

Transfer pricing alert

Draft legislation on the identification of related parties for partnerships, trusts and registered business trusts

On 18 June 2025, the Ministry of Finance (MOF) released the proposed Finance (Income Taxes) Bill 2025 for public consultation. The proposed legislative amendments to the Singapore Income Tax Act 1947 (ITA) include specific transfer pricing (TP) related changes, in particular, to the existing sections 34D and 34F. The proposed amendments will have an impact on how related parties are determined for partnerships, trusts as well as registered business trusts.

With the proposed changes, the definition of "person" in the ITA will include partnership, trustee of a trust and registered business trust. This means that where control over a partnership, trustee of a trust or registered business trust is established, the parties involved in the transaction with such partnerships, trusts or registered business trusts will be considered to be related parties for TP purposes and hence the transaction will be subject to the arm's length principle and Singapore TP Documentation Rules under the ITA.

This alert provides a summary of the proposed changes and our observations. As the Bill has not been enacted, this development and the potential implications for your business should be monitored.



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Current tax legislation

Understanding Singapore TP framework for related party transactions

In the context of Singapore's TP regime, the concept of related parties plays a central role in determining whether transactions need to comply with the arm's length principle. The ITA provides the legislative framework for identifying related party relationships and transactions, and outlines the detailed TP Documentation Rules.

Under section 34D of the ITA, taxpayers are required to ensure that their related party transactions are conducted at arm's length. That is, the pricing of such transactions must be consistent with what independent parties would have agreed upon under similar circumstances. This requirement applies to both domestic and cross-border related party transactions. Further, section 34F imposes a statutory requirement for taxpayers to prepare and maintain contemporaneous TP documentation to demonstrate that their related party transactions are arm's length.

Such TP documentation must be submitted to the Inland Revenue Authority of Singapore (IRAS) upon request.

Definition of a related party

To determine whether a transaction falls within the scope of these requirements, it is essential to understand what constitutes a related party. As defined in section 2(1) of the ITA, a "person" is considered a related party in relation to another person (A) if:

- The person directly or indirectly controls A;
- The person is controlled directly or indirectly by A; or
- The person, who together with A, is directly or indirectly under the control of a common person.

The ITA also defines a "person" to include a company, body of persons and a Hindu joint family, and a "body of persons" does not include a partnership. As such, trusts and partnerships generally do not fall within the definition of a person under the current tax legislation. However, a registered business trust, which is treated as a company for tax purposes, falls within the definition for the purposes of the current ITA.

Proposed changes to the tax legislation

The proposed amendment to section 34D of the ITA provides for the enactment of subsidiary legislation for the identification of related parties in a transaction that involves a partnership, trust or registered business trust and clarifies how the provision applies to such transactions.

Specifically, under the proposed amendments, the reference to a "person" will include a partnership, trustee of a trust when acting in that capacity and registered business trust.

While registered business trusts are considered a "person" under the current ITA, the proposed amendment seeks to conform and align the definition of control for registered business trusts with partnerships and trusts for consistency.

The proposed amendments make references to rules made under section 7 of the ITA to determine whether a person is treated as a related party to another person that is a partnership, trustee of a trust or registered business trust. Details of the rules are currently not included in the proposed amendments and will likely be provided when the Bill is gazetted.

Importantly, the proposed section 34D(9) introduces an exclusion for private non-commercial trusts. Section 34D does not apply where the related parties are parties to a trust that is established by an individual for the benefit of members of their household or family and the transaction is for the carrying out of the trust; and is not a real estate investment trust, unit trust, business trust, or any trust established for business or commercial purposes.

Overall comments

The proposed amendments to the ITA introduce significant changes that will directly affect the TP requirements for partnerships and trusts in Singapore. Currently, partnerships and trusts do not fall within the definition of related parties under the existing tax legislation as they are not considered a "person", which means that they are not subject to TP obligations. However, the proposed amendments will expand the definition of "person" to include partnerships and trustees of trusts, thereby imposing the concept of the arm's length principle and TP documentation requirements for partnerships and trusts.

This development is crucial as partnerships and trusts will now be required to demonstrate compliance with the arm's length principle for their related party transactions. The expanded scope of related parties may present challenges, particularly for smaller partnerships and trusts that may not have the resources to navigate the complexities of TP concepts and to ensure adherence to the arm's length principle or prepare mandatory TP documentation if they do not qualify for exemption. On a positive note, the exclusion of certain private non-commercial trusts from the scope of related party transactions alleviates the compliance burden for those managing such arrangements.

As these changes come into effect, taxpayers with partnership and trust structures should carefully assess the potential impact of these changes and understand their new obligations regarding TP requirements. The changes may require a re-evaluation of existing practices and processes to ensure compliance with the new TP requirements. It is essential for partnerships and trusts to stay informed about the implications of the proposed legislation, including the arm's length principle, and their TP documentation obligations. Failure to comply with the arm's length principle and TP documentation requirement could result in potential non-compliance penalties and surcharges on the TP adjustment.

Conclusion

The public consultation is now closed. The MOF will publish a summary of the main comments received, together with their responses, by the fourth quarter of 2025. Meanwhile, taxpayers with partnership and trust structures are advised to monitor this development and the potential implications for their businesses. Registered business trusts would also need to monitor the rules in section 7, which will provide details on the determination of control between a person and a partnership, the trustee of a trust or registered business trust to evaluate if they have any TP obligations.

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