Transfer pricing services in Thailand

Introduction
Who we are

We, at Mazars, are dedicated to delivering tailormade solutions and services to our clients wherever they are in the world. International, integrated and independent, we are a partnership specialising in audit and advisory services.

We care about the success of our clients and people, we preserve the integrity of our industry, and we are committed to passing on a just and prosperous world to future generations.

Our values guide us in everything we do: how we work with our clients, how we develop our people and what role we play in our communities. Not only have our values contributed to our firm's decades-long story of growth, they also demonstrate our commitment to going above and beyond what is expected of us - today and tomorrow.

Integrity

Responsibility

Diversity and respect

Technical excellence

Independence

Stewardship

Who we are

Mazars in Thailand

Mazars in Thailand is a leading audit, accounting, legal, tax, and financial advisory practice, combining the benefits of an integrated global partnership with the entrepreneurial drive of the partners. Mazars in Thailand currently has over 280 professionals. One of the main advantages we offer our clients is the multinational composition of staff. Our practice has Thai, British, Dutch, German, Indian, Japanese, Korean and Australian nationals among its senior advisors, which ensures that we are well placed to act as a bridge between businesses operating in Thailand and related companies overseas.

1
Global integrated partnership

13
Partners

€ 11M
Fee income

280
Staff

8
Nationalities

8
Languages

Introduction

The stricter transfer pricing laws, outlined in the Transfer Pricing (TP) Act, are effective since 1 January 2019. New TP documentation requirements are effective from 1 January 2021. Thailand Income's Tax laws include the arm's length principle and introduce penalties for failure to comply with the TP documentation and disclosure requirements. It is important for taxpayers to review their TP policies to ensure they comply with the arm's length principle and to be aware of the new rules to avoid additional tax assessments and penalties.

TP in Thailand – What clients need to be aware of ?

- As a result of the OECD's action plans into Base Erosion and Profit Shifting (BEPS), there has been greater review by Tax Authorities worldwide into TP related issues.
- The Thai Revenue Department ("RD") scrutinizes international transactions between affiliated entities and have specialized teams that carry out TP related audits.
- The RD has the power to adjust income for corporate income tax ("CIT") purposes if the consideration received is lower than the market price without justifiable grounds.
- The expense incurred may be non-deductible for CIT purposes if the expense is higher than the market price.
- The RD's tax auditors can adjust revenue and expenses in relation to 'related-party transactions' that were not at arm's length according to the rules, procedures, and conditions set out in the related Ministerial Regulation.
- The above can result in extra tax payable, surcharges, and penalties.

Factors that could lead to a TP investigation

- Any request for a refund (even if related party transactions are only minor);
- Management service fee payments to affiliated entities;
- Other significant transactions between affiliated entities (whether trading of goods or provision of services including royalty payments);
- Interest arising from loans between related parties;
- Pricing adjustment during the year or at the year-end to revise the profit;
- A long-running loss over many years;
- Fluctuating profit/loss (such as going from a profit to a loss after the CIT holiday period has expired under a BOI promoted project);
- Internal information obtained by RD officials when comparing with other similar businesses or industries.

New TP requirements since January 2019

Thai TP guidelines set out the required contents for Thai TP documentation. These are generally consistent with OECD TP guidelines but there are some differences.

Taxpayers are required to prepare and file a TP disclosure form detailing their ‘related party relationships and transactions’ if they have annual turnover of at least Baht 200 million.

A three-tiered TP documentation is required:

- A master file: overview of the group’s business operations, related parties and TP policies;
- A local file: details of business in Thailand, related party transactions and benchmarking study; and
- Country by Country Reporting (CbCR) of the group’s results and related party transaction on a global basis.

The local file and master file will be due 60 days after receiving a notification from the RD. The company can apply to extend this deadline to 120 days, or 180 days for the first year of request.

The deadline for the TP disclosure form is 150 days after the year-end (the same as the CIT return deadline).

The RD’s tax auditors can request TP documentation within 5 years after the TP disclosure form being filed.

The local file’s key requirements are as follows:

- Requirements cover the accounting period beginning on or after 1 January 2021.
- Local file must be prepared in Thai language.

An exemption from the benchmarking study may be applicable if the taxpayer meets certain criteria, however a tax audit risk remains.

Failure to submit the required documents may lead to a penalty not exceeding Baht 200,000. In addition, where additional tax is assessed, penalties may apply at 100% of the additional tax, together with interest at 1.5% per month (capped at 100% of the additional tax).

Taxpayers are required to prepare and submit CbCR if they meet the criteria and have consolidated group revenue of at least THB 28 billion.

- The requirement covers accounting periods beginning on or after 1 January 2021.
- CbCR must be prepared in English using CbCR XML Schema.
- It must be submitted together with CIT return, 150 days after the year-end.

