

**KOMPILASI SOALAN DAN JAWAPAN
TRANSFER PRICING & TAX CORPORATE GOVERNANCE SEMINAR 2025
27 MEI 2025**

TOPIK 1: RECENT TRANSFER PRICING CHANGES: IMPACT ON MALAYSIA'S BUSINESSES

BIL.	QUESTION	ANSWER
1.	How about the amount owing to directors amounting to below or above RM1 million? And controlled transactions between company and sole proprietor?	<p>If the amount owing to a director involves a person who falls within the definition of a controlled person under Section 139 and subsection 140A(5A) of the Income Tax Act 1967, the transaction is considered a controlled financial assistance and must be included in the calculation of the RM1 million threshold for Contemporaneous Transfer Pricing Documentation (CTPD). It is important to note that the gross year-end balances or outstanding amounts alone do not represent the total value of the controlled transactions undertaken during the year.</p> <p>For controlled transactions between a company and a sole proprietor, the company should first assess whether the transaction qualifies for exemption under paragraph 1.5 of the Malaysia Transfer Pricing Guidelines 2024 (MTPGL 2024). If company does not fall under the exemption and does not exceed the threshold stated in paragraph 1.7 for the preparation of full CTPD, company may prepare minimum CTPD. However, the sole proprietor is exempted from preparing a CTPD under paragraph 1.5(b).</p>
2.	For domestic transaction between holding co (taxed at 24%) and a dormant subsidiary, can considered as "taxed at same headlines tax rate"? Exempted from preparing CTPD?	<p>The headline tax rate for normal corporate tax is 24%. Therefore, if both companies are taxed at 24%, this meets the condition of being taxed at the same headline tax rate as stated under paragraph 1.5(d)(ii).</p> <p>Accordingly, if a person undertakes a domestic controlled financial transaction that meets all the conditions set forth in paragraph 1.5(d),</p>

BIL.	QUESTION	ANSWER
		they are not required to prepare CTPD for that particular controlled transaction.
3.	Dear Puan, Reference to page 4 : 20% exempted from preparing CTPD. What kind of supporting documents IRB expected . Is benchmarking still required ?	<p>If a taxpayer is exempted from preparing CTPD, the taxpayer must still demonstrate that the controlled transaction was conducted at arm's length. However, the taxpayer is not required to prepare a benchmarking analysis. The taxpayer should be aware of the relevant documentation applicable to their specific business activities and transactions to prove that the controlled transactions are conducted at arm's length.</p> <p>Once a request for information or documentation is made by the IRBM, the taxpayer must comply within 14 days from the date of the request.</p>
4.	Does financial assistance refer to formal loans with signed agreements or does it also include intercompany trade receivables and advance payments for purchases (AP)?	<p>Pursuant to subsection 140A(2) of the Income Tax Act 1967 (ITA), taxpayers involved in controlled transactions, whether for the acquisition or supply of property or services, including financial assistance are required to determine and apply the arm's length principle to such transactions. Under subrule 12(2) of the Income Tax (Transfer Pricing) Rules 2023, financial assistance includes loans, interest-bearing trade credits, advances, debts, and the provision of any security or guarantee.</p> <p>Accordingly, financial assistance is not limited to formal loans with signed agreements. It also encompasses any form of monetary support provided between associated persons, including intercompany trade receivables and advance payments, regardless of whether a formal agreement exists.</p>
5.	If payments on behalf or amounts owing to directors are settled within the same financial year, are they still considered controlled transactions for transfer pricing purposes?	Yes, such transactions are still considered controlled transactions for transfer pricing purposes, even if the payments on behalf of, or amounts owing to, directors are fully settled within the same financial year. This is because the transactions occurred during the basis period for the year of

BIL.	QUESTION	ANSWER
		assessment and therefore fall within the scope of the controlled transaction on that year.
6.	For amount due to a director, is it required to prepare TP? Besides, for amount due to a director, is the director required to charge interest?	To determine whether the amount owing to a director constitutes a controlled transaction, reference should be made to Section 139 and subsection 140A(5A) of the Income Tax Act 1967. If the amount due to the director is regarded as controlled transaction, subsection 140A(2) requires the amount due to directors to be charged with an arm's length interest rate.
7.	Given that a minimum TPD is prepared with reduced documentation requirements. What are the consequences of non-preparing a min TPD?	<p>Effective from Year of Assessment (YA) 2023 onwards, a taxpayer who fails to submit the TPD within 14 days upon receiving a written notice from the Inland Revenue Board of Malaysia (IRBM) may be subject to a penalty under Section 113B of the Income Tax Act 1967.</p> <p>The penalty may include a fine of not less than RM20,000 and not more than RM100,000, or imprisonment for a term not exceeding six months, or both. However, failure to submit the 2023 CTPD requested by IRBM may result in prosecution actions. This penalty structure applies to both minimum and full TPD.</p>
8.	Do we require to prepare CTP for Dormant entities?	For dormant entities, if the company is involved in controlled transactions, it must review the thresholds set in the MTPGL 2024. The requirement to prepare TPD depends on whether the controlled transactions exceed the prescribed thresholds.
9.	How are recent transfer pricing updates affecting Malaysian subsidiaries that receive intercompany payments for services, especially when the service contracts sit with the foreign parent company?	The MTPGL 2024 largely maintain the approach of the previous guidelines but provide greater clarity and emphasis in certain areas. Companies should first review the scope and application of the Guidelines. All related party transactions, including cross-border service arrangements, must comply with the arm's length principle.

BIL.	QUESTION	ANSWER
		<p>Companies must then assess whether they meet the thresholds for preparing TPD under Paragraph 1.7 or qualify for exemption under Paragraph 1.5. If neither applies but the company is involved in controlled transactions, it is still required to prepare CTPD and may choose to prepare either full or minimum CTPD.</p>
10.	<p>14 days for penalty under 113B only starts from written notice under subrule 5(3), how we know the notice is under this subrule? This is different from the normal audit letter with ctpd request right?</p>	<p>The written notice differs from the standard audit letter, as it will be served via registered mail and issued separately for each year of assessment in which the complete CTPD is requested.</p>
11.	<p>Quantitative criteria - we exhausted our search, all comparable's turnover is less than 10% of our revenue. Others co above 10% of sales is rejected as they are engaged in RPT. How ?</p>	<p>In the Malaysian context, comparable companies with turnover of less than 10% of the tested party's revenue are generally considered to have a lesser degree of comparability, unless they are specifically accepted by the IRBM particularly in specialised industries where no better alternatives are available.</p> <p>Taxpayer should provide reasonable justification for not able to get sufficient comparable comparables. If the justification is not acceptable by the IRBM, the Director General may adjust the transfer price to the median or any point above the median within the arm's length range in order to minimise the differences.</p>
12.	<p>If co asked for EOT on the submission of TPD, would IRB charged late penalty still regardless IRB approved the EOT?</p>	<p>A company may request an extension of time (EOT) to submit its TPD, but only during the initial stage, specifically upon receipt of the official request letter ("Surat Memohon Dokumen dan Maklumat") from the IRBM. Approval for EOT is at the discretion of the relevant IRBM State Office or Special Branch, and any extension granted is limited to a maximum of 14 days from the original deadline.</p> <p>If the TPD is not submitted, or if the submitted TPD does not meet the requirements under P.U.(A) 165/2023 and the MTPGL 2024, a written notice will be issued under subrule 5(3) of P.U.(A) 165/2023. Once this</p>

