

Rödl & Partner

COMMANDING  
THE WAVES

TRANSFER PRICING SERVICES

in ASEAN



# COMMANDING THE WAVES

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“The dynamic Asian economic region with its unparalleled growth potential offers our clients a cornucopia of opportunities to expand and develop their business activities.

Our experts identify promising potential, weigh up possible risks and provide a well-founded decision basis for the benefit of a strategic and sustainable global growth.”

Rödl & Partner

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# One of a Kind

## WHAT SETS US APART

Rödl & Partner is not a collection of accountants, auditors, attorneys, management and tax consultants working in parallel. We work together, closely interlinked across all service lines. We think from a market perspective, from a client's perspective, where a project team possesses all the capabilities to be successful and realise our client's goals.

Our interdisciplinary approach is not unique, nor is our global reach or our particularly strong presence among family businesses. It is the combination that cannot be found anywhere else – a firm that is devoted to comprehensively supporting German businesses, wherever in the world they might be.



# Transfer Pricing Regulations

## GENERAL TRANSFER PRICING LANDSCAPE

- Multinational organizations are operating in an increasingly complex environment, which poses major challenges for companies when planning and documenting their intercompany pricing policies.
- Following the Organization for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) review, tax authorities worldwide, including in the ASEAN region, have issued regulations requiring multinational enterprises (MNEs) to document their inter-company transactions and comply with the arm's length principle.
- Transfer pricing is therefore becoming an increasingly important global tax issue, making it imperative for multinational enterprises to ensure that they have a sustainable transfer pricing policy and supporting documentation in place.
- Despite these uncertainties, good transfer pricing practices offer multinational enterprises a wide range of opportunities to optimize profits, increase cash flow and reduce taxes in a defensible manner.
- Our team consists of members from our regional ASEAN transfer pricing excellence team which focuses exclusively on providing transfer pricing and benchmarking services to subsidiaries of European multinational enterprises in the ASEAN region.
- Our ability to provide commercial and strategic transfer pricing solutions to our clients is based on experience and a desire to understand the commercial context in which your business operates.





## CAMBODIA TRANSFER PRICING RULES

- Cambodian transfer pricing legislation is set out in Prakas No. 986
  - Rules and Procedures for the Allocation of Income and Expenses between Related Parties.
- Article 5 of the Law on Taxation, effective since 16 May 2023, defines a related party for transfer pricing purposes.
- Article 18 empowers the Director General of Taxation to determine the arm's length price in a related party transaction and to adjust the corporate income tax liability of the Cambodian taxpayer, where appropriate.

## TRANSFER PRICING DOCUMENTATION

- A Local File is required. Master File and Country-by-Country Report (CbCR) are not required.
- There is no threshold for the requirement to prepare a Local File.
- A related parties disclosure form (Annex 1) must be attached to the corporate income tax return, and should be submitted within 90 days after the end of the fiscal year.

## PENALTIES

- Non-compliance with Prakas Nr. 986 may lead to the following consequences:
  - transfer pricing adjustments, which may result in additional taxes
  - tax penalties of 10% to 40%, plus interest at 1.5% per month for late payment.

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- None specified

## INDONESIA TRANSFER PRICING RULES

- Indonesian transfer pricing legislation is set out in Regulation No. 172 of the Ministry of Finance (MoFR-172) dated 29 December 2023.
- MoFR-172 provides the latest guidelines on implementing changes related to transfer pricing.

## TRANSFER PRICING DOCUMENTATION

- Indonesia adopts the OECD Transfer Pricing Guidelines and the Indonesian transfer pricing regulations for the Local File, the Master File and the CbCR are largely in line with the OECD Transfer Pricing Guidelines.
- The threshold for preparing a Local File and Master File is:
  - Annual gross revenue in the previous fiscal year exceeding IDR 50 billion;
  - Value of annual related party transactions in the previous fiscal year exceeding IDR 20 billion for transactions involving the transfer of tangible assets;
  - IDR 5 billion for each transaction involving services, interest payments, intangibles or other transactions defined as high-risk transactions;
  - Related party is based in a country or jurisdiction with a lower corporate income tax rate than the rate applicable in Indonesia.
- CbCR must be submitted if the consolidated gross turnover in the previous fiscal year is at least IDR 11 trillion.
- The form for Reporting Related Party Transaction must be prepared and submitted as part of the corporate income tax return form if there are transactions in a special relationship and/or transactions with parties based in tax haven countries.

