

Malaysia

Transfer Pricing Country Profile

December 2021

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subsection 140A(2) of the Income Tax Act (ITA) 1967 states that: “(2) Subject to subsections (3) and (4), where a person in the basis period for a year of assessment enters into a transaction with an associated person for that year for the acquisition or supply of property or services, then, for all purposes of this Act, that person shall determine and apply the arm's length price for such acquisition or supply.” Moreover, Rule 2(2) of the Income Tax (Transfer Pricing) Rules 2012 provides that: “For the purposes of sub-rule (1), a person shall determine and apply the arm's length price for the acquisition or supply of property or services in accordance with the method and manner provided for in these Rules.”	Income Tax Act 1967 (ITA) , Subsection 140A(2) Income tax (Transfer Pricing) Rules 2012 , Rule 2(2)
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	Malaysia Transfer Pricing Guidelines is largely based on and makes reference to the OECD Transfer Pricing Guidelines, as follows: “These Transfer Pricing Guidelines (hereinafter referred to as the Guidelines) are largely based on the governing standard for transfer pricing which is the arm's length principle as set out under the Organization for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines”.	Chapter I – Preliminary in Malaysia Transfer Pricing Guidelines
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Income Tax Act 1967 , Subsection 2(4)

	<p>definition contained under your domestic law or regulation.</p>	<p>Subsection 2(4) of the ITA1967 defines related parties as follows:</p> <p>“Where-</p> <p>(a) two or more companies are related within the meaning of section 6 of the Companies Act 1965;</p> <p>(b) a company is so related to another company which is itself so related to a third company;</p> <p>(c) the same persons hold more than fifty per cent of the shares in each of two or more companies; or</p> <p>(d) each of two or more companies is so related to at least one of two or more companies to which paragraph (c) applies,</p> <p>all the companies in question are in the same group for the purposes of this Act.”</p> <p>Moreover, Section 6 of Companies Act 1965 has been amended as Section 7 of Companies Act 2016 and provides for instances when corporations are deemed to be related to each other:</p> <p>“Where a corporation –</p> <p>(a) is the holding company of another corporation;</p> <p>(b) is a subsidiary of another corporation; or</p> <p>(c) is a subsidiary of the holding company of another corporation”</p>	<p>Companies Act 2016, Section 7</p>
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Transfer Pricing Methods

4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="689 1145 1541 1305"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>According to Malaysian legislation:</p> <p>(1) A person shall apply the traditional transactional methods to determine the arm’s length price of a controlled transaction.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Malaysia – Income Tax (Transfer Pricing) Rules 2012, Rule 5(3)</p> <p>Malaysia – Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017), Chapter III, Para 3.1</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										

		<p>(2) Where the traditional transactional methods cannot be reliably applied or cannot be applied at all, the person shall then apply the transactional profit methods.</p> <p>(3) Where both the traditional transactional method and transactional profit method cannot be applied at all, the Director General may allow the application of other methods which provides the highest degree of comparability between the transactions.</p> <p>“The following methodologies can be used in determining arm’s length price:</p> <ul style="list-style-type: none"> • Comparable uncontrolled price method • Resale price method • Cost plus method • Profit split method • Transactional net margin method” <p>Moreover, Rule 5(3) of the Income Tax (Transfer Pricing) Rules 2012 states that:</p> <p>“Where both the traditional transactional method and transactional profit method cannot be applied at all, the Director General may allow the application of other methods provided the prices arrived at is in accordance with the arm’s length principle”.</p>	
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input checked="" type="checkbox"/> Hierarchy of methods</p> <p><input type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <hr/> <p>Although the taxpayer is given the right to choose any method, the emphasis should be on arriving at an arm’s length price. It is advised that transactional profit methods be used only when traditional transactional methods cannot be reliably applied or exceptionally cannot be applied at all. This will depend heavily on the availability of comparable data and the taxpayer needs to provide proof that traditional transactional methods cannot be reliably applied or cannot be applied at all. The method that requires the fewest adjustments and provides the most reliable measure of an arm’s length result is preferred by the Inland Revenue Board of Malaysia (IRBM) as this will reduce the scope and nature of future disputes.</p>	<p>Malaysia – Income tax (Transfer Pricing) Rules 2012, Rule 5(2)</p> <p>Malaysia – Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017), Chapter III, Para 3.1</p>