BIL.	QUESTION	ANSWER
		written notice is issued, no further extension of time will be granted. Failure to submit a complete and contemporaneous TPD within 14 days of the notice may result in penalties under Section 113B of the Income Tax Act 1967.
13.	By applying TNMM in selecting comparable, what is the % of RPT is considered significant and tinted? What if the whole industry generally acquire services / products mostly from RP?	<p>Under the Transactional Net Margin Method (TNMM), a company is generally considered a reliable comparable if its related party transactions (RPTs) do not exceed 20% of total revenue. If the RPT level exceeds this threshold, its financial data may be considered unreliable due to potential non-arm's length influence.</p> <p>Although IRBM prefers Malaysian comparables to better reflect local market conditions, in cases where suitable comparables are difficult to find, especially in specialised or niche industries, foreign comparables, including those from the APAC region, may be accepted. This is subject to the condition that the information on the foreign comparables is accurate, sufficient, and verifiable. Reasonable justification for the use of foreign comparables should be included in the CTPD.</p>
14.	For the provision or receive of financial assistance, the threshold is look at by transaction or totality? And also the 50mil refer to net FA movement during the year?	Taxpayers are required to total up all controlled financial assistance provided or received during the basis period for a year of assessment. Therefore, in determining whether the financial assistance exceeds the threshold of RM50 million annually, only the amount of financial assistance provided or received during the year of assessment is considered. Year-end balances or outstanding amounts are not relevant for this determination.
15.	Detailed on controlled transactions and pricing policy are only for key controlled transactions “ - can you please elaborate further on this ?	For the preparation of minimum CTPD, the information required under segments on controlled transactions and pricing policy is only applicable to key controlled transactions. Key controlled transactions refer to

BIL.	QUESTION	ANSWER
		<ul style="list-style-type: none"> (i) controlled transactions that are related to the taxpayer's principal activity, such as the acquisition or supply of raw materials for manufacturing activity; (ii) controlled transactions, other than those in (i), that constitute 20% or more of the operating revenue in each year of assessment.
16.	How does the US tariffs imposed affect the cost evaluation in a transfer pricing assessment in TP Doc?	<p>Please be informed that the discussion about the implementation of US tariffs is still ongoing, and many companies worldwide are still evaluating the best solution to reduce the impact on their supply chain. The impact of these tariffs on cost evaluation in TPD depends on whether they lead to changes in the supply chain involving Malaysian entities. If such changes occur, they may be considered business restructuring as addressed in the MTPGL 2024. Any resulting cost changes, including tariffs, should be properly documented and supported in the TP analysis to ensure compliance with the arm's length principle.</p>
17.	What are the main factors the IRB looks at when selecting companies for transfer pricing audits? Are related party transactions the primary trigger?	<p>As outlined in the Transfer Pricing Tax Audit Framework 2024, the selection of TP audit cases is based on several key factors, including:</p> <ul style="list-style-type: none"> a. selection through risk assessment criteria for controlled transactions; b. restructuring of the company group; and c. information received from third parties including foreign tax authorities. <p>Among these, related party transactions are indeed a primary trigger, particularly when they present significant risk indicators under the IRBM's risk assessment criteria.</p>
18.	If Company A and Company B are related through family shareholding, e.g. father owns A , son owns less than 50% of B,	Paragraph 1.13 of the Guidelines is explained the controlled under section 139 of the ITA which defines the term "control" and outlines the

BIL.	QUESTION	ANSWER
	<p>would transactions between A and B be considered controlled transactions for TP?</p>	<p>criteria for determining related parties, which includes direct or indirect control of one person over another or common control by a third party.</p> <p>While paragraph 1.16 of the Guidelines elaborates on the concept of control under subsection 140A(5A), which introduces additional indicators of control, particularly in situations where shareholding does not constitute the greater part, but there is still a shareholding at least 20% or more. In such cases, control may still be considered present if any of the conditions specified under paragraphs 140A(5A)(a), (b), or (c) of ITA are fulfilled.</p> <p>In this situation:</p> <ul style="list-style-type: none"> • The son owns less than 50% of Company B and thus does not have control under section 139. • However, if the son holds at least 20% in Company B and meets any of the conditions specified under paragraphs 140A(5A)(a), (b), or (c), then Company B may still be regarded as being under his control. <p>Therefore, transactions between Company A (owned by the father) and Company B (where the son is a significant but non-majority shareholder) may be deemed as controlled transactions, provided the “control” under subsection 140A(5A) is established. The mere family relationship between father and son does not automatically constitute control, but it becomes relevant if the son is considered to control Company B under 140A(5A).</p>
19.	<p>What is the minimum comparable that is required in a benchmarking studies that will consider sufficient from IRB's point of view?</p>	<p>There is no specific minimum number of comparables stated in the MTPGL 2024. However, in practice, the IRBM expects a reasonable number of quality comparables to support a benchmarking analysis.</p>

BIL.	QUESTION	ANSWER								
		<p>If taxpayer have more reliable comparables in a benchmarking dataset it will reduce the gap between the range. Thus, it will reflect more appropriate arm's length price. Nevertheless, this depends on a case-by-case assessment, based on the facts and availability of reliable data. Most importantly, in any benchmarking analysis, the focus should be on the reliability and comparability of the data and not merely the quantity of comparables.</p>								
20.	<p>For the due date of tax return submission mentioned for CTPD, do the due date includes grace period under filing programme? Or the original due date, i.e. 7 months from closing of acc?</p>	<p>According to subrule 4(1) Transfer Pricing Rules 2023, the CTPD must be prepared prior to the due date for furnishing a tax return. If taxpayers have been granted an extension of time to file their tax returns, the new extended due date will apply concurrently with the TPD. For example, for taxpayers with financial year end (FYE) 31 December 2024, the due date for the TPD in each scenario is as follows:</p> <table border="1" data-bbox="1167 775 2096 1134"> <thead> <tr> <th data-bbox="1167 775 1774 847">Description</th> <th data-bbox="1774 775 2096 847">Due date of the TPD</th> </tr> </thead> <tbody> <tr> <td data-bbox="1167 847 1774 954">The filing due date based on the Income Tax Act 1967 (ITA)</td> <td data-bbox="1774 847 2096 954">31 July 2025</td> </tr> <tr> <td data-bbox="1167 954 1774 1026">IRBM Filing Program (1-month grace period)</td> <td data-bbox="1774 954 2096 1026">31 August 2025</td> </tr> <tr> <td data-bbox="1167 1026 1774 1134">Extension of time for the tax return to be filed: until 30 November 2025</td> <td data-bbox="1774 1026 2096 1134">30 November 2025</td> </tr> </tbody> </table> <p>However, the application for an extension of time to file the tax return must be applied for accordingly.</p>	Description	Due date of the TPD	The filing due date based on the Income Tax Act 1967 (ITA)	31 July 2025	IRBM Filing Program (1-month grace period)	31 August 2025	Extension of time for the tax return to be filed: until 30 November 2025	30 November 2025
Description	Due date of the TPD									
The filing due date based on the Income Tax Act 1967 (ITA)	31 July 2025									
IRBM Filing Program (1-month grace period)	31 August 2025									
Extension of time for the tax return to be filed: until 30 November 2025	30 November 2025									
21.	<p>If both co enjoy tax incentive i.e. RA & only involved of domestic controlled transactions will both qualify for exemptions of ctpd</p>	<p>If any of the parties enjoys tax incentives, that controlled transaction will not be exempted from preparing transfer pricing documentation under</p>								

