

Background

- The Hong Kong Inland Revenue Department (“IRD”)’s approach will generally follow the COVID-19 Transfer Pricing Guidance, which states that the arm's length principle remains the applicable standard for evaluating the transfer pricing of controlled transactions in the face of the pandemic, though due consideration must be given to how the pandemic has affected the outcomes of the economically significant risks controlled by the parties to the transactions.

- Given the economic impact of the COVID-19 pandemic, the IRD considered that it may be necessary to conduct separate testing periods over the duration of the pandemic or to
- include loss-making comparables in the comparability analysis. If the losses are incurred at arm's length, it is acceptable for a limited-risk entity to incur such losses. The IRD also recognizes that the price of a controlled transaction may be affected by the receipt of government support.

Deadline

Existing advance pricing agreements (“APAs”) will be upheld by the IRD unless a situation has occurred that would cause the APA to be revoked, cancelled, or revised. If major changes in economic conditions cause the critical assumptions to be breached, taxpayers must notify the IRD not later than one month after the occurrence.

Questions

If you have any questions, please contact Mary Ho mary.wfho@crowe.hk or Cyrus Chow cyrus.chow@crowe.hk.

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