

Thailand Transfer Pricing Guide 2024

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Thailand

1. Legal Basis

Is there a legal requirement to prepare TP documentation?

Yes.

Since when does a TP documentation requirement exist in your country?

2019.

Adoption of the OECD or UN legislation in your country?

OECD.

Is your country a member of the OECD, Inclusive Framework, or other OECD groups (e.g. BEPS)?

Yes.

Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?

Yes.

Which TP methods may be applied? Is there a stated preference for any particular TP methods?

In principle, all internationally accepted methods are acceptable, including Comparable Uncontrolled Price ("**CUP**"); Resale Price method ("**RPM**"); Cost Plus method ("**CPM**"), Profit Split ("**PS**"); and Comparable Profit, and other methods if justifiable and appropriate, but the taxpayer must obtain approval from the Director-General of the Thai Revenue Department ("**TRD**").

Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?

Yes.

Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status

LF and MF: Section 71 ter of the Revenue Code.
CbCR: Notification of Director-General of Revenue Department No. 407 (B.E. 2564).

Is there any statute of limitation period?

Generally, five years. The period of prescription for claims of taxes is ten years.

Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.

General TP legislation: Section 35 ter, Section 71 bis and Section 71 ter Revenue Code.

Ministerial Regulation No. 369 (B.E. 2563) – rules and conditions for adjustments that can be made by the Thai Revenue Department ("**TRD**") to the income and expenses.

Ministerial Regulation No. 370 (B.E. 2563) – exemption threshold for mandatory TP documentation requirement.

Notification of Director-General of Revenue Department No. 400 (B.E. 2564) – detailed guidelines on how TP adjustments are to be made.

Notification of Director-General of Revenue Department No. 407 (B.E. 2564) – mandatory items to be included in TP documentation.

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Notification of Director-General of Revenue Department No. 408 (B.E. 2564) – Country-by-Country reporting requirement regulation.

2. Master File (MF)

What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?

THB 200 million.

Euro Equivalent

EUR 5 million.

From which year does this obligation exist?

2019.

When does the Master File need to be available?

When does it need to be submitted?

Within 60 days after receiving request from Revenue Department.

Does the MF have to be prepared in the relevant local language?

Yes.

Is documentation in English permissible?

No.

What are the possible consequences of not having the MF available?

Penalties?

A penalty for incomplete TP Documentation, failure to submit, late submission or incorrect disclosure: up to THB 200,000 applies for each case.

In the case of TP adjustments: penalty of up to 100% of the tax shortfall amount plus a surcharge of 1.5% per month of the tax shortfall amount applies (but capped at 100% of the tax shortfall amount).

Imprisonment?

No.

Shifting of the burden of proof?

No.

Other?

Not applicable.

To what extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?

Consistent with OECD requirements.

3. Local File (LF)

What is the threshold requirement for the obligation to prepare a LF?

THB 200 million.

Euro Equivalent

EUR 5 million.

From which year does this obligation exist?

2019.

When does the LF need to be available?

When does the LF need to be submitted?

Companies with annual revenue of THB 200 million or more must submit a TP disclosure form (outlining the related party transactions) together with the annual tax return within 150 days after the end of the financial year.

The LF must be submitted within 60 days after receiving request from the Revenue Department.

Does the LF have to be prepared in the relevant local language?

Yes.

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Or is documentation in English permissible?

No.

What are the possible consequences of not having the LF available?

Penalties?

The penalty for incomplete TP Documentation, failure to submit, late submission or incorrect disclosure: up to THB 200,000 for each case.

In case of TP adjustments: a penalty of up to 100% of the tax shortfall amount plus a surcharge of 1.5% per month of the tax shortfall amount applies (but capped at 100% of the tax shortfall amount).

Imprisonment?

No.

Shifting of the burden of proof?

No.

Other?

Not applicable.

To what extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?

Consistent with OECD requirements.

4. Country-by-Country Reporting (CbCR)

What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?

THB 8 billion (i.e. EUR 750 million approx.).

From which year does this CbCR obligation exist?

2021.

Are Taxpayers required to notify of CbCR filing in your country? If yes, when and how do the tax authorities need to be notified?

Yes.

Notification is via online submission, within 12 months from the end of the financial year.

If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?

Within 12 months from the end of the financial year.

Are there any deviating submission deadlines for the secondary mechanism?

Within 60 days after receiving the request from the Revenue Department.

Does your country have a requirement that the financial figures of the group need to be aligned with?

No.

Does your country have a requirement that the financial years of the group need to be aligned with?

No.

Where is the CbCR to be submitted?

CbCR is to submitted online.

How is the CbCR to be submitted, specifically, is there any prescribed standard?

Submission is via an online form.

What are the possible consequences of not having the CbCR available?

Penalties?

A penalty of THB2,000 in case of failure to submit the CbCR applies.

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Imprisonment?

No.

Shifting of the burden of proof?

No

Other?

Not applicable.

To what extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?

Consistent with OECD requirements.

Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbCR ("CbCR MCAA")?

Yes.

Did your country enter into other information exchange agreements, such as on a bilateral basis?

Automatic Exchange of Information ("AEOI") under Common Reporting Standard ("CRS").

Can a Taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?

Yes.

5. TP disclosure in tax return or TP specific returns

Is there a threshold for Related Party Transactions?

Annual revenue of THB 200 million.

Does a Taxpayer need to disclose information regarding TP documentation in his tax return?

Companies with annual revenue of THB 200 million or more must submit a TP disclosure form (outlining the related party transactions)

together with the annual tax return within 150 days after the end of the financial year.

When a Taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect TP, what could be the legal consequences?

TP adjustments and a subsequent penalty of up to 100% of the tax shortfall amount plus a surcharge of 1.5% per month of the tax shortfall amount applies (but capped at 100% of the tax shortfall amount).

What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?

The usual professional liability; no specific regulations for TP.

Does a Taxpayer need to file TP specific returns?

Companies with annual revenue of THB 200 million or more must submit a TP disclosure form (outlining the related party transactions) together with the annual tax return within 150 days after the end of the financial year.

Please state the filing form number and name.

Form for Annual Report of Related Party Transactions as per Section 71 Bis of the Revenue Code (Disclosure Form).

What would be the filing deadline?

150 days after the end of the financial year.

What would be the penalties for non-compliance?

A penalty for incomplete TP Documentation, failure to submit, late submission or incorrect disclosure: up to THB 200,000 for each case.

In the case of TP adjustments: penalty of up to 100% of the tax shortfall amount plus a

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surcharge of 1.5% per month of the tax shortfall amount (but capped at 100% of the tax shortfall amount).

6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?

Consistent with the OECD requirements.

Is there any stated preference for local benchmarks?

Yes.

Are there any materiality thresholds that apply to the requirement to have a benchmark study available?

No.

7. Year-end, secondary, and corresponding adjustments

Are year-end/ secondary/ corresponding adjustments permissible?

Yes.

Does the Taxpayer have to comply with any specific features or guidance?

General rules apply.

8. TP Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?

Detailed TP Guidelines were introduced in Thailand only in 2019 and the Revenue Department is in its first couple of years of TP audits. All intercompany transactions are queried, although management fees and intercompany financing tend to be accorded special scrutiny.

Based on your experience, are joint or multilateral audits initiated and carried out?

No.

Does the Taxpayer have the option to apply for bilateral or multilateral APAs?

Only bilateral APAs.

Are there any restrictions?

Bilateral APAs which cover three to five accounting periods are available to Thai resident Taxpayers.

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