6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>)	Some of the guidance under Para 2.18 – 2.22 of the TPG has been followed under Chapter X of New Updated TPG with effect from 15.07.2017 (Chapter X – Commodity Transactions)
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Malaysia follows the OECD TPG guidance on comparability analysis.	Malaysia’s Transfer Pricing Guidelines (issued on July 2012– Updated version 2017), Chapter IV – Comparability Analysis
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In the Malaysian scenario, the IRBM gives priority to the availability of sufficient and verifiable information on comparables’ financial information. Thus, domestic comparables are preferred.	Malaysia’s Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017), Chapter II – The Arm’s Length Principle (Para 2.2.8)
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	Does your legislation allow or require the use of an arm’s length range and/or statistical measure for determining arm’s length remuneration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No An arm’s length range refers to a range of figures that are acceptable in establishing the arm’s length nature of a controlled transaction. The range is derived from applying the same transfer pricing method to multiple comparable data. The facts and circumstances of a case are therefore important in determining a range, or the point in a range, that is the most reliable estimate of an arm’s length price or allocation. If every effort has been made to exclude data that have a lesser degree of comparability, but some comparability defects remain and cannot be adjusted, it may be appropriate to make transfer pricing adjustments to a value that best reflects the facts and circumstances of transactions between associated persons.	Malaysia’s Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017), Chapter IV – Comparability Analysis

		This value may be derived from utilising statistical tools depending on the specific characteristic of the data set.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Comparability adjustments are allowed when it is applied appropriately, enhances the accuracy and reliability of comparison. Differences between the transaction of the comparables and that of the tested party must be identified and adjusted for, in order for the comparables to be useful as a basis for determining the arm's length price.	Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017), Chapter II – The Arm's Length Principle (Para 2.5)
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No In TP Rules 2012, Rule 11(6), states that: “A person shall be deemed to be an owner of an intangible property and is entitled to any income attributable to that property if the expenses and risks associated with the development of the intangible property are borne by that person.” The guidance for intangibles covers issued as follows: - Identifying intangibles - Ownership of intangibles and analyzing transactions involving DEMPE - Transactions involving the use or transfer of intangibles - Supplemental guidance for determining arm's length conditions in cases involving intangibles	(1) Malaysia – Income tax (Transfer Pricing) Rules 2012 , Rule 11 (2) Chapter VIII of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Malaysia has not yet introduced the HTVI approach as defined in Chapter VI of the OECD Transfer Pricing Guidelines. However, the domestic legislation under Section 140A of the Income Tax Act 1967 does not restrict its application.	HTVI Implementation Questionnaire

14	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Although there are no specific rules pertaining to tax treatment of transactions involving intangibles, definition on royalty has been explained in Subsection 2(1) of the ITA 1967.</p>	<p>Income Tax Act 1967, Subsection 2(1)</p>
Intra-group Services			
15	<p>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>A controlled transaction should apply the methods in accordance with Rule 9 TP Rules 2012 to determine the arm's length transfer price for intra-group services. The method should demonstrate that the intra-group services have been rendered, the provision of such services has conferred an economic benefit or commercial value to his business and the charge for the intra-group services is justified.</p>	<p>(1) Rule 9 of Malaysia – Income tax (Transfer Pricing) Rules 2012: Rule 9 (Intra-group services)</p> <p>(2) Chapter VI of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)</p>
16	<p>Do you have any simplified approach for low value-adding intra-group services?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Although there are no specific rules pertaining to tax treatment of transactions involving services, Section 4A of the ITA 1967 has addressed the issue of income received from services rendered by a non-resident person.</p> <p>This legislation does not limit any deduction pertaining to intra-group services expenses but on the tax treatment on withholding taxes (WHT) involving services paid to non-resident.</p> <p>Income that a non-resident derives from Malaysia from special classes of income is subject to tax in Malaysia. The prevailing WHT rate is 10%, except where a lower rate is provided in an applicable tax treaty.</p> <p>The “special classes of income” are those listed in Section 4A of the Income Tax Act, 1967 (ITA):</p> <ol style="list-style-type: none"> 1. Payments received as consideration for services rendered by the non-resident or its employee in connection with the use of property or rights 	<p>Income Tax Act 1967, Section 4A</p>

