



國富浩華稅務（香港）有限公司
Crowe Tax Services (HK) Limited

Transfer Pricing Development in Hong Kong

(July 2023)



Audit / Tax / Advisory

Smart decisions. Lasting value.



Under the Transfer Pricing (“TP”) regime in Hong Kong, Hong Kong entities are obligated to prepare TP documentations, i.e. Master File, Local File and Country-by-Country report in certain circumstances.

The above three-tiered system requires a Hong Kong entity to formulate and implement a TP policy in accordance with the TP requirements, as well as to provide the Hong Kong Inland Revenue Department (“IRD”) with relevant information for assessing TP risks.

Threshold requirements for preparing Master File and Local File

A Hong Kong entity is required to prepare a Master File and a Local File if the following exemption criteria cannot be fulfilled:

1. Exemption based on amount of related party transactions

Type of transactions	Amount does not exceed
Transfers of properties (whether movable or immovable but excluding financial assets and intangibles)	HKD220 million
Transactions in respect of financial assets	HKD110 million
Transfers of intangibles	HKD110 million
Other transactions	HKD44 million

Points to note:

- The threshold for each type of related party transactions applies to the aggregate amount of the same type of transactions.
- A related party transaction can either be a revenue item or an expense item.
- Each transaction should be considered separately (offsetting is not allowed).
- It is the arm’s length amount of the transaction which should be aggregated for determining whether the threshold is exceeded.

If the total amount of any type of related party transactions of the Hong Kong entity exceeds the above threshold, the Hong Kong entity will need to prepare a Master File and a Local File.

2. Exemption based on business size

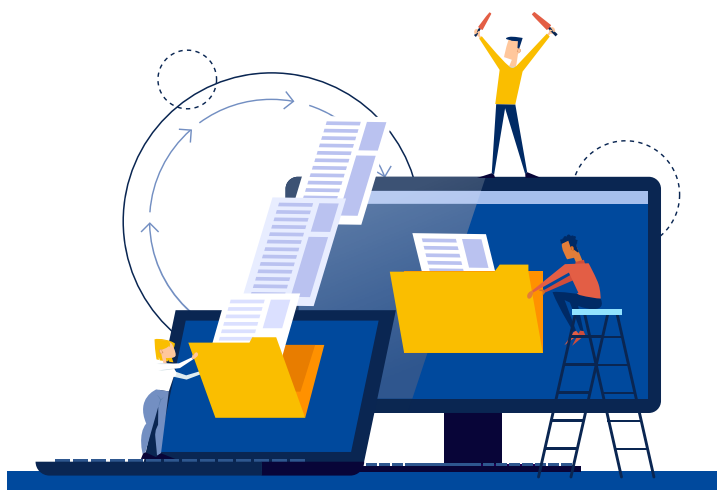
A Hong Kong entity which satisfies any two of the conditions below will not be required to prepare a Master File and a Local File for an accounting period:

- The total amount of the entity's revenue for the relevant accounting period does not exceed HKD400 million;
- The total value of the entity's assets at the end of the relevant accounting period does not exceed HKD300 million; and
- The average number of the entity's employees during the relevant accounting period does not exceed 100.

Commencement period for preparing Master File and Local File

The requirements relating to Master File and Local File apply in relation to an accounting period beginning on or after 1 April 2018.

End-date of annual accounts	End-date of the first accounting period for Master File and Local File
Between 1 January and 30 March (i.e. M code)	Between 1 January 2020 and 30 March 2020 (i.e. year of assessment 2019/20)
31 March (i.e. M code)	31 March 2019 (i.e. year of assessment 2018/19)
Between 1 April and 30 November (i.e. N code)	Between 1 April 2019 and 30 November 2019 (i.e. year of assessment 2019/20)
Between 1 December and 31 December (i.e. D code)	Between 1 December 2019 and 31 December 2019 (i.e. year of assessment 2019/20)



Timing for preparing Master File and Local File

Under section 58C(2)(a) of the Inland Revenue Ordinance ("IRO"), a Hong Kong entity must prepare a Master File and a Local File no later than 9 months after the end of its accounting period.

In addition, the Hong Kong entity has to declare in the Profits Tax Return and supplementary form S2 whether a Master File and a Local File have to be prepared.

The Master File and Local File must be prepared in English or Chinese.

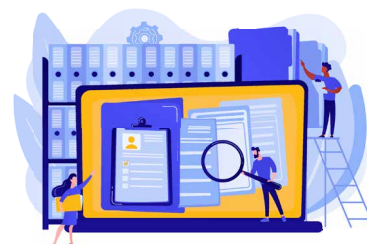
A Hong Kong entity must retain the files for a period of not less than 7 years after the end of the accounting period concerned.



Regular reviews of Master File and Local File conducted by the IRD

The IRD will conduct regular reviews to ensure compliance of the preparation of Master File and Local File by Hong Kong entities in the following manners:

- The regular reviews would normally be carried out within 6 months after filing of Profits Tax Returns.
- The selected entity would receive an enquiry letter from the IRD, under which it is required to complete and submit the form “Transfer Pricing Documentation – Master File and Local File” (Form IR1475).



