ShineWing TYTEOH | 信永中和

Chartered Accountants, Tax , Business Advisors, Transfer Pricing, Valuation
W shinewingtyteoh.com

October 2020 – Issue T09

ideas & insights

Impact of COVID-19 on Transfer Pricing

Key Takeaway

- Affected transactions:
  - Cross border transactions
  - Management services
  - IP related transactions
  - Financial assistance
  - Limited risk transactions/ companies
- Solutions
  - Consider making changes to the functions or supply chain
  - Justify losses or low profits and quantify impact of COVID on business
  - Provide for TP adjustments
- Companies should start compiling the necessary documents for preparation of TP documentation

The COVID-19 has had devastating effects on not just people's health but the economy as a whole. Through-out this past few months, the financial system worldwide has been experiencing great pressure. Companies especially, are facing cash flow problems and difficulties sustaining the business.

Highlighted below are some of the issues faced, especially by Companies involved in related party transactions:

- **Companies involved in cross border transactions**
  In situations where the supply chain and related party transactions spans across different countries, companies are obligated to segregate clearly the functions, assets and risks carried out by each entity to determine the value drivers. The pandemic may have affected the related companies' ability to perform their role in the supply chain resulting in temporary or permanent changes to the value chain.

- **Companies receiving or providing management services**
  There might be situations in which local MNE companies are forced to continue paying for service fees or management fees despite the fact that there is reduced or no assistance being provided by the service provider during the lock-down period.

  MNE Groups may have also provided additional services to assist subsidiaries during the pandemic. However, it's important to determine if the services pass the benefit test if charges are imposed.

- **Companies with intangible properties ("IP")**
  Companies charging royalties for IP or branding activities, especially those charging as a percentage of sales or revenue would face a severe impact on royalty income during the pandemic. This also gives rise to lower taxes paid resulting to potential queries by the tax authorities.

- **Companies involved in cross border financial assistance**
  Companies who have provided any type of financial assistance with pre-determined payment terms and interest would not be able to collect the debt and would have to look into deferring all amount dues, similar to the approach adopted by banks with the moratorium. Alternatively, larger MNEs with centralized cash pooling arrangement or with extra cash may extend the cash availabilities to its subsidiaries during this time of need. Interest may or may not be charged in these circumstances resulting in a transaction that may not be considered to have been conducted at arm's length.

- **Limited risk companies**
  Companies with limited functional profile and involved in low or limited risk operations such as contract manufacturers or distribution arms on behalf of its related companies would also face a problem business losses if the other party is affected. These Companies are generally expected to earn a fixed margin, hence it would be a challenge to justify these drop in profits in the year of the pandemic.

Taking into consideration the struggles Companies could potentially face, listed below is some of the ways in which Companies can be more prepared with the impact on their transfer pricing arrangements. Companies can consider:

1. Making changes in the supply chain or functions carried out by the company to ascertain if it can help mitigate some of the risks borne by the company. Changes made must also be documented with the impact analysis.

2. Companies who experience losses or low operating profits would have to justify the losses in the TP documentation prepared for the year in which the pandemic hit. It would have to contain an explanation that the losses were not as a result of non-conformance to the arm's length policies.

   It would be worthwhile for companies to start compiling the necessary information and analysis to document the impact of COVID-19 on the operating profit.

3. Making transfer pricing adjustments or changes in the pricing policy. Although these adjustments are usually debatable and subject to scrutiny by the tax authorities, Companies may not have a choice but to document the calculation and quantify the impact of the adjustments.

Preparation of TP documentation for FY 2020 will definitely be a challenge not only for Companies but also for service providers. Due to the negative impact of the pandemic on operating profits, the likelihood of obtaining a positive benchmarking results are low. It would be worthwhile to consider a multiple year benchmarking analysis and an average profitability across 2 to 3 years as an alternative benchmarking approach.

There might also be a time-lag in the completion of the TP documentation due to insufficient financial information for benchmarking. Companies in Malaysia have been given an extension of time to submit their audited financial statements.

Given the above challenges, it is imperative for taxpayers to start documenting the impact of the pandemic on their business including the changes that were implemented, justification for the change, financial impact and any other relevant information.

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 Belt and Road Desk
- Financial and Transaction Advisory
- Migration Advisory
- Offshore Advisory
- Risk, Governance and Sustainability Advisory
- Valuation Advisory

Click Here to Enquire

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

WHY ShineWing TY TEOH 为什么选择信永中和迪威？

ShineWing TY TEOH is a leading regional chartered accountants, tax, transfer pricing, valuation and consulting group with office presences in Malaysia 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.

信永中和迪威是一所领先的区域会计事务所，在马来西亚设有办事处，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。

+ Registered Auditor of Public Company Accounting Oversight Board (PCAOB), USA
  美国上市公司会计监督委员会的注册审计师
+ Approved Auditor of Labuan Financial Services Authority (Labuan FSA), Malaysia
  马来西亚纳闽金融服务管理局注册审计师

Member firm of ShineWing International - Top 20 international accounting network and association.
信永中和国际成员所 - 会计公告发布的全球20大国际会计师事务所联盟

www.shinewinginternational.com

Member firm of Praxity - The world's largest alliance of independent accounting firms.

PRAXITY 国际成员所 - 全球最大独立会计师事务所联盟

www.praxity.com

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 + Market Entry Advisory + Migration Advisory + Myanmar Desk + Offshore Advisory + Risk & Governance Advisory + Singapore Desk + Tax Advisory + Transfer Pricing Advisory + Valuation Advisory

+ 审计 + 商务外包与咨询 + 中国一带一路咨询 + 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 + 市场进入咨询 + 移民服务 + 缅甸商业咨询 + 离岸咨询 + 风险管理及内控咨询 + 新加坡商业咨询 + 税务咨询 + 转让定价咨询 + 估值咨询

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

www.shinewingtyteoh.com

Audit I Tax I Advisory I Transfer Pricing I Valuation

Kuala Lumpur 吉隆坡	+603 780 55022	Johor Bahru 柔佛	+607 595 2299	Penang 槟城	+604 371 3419 / +604 371 3318
Labuan 纳闽岛	+6087 599 328	Muar 麻坡	+606 952 0205	Sitiawan 实兆远	+605 688 5112
Ipoh 怡保	+605 546 3388				