BIL.	QUESTION	ANSWER
		paragraph 1.5(d), even if both companies are only involved in domestic controlled transactions.
22.	When talk about person incl ind who conduct biz. What does biz means? Is it sole prop only or how does irb define conduct biz?	Under the Income Tax Act 1967, "business" includes any profession, vocation and trade and every manufacture, adventure, or concern in the nature of trade. However, it specifically excludes employment. Therefore, conducting business is not limited to sole proprietor. It also covers companies and partnerships involved in such activities. In summary, any individual or entity whether a sole proprietor, partnership, or company is considered to be conducting a business if they trade, offer professional services, or carry out activities similar to trade as defined under the Act.
23.	If my Co, A Sdn Bhd own a 51% share in a partnership, LLP, is this considered a RPT subject to TP?	Section 139 of the ITA stipulates that control exists in a company if the person holds the greater part of the share capital or voting power, whether through direct or indirect shareholding. The term "greater part" refers to more than 50% ownership. In this case, A. Sdn. Bhd. holds 51% equity in the Limited Liability Partnership (LLP), thereby meet the control condition under section 139. Therefore, transactions between A Sdn. Bhd. and LLP are considered as controlled transactions , and the arm's length principle must be applied. If the value of the controlled transaction exceeds the relevant thresholds, transfer pricing documentation (TPD) would also be required.
24.	How actually the simplified approach for LVAS work? Assume company have setup a share service center in the company and provide account and HR service to other overseas companies	<p>The simplified approach for Low Value-Adding Services (LVAS) applies to services that are supportive in nature and not part of the core business of the MNE group. The provision of LVAS may, in fact, be the principal business activity of the legal entity providing the service, e.g., a shared service centre, provided that these services do not relate to the core business of the group.</p> <p>In the example provided, the group has set up a shared service centre that provides accounting and HR services to others companies within the group. If these services support the core business but are not central to</p>

BIL.	QUESTION	ANSWER
		it, they may qualify as LVAS, provided they do not involve excluded activities such as software development, research and development (R&D), or top-level management functions.
25.	Will the slides share with zoom attendee after the seminar?	N/A
26.	Our TPD for FY31.12.2023 completed on 15.01.2025. It's a long process to prepare such doc in compliance with new TP rules 2023. Is our doc required to amend to comply with TPG2024?	<p>Hasil acknowledges that the MTPGL 2024 was issued later, although it applies to YA 2023 and onwards. However, Hasil would like to reiterate that, effective from YA 2023, taxpayers are required to prepare TPD in accordance with the requirements stipulated in the Transfer Pricing Rules 2023. Failure to do so will make the TPD non-contemporaneous and expose the taxpayers to a penalty under Section 113B.</p> <p>The MTPGL 2024 serves as guidance to help taxpayers comply with the arm's length principle for controlled transactions they entered into. The MTPGL 2024 does not create any additional requirements beyond those stated in TPR 2023. Taxpayers are allowed to review and update their 2023 TPD without facing a penalty under section 113B, as the penalty concession applies to those whose accounting period begins before the gazette date, i.e. 29 May 2023.</p>
27.	Does controlled transactions include dividend received? In Form e-C YA 2025, among the list of controlled transactions, dividend is removed. What's the intention of the removal?	Generally, dividends represent a distribution of profits, whereas transfer pricing rules are intended to ensure that transactions involving goods, services, or financing between related parties are conducted at arm's length. Since dividends do not constitute related party transactions, taxpayers are not subject to transfer pricing requirements in determining dividends. The removal of dividends from the list of controlled transactions in Form e-C for YA 2025 is intended to avoid confusion.
28.	For the RM1million threshold to prepare TP Doc, for financial assistance, it is referring to the accumulated FA up to current	For the purpose of applying the RM1 million threshold to determine the requirement to prepare TPD, only financial assistance provided during

BIL.	QUESTION	ANSWER
	year, or the additional FA during the year? Amount due to director is a FA?	<p>the year of assessment is considered. Year-end balances or outstanding amounts are not relevant to this determination.</p> <p>According to subrule 12(2) of the Income Tax (Transfer Pricing) Rules 2023, financial assistance includes loans, interest-bearing trade credits, advances, debts, as well as the provision of any security or guarantee. In this context, amounts due to directors may be regarded as controlled financial assistance if the director is an associated person as defined under the ITA. Therefore, such transactions should be assessed for transfer pricing purposes, and if the value exceeds the threshold during the year, TPD would be required.</p>
29.	What documentation must a person exempted under Para 1.5 of the MTPGL prepare to demonstrate compliance with the ALP?	The taxpayer must first prove that they are exempted from preparing a CTPD under paragraph 1.5. As the second step, the taxpayer must demonstrate that the controlled transaction was conducted at arm's length. However, the taxpayer is not required to prepare a benchmarking analysis. While the IRB may request information or documentation, it will not specify the exact documents needed to substantiate the arm's length nature of the transaction. Therefore, the taxpayer should be aware of the relevant documentation applicable to their specific business activities and transactions in order to prove that the controlled transactions are conducted at arm's length. Please be informed that, once a request for information or documentation is made by the IRBM, the taxpayer must comply within 14 days from the date of the request.
30.	We are joining online but seem the slide not clear and can't read those words	N/A
31.	Under Paragraph 1.5(d) of the Guidelines, if an MNE company is a Sdn Bhd and is no PE in Malaysia and fulfills the requirements under para 1.5, can it be exempted from preparing ctpd?	Yes. Please take note, to determine whether a taxpayer is exempted, each condition under paragraph 1.5 must be reviewed sequentially. That is, the taxpayer must assess the conditions from item (a) through to (d),

BIL.	QUESTION	ANSWER
		<p>in order. If a condition is not met, the taxpayer must proceed to evaluate the next item.</p> <p>For example, if none of the conditions under paragraph 1.5(a) to (c) are met, the taxpayer must assess whether the exemption under paragraph 1.5(d) applies. Please take note that under paragraph 1.5(d), the exemption will not apply if:</p> <ul style="list-style-type: none"> (i) One of the parties enjoys tax incentives; (ii) Both parties are taxed at different headline tax rates; or (iii) One of the parties has suffered losses for two consecutive years prior to the controlled transactions. <p>If any of the above conditions under paragraph 1.5(d) apply, the controlled transaction is not exempt from TPD requirements.</p>
32.	<p>May I know what is the meaning of the total controlled transaction under para 1.5(c)?does it include sales, purchase, other income , expenses, amount due by/to relates parties?</p>	<p>The RM1 million threshold stated in paragraph 1.5(c) of the MTPGL 2024 refers to the total amount of all controlled transactions in the basis year for a year of assessment, including both financial assistance and other controlled transactions.</p> <p>Controlled transactions include sales, purchases, other income, and expenses between related parties. Financial assistance includes loans, interest-bearing trade credits, advances or debts, and the provision of any security or guarantee. The total refers to the aggregate amount of such transactions that arise during the basis year, and not the opening, closing, or outstanding balances. For example, in the case of financial assistance such as amounts due from directors, only the assistance provided during the basis year is considered when determining whether the threshold is met. Opening/ year-end balances or outstanding amounts are not relevant to this determination.</p>

