

Hong Kong Transfer Pricing Deadlines for 2024



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As the first half of 2024 comes to an end, it becomes imperative to shift our focus towards the impending deadlines for FY2023 transfer pricing documentation. In this edition, we will provide you with comprehensive insights into the upcoming filing requirements, equipping you with the necessary knowledge to ensure compliance and effectiveness throughout the years 2024 and 2025.

Master File and Local File

If your Hong Kong entity carries out significant amounts of cross-border related party transactions, it may be required to prepare the mandatory Master File and Local File in Hong Kong unless otherwise exempted under the business size test or the related party transaction size test (please refer to Appendix 1 for details). The deadlines for preparing Master Files and Local Files are as follows: -

Deadlines for Master File and Local File	
Financial year-end date	Deadline
31 December 2023	30 September 2024
31 March 2024	31 December 2024
30 June 2024	31 March 2025

Country-by-Country Notification and Report

In addition to the Local File and Master File requirements, your Hong Kong entity may need to file a Country-by-Country Notification ("CbCN") with the Hong Kong Inland Revenue Department ("IRD") if it belongs to an MNE group which reaches the following thresholds (unless another Hong Kong entity under the same group has already filed the CbCN): -

- the consolidated group revenue for the preceding accounting period is at least EUR750 million (or HK\$6.8 billion); and
- the group has constituent entities or operations in two or more jurisdictions.

If your Hong Kong entity is required to file a CbCN, the following due dates should be observed: -

Deadlines for CbCN	
Financial year-end date	Deadline
31 December 2023	31 March 2024
31 March 2024	30 June 2024
30 June 2024	30 September 2024

Moreover, an MNE group in Hong Kong may also need to file the Country-by-Country Return ("CbCR") if certain conditions are met (please refer to Appendix 2 for details). The applicable deadlines for filing the CbCR are as follows: -

Deadlines for CbCR	
Financial year-end date	Deadline
31 December 2023	31 December 2024
31 March 2024	31 March 2025
30 June 2024	30 June 2025

Failure to comply with the mandatory transfer pricing documentation filing deadlines set by the tax authorities can result in penalties imposed by the IRD. It is important to note that even taxpayers who are not obligated to prepare the mandatory documentation could be subject to penalties if they fail to provide supporting documents to show that an effort had been made to review the transfer price of related party transactions which were found to deviate from the arm's length principle.

Tackling Your Transfer Pricing Matters

Our dedicated transfer pricing and advisory teams are well-equipped to assist you in preparing transfer pricing documentation, reviewing your current commercial relationships and transfer pricing policies, and devising tax-efficient strategies for your MNE group.

An essential aspect of transfer pricing analysis involves identifying distinct value chains. For MNE groups with heavily centralized functions, it is crucial to conduct meticulous segmentation of value chains, functions, and risks before proceeding with further evaluations. The contents of transfer pricing documentation, which include the function and risk analyses, methodologies, and rationales, should exhibit significant consistency across all relevant entities within the group. We support our clients in carefully planning at a macroscopic level to appropriately define the function and risk profiles of each entity based on their unique circumstances and contributions to the relevant value chains. Throughout our collaboration, we assist clients in formulating robust transfer pricing defense strategies. Rather than solely focusing on transfer pricing risks in Hong Kong, we place great emphasis on balancing the transfer pricing defense strategy in one jurisdiction with that in the counterparty's jurisdiction. This approach enables our clients to defend challenges from different tax authorities whilst coping with the increasing disclosure or information exchange requirements on a global basis.

Furthermore, we offer tailored assistance to our clients based on their specific needs, such as minimizing information disclosure in transfer pricing documentation or enhancing tax efficiency through appropriate arrangements and strategic approaches that reallocate functions and risks to relevant group entities while ensuring compliance with prevailing requirements.

Our Advantages

Wide Range of Databases

Different types of databases can be adopted for benchmarking purposes depending on the nature of the transactions involved, transfer pricing methodologies and search strategies. The IRD's view is that if the benchmarking studies are based on databases to which the Department has also subscribed, the data can be cross-checked and verified in an efficient manner. That being said, the determination of the database (e.g. Osiris, Orbis, Bloomberg, ktMine, Thomson Reuters, RoyaltyRange, etc.) should depend on the actual circumstances. We assist our clients in reviewing the surrounding facts on a case-by-case basis and selecting the appropriate databases to achieve effectiveness and reliability.