Page 1 of Form IR1475:

**Transfer Pricing Documentation
- Master File and Local File**

You are required to extract the relevant information from the master file and local file, where applicable, and complete this form electronically (Note 1). If you need to explain your situation in details or the space provided is insufficient, you can provide information on a separate sheet. After completion, print the filled form for signature and submit all pages of the filled form.

File No.: /

Year of Assessment:

SECTION 1 MASTER FILE AND LOCAL FILE

1.1 Name of the Hong Kong Entity:

1.2 Accounting period (Note 2) of the Hong Kong Entity: From To
(day/month/year) (day/month/year)

1.3 Name of the group's ultimate parent entity (Notes 3 and 4)

1.4 Jurisdiction of tax residence of the group's ultimate parent entity:

1.5 Thresholds for preparation or retention of Master File and Local File (Notes 5 and 6)

1.5.1 Total amount of revenue for the accounting period (Note 7) HK\$

1.5.2 Total value of assets at the end of the accounting period (Note 8) HK\$

1.5.3 Average number of employees during the accounting period (Note 9)

1.6 For each type of the following transactions, whether the total amount of controlled transactions (Notes 10 and 11) [excluding specified domestic transactions and grandfathered transactions (Note 12)] undertaken by the Hong Kong entity for the accounting period exceeded the specified amount?

1.6.1 Transfers of properties (Note 13) - \$220 million Yes No

1.6.2 Transactions in respect of financial assets - \$110 million Yes No

1.6.3 Transfers of intangibles - \$110 million Yes No

1.6.4 Other transactions - \$44 million Yes No

- If a selected entity has not declared in its supplementary form to Profits Tax Return (S2) that a Master File and a Local File are required to be prepared, the entity will be requested to provide a detailed explanation on how the conditions for the business size-based exemption or the transaction amount-based exemption are satisfied.
- In a situation where the aforesaid review indicates that the Hong Kong entity has failed to prepare a Master File and a Local File in accordance with the requirements set out in section 58C, the IRD may institute prosecution against the entity.

Upon conviction, the Hong Kong entity is liable to a fine at level 5 (i.e. HKD50,000), and the court may order the entity to prepare the Master File and Local File within a specified time.

If the Hong Kong entity fails to comply with the court order, it would be liable to a further fine at level 6 (i.e. HKD100,000) on conviction.

- When examining Profits Tax Returns, the IRD may request a Hong Kong entity to provide documentary evidence to justify its TP treatment. If the Hong Kong entity has failed to comply with the requirements in section 58C, penal action would also be taken against the entity.

Crowe Hong Kong's Transfer Pricing service capability

Transfer Pricing is a term for describing all types of intercompany pricing arrangements between related business entities. New global tax and Transfer Pricing documentation requirements, stricter penalties, more stringent review by tax authorities, etc. prompt multinational corporations to reconsider their existing Transfer Pricing practices.

Over the past decade, our Crowe Transfer Pricing team in Hong Kong has assisted our multinational and Hong Kong clients in numerous Transfer Pricing exercises.

We have successfully persuaded tax authorities across Mainland China and Hong Kong to agree on the existing Transfer Pricing mechanism of our clients or reached consensus with the tax authorities to achieve tax savings.

We have in-depth Transfer Pricing experience in the following areas:

- Master Files and Local Files in Hong Kong.
- Transfer Pricing contemporaneous documentation in Mainland China.
- Transfer Pricing benchmarking analyses for supporting the reasonableness of transactions with overseas related entities.
- Answering enquiry letters from the Hong Kong Inland Revenue Department regarding the authenticity, commercial needs and charging basis of related party transactions.
- Transfer Pricing defense in both Mainland China and Hong Kong.
- Transfer Pricing planning to establish a proper pricing arrangements and documentation system during the pre-start-up phase of your business.
- Transfer Pricing risk assessment and advice on how to improve the existing Transfer Pricing arrangements and establish a defensible position.
- Health check on the current business and transactional models from the Transfer Pricing perspective.

Our sophisticated Transfer Pricing team members provide high level technical services and innovative solutions to solve complicated and challenging Transfer Pricing and tax matters.

We will be pleased to share our experience and ideas with you to achieve your business objective. If you are interested in our Transfer Pricing and tax services, please feel free to contact our tax partner Cyrus Chow by email to cyrus.chow@crowe.hk or by phone at +852 2894 6835 for enquiry.





Contact us

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Information can be obtained at: www.croweglobal.org

Crowe Global 為全球十大會計師事務所集團網絡之一，擁有200家獨立會計師事務所和諮詢服務公司、其790個辦事處遍佈全世界超過140個國家。Crowe Global 的成員所承諾向客戶提供高質素服務、高效率的服務流程、並且遵循一套共同核心價值和管理理念。成員所均為當地業界翹楚，聘用熟識當地法例和習俗的當地專才，以協助客戶拓展新業務及新市場。Crowe Global 的成員在審計、稅務、風險和諮詢服務領域中均已建立良好聲譽，能夠因應客戶的需要，提供個人化服務。

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