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## PENALTIES

- A penalty of IDR 1 million for failure to submit the disclosure form or the CbCR along with the corporate income tax return;
- Monthly interest rate (max. 24 months) and a surcharge of 15% – 20% for failure to submit the Local File and Master File upon request or exceeding the submission deadline

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.





## MALAYSIA TRANSFER PRICING RULES

- The transfer pricing provisions in Malaysia are contained under Section 140A of the Malaysia Income Tax Act 1967, Income Tax (Transfer Pricing) Rules 2023 (TP Rules 2023), and the Malaysian Transfer Pricing Guidelines.
- The TP Rules 2023 are applicable to both domestic and cross border transactions on controlled transactions for the acquisitions or supply of property or services between associated persons, where at least one person is assessable or chargeable to tax in Malaysia.

## TRANSFER PRICING DOCUMENTATION

- Transfer pricing documentation is required to be prepared on a contemporaneous basis, i.e., prior to the due date for furnishing a tax return form.
- There is no threshold for the obligation to prepare a Local File, which applies to every taxpayer who enters into a transaction with a related party. However, companies with a turnover not exceeding MYR 25 million and a total amount of related party transactions not exceeding MYR 15 million may prepare simplified transfer pricing documentation.
- For Malaysian parent companies with a consolidated turnover of more than MYR 3 billion, a Master File is required.
- CbCR is applicable if the Malaysia entity is the Reporting Entity with consolidated revenue of more than MYR 3 billion.
- Taxpayers are required to disclose the details of their related party transactions in the corporate income tax return.

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## PENALTIES

- MYR 20,000 – MYR 100,000 per year of assessment, or imprisonment of up to 6 months or both, upon conviction for failure to provide contemporaneous transfer pricing documentation
- 5% surcharge on transfer pricing adjustment regardless of the tax position of the company

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.



## PHILIPPINES TRANSFER PRICING RULES

- Transfer pricing rules have been in force since 2013 through the Tax Regulations (RR) No. 2-2013, which require taxpayers to demonstrate that their transfer prices comply with the arm's length principles by preparing adequate and timely transfer pricing documentation.
- Revenue Audit Memorandum Order (RAMO) No. 1-2019 was issued in 2019, setting out the Transfer Pricing Audit Guidelines.

## TRANSFER PRICING DOCUMENTATION

- A Local File is required for taxpayers filing the transfer pricing disclosure form (BIR Form No. 1709) that meet the following thresholds:
  - Annual gross sales / receipts in excess of PHP 150 million from any source and related party transactions in excess of PHP 90 million in the aggregate;
  - Sales of tangible property to the same related party in excess of PHP 60 million within the tax year;
  - Service transactions, interest payments, use of intangible property, or other transactions with the same related party that exceed PHP 15 million within the tax year; or
  - In the previous tax period, transfer pricing documentation had to be prepared.
- Master File and CbCR is not required.
- Taxpayers who meet the following conditions must file BIR Form 1709 as an attachment to the corporate income tax return:
  - is required to file a corporate income tax return;
  - has transactions with a domestic or foreign related party; and
  - falls under one of the following categories: (1) large taxpayer; (2) claiming tax incentives; (3) has net losses for three years or a related party that has transactions with (1), (2) or (3).

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## PENALTIES

- Penalties for transfer pricing adjustments are based on provisions of the tax code and other applicable laws, i.e., 25% surtax (50% in case of fraud).
- 20% interest per annum on tax deficiency.

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.



## SINGAPORE TRANSFER PRICING RULES

- Transfer Pricing in Singapore is legislated under Section 34F of the Singapore Income Tax Act 1947.
- Singapore Transfer Pricing Guidelines provide guidance on the implementation of transfer pricing.

## TRANSFER PRICING DOCUMENTATION

- The local file contains information about the group and the taxpayer and must be created if either the annual gross revenue from trading exceeds 10 million SGD or if transfer pricing documentation had to be created for the previous tax assessment period.
- There is no requirement to maintain a separate Master File.
- CbC reporting must be submitted if the consolidated revenue of the multinational enterprise (MNE) group is at least SGD 1.125 million in the previous financial year and the MNE group has subsidiaries or branches in at least one foreign jurisdiction.
- The Related Party Transactions Report (RPT) form must be prepared and submitted as part of the corporate income tax return form if the value of the RPTs recorded in the financial statements for the reporting period exceeds SGD 15 million.

## PENALTIES

- Penalties of SGD 10,000 for failure to prepare TP Documentation in accordance with the requirements.
- Surcharge of 5% for transfer pricing adjustments, regardless of whether the adjustment is taxable or not.

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.