BIL.	QUESTION	ANSWER
33.	Is the classification of financial assistance applicable only to cross-border transactions, or does it also extend to domestic (local) intercompany transactions within Malaysia?	The classification of financial assistance is applicable to both cross-border and domestic related party transactions. It is not restricted solely to cross-border transactions.
34.	For the threshold (turnover more than 30 mil + total cross border transaction more than 10m), does the 10m threshold include financial assistance?	The term "controlled transactions totalling RM10 million or more" stated in Paragraph 1.7(a) of the MTPGL 2024 refers to the total amount of all cross border-controlled transactions (e.g. but not limited to sales, purchases or intra-group services) within a year of assessment, excluding any additions of financial assistance (received or provided). The threshold for financial assistance is covered under paragraph 1.7(b) of the MTPGL 2024.
35.	Just to confirm, does the threshold of "not more than RM50 million" include loans of exactly RM50 million?	The phrase "receives or provides controlled financial assistance of more than RM50 million annually" under paragraph 1.7(b) of the MTPGL 2024 refers to the aggregate amount of such transactions that arise during the basis year exceeding RM50 million. Therefore, if the total amount of controlled financial assistance is exactly RM50 million, the transaction does not fall within the scope of paragraph 1.7(b).
36.	Does the threshold for financial assistance exclude opening balance?	For financial assistance, only the assistance provided during the year of assessment is considered. Opening/ year-end balances or outstanding amounts are not relevant to this determination.
37.	Is dividend paid to shareholder a controlled transaction? If yes, is it required to include in TPD?	Generally, dividends represent a distribution of profits, whereas transfer pricing rules are intended to ensure that transactions involving goods, services, or financing between related parties are conducted at arm's length. Since dividends do not constitute related party transactions, taxpayers are not subject to transfer pricing requirements in determining dividends. Information on dividends is not required to be included in the transfer pricing documentation (TPD).

BIL.	QUESTION	ANSWER
38.	How are recent transfer pricing updates affecting Malaysian subsidiaries that receive intercompany payments for services, especially when the service contracts sit with the foreign parent company?	Same as Question 9. Please refer to the answer above.
39.	Based on the TP guideline 2024, is it required to meet all criteria of para 1.5(d) or just one of the criteria of para 1.5(d) for exemption?	<p>Yes, based on paragraph 1.5(d) of the MTPGL 2024, both parties to the controlled transaction must meet all the criteria listed to qualify for the exemption from preparing TPD.</p> <p>In summary, the exemption does not apply if:</p> <ul style="list-style-type: none"> (i) One of the parties enjoys tax incentives; (ii) Both parties are taxed at different headline tax rates; or (iii) One of the parties has suffered losses for two consecutive years prior to the controlled transactions. <p>If any of these conditions apply, the taxpayers are not eligible for the exemption from preparing TPD.</p>
40.	We're a MY subsidiary (<MYR2M revenue) owned by Swiss HQ. We deliver services but client contracts are with HQ. What TP docs are required? Is benchmarking still needed in this setup?	<p>If the Malaysian entity is considered a permanent establishment (PE), then it must prepare its own full set of contemporaneous transfer pricing documentation (CTPD), separate from its head office and other related branches, as specified under the MTPGL 2024. This requirement applies regardless of whether the PE meets the thresholds set out in paragraphs 1.5 or 1.7 of the MTPGL 2024.</p> <p>However, if the Malaysian subsidiary is not regarded as a PE, the company should assess whether it meets the thresholds for preparing transfer pricing documentation, as outlined in Paragraph 1.7, or whether it qualifies for the exemption under Paragraph 1.5 of the MTPGL 2024. If the company is involved in a controlled transaction but does not fall under either Paragraph 1.5 or 1.7, it is still required to prepare TPD and may choose to prepare either a full or minimum CTPD.</p>

BIL.	QUESTION	ANSWER
41.	Puan, is there a database that LHDN could provide for selection of comparable companies to minimize deviation which will result in adjustment?	LHDN does not provide a database or service for the selection of comparable companies for transfer pricing purposes. Taxpayers are responsible for identifying appropriate comparables using reliable and publicly available data sources to prepare their benchmarking analysis and ensure compliance with the arm's length principle.
42.	Is Dividend paid to shareholders is controlled transaction? Does it need to include in TP doc?	Same as Question 37. Please refer to the answer above.
43.	Co A and Co B under same group. Co A incurred expenses in bulk. Then reimburse expenses from Co B. Is it require to prepare TPD? Should there be a mark-up applied on the reimbursement?	<p>Please take note that you need to determine whether the reimbursed expenses are pass-through costs or if they are actually related to intra-group services provided by Company A to Company B.</p> <p>Pass-through costs refer to third-party expenses incurred by a person on behalf of group members or independent customers while acting as an intermediary. In this instance, the person does not perform any value-added functions nor assume any risks.</p> <p>On the other hand, if the expenses relate to intra-group services, then a mark-up would typically apply to reflect the service rendered.</p> <p>You may refer to Chapter 3, MTPGL 2024 for further detail on this matter.</p>
44.	In view of TP become annual mandatory compliance, will IRB (or SSM) consider to provide database services (base on MSIC code) in the near future after MBRS and MITRS implementation?	Same as Question 41. Please refer to the answer above.
45.	For SME that only engage in domestic business, the requirement to prepare TP documentation can be burdensome, esp. most SME benefits from preferential tax rate 15%-24%. Hope LHDN can consider relaxing.	<p>We acknowledge that the preparation of transfer pricing documentation (TPD) may present a compliance burden for SMEs that engage solely in domestic transactions.</p> <p>However, it is important to note that SMEs involved only in domestic business may be exempted from preparing TPD if they meet the conditions set out in paragraph 1.5(c) or 15(d) of the Malaysian Transfer Pricing Guidelines 2024. The exemption is intended to ease the</p>

BIL.	QUESTION	ANSWER
		<p>compliance burden for taxpayers with lower transfer pricing risk. In line with this, taxpayers involved in domestic-controlled transactions (except for domestic financial assistance exceeds RM50 million annually) are not required to prepare full contemporaneous transfer pricing documentation (CTPD). Instead, they are only required to prepare minimum transfer pricing documentation, which is less detailed and less resource-intensive.</p>
46.	<p>For solely domestic controlled transactions, need to fulfill all 3 conditions (paragraph 1.5(d)), then only qualified for exemption?</p>	<p>Same as Question 39. Please refer to the answer above.</p>
47.	<p>If the loan amount is exactly RM50mil ,do we still need to prepare full TPD given the threshold is "not more than RM 50mil? Can I prepare minimum tpd?</p>	<p>Paragraph 1.7(b) of the MTPGL 2024 states that the threshold applies where a person “receives or provides controlled financial assistance of more than RM50 million annually.” Therefore, if the loan amount is exactly RM50 million, it does not meet the stated threshold. In such cases, the company may prepare minimum Transfer Pricing Documentation (TPD).</p> <p>Please note that the determination of the RM50 million threshold is based on the total amount of financial assistance provided or received during the basis period for a year of assessment. Year-end balances or outstanding amounts are not relevant for this purpose.</p>
48.	<p>Does the amount of controlled transactions of RM1 million include interest paid to related parties, as the FA is in a different category of threshold for the preparation of min or full TPD?</p>	<p>In computing the threshold outlined in paragraphs 1.5 and 1.7(b) of the MTPGL 2024, interest income and expenses should be excluded. This is because such interest cannot arise unless financial assistance has been provided or received. Therefore, for the purpose of determining the threshold, it is sufficient to consider only the amount of financial assistance provided or received.</p>