		<p>belonging to the non-resident, or the installation or operation of plant, machinery or other apparatus purchased from the non-resident;</p> <p>2. Payments received as consideration for “technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme”; and</p> <p>3. Rent or other payments received under an agreement or arrangement for the use of movable property.</p>	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Financial Transactions			
18	[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Rule 12 of the Income Tax (Transfer Pricing) Rules 2012 has imposed an obligation for any person in a controlled transaction who provides or receives financial assistance to determine the arm’s length interest rate for such assistance.</p> <p>Guidance pertaining to intra-group financing in Chapter 9 of Malaysia’s Transfer Pricing Guidelines will be updated based on the Financial Transactions guidance of the OECD (new Chapter X of the OECD TPG).</p>	Income tax (Transfer Pricing) Rules 2012 , Rule 12
19	[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Malaysia introduced a restriction on the deductibility of interest under Section 140C of the Income Tax Act 1967, and Income Tax (Restriction on Deductibility of Interest) Rules 2019 [P.U.(A) 175]. The basic principle in introducing this restriction is based on BEPS Action 4. These rule came into operation on 1 July 2019.</p> <p>Moreover, Subsection 33(2) of the Income Tax Act 1967 states that:</p>	<p>Income Tax Act 1967 (ITA), Section 140C</p> <p>Income Tax (Restriction on Deductibility of Interest) Rules 2019 [P.U.(A) 175]</p> <p>Income Tax Act 1967 (ITA), Section 33(2)</p> <p>Interest Expense and Interest Restriction Public Ruling No. 2/2011</p>

		<p>“Pursuant to Section 33(2) of the Act, if a person has borrowed money for purposes of business as well as for non-business purposes, the allowable interest expense charged to the income statements may be restricted before a deduction is allowed in the computation of the company's adjusted income.”</p> <p>Detailed guidance on interest restriction can be found in the Interest Expense and Interest Restriction Public Ruling No. 2/2011.</p>	
Cost Contribution Agreements			
20	<p>Does your jurisdiction have legislation or regulations on cost contribution agreements?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>A person entering a cost contribution arrangement should determine the allocation of costs for such arrangement in accordance with the allocation that would have been undertaken by an independent person dealing with each other at arm's length in a similar arrangement. Any payment made to a person in respect of such entry, withdrawal or termination shall be determined in accordance with the payment that would have been made by an independent person dealing with each other at arm's length.</p>	<p>(1) Malaysia – Income tax (Transfer Pricing) Rules 2012, Rule 10</p> <p>(2) Chapter VII of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017),</p>
Transfer Pricing Documentation			
21	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <p><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</p> <p><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</p> <p><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</p> <p><input type="checkbox"/> Other (specify):</p>	

22	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>As mentioned under paragraph 11.2.3 of Malaysia's Transfer Pricing Guidelines, the transfer pricing documentation should be made available within 30 days upon request by the IRBM.</p> <p>With the introduction of Section 113B of the Income Tax Act 1967 which comes into operation on 1 January 2021, the Transfer Pricing Documentation should be made available within 14 days upon request by the IRBM. This requirement will apply to transfer pricing audit cases which have commenced on or after 1 January 2021.</p> <p>As mentioned under paragraph 11.2.8 of Malaysia's Transfer Pricing Guidelines, taxpayers are permitted to file their transfer pricing documentation in Bahasa Malaysia or English. Where supporting documents are in a language other than Bahasa Malaysia or English, a translation should be provided upon submission of the transfer pricing documentation.</p> <p>(1) General record keeping obligations are provided for under Section 82 and 82A of the Income Tax Act 1967.</p> <p>‘Records’ under subsection 82(9) include books of accounts, invoices, vouchers, receipts and other documents necessary to verify entries in any books of accounts. ‘Documents’ under subsection 82A(5) include statement of income and expenditure, and invoices, vouchers, receipts and such other documents as are necessary to verify the particulars in a return.</p> <p>(2) Malaysia – Income Tax (Transfer Pricing) Rules 2012, Rule 4 – requires “a person who enters into a controlled transaction shall prepare a contemporaneous transfer pricing documentation”.</p> <p>(3) Chapter XI of New Updated TPG (with effect from 15.07.2017), paragraph 11.2 provide details on Transfer Pricing Documentation including a list of information required.</p> <p>The Malaysian Income Tax (Country-by-Country Reporting) Rules 2016 (The Rules) P.U.(A) 357/2016 has been gazetted on 23 December 2016. The Rules applies to Multinational headquartered in Malaysia, having total group revenue of more than RM 3 billion in the year 2016 in which they are required to furnish their aggregate tax jurisdiction-wide information relating to the global allocation of the income, taxes paid and certain indicators of the location of economic activity among tax jurisdictions in which the multinational company group operates. The information to be furnished is pertaining to the financial information of 2017 onwards.</p>	<p>Section 113B, Section 82 and 82A Income Tax Act 1967</p> <p>Malaysia – Income tax (Transfer Pricing) Rules 2012, Rule 4</p> <p>Chapter XI of Malaysia’s Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)</p>
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23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Malaysia has introduced a penalty between RM 20 000 and RM 100 000 for failure to furnish contemporaneous transfer pricing documentation under section 113B of the Income Tax Act 1967. This provision takes effect starting 1 January 2021. Paragraph 11.2.3 of Malaysia's Transfer Pricing Guidelines (online version) has been updated to reflect such changes.</p>	<p>Para 11.2.3 of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)</p>
24	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>To ease compliance burden, persons referred to in the Malaysia Transfer Pricing Guidelines that are required to file transfer pricing documentation do not include individuals not carrying on a business, further -</p> <p>(a) for a person carrying on a business, the Guidelines apply wholly to a business with gross income exceeding RM 25 million, and the total amount of related party transactions exceeding RM 15 million</p> <p>(b) where a person provides financial assistance, the guidelines on financial assistance are only applicable if that financial assistance exceeds RM 50 million. The Guidelines do not apply to transactions involving financial institutions.</p> <p>Any person which falls outside the scope above, they may opt to fully apply all relevant guidance as well as fulfil all Transfer Pricing Documentation requirements in the Guidelines; or alternatively may opt to comply with Transfer Pricing Documentation requirements under paragraph 11.2.4 (a), (c) and (d) of Chapter XI.</p> <p>These requirements are not an additional information. Taxpayer can opt to provide the following information rather than to prepare a full transfer pricing requirements as provided under the Guidelines.</p> <ul style="list-style-type: none"> - Para 11.2.4 (a) - Organisational structure; - Para 11.2.4 (c) - Controlled transaction; and 	<p>Para 1.3 of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)</p>

