



AUSTRALIAN TRANSFER PRICING ALERT

MAY 2016 ISSUE 8

DO AUSTRALIA'S SIMPLIFIED TRANSFER PRICING RECORD KEEPING RULES APPLY TO YOUR COMPANY?

During 2014, the ATO released simplified transfer pricing record keeping options (simplified rules) so that eligible taxpayers could minimise their compliance burden in relation to transfer pricing.

The ATO has recently released the high level design for the local file envisaged for taxpayers who are part of significant global entities (i.e. multinational groups with global turnover of A\$1 billion or more) to lodge as part of their Country-by-Country (CbC) reporting requirements. Where a taxpayer satisfies the simplified rules¹, they can elect to complete a 'short form local file' instead of a full local file which will reduce the amount of information to be provided to the ATO as part of their CbC reporting requirements. This is important given there will be no de minimis rules for smaller Australian subsidiaries who are part of significant global entities.

Whether you are a significant global entity or not, the simplified rules are a practical consideration for all 'eligible' taxpayers and recognition from the ATO that adhering to the transfer pricing rules may impose an unnecessary and significant administrative burden on taxpayers.

Subject to additional limiting criteria, the simplified rules are available for the following taxpayers or transactions:

- **Materiality** – where total international related party dealings (IRPDs) are less than or equal to 2.5 per cent of the total turnover
- **Small taxpayers** – where turnover A\$25 million or less
- **Distributors** – where turnover is A\$50 million or less and profit before tax ratio is 3 per cent or more
- **Intra-group services** – intra-group service dealings of A\$1 million or less, or if greater than A\$1 million, no more than 15 per cent of total expenses for services or revenue for services provided
- **Management & administration services** – where these services are not more than 50 per cent of the total IRPDs
- **Technical services** – where these services are not more than 50 per cent of the total IRPDs
- **Intra-group loans (inbound only)** – where the loan balance is A\$50 million or less and the interest rate is no more than the RBA rate².

SPECIALISATION

Transfer pricing

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¹Simplified transfer pricing record keeping rules for small taxpayers and materiality only and subject to the short form exceptions list.

²RBA indicator lending rate for small business, variable, residential-secured term loans – average of 6.70 per cent for the year ended 31 December 2015.

These simplified rules are not applicable where the taxpayer enters into transactions with entities in specified countries (i.e. tax havens). Other eligibility criteria may be applicable and will depend on the category applied (e.g. where the entity has undergone a business restructure within the year or has entered into intra-group transactions such as royalties, license fees and/or R&D arrangements).

Practical considerations in applying the simplified rules

In applying these rules, taxpayers need to consider:

- Applicability of the simplified rules including eligibility criteria for different transactions
- Opting in under these rules; which requires a positive disclosure (code 7) on the International Dealings Schedule
- Compliance with Australia's (and overseas) transfer pricing laws i.e. just because a taxpayer is released from the burden of preparing transfer pricing documentation doesn't mean its transfer pricing outcomes are correct. Analysis is required to reach this conclusion
- Australian public officers must 'self-assess' whether or not they have a transfer pricing benefit and therefore some work is required to evidence this assessment.

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If the simplified rules may be applicable to your facts and circumstances or if you would like further information in relation to any of the above, please contact your BDO adviser or one of the Transfer Pricing specialists listed in this Transfer Pricing Alert.

MORE INFORMATION

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