BIL.	QUESTION	ANSWER
49.	The meaning of due date of tax return submission for CTPD, includes grace period under filing programme? Or the original due date under the law? i.e. 7 months from year end.	Same as Question 20. Please refer to the answer above.
50.	If co with tax incentive & involve in domestic controlled transactions only for more than Rm1 mil, will it qualify for ctpd exemptions or will require to prepare min ctpd	<p>Please take note, to determine whether a taxpayer is exempted, each condition under paragraph 1.5 must be reviewed sequentially. That is, the taxpayer must assess the conditions from item (a) through to (d), in order. If a condition is not met, the taxpayer must proceed to evaluate the next item.</p> <p>For example, if none of the conditions under paragraph 1.5(a) to (c) are met, the taxpayer must assess whether the exemption under paragraph 1.5(d) applies. Please take note that under paragraph 1.5(d), the exemption will not apply if:</p> <ul style="list-style-type: none"> i) One of the parties enjoys tax incentives; ii) Both parties are taxed at different headline tax rates; or iii) One of the parties has suffered losses for two consecutive years prior to the controlled transactions. <p>If any of the above conditions under paragraph 1.5(d) apply, the controlled transaction is not exempt from TPD requirements.</p>
51.	For minimum CTPD need to provide TNMM analysis? or just explain how the pricing policy set between RP and third party?	For a minimum CTPD there is no requirement to include the TNMM analysis as long as the taxpayer can provide evidence that the pricing policy comply with the arm's length principle that will be sufficient. However, the IRBM may request a TNMM analysis if this method is the found to be the most appropriate method to reflect the arm's length price for the controlled transaction.

BIL.	QUESTION	ANSWER
52.	Do we need a formal service agreement between our Swiss parent and Malaysian subsidiary for intercompany services? If yes, is there a recommended template we can refer to?	<p>Yes, a formal service agreement between related parties is required. As stipulated under Schedule 2 of the Income Tax (Transfer Pricing) Rules 2023, taxpayers must prepare valid contracts or commercial agreements that outline the terms and conditions of transactions with associated persons, including intercompany services. These agreements must also be included as part of the Transfer Pricing Documentation (TPD).</p> <p>The agreement should reflect the actual conduct of the parties and be tailored to the nature of the relationship and services provided. While there is no standard or recommended template provided by the IRBM, the agreement must contain all relevant information as required under the TP Rules. The content should be determined by the parties themselves, as they are responsible for entering into and performing the services.</p>
53.	Under Paragraph 1.5(d) of the Guidelines, if an MNE company is a Sdn Bhd and is no (PE) in Malaysia and fulfills the requirements, so we still need to prepare ctpd	<p>Subsection 140A(2) requires any controlled transactions engaged in to adhere to the arm's length principle (ALP). Therefore, even though a taxpayer is exempted from preparing a CTPD, the person is still required to adhere to ALP for any controlled transaction he/she entered into. The requirements to prove the compliance are stated in paragraph 1.6 of the MTPGL.</p> <p>There is no specific requirement for taxpayers who fall under paragraph 1.5 to prepare a comparability analysis to support compliance with the ALP. However, if during the audit exercise, taxpayers are required by the IRBM to prepare the comparability analysis to justify the ALP, then the taxpayer is required to do so. This comparability exercise does not change the exemption for preparing a CTPD unless the taxpayer does not meet any condition to be exempted under paragraph 1.5.</p>

BIL.	QUESTION	ANSWER
54.	Slide 32, given the same scenario, should the taxpayer already prepare a TPD applied cost plus method, is the TPD carry? Or still need to go for IGS?	<p>Slide 32 refers to an example involving a Cost Contribution Arrangement (CCA) that was eventually re-characterized as a service provider arrangement following an audit. If the taxpayer had prepared transfer pricing documentation (TPD) prior to the audit based on the cost-plus method, the question arises whether that TPD can still contemporaneous or not.</p> <p>It is important to note that any re-characterization of the arrangement, such as from a CCA to an intra-group service (IGS) arrangement may affect the arm's length pricing. In such cases, the taxpayer may need to revise the comparability analysis to appropriately support the new characterisation.</p>
55.	Related Co B bills Related Co A with no markup due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	<p>All transactions between related parties, including those involving transparent client arrangements must adhere to the arm's length principle. This principle requires that the terms and conditions of transactions between associated enterprises should not differ from the price that would have been determined if such transactions were made between independent entities under the same or similar economic circumstances.</p> <p>In cases where Co B bills Co A with no mark-up due to a transparent client arrangement, the transaction has not complied with arm's length principle. Therefore, an arm's length pricing should be calculated and apply those transaction.</p>
56.	For 10 million cross border transaction thresholds, does it include Financial Assistance?	The phrase "cross border-controlled transactions totalling RM10 million or more" in Paragraph 1.7(a) of the MTPGL 2024 refers to the total amount of all cross border-controlled transactions, including but not limited to sales, purchases, or intra-group services, carried out within a year of assessment. This total excludes any financial assistance provided

BIL.	QUESTION	ANSWER
		or received, as financial assistance is subject to a separate threshold under Paragraph 1.7(b) of the Guidelines.
57.	Minimum ctpd any submission deadline?	<p>A CTPD regardless of it minimum or full CTPD must be prepared and ready prior to the due date for furnishing a return in the basis period for a year of assessment in which controlled transaction is entered into. However, the CTPD is not required to be submitted, but it must be maintained by the company and made available upon request by IRBM.</p> <p>Should the IRBM request the company's TPD, the submission must be directed to the respective IRBM office handling the company's tax affairs. Failure to submit the requested CTPD within 14 days from the date of the notice served may result in the company being subject to penalties under Section 113B of the Income Tax Act 1967.</p>
58.	Is a TPD consider contemporaneous if the TPD is prepared and dated after the submission of Form C but before the due date of tax return submission?	<p>Yes, TPD that is prepared and dated after the submission of Form C but before the due date for furnishing the tax return may still be regarded as contemporaneous, provided it fulfils all the requirements under the Income Tax (Transfer Pricing) Rules 2023 and the MTPGL 2024.</p> <p>However, to ensure that the submitted tax return complies with the applicable regulations and reflects the arm's length principle, taxpayers are strongly advised to complete the CTPD before submitting the tax return.</p>
59.	IRBM issued hybrid instrument guidelines. The company updated its TPD, but IRBM rejected its appeal on the instrument's treatment and imposed deemed interest during tax audit.	The Guidelines on Tax Treatment of Hybrid Instrument are intended to provide an explanation on the key features of a hybrid instrument and factors considered in determining whether a hybrid instrument is classified as equity or debt for tax purposes. The Guidelines also outline the tax treatment of distribution or profit on a hybrid instrument for both the holder and issuer of the instrument. Please take note that, before determining the appropriate tax treatment, an assessment must first be

