

CHECKLIST OF FULL CONTEMPORANEOUS TRANSFER PRICING DOCUMENTATION

1. Multinational Enterprise Group Information – Schedule 1

- (a) the Multinational Enterprise Group's worldwide organizational structure that shows the location and ownership linkages among all entities in the Multinational Enterprise Group transacting with the person in the basis period; []
- (b) a description of the Multinational Enterprise Group's businesses that are relevant to the business of the person in the basis period, including — []
 - (i) the Multinational Enterprise Group's businesses, products and services, geographic market and key competitors in that basis period; []
 - (ii) the supply chains of those businesses, products and services; []
 - (iii) the Multinational Enterprise Group's business models and strategies in that basis period; []
 - (iv) the business drivers of the Multinational Enterprise Group's business profit in that basis period; []
 - (v) the industry, market, regulatory and economic conditions in which the Multinational Enterprise Group operates in that basis period; []
 - (vi) the business activities of each entity in the Multinational Enterprise Group and the functional analysis describing their contributions, including functions performed, assets used and risk assumed, in that basis period; and []
 - (vii) changes to the Multinational Enterprise Group's structure through restructuring, acquisition or divestiture in that basis period; []
- (c) a description of the Multinational Enterprise Group's intangible property that are used in or applied to the business of the person in Malaysia in that basis period, including— []
 - (i) the Multinational Enterprise Group's strategy for the development, ownership and exploitation of intangible property in that basis period, including the location from which the research and development is managed; []

- (ii) a list of the intangible property and the names of the entities in the Multinational Enterprise Group that have legal ownership of those intangible property; []
- (iii) a list of agreements among the entities concerning the intangible property, including cost contribution arrangements, cost sharing agreements, research service agreements and license agreements; []
- (iv) the Multinational Enterprise Group's transfer pricing policies relating to research and development and the intangible property in that basis period; and []
- (v) any transfer of interest in the intangible property among the entities in that basis period, including the names of the entities and the countries they carry on businesses in, and the amount of compensation involved; []
- (d) the Multinational Enterprise Group's financial activities that are connected to the business of the person in Malaysia in the basis period, including— []
 - (i) the Multinational Enterprise Group's financial activities in that basis period, including the Multinational Enterprise Group's inter-entity financial activities and financing arrangement with lenders who are not associated person; []
 - (ii) identification of any entity of the Multinational Group that provides a central financing function for the Multinational Enterprise Group in that basis period; and []
 - (iii) a description of the Multinational Enterprise Group's transfer pricing policies relating to financing arrangements between associated persons in that basis period; []
- (e) financial and tax position of the Multinational Enterprise Group—
 - (i) the Multinational Enterprise Group's annual consolidated financial statements relating to the business of that person in Malaysia in that basis period; and []
 - (ii) a list and brief description of the Multinational Enterprise Group's existing unilateral advance pricing agreements and other tax rulings relating to the allocation of income among countries. []

2. Business Information – Schedule 2

(a) organisational structure

- (i) the person's worldwide organisational and ownership structure (including global organization chart and significant changes in the relationship, if any), covering all associated persons whose transactions directly or indirectly affect the pricing of the transactions between associated persons; []
- (ii) a description of the management structure of the person's business including reporting lines between the management of the person's business and its associated person and a description of the individuals to whom the management of the person's business reports to and the countries in which such individuals maintain their principal offices; and []
- (iii) a local organization chart of the local entities with information on the head of departments (including whether they are expatriates or local citizens) and number of employees in each department, as at the end of the basis period; []

(b) nature of the business, industry and market conditions:

- (i) a description of the person's business models and strategies, products and services, intensity and dynamics of the relevant competitive environments, competitors and geographic markets; []
- (ii) outline of the person's business including relevant recent history, the industries and market in which the person operates, description and analysis of the economic condition and legal or regulatory issues affecting the business and industry; []
- (iii) a detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings, acquisitions or transfers of intangible property in the present or in the immediate preceding year and an explanation of those aspects of such transactions affecting the local entity; and []
- (iv) the corporate business plans to the extent of providing an insight into the nature and purpose of the relevant transactions between associated persons; []

(c) the controlled transaction:

- (i) a description of details of the property or services to which the international or domestic transaction relates, any intangible property or rights attached thereto, the participants, the scope, timing, frequency, type and value of the controlled transactions (including all relevant dealings between associated persons in relevant geographic markets); []
- (ii) the identity of all associated persons including name and address of the associated person, the country in which the associated person is incorporated and registered or established, with details of the relationship with each such associated person; []
- (iii) the nature, terms (including prices) and conditions, the quantum and value of each transaction entered into with each associated person; []
- (iv) an overview description of the business, as well as a functional analysis of all associated persons with whom the person has transacted; []
- (v) all valid contract or commercial agreements setting forth the terms and conditions of transactions with associated person as well as with third parties; and []
- (vi) a record of any forecasts, budgets or any other financial estimates prepared by the person for the business as a whole and for each division or product separately; []

(d) details of the pricing policies for each type of controlled transaction including—

- (i) the formula adopted, including anticipated profit margin or mark-up and cost component; []
- (ii) the manner the formula is applied; []
- (iii) person who determines the pricing policy; []
- (iv) the frequency the policy is being revised; []
- (v) sample of documents to support the pricing policy; []
- (vi) comparability study to ensure the arm's length price; and []
- (vii) the effect of the material changes to its pricing policy (if any); []

- (e) assumption, strategies and information regarding factors that influence the setting of pricing policies which may include— []
 - (i) relevant information regarding business strategies and special circumstances at issue, for example, intentional set-off transactions, market share strategies, distribution channel selection and management strategies that influenced the determination of transfer prices; []
 - (ii) assumptions and information regarding factors that influenced the setting of prices or the establishment of any pricing policies for the person and its group of associated persons as a whole; and []
 - (iii) documents to support material factors that could affect prices or profits in arm's length dealings; []
- (f) functional, asset and risk analysis including the risk analysis framework; []
 - (i) a description of the characteristics of the property or service transferred, functions performed, assets employed, evaluation on management, allocation and assumption of risks (based on the risk analysis framework), terms and conditions of the contract, business strategies pursued, economic circumstances and any other special circumstances; and []
 - (ii) information on functions performed (taking into account assets used and risks assumed) by the associated person involved in the controlled transaction as well as a description of the functions, assets and risks of the associated person to the extent that the affect or are affected by the controlled transaction carried out by the person; []
- (g) comparability analysis; []
 - (i) the name of tested party or tested transaction selected and basis for its selection; []
 - (ii) the data collected including the list and description of potential comparables and the analysis performed to evaluate comparability of uncontrolled transactions with the relevant controlled transaction. The analysis should compare the conditions including the five economically relevant characteristics made for the transactions between associated persons with those made between independent persons under comparable circumstances; []

- (iii) details of comparables including—
 - A. a list and description of selected comparable companies and transactions; []
 - B. for tangible property (if applicable), its physical features and quality availability; []
 - C. for services (if applicable), the nature and extent of the services; []
 - D. for intangible property (if applicable), the form of the transaction, the type of intangible property, the rights to use the intangible property that are assigned and the anticipated benefits from its use; and []
 - E. financial information of the comparables; []
- (iv) the basis and criteria used in the selection of comparables including qualitative details and quantities screenings and economic considerations; []
- (v) identification of any internal comparables; []
- (vi) information and documents to support any adjustments made to the comparables which may include—
 - A. analysis to support the result of adjustments made that will increase the reliability of the comparability between the tested party and comparable; []
 - B. reason for the adjustments; []
 - C. any assumptions made; []
 - D. computation for the adjustments made; and []
- (vii) where applicable, the aggregation analysis (grouping of transactions for comparability) and reasons for aggregations of transactions; []

(h) selection of the transfer pricing methodologies;

- (i) the method selected and basis for its selection; []
- (ii) description of data and methods considered, the analysis performed to determine the arm's length price and the rationale for the selection of the method including reasons for its use in preference to other transfer pricing methodologies; and []
- (iii) documentation of the process involved in the selection and application of the particular method; []

(i) application of the transfer pricing methodologies;

