

# Improving Transfer Pricing Compliance in Singapore

07/2023

[tyteoh.com](http://tyteoh.com)



## TP Guidelines (“TPG”)

Prior to 2019, Singapore taxpayers were not legally required to prepare and maintain Transfer Pricing documentation. The change is due to the strengthening of legislative requirements concerning Transfer Pricing which added Section 34F in the Singapore Income Tax Act (“SITA”) in October 2017. These were followed by the introduction of the Income Tax (Transfer Pricing Documentation) Rules 2018 (“Rules”) in February 2018 under powers conferred by Section 7(1) of the SITA. The Fifth edition of the IRAS e-tax guide on Transfer Pricing guidelines was also released concurrently with the Rules and the Sixth edition was released in August 2021.

Effective from year of assessment (“YA”) 2019 (i.e., fiscal year ended 2018), taxpayers who met either of the following conditions are required to prepare Transfer Pricing documentation no later than the filing due date unless exempted:

- Gross revenue derived from their trade or business is more than 10 million for the basis period concerned; or
- Transfer Pricing documentation was required to be prepared for the basis period immediately before the basis period concerned

From YA 2020 onwards, Singapore companies must also examine their Transfer Pricing status for the preceding year(s), which will further complicate the compliance process.

## Exemptions for Preparation of TP Documentation

Taxpayers are exempt from preparing TP documentation if they meet either of the following conditions:

- Related party domestic transaction subject to same tax rate or exempt from Singapore tax for both parties; or
- Related party domestic loan where the lender is not in the business of borrowing and lending money; or
- Related party loan not exceeding S\$15million on which indicative margin is applied; or
- Routine support services on which 5% cost mark-up is applied; or
- Related party transaction covered by Advance Pricing Arrangement (“APA”); or
- Related party transaction not exceeding certain value as shown in the table below:

Type of Transactions	Aggregated Value (S\$)
Sales / Purchase of goods	15 million
Loan to / from related party	
Provision / Receipt of service	1 million
Grant / Receipt of right to use property or lease	
Guarantee provided / received	
Any other transaction	



## TP Documentation Structure

The Transfer Pricing documentation consists of two-tiered structure with brief contents as follows:

- i. Documentation at Group level
  - Group's organizational structure
  - Group's business
  - Group's intangible assets
  - Group's financial activities
  - Group's financial statements
  - Group's unilateral APA and others
  
- ii. Documentation at Entity level
  - Management structure
  - Organizational structure
  - Entity's business
  - Related party transactions
  - Transfer Pricing analysis

While the TP documentation has to be prepared, it does not need to be submitted unless requested.

## Country-by-Country Reporting (“CbyCR”)

CbyCR is required for an MNE group in relation to a financial year beginning on or after 1 January 2017, where:

- ✓ The MNE group's ultimate parent entity is tax resident in Singapore ( “Singapore MNE group”); **and**
- ✓ The consolidated group revenue in the preceding financial year is at least S\$1,125 million; **and**
- ✓ The MNE group has subsidiaries or operations in at least one foreign jurisdiction.

If the Singapore MNE group is required to file a CbyCR for a financial year, the Reporting Entity (i.e. ultimate parent entity) will be required to submit a CbyCR to the Comptroller within 12 months from the end of that financial year (i.e. 31 December 2020 if the taxpayer's year end is 31 December 2019). There is no CbyCR notification requirement in Singapore. Nonetheless, Singapore-headquartered MNEs which have a filing obligation in Singapore will be required to provide the following information to the IRAS at least three months before the filing deadline via email:

- ✓ Name and UEN of the Reporting Entity (i.e. ultimate parent entity)
- ✓ Financial reporting period of the Reporting Entity (i.e. ultimate parent entity)
- ✓ Contact person's name and contact number
- ✓ Email of contact person (if different from that used to provide your reply)
- ✓ CbyCR preparation and submission



## CbyCR (cont'd)

### Contents of CbyCR:

- i. Overview of income, taxes, employees and assets of the MNE group in different tax jurisdictions
- ii. Overview of the entities (including permanent establishments) of the MNE group in different tax jurisdictions
- iii. Additional information which provides further clarification regarding the data provided in the Country-by-Country Report

## Penalties Imposed for Non-Compliance

### 1. Transfer Pricing Documentation

Under Section 34F(8) of the SITA, failure to prepare the required Transfer Pricing documentation constitutes an offence, and the taxpayer is liable to a fine/penalty of up to S\$10,000 per offence. More specifically, a taxpayer can be liable to the fine for the following non-compliance:

- Not preparing or maintaining transfer pricing documentation based on the requirements under the rules;
- Not preparing transfer pricing documentation by the time for the making of the tax return;
- Not retaining the transfer pricing documentation for a period of 5 years;
- Not submitting the transfer pricing documentation within 30 days from written request by the IRAS; or
- Providing any documentation or information that the taxpayer knows to be false or misleading.