Internal Transfer Pricing Team

As we have a dedicated team for handling transfer pricing matters, we can offer our clients customized service packages at reasonable prices, while also providing flexible solutions tailored to their specific needs. For instance, if an MNE requires a transfer pricing exercise solely for internal use, we will be able to provide a streamlined summary report. Similarly, if an MNE wishes to update a particular aspect of its transfer pricing analysis, we will be able to adopt a more result-oriented approach to manage costs.

Cost Efficiency

As we have a dedicated team for handling transfer pricing matters, we can offer our clients customized service packages at reasonable prices, while also providing flexible solutions tailored to their specific needs. For instance, if an MNE requires a transfer pricing exercise solely for internal use, we will be able to provide a streamlined summary report. Similarly, if an MNE wishes to update a particular aspect of its transfer pricing analysis, provide a more streamlined transfer pricing summary report; and if the MNE would like to merely update a certain part of the transfer pricing analysis, we will be able to adopt a more result-oriented approach to manage costs.

Flexible Service

Our flexible and client-oriented culture allows us to offer a wide range of transfer pricing services depending on our clients' needs. Our services include the following: -

Internal Review

- Review the current TP policies and perform benchmarking studies to identify the proper pricing or profit level
- Compare the subject entity's financial data with the comparable companies
- Identify TP risk and areas for improvement

Strategic Planning

- Forward looking analysis to refine the allocation of functions and risks
- Enhance tax efficiency based on proper arrangements
- Design TP defence strategy on a global basis
- Assist management to implement and monitor new operating structure and TP policies

TP Documentation

- Preview the contractual relationships, functions and risks, and underlying operation arrangements
- Prepare TP documentation including comparability analysis to substantiate current or proposed TP strategy
- Periodic review of TP policies every 1-3 years with a view to keeping them in line with new TP regulations and industry changes

TP Defence

- Handle queries raised by the tax authorities
- Prepare defence file to withstand challenges from the tax authorities
- Liaise and meet with the tax officers to settle the cases

Master File and Local File

An MNE group entity which is carrying on a trade or business in Hong Kong and has engaged in related party transactions will be required to prepare the Master File and Local File, unless it is eligible for any one of the two exemptions as follows: -

Business size test	
Total revenue	Not exceeding HK\$ 400 million
Total assets	Not exceeding HK\$ 300 million
Number of employees (average)	Not exceeding 100

If an enterprise meets any two of the above conditions (i.e. any two of the "total revenue", "total assets" and "number of employees" are below relevant thresholds) for an accounting period, the enterprise will be wholly exempt from preparing the Master File and Local File.

Related Party transaction size test (four categories of transactions)	
Transfer of tangible assets	Not exceeding HK\$ 220 million
Transactions of financial assets	Not exceeding HK\$ 110 million
Transfer of intangible assets	Not exceeding HK\$ 110 million
Other transactions	Not exceeding HK\$ 44 million

If the total transaction amount under a category is below the relevant threshold for the accounting period, the enterprise shall not be required to cover that category of transactions in the Local File. If the total transaction amount under each of the categories is below the relevant threshold, the enterprise will be wholly exempt from preparing the Master File and Local File.

Please note that the threshold for each type of related party transaction applies to the aggregate amount of the same type of transactions. A related party transaction can be a revenue item or an expense item. Each transaction should be considered separately without setting off each other (e.g. paying HK\$100 interest expense and receiving HK\$150 interest income will be counted as HK\$250). Furthermore, it is the arm's length amount of the transaction which should be aggregated for determining whether the threshold is exceeded.