BIL.	QUESTION	ANSWER
		<p>made to determine whether the features of the hybrid instrument is equity or debt.</p> <p>In this regard, the audit outcome depends on the specific facts and circumstances of the case. The taxpayer is advised to discuss the matter with the Special Branch or the relevant LHDNM State Office handling the audit for further clarification.</p>
60.	Related Co B bills Related Co A with no mark-up due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
61.	Related Co B bills Related Co A with no mark-up due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
62.	If a TPD dated after due date, then the TPD will never be able to be contemporaneous, what is the effect of 113B as you will never have CTPD, so max penalty applies?	<p>As stipulated under rule 4, Income Tax (Transfer Pricing) Rules 2023, [P.U.(A) 165/2023], a TPD will be considered non-contemporaneous in two situations:</p> <ul style="list-style-type: none"> (i) when it is prepared after the due date (this relates to the “completion date” under subrule 4(1)); and (ii) when it is incomplete (i.e. it does not contain all the required information specified under subrule 4(2), including indexing; or clear indication where certain information is not applicable (N/A), as required under subrule 4(3). <p>Therefore, even if the TPD is submitted within 14 days of a written notice served, taxpayers may still be exposed to an offence under section 113B if the TPD is not contemporaneous. The penalty will apply for the period during which the TPD remains non-contemporaneous.</p>

BIL.	QUESTION	ANSWER
		<p>However, if the only issue is that the completion date is later than the due date, IRBM may consider not imposing the penalty under section 113B, depending on the facts and circumstances of the case. Nonetheless, taxpayers are strongly advised to prepare and finalise the TPD before the statutory deadline to demonstrate good compliance and reduce the risk of penalties.</p>
63.	<p>Can there be a form of online clarification and review with Lhdn without fear of penalty as to the documentation which meets the lhdn requirements for TP compliance on a live basis</p>	<p>Please note that such a service is not available. However, if the taxpayer fulfils all the requirements stated in the TP Rules 2023 and the Malaysian Transfer Pricing Guidelines 2024 (MTPGL 2024), the taxpayer would be considered in compliance with TP requirements, and penalties may not be imposed.</p>
64.	<p>How do you define RM1mil for TPD exemption for financial assistance? Only financial assistance to and from for that YA or include opening balances? How about repayment of previous owings?</p>	<p>Please be informed that when determining the threshold for financial assistance, only the financial assistance provided/ from during the year of assessment is considered. Year-end balances or outstanding amounts are not relevant to this determination. The gross year-end balances do not reflect the total amount of controlled financial transactions undertaken during the year. The repayment of previous borrowings is also not relevant in determining the total financial assistance.</p>
65.	<p>Whether any plan to publish benchmark of profit margin by industries by IRB in the future?</p>	<p>Please be informed that there is no plan by the IRBM to publish benchmark profit margins by industry. This is because the determination of appropriate profit margins should not be solely based on industry classification, as companies within the same industry may perform different functions, bear different risks, and utilise different assets.</p>
66.	<p>This is my 1st time expose to Transfer Pricing. Based on the 1st session that we had, I still clueless what is TP, why company have to exercise it, where does this TP stand in the accounting flow?</p>	<p>Transfer pricing (TP) refers to intercompany pricing arrangements for the transfer of goods, services and intangibles between associated persons. Ideally, the transfer price should not differ from the prevailing market price which would be reflected in a transaction between independent persons.</p>

BIL.	QUESTION	ANSWER
		<p>Companies are required to apply TP to ensure that profits are appropriately allocated among group entities based on the value they create. This directly affects the taxable income of each entity involved. In terms of where TP fits in the accounting flow, the transfer price will impact the revenue and expenses recorded by the related entities, and ultimately affect the net profit reported and the amount of tax payable to the relevant tax authorities.</p> <p>For more detailed guidance on transfer pricing in Malaysia, you may refer to the official HASiL website: https://www.hasil.gov.my/antarabangsa/harga-pindahan/</p>
67.	Shouldn't the FA be excluded from the RM 1 million threshold for CT, since FA is in a different category under Para 1.7. Perhaps hv a different threshold for FA instead of RM1 million.	The intention behind the exemption under paragraph 1.5(c) is to provide administrative ease and to reduce the compliance burden and cost for controlled transactions involving small amounts. Therefore, the RM1 million threshold remains inclusive of all types of controlled transactions, including financial assistance.
68.	When mentioned about supp docs under exempted person , if its pure services recipient and not provider? Do i still need to prepare?	<p>As stipulated under rule 9 of the Income Tax (Transfer Pricing) Rules 2023, [P.U.(A) 165/2023], any person involved in a controlled transaction is required to determine the arm's length price for intra-group services and to demonstrate that the services have been rendered. This rule applies to both the service recipient and the service provider.</p> <p>Furthermore, under paragraph 1.6 of the MTPGL 2024, taxpayers are still required to prepare written explanation and justification, supported with relevant documentation to demonstrate compliance of the arm's length principle for all controlled transactions. Therefore, even if the taxpayer is only a service recipient, and falls under the exemption category, supporting documents are still required to show that the service was received, benefited the business, and was charged at arm's length.</p>

BIL.	QUESTION	ANSWER
69.	Para1.5 must met all a,b,c & d or either one of it to qualify for ctpd exemptions	<p>To determine whether a taxpayer qualifies for exemption under paragraph 1.5 of the Transfer Pricing Guidelines, each condition under items (a) to (d) must be assessed sequentially. The taxpayer must review these conditions in order—starting from paragraph 1.5(a), then proceeding to (b), (c), and finally (d), if the earlier conditions are not met. For example, if the taxpayer does not qualify for exemption under paragraphs 1.5(a) to 1.5(c), they must then evaluate paragraph 1.5(d).</p> <p>However, the exemption under paragraph 1.5(d) does not apply if any of the following conditions are met:</p> <ul style="list-style-type: none"> (i) One of the parties to the controlled transaction enjoys tax incentives; (ii) The parties are subject to different headline tax rates; or (iii) One of the parties has incurred losses in two consecutive years prior to the controlled transaction. <p>If any of these apply, the taxpayer is not exempted from preparing contemporaneous transfer pricing documentation (CTPD), even if paragraph 1.5(d) is being considered.</p>
70.	If during the year there is no new loan or financial assistance, just repayment of an earlier loan, do we still need to prepare TPD? Or can we just rely on the existing TPD without doing a fresh one?	For financial assistance, only the assistance provided during the year of assessment is considered. Year-end balances or outstanding amounts are not relevant to this determination. Therefore, if there are no other controlled transactions in that year of assessment, the TPD is not required.
71.	FA on threshold refer to new principal loan, but this differ from Form C disclosure where its opening plus addition -new loan, so how does it work	The financial assistance refers to the total financial assistance receive or provided during the basis period without regards to any repayment made or received for the financial assistance. This will be amended in the Guide Book c2025.