Moreover, Section 34E empowers the Comptroller to impose a 5% surcharge on any Transfer Pricing adjustments made by the Comptroller for non-compliance with the arm length principle after an assessment. This surcharge applies even if the taxpayer has prepared contemporaneous documentation.

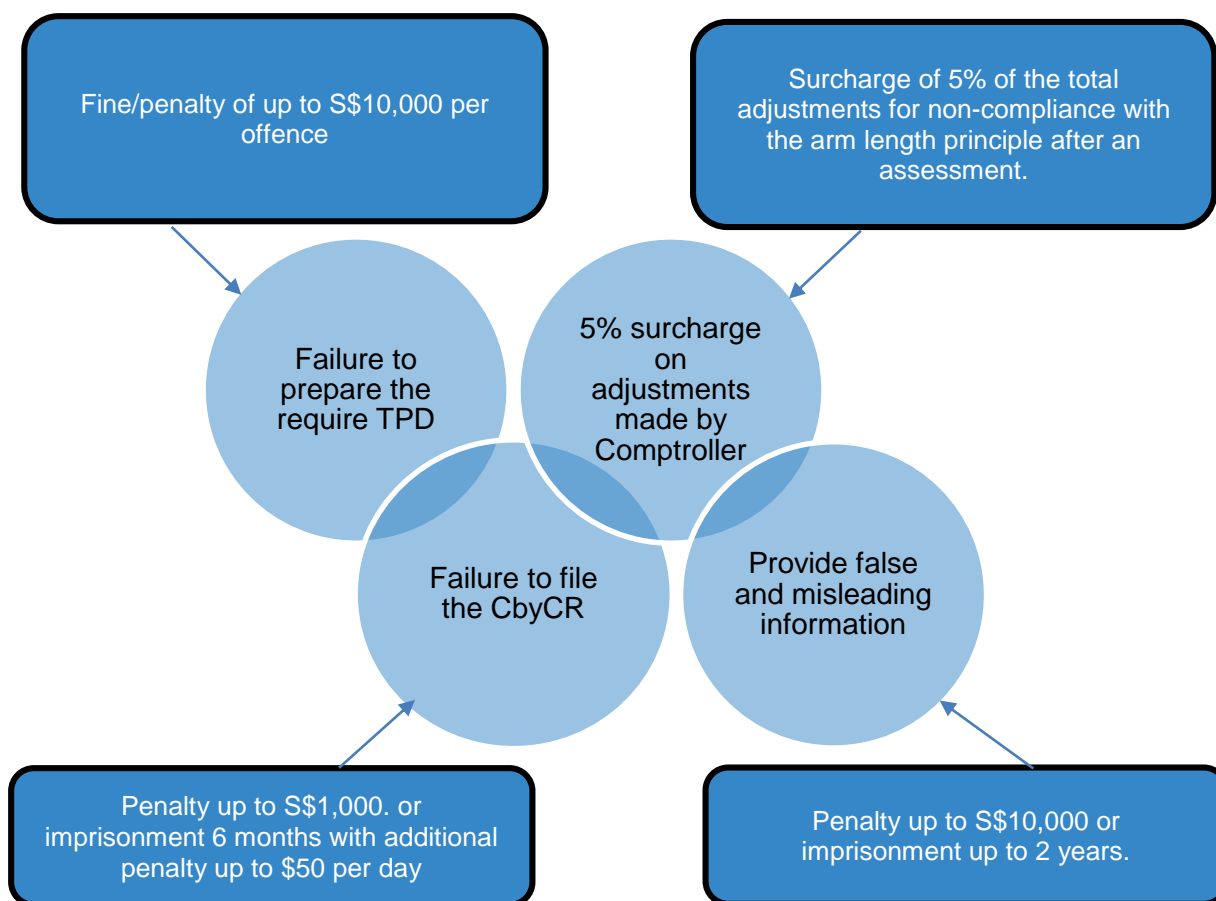
### 2. CbyCR

Failure to file the CbyCR by due date will be imposed a penalty up to S\$ 1,000. If the penalty is not paid, the person responsible for the offence may be imprisoned for up to six months. An additional penalty of up to \$50 per day during will be imposed during which the offence continues after conviction.

A penalty of up to S\$ 10,000 applies to taxpayer which provides false or misleading information in the CbyCR. The person responsible for the offence may be imprisoned for up to two years.