Overview of CbC Reporting Requirements

An MNE group is regarded as a “Reportable Group” for the financial year 2023 if its 2022 total consolidated group revenue, as shown in its consolidated financial statements, is of at least the following: -

1. if the ultimate parent entity (“UPE”) of the Reportable Group is a Hong Kong tax resident, the specified threshold amount is HK\$6.8 billion of total consolidated group revenue;
2. if the UPE of the Reportable Group is a resident for tax purposes in a jurisdiction other than Hong Kong and that jurisdiction requires the filing of a CbC Report in respect of an accounting period by an MNE group that has a total consolidated group revenue for 2022 of at least an amount stipulated under the laws or regulations of that jurisdiction, the specified threshold amount is the amount so stipulated; or
3. if the UPE is a resident for tax purposes in a jurisdiction other than Hong Kong which does not require the filing of a CbC report as mentioned in (2) above, the specified threshold amount is an amount in the currency of that jurisdiction equivalent to EUR750 m as a January 2015.

CbC Notification

The CbC notification contains information relevant for determining the obligation to file a CbC Return in Hong Kong. It requires a range of detailed information of the MNE group, its UPE, as well as each of its Hong Kong entities.

- A Hong Kong entity of a Reportable Group (even if its UPE is not a Hong Kong entity) must file with the Hong Kong Inland Revenue Department (“IRD”) a CbC Notification within 3 months after the end of its relevant accounting period.
- If a Reportable Group has multiple Hong Kong entities, only one CbC notification is required to be filed.
- The CbC notification must be filed with the IRD electronically via the CbC reporting portal designated by the IRD. A CbC reporting account and a specialized identification e-Certificate are required to be obtained before the CbC notification can be filed.
- Please note that even if a Reportable Group is exempt from filing the CbC Return and CbC Report, it is still required to file the CbC notification in Hong Kong.

CbC Return and CbC Report

The CbC Return and CbC Report contain aggregate tax jurisdiction-wide information such as the global allocation of income, taxes paid, certain indicators of the location of economic activity, etc. The CbC Return also requires a listing of all the Reportable Group entities for which financial information is reported, including their respective jurisdiction of incorporation (if different from the tax jurisdiction of residence) and principal business activity.

The rules for determining the obligation for filing the CbC Return and CbC Report are relatively complex. For the details on CbC Return and CbC Report requirements, please refer to the next page.

Primary CbC reporting obligation

Under the relevant tax laws, if the UPE of a Reportable Group is a Hong Kong entity, such UPE will have the “primary obligation” to file a CbC Return (which includes a CbC Report) with the IRD within 12 months after the end of the relevant accounting period for each accounting period beginning on or after 1 January 2018. Taxpayers which fail to file the CbC Return are potentially subject to penalties.

Secondary CbC reporting obligation

If the UPE of a Reportable Group is a non-Hong Kong tax resident, a Hong Kong entity of such Reportable Group would still have a “secondary obligation” to file a CbC Return (including a CbC Report) with the IRD if any of the following conditions is met: -

1. the UPE is not required to file a CbC Report in respect of the accounting period in its jurisdiction of tax residence;
2. the jurisdiction of tax residence of the UPE has entered into an international agreement which allows automatic exchange of information, but has no exchange arrangement in effect with Hong Kong by the time the CbC Return is due to be filed in Hong Kong; or
3. the jurisdiction of tax residence of the UPE has suspended or persistently failed to undertake the exchange of CbC reports with Hong Kong.

However, even if one of the above conditions is met, a Hong Kong entity of a Reportable Group can be exempted from filing a CbC Return if: -

1. a CbC Return for the relevant accounting period is filed by another Hong Kong entity with the IRD on behalf of the Reportable Group; or
2. the Reportable Group has appointed a constituent entity as its surrogate parent entity (“SPE”) to file CbC Report on behalf of the Group, and the CbC Report is filed by the SPE in Hong Kong or a jurisdiction which has an exchange arrangement in place with Hong Kong.

The CbC reporting determination process is sophisticated and may depend on the status of execution of exchange arrangements between Hong Kong and relevant jurisdictions. Please contact us for more information.

Contact Us

PKF consists of over 400 offices, operating in 150 countries across five regions. We specialise in providing high quality audit, accounting, tax, and business advisory solutions to international and domestic organisations in all our markets.

PKF Tax and Business Advisory provides a wide range of comprehensive tax advisory services in respect of the International, Hong Kong and China matters.

If you require assistance in any compliance or advisory matters, please feel free to contact our teams.

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