		- Para 11.2.4 (d) - Pricing policies.	
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Malaysia has introduced a penalty between RM 20 000 and RM 100 000 for failure to furnish contemporaneous transfer pricing documentation under section 113B of the Income Tax Act 1967. This provision takes effect starting 1 January 2021. Paragraph 11.2.3 of Malaysia's Transfer Pricing Guidelines (online version) has been updated to reflect such changes.	Para 11.2.3 of Malaysia's Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)
Administrative Approaches to Avoiding and Resolving Disputes			
25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	Please check those that apply: <input checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input checked="" type="checkbox"/> Other (<i>please specify</i>): Dispute resolutions process for both TP and non-TP cases under the Dispute Resolution Department The dispute resolution process is an initiative to give taxpayers the opportunity to resolve an appeal or application for relief without the need for it to be forwarded to the Special Commissioners of Income Tax (SCIT) for a decision. In the context of the IRBM, this process is a platform for an alternative means of dispute resolution whereby the Dispute Resolution Department, IRBM or State Director's Office, IRBM acts as a neutral party during a discussion or proceeding held with a taxpayer in an effort to reach an out of court settlement.	Malaysia's MAP Profile

Safe Harbours and Other Simplification Measures

26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	N/A	

Other Legislative Aspects or Administrative Procedures

28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Malaysia has not adopted the AOA in its tax treaties.	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No As stated in Malaysia's position on Article 7 and on the Commentary in the OECD Model Tax Convention, Article 7 will be interpreted as it read before the 2010 Update in line with the relevant Commentary as it stood prior to that update.	

Other Relevant Information

32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)	<p>Specific provisions for transfer pricing and APA - S 140A and S 138C are effective from 1 January 2009.</p> <p>The Income Tax (Transfer Pricing) Rules 2012 and Income Tax (Advance Pricing Arrangement) Rules 2012 issued on 11 May 2012 are deemed to have come into operation on 1 January 2009.</p> <p>Malaysian Transfer Pricing Guidelines 2012 (TPG2012) were issued on July 2012. APA Guidelines were issued on July 2012. On 15.07.2017, there are four new updated chapters in the Malaysian TPG and uploaded into the website:</p> <ul style="list-style-type: none"> - Chapter II – The Arm’s Length Principle - Chapter VIII – Intangibles - Chapter X – Commodity Transactions - Chapter XI – Documentations <p>Other chapters in the Malaysian TPG 2012 are being reviewed to align them with recommendations from BEPS Actions 8-10 Reports.</p> <p>Current MAP guideline and APA rules and guidelines are being reviewed where appropriate amendments will be proposed (if necessary).</p>	Malaysia’s Transfer Pricing Guidelines (issued on July 2012 – Updated version 2017)

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>