## Transfer Pricing Penalties



## Corporate Income Tax Return Form and Form for Reporting of Related Party Transactions

Effective from YA 2018, the income tax return form (i.e. Form C) includes a disclosure on whether the value of the company's related party transactions disclosed in the audited financial statements for the financial year exceed S\$15 million. If it does, the taxpayer has to complete the Form for Reporting of Related Party Transactions and submit it together with Form C.

The form consists of the following relevant information:

- i. Particulars of Company and Ultimate Holding Company
- ii. Details of related party transactions
  - Sales and purchases of goods
  - Services income and expense
  - Royalty and licence fee income and expense
  - Interest income and expense
  - Other income and expense
- iii. Information on sale / purchase of goods and provision of services
- iv. Information on loans and non-trade amounts





## How We Can Help

Our dedicated team of professionals has experience in various disciplines to respond effectively and efficiently to our clients' individual requirements. This professional capability allows us to advise and plan strategies critical to our clients' needs and success within the challenges of the present business environment.

Our service includes a total approach to our clients' problems and needs. Using a team approach, our services are tailored to meet our clients' individual requirements. We stress on a high degree of competence, professionalism and commitment among our team members.

We offer the following services with a clear focus on the business issues and regulatory requirements of the client's industry:

- Audit and Assurance
- Tax & Transfer Pricing Advisory and Compliance
- Business Advisory
- China Desk
- Financial and Transaction Advisory
- Risk, Governance and Sustainability Advisory
- Valuation Advisory
- Migration Advisory
- Offshore Advisory

Should you have any questions or require any assistance on the above, please do not hesitate to drop us an email or call us.

Copyright @ TY TEOH International. This publication contains information in summary form and is therefore intended for general guidance only. No person should rely on the contents of the aforesaid publication without first obtaining advice from a qualified professional person. TY TEOH International is not responsible for the results of any actions taken on the basis of information neither in this publication, nor for any error in or omission from this publication. TY TEOH International expressly disclaims all and any liability and responsibility to any person, whether a reader of this publication or not, in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this publication.



## WHY TY TEOH INTERNATIONAL 为什么选择迪威国际?

TY TEOH International is a leading regional chartered accountants, tax, transfer pricing, valuation and consulting firm with office presences in **Singapore, Malaysia and Labuan** to provide a diverse spectrum of business solutions and consulting services to public listed companies, Fortune 500 companies, multi-national corporations, local small and medium companies representing a cross section of major industries.

迪威国际是一所领先的区域会计事务所，在**新加坡，马来西亚和纳闽岛**设有办事处，为上市企业，财富500强企业，跨国企业及中小型企业提供多种业务解决方案与服务包括会计，税务与商业咨询。

 <p><b>20<sup>th</sup> Global</b> Largest Accounting and Consulting Firm by IAB.</p> <p><b>75+</b> countries <b>61+</b> locations <b>9900+</b> professionals</p>	<p><b>20<sup>th</sup> Singapore</b> Largest Accounting and Consulting Firm by IAB.</p> <p><b>5 Offices</b> Singapore, Kuala Lumpur, Johor, Penang, Labuan.</p>  <ul style="list-style-type: none"> <li>✓ Registered Auditor of Public Company Accounting Oversight Board (PCAOB), USA</li> <li>✓ Registered Auditor with Accounting and Corporate Regulatory Authority (ACRA), Singapore</li> </ul>	<p><b>Team Leaders &amp; Members Credentials</b></p> 
---	---	---

## WHAT WE OFFER 我们的专业服务

- + Audit & Assurance + BPO & Business Advisory + China Desk + Digital Transformation and Data Analytic
- + Family Office & Private Client Services + Financial & Transaction Advisory + Japan Desk + Malaysia Desk
- + Market Entry Advisory + Migration Advisory + Offshore Advisory + Risk & Governance Advisory + Tax & GST Advisory + Transfer Pricing Advisory + US Desk + Valuation Advisory
- + 审计 + 商务外包及咨询 + 中国企业服务部 + 数字化转型及数据分析 + 家族办公室及私人客户服务
- + 企业融资与并购咨询 + 日本企业服务部 + 马来西亚企业服务部 + 市场进入咨询
- + 移民服务 + 离岸咨询 + 风险管理及内控咨询 + 税务咨询 + 转让定价咨询 + 美国企业服务部 + 估值咨询



**100+** Countries  
**630+** Locations  
**42000+** Professionals

Audit | Tax | Advisory  
Transfer Pricing | Valuation

Singapore 新加坡 +65 682 00089

SINGAPORE | MALAYSIA  
LABUAN

[www.tyteoh.com](http://www.tyteoh.com)



SINGAPORE | MALAYSIA | LABUAN

Page 7 of 7