BIL.	QUESTION	ANSWER
72.	Both co are taxed at 17% SME, not fulfill “taxed at same headline tax rate”?	Yes, your understanding is correct.
73.	RM1mil exemption threshold - look at Loan amount or Interest amount?	For financial assistance, the loan amount is considered when calculating the total controlled transactions. The interest amount should not be included in computing the threshold outlined in paragraphs 1.5 and 1.7(b) of the MTPGL 2024. This is because such interest cannot arise unless financial assistance such as a loan has been provided or received. Therefore, for the purpose of determining the threshold, it is sufficient to consider only the principal amount of financial assistance provided or received.
74.	Are the exemption criteria for Para 1.5c and d mutually exclusive? If company has CT of more than RM1 million but are exempted under Para 1.5d, is the company required to prepare a CTPD?	<p>To determine whether a taxpayer qualifies for exemption under paragraph 1.5 of the Transfer Pricing Guidelines, each condition under items (a) to (d) must be assessed sequentially. The taxpayer must review these conditions in order—starting from paragraph 1.5(a), then proceeding to (b), (c), and finally (d), if the earlier conditions are not met. For example, if the taxpayer does not qualify for exemption under paragraphs 1.5(a) to 1.5(c), they must then evaluate paragraph 1.5(d).</p> <p>However, the exemption under paragraph 1.5(d) does not apply if any of the following conditions are met:</p> <ul style="list-style-type: none"> (i) One of the parties to the controlled transaction enjoys tax incentives; (ii) The parties are subject to different headline tax rates; or (iii) One of the parties has incurred losses in two consecutive years prior to the controlled transaction. <p>If any of these apply, the taxpayer is not exempted from preparing contemporaneous transfer pricing documentation (CTPD).</p>

BIL.	QUESTION	ANSWER
75.	Further to this question: For 10million cross border transaction threshold, does it include Financial Assistance? Does the 10million includes interest expenses?	The phrase "cross-border controlled transactions totalling RM10 million or more" in Paragraph 1.7(a) of the MTPGL 2024 refers to the total amount of all cross-border controlled transactions, including but not limited to sales, purchases or intra-group services carried out within a year of assessment. This total excludes any financial assistance provided or received, as financial assistance is subject to a separate threshold under Paragraph 1.7(b) of the Guidelines. Interest income and interest expenses should not be considered in calculating the threshold, as such income or expenses arise only as a result of financial assistance being provided or received. Therefore, for the purpose of assessing the threshold, it is sufficient to consider only the amount of the financial assistance itself, not the resulting interest.
76.	Just to confirm, the 50million threshold for financial assistance refer to additional financial assistance received and provided during the year. Besides, it does not include the interest charge.	The RM50 million threshold for financial assistance stated in Paragraph 1.7(b) of the MTPGL 2024 refers to the total amount of financial assistance received or provided during the year of assessment, without regard to any repayments made or received. Year-end balances or outstanding amounts are not relevant to this determination. Interest income and interest expenses should not be considered in calculating the threshold, as such income or expenses arise only as a result of financial assistance being provided or received. Therefore, for the purpose of assessing the threshold, it is sufficient to consider only the amount of the financial assistance itself, not the resulting interest.
77.	Related Co B bills Related Co A with no mark-up due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
78.	Thank you very much for the clarification. If interest expenses are unpaid during the year, will the unpaid interest expenses become a financial assistance from related company? Thanks	If the interest expense is continuously unpaid the question arises is whether the interest expense is really an interest or not. Further review on the characteristic of the loan is needed to ensure it is not an equity.

BIL.	QUESTION	ANSWER
79.	Related Co B bills Related Co A with no mark-up due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
80.	If the related party transaction consists of day to day expenses paid by the director on behalf of the company, does this need to be included in the minimum CTPD	A payment made on behalf of a related party (i.e. director) may be re-characterised as a loan if it meets the criteria set in the Guidelines on Tax Treatment of Hybrid Instrument. Particular label or description assigned to the transaction does not reflect the actual economic substance of that transaction. If the payment on behalf is effectively controlled financial assistance, it should be included in the minimum CTPD if it is part of the key controlled transactions. However, taxpayers are still required to list this transaction in the minimum CTPD even though it is not part of the key controlled transactions.
81.	Does the 14-day from the written notice include the notice date? The example's written notice was issued on 18.02.2025. The deadline to furnish the CTPD was indicated as 03.03.2024 - typo/leap year?	The 14-day period commenced from the day immediately after the date of the written notice. Based on the slide 36, if the written notice was served on 18 February 2025, the 14-day period commenced on 19 February 2025 and the 14th day falls on 3 March 2025. There is a typo on the date shows on the slide. Amendment to the slide will be made accordingly.
82.	Related Co B bills Related Co A with no mark-up due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
83.	If taxpayer update their TPD annually, why is a surcharge imposed as it is not their fault as comparables data are not available at the time of preparation of TPD?	An uncontrolled transaction conducted within the same basis period serves as the most reliable comparable, as it can accurately reflect the market conditions and economic environments of the taxpayer's controlled transactions. Due to practical challenges of preparing CTPD taxpayer are allowed use the most current readily available data of the comparable companies. Once the current year financial data is readily available, taxpayers should revisit and update the benchmarking analysis

BIL.	QUESTION	ANSWER
		<p>and evaluate whether any adjustments are needed to reflect the appropriate arm's length pricing for the controlled transactions. Any upward adjustment will be subject to a surcharge.</p> <p>However, in cases where updated benchmarking results in an upward transfer pricing adjustment, taxpayers may opt to make a voluntary disclosure. For such disclosures, the surcharge rate imposed under subsection 140A(3C) of the Income Tax Act may be reduced from the standard 5% to a rate between 0% and 4%. The process of updating the benchmarking analysis will not impact the contemporaneous status of the original TPD.</p>
84.	Related Co B bills Related Co A with no markup due to a transparent client arrangement. In this situation, how should we determine the pricing for this intercompany transaction?	Same as Question 55. Please refer to the answer above.
85.	Slide 32, given the same scenario, should the taxpayer already prepare a TPD applied cost plus method, is the TPD carry? Or still need to go for IGS?	Same as Question 54. Please refer to the answer above.
86.	How do we justify interest free loan from subsidiary / holding co for TP purposes. Most of the time this is the option for company to reduce cost. But IRB disagree most of the time	<p>As stipulated under subrule 12(1), Income Tax (Transfer Pricing) Rules 2023, [P.U.(A) 165/2023], any person involved in a controlled transaction who provides or receives financial assistance, whether with or without consideration, is required to determine the arm's length interest rate for such assistance.</p> <p>This means that interest-free loans are not acceptable for transfer pricing purposes, and the arm's length principle must still be applied. The interest rate should reflect what independent parties would have agreed upon under similar market conditions. While businesses may opt for interest-free loans between related entities as a cost-saving measure, such</p>

BIL.	QUESTION	ANSWER
		arrangements are not accepted by the IRBM, as they are not commercially realistic in dealings between unrelated parties.
87.	<p>What if the amount provided during the year is exactly RM50 million during the year?</p> <p>Noticed the examples given is RM51 million? For determining full CTPD purpose.</p>	Same as Question 47. Please refer to the answer above.
88.	<p>If shareholder is also the director of the company, how to determine whether its controlled transaction?</p>	<p>To determine whether a controlled transaction exists, it is essential to establish whether a relationship of control exists between the entities involved. The first test is under Section 139 of the Income Tax Act 1967 (ITA), where control is established if there is direct shareholding of more than 50% of the ordinary share capital or voting power by one company in another, or by the same individual in both entities. If this condition is met, the entities are considered controlled, and any transactions between entities would be a controlled transaction.</p> <p>If Section 139 is not satisfied, a further test may be applied under Section 140A(5A) of ITA. This provision deems control to exist for transfer pricing purposes if:</p> <ul style="list-style-type: none"> a) A person holds at least 20% direct shareholding in another entity; and b) At least one of the following conditions is met: <ul style="list-style-type: none"> i) The person controls the management of the other entity; ii) The person controls the capital of the other entity; iii) The person controls rights such as access to assets, use of property, or policy decisions.