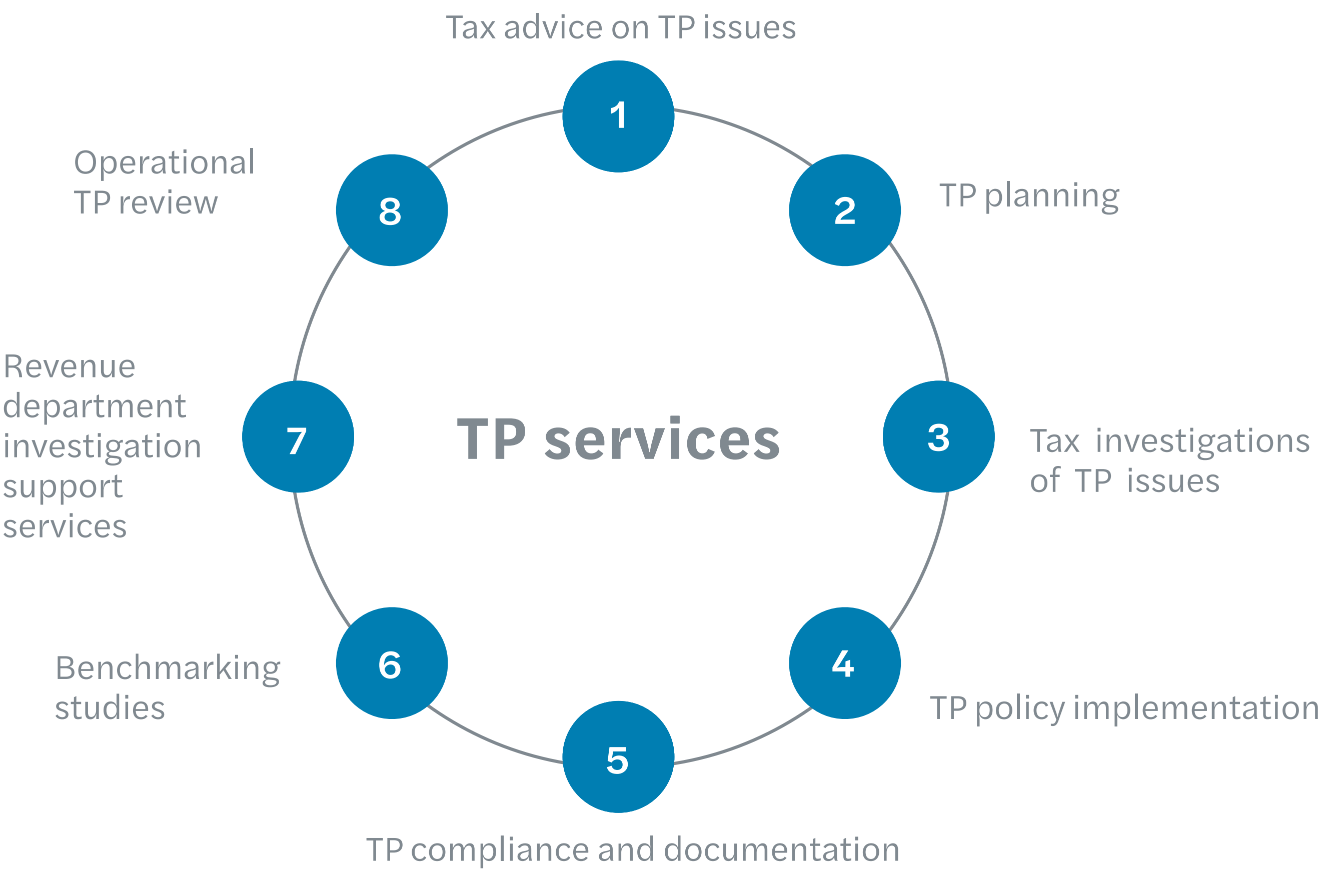
What companies should do to prepare for the new TP law?

1. Conduct a TP review or analysis of existing policies and documentation to assess potential risk areas;
2. Prepare a full TP report including a benchmarking study to analyse the related party transactions and their profitability, compared to similar businesses operating in Thailand;
3. The TP report should follow the TP guidelines and practice in Thailand, including the new guidance effective from 1 January 2021.

At Mazars, we are a trusted business advisor.

Our team consists of experienced tax professionals, which ensures that we can provide, develop, and implement customised transfer pricing solutions that fit our clients' commercial and tax strategies. This provides us with a broad knowledge of the solutions that have proved successful with a range of clients across various industries. We also draw upon transfer pricing expertise from across the world to ensure that we provide our clients with truly global transfer pricing solutions.

Our TP services



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Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services*. Operating in over 90 countries and territories around the world, we draw on the expertise of more than 44,000 professionals – 28,000+ in Mazars' integrated partnership and 16,000+ via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.

*Where permitted under applicable country laws

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