# Thailand

## THAILAND TRANSFER PRICING RULES

- Transfer Pricing legislations in Thailand are contained in Section 35 ter, Section 71 bis and Section 71 ter of the Revenue Code.
- Preparation of transfer pricing documentation is mandatory from 1 January 2019 for taxpayers with an annual revenue exceeding THB 200 million.

## TRANSFER PRICING DOCUMENTATION

- The Local File contains information about the multinational group and the taxpayer and must be prepared if either the annual revenue exceeds 200 million THB.
- The requirement for the Master File is not currently regulated by law. In practice, however, the Local File also contains information about the multinational group.
- CbCR must be submitted if the consolidated revenue of the multinational enterprise (MNE) group in the previous financial year was at least 28 billion THB.
- The transfer pricing disclosure form must be prepared and submitted within 150 days of the end of the financial year if the annual revenue exceeds 200 million THB.

## PENALTIES

- Penalties of up to THB 200,000 for failure to submit the transfer pricing disclosure form or for submitting incorrect information; and a penalty of 100% – 200% on any tax shortfall.
- Interest on penalties at 1.5% surcharge; capped at 100% of the tax shortfall.

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.



## VIETNAM TRANSFER PRICING RULES

- Transfer pricing rules are regulated by Decree 132/2020/ND-CP (Decree 132), which came into force on 20 December 2020 and applies to the 2020 fiscal year onwards.
- Decree 132 applies to taxpayers that pay corporate income tax and that have related-party transactions (both domestic and cross-border) in a fiscal year.

## TRANSFER PRICING DOCUMENTATION

- A Local File is required for taxpayers whose revenue exceeds 50 billion VND and the total value of related-party transactions in a tax period exceeds 30 billion VND.
- Taxpayers required to prepare a Local File are also expected to maintain a Master File.
- CbCR applies to a Vietnamese group with a consolidated worldwide revenue of more than VND 18 trillion in the relevant tax period.
- The transfer pricing disclosure form must be prepared and submitted together with the annual corporate income tax return and includes information on related party relationships and transactions, as well as a checklist of the required contents for the local file, the master file and the CbCR.

## PENALTIES

- Penalties of VND 8 – 15 million for not submitting transfer pricing disclosure forms with annual corporate income tax returns.
- Penalties of 20% of the underpaid tax amount for discrepancies found in a transfer pricing audit.
- Penalty interest of 0.03% per day on outstanding taxes.

## ADVANCE PRICING AGREEMENT & DISPUTE RESOLUTION

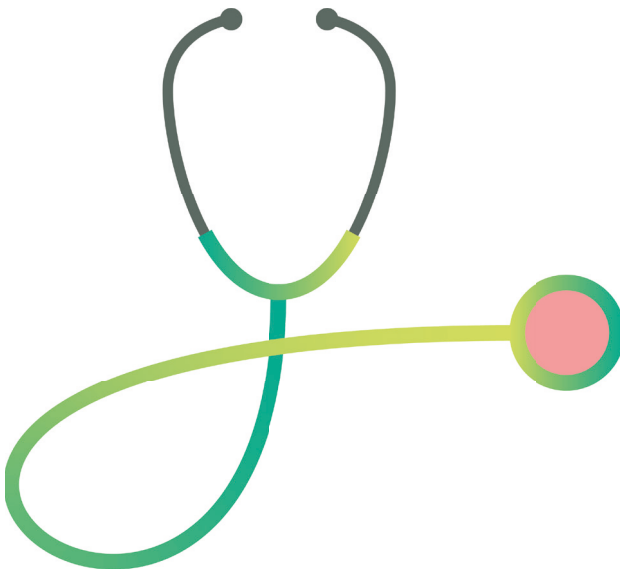
- Domestic remedies (i.e., appeal), Advance Pricing Agreement and Mutual Agreement Procedure are available.

# Our Transfer Pricing Services









Our ASEAN transfer pricing professionals support their international clients worldwide in the individual structuring, documentation and defense of cross-border business relationships within the group of companies.

We work together, closely interlinked across all service lines. We think from a market perspective, with a tax team that possesses the capabilities to realise the client's goals.

Rödl & Partner has many years of experience in supporting MNE groups in the area of transfer pricing. Together with our colleagues in over 50 countries, we can advise you in these areas, also based on cross-border collaboration, if required.