- (i) documentation of assumptions and decisions made in the course of determining an arm's length outcome based on the functional, asset and risk analysis in paragraph (f) and comparability analysis in paragraph (g); []
- (ii) a list and description of the selected comparable uncontrolled transactions (internal comparable or external comparable), and information on relevant financial indicators relied on in the transfer pricing analysis, including a description of the comparable search methodology and the source of such information; []
- (iii) documentation of all calculations made in applying the selected method, and of any adjustment factors, in respect of both the tested party and the comparable; []
- (iv) a description of the reasons for concluding that relevant transactions were priced on an arm's length basis based on the application of the selected transfer pricing methodology; []
- (v) a summary of financial information used in applying the transfer pricing methodology; []
- (vi) appropriate updates of prior year documentation relied upon in the current year to reflect adjustments for any material changes in the relevant facts and circumstances; []
- (vii) a list of unilateral advance pricing arrangement and bilateral advance pricing arrangement entered into by entity in the group of the associated persons with respect to the transactions to which the person is involved in; and []

(viii) documentation which become the foundation for support, or were referred to, in the development of the transfer pricing analysis; and []

(j) financial information:

(i) the local entity's annual financial statements for the financial year concerned and if audited statements exist, they shall be furnished and if not, existing unaudited statements shall be furnished; []

(ii) information and allocation schedule showing how the financial data used in applying the transfer pricing methodology may be tied to the annual financial statements; and []

(iii) summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained. []

3. Cost Contribution Arrangement Information and Documents – Schedule 3

(a) a copy of the cost contribution arrangement that is contemporaneous with its formation (and any revision) and any other agreements relating to the application of the cost contribution arrangement between the cost contribution arrangement participants; []

(b) the list and identity of participants in the cost contribution arrangement and a list of any other associated person that will be involved with the cost contribution arrangement activity or that are expected to exploit or use the results of the subject activity; []

(c) the scope of the activities and specific projects covered by the cost contribution arrangement, and how the cost contribution arrangement activities are managed and controlled including any intangible property or class of intangible property in existence or intended to be developed; []

(d) the duration of the arrangement; []

(e) the total amount of contributions incurred pursuant to the arrangement; []

(f) the allocation of tasks and responsibilities; []

- (g) the form and value of each participant's initial contributions (including research) with a detailed description of how the value of initial and ongoing contributions are determined (including any budgeted and actual adjustments) and how accounting principles are applied consistently to all participants in determining expenditures and the value of contributions; []
- (h) a description of the method used to determine each participant's share of the contributions including projections used to estimate benefits, any rationale and assumptions underlying the projections and an explanation of why that method was selected; []
- (i) the nature and extent of each participant's effective ownership interest in the results of the cost contribution arrangement activities; []
- (j) the manner or basis on which proportionate shares of the expected benefits are to be measured; []
- (k) the rationale and any assumptions underlying the projections of expected benefits; []
- (l) the procedures for entering or withdrawing from the arrangement and the consequences thereof; []
- (m) the policies and procedures governing balancing payments or for adjusting the terms of the arrangement to reflect changes in economic circumstances; []
- (n) where material differences arise between projected benefits and actual benefits realized, the assumptions made to project future benefits need to be amended for future years and the revised assumptions documented; []
- (o) the extent of the use of the cost contribution arrangement property by associated person who are not the cost contribution arrangement participants, including the amounts of consideration paid or payable by these non-participants for use of the cost contribution arrangement property; []
- (p) the anticipated allocation of responsibilities and tasks, and the mechanisms for managing and controlling those responsibilities and tasks, in particular, those relating to the development, enhancement, maintenance, protection or exploitation of tangible or intangibles assets used in the cost contribution arrangement activity; and []
- (q) all material changes to the arrangement. []

- 4. Index to documents prepared under this rule. []
- 5. The date on which the contemporaneous transfer pricing documentation is completed. []
- 6. Any documents, information or data used to develop the transfer pricing analysis and determine the arm's length price, including those relating to material changes in business conditions during the basis period. []

Note:

Subrule 4(3) of the Income Tax (Transfer Pricing) Rules 2023 [P.U.(A) 165/2023] states that if any of the required information, data or documents mentioned above are not applicable in the preparation of a TPD, the taxpayer is required to indicate their non-applicability in the contemporaneous transfer pricing documentation.