of the transfer pricing disclosure form in May 2020, pro-active approach to preparation of robust transfer pricing analysis, documentation and anticipated required disclosures will be essential in managing transfer pricing risks, including discussions with the tax authorities on future proposed adjustments and reduced penalties.

### How KPMG can help

KPMG professionals in the Transfer Pricing group advise multinational corporations investing inbound and Thai corporations investing outbound on transfer pricing solutions to their value chain issues. Our Transfer Pricing team is well positioned to provide risk assessment reports in line with your global transfer pricing strategy to enable you to navigate through the complex and fast-changing transfer pricing environment resulting from the new regulatory changes in Thailand, as well as to support you in preparing transfer pricing documentation under the new requirements.

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