<p style="text-align: center;"><b>Health Check</b></p> <ul style="list-style-type: none"> <li>- IC Maturity Check</li> <li>- Optimisation potential</li> <li>- Tax risk assessment</li> <li>- System design</li> <li>- Interface design</li> </ul> 	<p style="text-align: center;"><b>Digital Solutions</b></p> <ul style="list-style-type: none"> <li>- Transaction matrix</li> <li>- Segmentation</li> <li>- TP Controlling</li> <li>- Simulation</li> <li>- ERP-Integration</li> <li>- BI / Analytics</li> <li>- Digital agenda</li> </ul> 
<p style="text-align: center;"><b>Documentation</b></p> <ul style="list-style-type: none"> <li>- Master file</li> <li>- Local files</li> <li>- Global coordination</li> <li>- Digital realisation</li> <li>- Management of Due Dates</li> </ul> 	<p style="text-align: center;"><b>CbCR</b></p> <ul style="list-style-type: none"> <li>- Data generation</li> <li>- Data preparation</li> <li>- Report generation</li> <li>- Conversion to XML format</li> <li>- Transfer</li> <li>- CbCR risk analysis</li> </ul> 
<p style="text-align: center;"><b>Arm´ s length comparison</b></p> <ul style="list-style-type: none"> <li>- Selection of the type and scope of arm´ s length transactions</li> <li>- Benchmarking</li> <li>- Rating</li> <li>- Valuation</li> <li>- Adjustment calculations</li> </ul> 	<p style="text-align: center;"><b>Operational TP</b></p> <ul style="list-style-type: none"> <li>- SWOT analysis</li> <li>- Process recording</li> <li>- Roadmap to excellence</li> <li>- Best practise workshops</li> <li>- Coaching</li> </ul> 
<p style="text-align: center;"><b>Defence TP</b></p> <ul style="list-style-type: none"> <li>- Tax audit</li> <li>- Joint audit</li> <li>- Mutual agreement procedure</li> <li>- APA</li> <li>- Objection procedure</li> </ul> 	<p style="text-align: center;"><b>Legal TP</b></p> <ul style="list-style-type: none"> <li>- Procedural law</li> <li>- Duties to cooperate</li> <li>- Reporting requirements</li> <li>- Burden of proof</li> <li>- Usability</li> <li>- Access rights concerning tax audit</li> <li>- Data protection</li> </ul> 

# Our Transfer Pricing Services

Our dedicated tax team at Rödl & Partner can help you develop robust transfer pricing strategies that align with the Malaysia transfer pricing practice, and optimize your tax position while fully maintaining compliance:

## DIAGNOSTICS

- Advice on the transactions / parties subject to TP compliance
- Review existing TP policies, carry out functional analysis, and confirm TP methodology
- Perform TP risk assessment and identify risk and gaps
- Develop action plan to manage TP risks

## PLANNING

- Develop targeted TP operating model / supply chain, including restructuring and re-allocation of functions, risks and assets
- Undertake TP analytics using various benchmarking tools
- Perform benchmarking analysis to design TP policy
- Align supply chain / business process to the TP policy

## IMPLEMENTATION

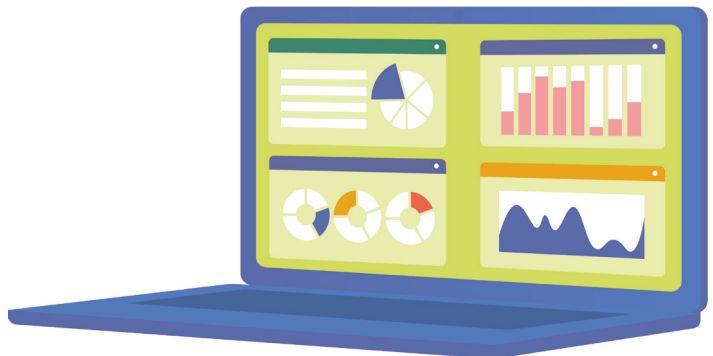
- Implement TP policy
- Monitor application of TP policy
- Prepare / amend intercompany agreements to respond to recommended TP set-up

## COMPLIANCE REPORTING & FILING

- Prepare contemporaneous TP documentation (Local File, Master File, and CbC Report)

## CONTROVERSY & DISPUTE RESOLUTION

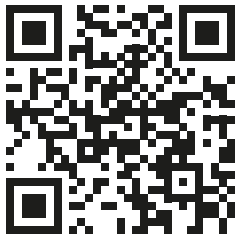
- Address audit readiness
- Defend TP documentation and related issues during audits and disputes
- Formulate audit defense strategies and provide robust economic analysis
- Support with negotiations with the tax authorities during the audit



# About us

Rödl & Partner – The agile caring partner for Mittelstand shaped world market leaders

[www.roedl.com/about-us](http://www.roedl.com/about-us)



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