

Thailand enacts *Transfer Pricing* Act

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On 21 November 2018, *Thailand's Transfer Pricing Act* (TP Act) was published in the *Royal Gazette* and will be effective for accounting years beginning on or after 1 January 2019.

Taxpayers with related parties, regardless of having related-party transactions or the length of the relationship during an accounting period, are required to prepare a report providing descriptions of the related-party relationships and the value of related-party transactions for each fiscal year in accordance with the specified format and submit them to the tax authority within 150 days from the close of the accounting period.

Taxpayers with annual revenue of less than THB200 million (US\$6 million) are exempt from the above requirement. Failure to file the required report or to submit incomplete/incorrect documents without reasonable cause is subject to penalty of not more than THB200,000 (US\$6,000).

The key features of the TP Act are:

- ▶ The tax authorities are authorized to compute additional revenue and/or expenses on transactions between related parties, for purposes of calculating corporate income tax.
- ▶ The term "related parties" is defined as two or more legal entities with the following relationships:

- One party directly or indirectly holds 50% or more of the capital of the other.
 - The same shareholder directly or indirectly holds 50% or more of the capital of both parties.
 - The parties have a dependent relationship through participation in capital, management, or control of the other entity, as defined in the Ministerial Regulations.
 - ▶ To mitigate double taxation, taxpayers who have overpaid taxes as a result of a transfer pricing adjustment can claim a tax refund within 60 days after receiving the tax assessment notification or within three years from the tax return filing due date.
 - ▶ Within five years from the date of filing the report, the tax authorities can request additional documents or evidence necessary to analyze the related-party transactions. The taxpayer is required to submit the additional documents within 60 days after receiving a request letter.
 - ▶ If necessary, the taxpayer can request a 60-day extension to respond to the additional information requests. A 120-day extension is available for taxpayers if it is their first request letter.
- Further measures will be stipulated later in related Ministerial Regulations.

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