BIL.	QUESTION	ANSWER
		If either Section 139 or Section 140A(5A) is satisfied, a controlled relationship exists, and consequently, transactions between the entities will be regarded as controlled transactions.
89.	Does transaction with a company where shares interest is held by the immediate family member of the director should consider as controlled transaction ?	Please refer to the Question 88 for the determination of controlled. In addition to that, Subsection 140A(5) of ITA 1967 also determined as a controlled transaction is transaction between: <ul style="list-style-type: none"> (a) Person one of whom has control over the other (b) Individuals who are relatives of each other; or (c) Persons both of whom are controlled by some other person
90.	Is submission of ctpd perpetual? I may have controlled transactions or financial assistance last year, but may not have any this year. Will I be exempted under 1.5(c)?	The requirement to prepare CTPD is not perpetual. A taxpayer is only required to prepare CTPD for a particular year of assessment if there are controlled transactions in that year. If there are no controlled transactions during that year, the preparation of a CTPD is not required. <p>The exemption under paragraph 1.5 of the Malaysian Transfer Pricing Guidelines (MTPGL) 2024 is only applicable if all conditions stated in the paragraph are fully satisfied. Kindly refer to the Transfer Pricing Documentation (TPD) Flowchart for the Year of Assessment 2023 onwards that are available on the HASiL website here. The flowchart provides clear guidance on when full or minimum CTPD is required or when an exemption may apply.</p>
91.	Besides controlled transactions stated in AFS's related party disclosures , do we take balance sheet - amount owing from/to related party (which is not stated in related party disclosures) for TP?	For transfer pricing purposes, all controlled transactions entered into during the year must be accounted for, not only limited to those disclosed in the related party notes of the AFS. This includes amounts owing from or to related parties incurred during the year.
92.	If my co, A Sdn Bhd owned 51% shares in a LLP partnership, is this considered a RPT subject to Tp?	Same as Question 23. Please refer to the answer above.

BIL.	QUESTION	ANSWER
93.	From our experience, we received an inquiry letter from IRBM requesting for information on Friday, 3pm. and the 14 days due date is including weekend. Would IRBM consider to change to 14 working days?	<p>The 14-day deadline for responding to IRBM’s request for information is calculated based on calendar days, which includes weekends and public holidays. This is the standard practice adopted by the Inland Revenue Board of Malaysia (IRBM).</p> <p>However, we take note of the concern regarding letters received late in the week and the inclusion of weekends in the calculation of the response period.</p>
94.	Let’s say there is a TP adjustment, with TP charge 5%. Is it possible to appeal to lower or even waive the TP surcharge? Is it also possible to allow payment by instalments/ set off? Thank you.	<p>Subsection 124(3) of the ITA has empowered the DG to abate or remit any surcharge imposed on a case-to-case basis, provided that the taxpayers have submitted reasonable justification for the appeal. Since the appeal processes under Section 99 of the ITA are not applicable to surcharges, taxpayers may make a written appeal application with justification to the IRBM offices handling their tax file.</p> <p>Please refer to this link for further understanding on surcharge matter:</p> <p><u>Frequently Asked Questions (FAQ) on matters arising from Subsection 140A(3C), ITA 1967 (as at 18/01/2024)</u></p>
95.	Dr Wan's presentation on minimum CTPD includes functional analysis to better understand where is the value created. But the TPGL2024 excludes functional analysis. Can we confirm it is not required?	<p>For a minimum CTPD, HASiL provides a template along with an explanatory note to assist taxpayers in preparing the documentation. The template serves only as general guidance and outlines the minimal information that should be included in a minimum CTPD. However, taxpayers may submit their own minimum CTPD, which can include additional information beyond what is provided in the template, such as functional analysis and comparability analysis, to better demonstrate the company’s functions, risks borne and pricing policy. If such information is necessary to justify the company’s profile and pricing policy, the taxpayer is required to include it.</p>

BIL.	QUESTION	ANSWER
96.	If the CEO of Malaysia company giving a strategic advice to a related company in Indonesia, all TP calculation in place with internal tax team, how should the MY company declare to LHDN?	<p>If the CEO of a Malaysian company provides strategic advice to a related company in Indonesia, this constitutes an intra-group service (IGS) and should be treated as a controlled transaction under Section 140A of the Income Tax Act 1967 and the Income Tax (Transfer Pricing) Rules 2023.</p> <p>The Malaysian company, as the service provider, must ensure that the amount charged for the IGS is in line with the arm's length principle, even if all TP calculations have been prepared by the internal tax team. The company must undertake a comparability analysis to demonstrate that the charge complies with the arm's length principle, and the transaction should be properly documented in the contemporaneous transfer pricing documentation for the relevant year of assessment.</p> <p>For further guidance on IGS, please refer to Chapter 6 of the MTPGL 2024, which provides detailed guidance on the treatment of intra-group services.</p>
97.	Is the criteria provide financial > Rm50million, only cover we provide loan to related party? or including we having financial assistance from bank (equivalent loan)	<p>The threshold stated in Paragraph 1.7(b) of the Malaysian Transfer Pricing Guidelines 2024 refers to the total amount of financial assistance received from or provided to related parties only.</p> <p>Financial assistance received from a bank will only be included if the bank is a related party. If the bank is not a related party, such financial assistance is not considered for the purpose of determining the RM50 million threshold.</p>
98.	If there is a change in accounting period during the financial year, how do we determine the threshold	<p>If the company changes its accounting period, the threshold will be calculated based on the new accounting period. This is because Transfer Pricing Documentation (TPD) must be prepared according to the company's accounting period for the year of assessment, as explained in Rule 4(1) of the Income Tax (Transfer Pricing) Rules 2023. For more details on how to determine the accounting period when a company changes it, please refer to Public Ruling 8/2014 titled "Basis Period of a</p>

BIL.	QUESTION	ANSWER
		Company, Limited Liability Partnership, Trust Body, and Co-operative Society.
99.	Our company is incorporated in Malaysia, has a 100% shareholding by a Holding Company incorporated in UK. Our revenue is cost plus mark-up 6% towards that Holding company. Annual revenue is RM 5M.	<p>From the perspective of transfer pricing and the preparation of contemporaneous transfer pricing documentation (CTPD), the company is required to ensure that its related-party transaction complies with the arm's length principle. This means the 6% mark-up must be justifiable and reflect what independent parties would have agreed upon under similar conditions.</p> <p>The company must undertake a comparability analysis to demonstrate that the charge complies with the arm's length principle, and the transaction should be properly documented in the CTPD for the relevant year of assessment.</p> <p>To determine whether full or minimum CTPD is required, the company is advised to refer to the Transfer Pricing Documentation (TPD) Flowchart for the Year of Assessment 2023 onwards, which is available on the HASiL website [here]. This flowchart provides general guidance to help assess the documentation obligations based on the nature and amount of related-party transactions.</p>