



# Maldives: Introduction of Transfer Pricing Regulations

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# Introduction



Transfer Pricing is one of the most critical issues faced by international businesses. It's an important anti-avoidance tax law that has been adopted by many governments across the world to protect their tax base. Topic of Transfer Pricing (TP) has obtained a significant momentum over past few years especially after introduction of Base Erosion and Profit Shifting (BEPS) framework by Organisation of Co-Operation and Development (OECD).

Maldives, owing to its commitment to BEPS inclusive framework, has introduced transfer pricing documentation regulations, which are largely modelled on BEPS Action Plan 13 - 'Transfer Pricing documentation and Country-by-Country Reporting.' In June 2020, Maldives Inland Revenue Authority (MIRA or tax authority) introduced Transfer Pricing Regulation 2020/ R-43 (Regulation) and in January 2021, MIRA has introduced Country by Country (CbC) Reporting Regulation 2021/R-9.

This article summarizes the critical aspects emanating from the newly introduced regulation, including, impacted persons, various compliances and their deadline, and the way forward.

# Applicability and Exemption

Every person liable to income tax in Maldives and who has entered into controlled transaction with its associated parties is required to prepare Transfer Pricing Documentation for transactions entered with Associates.

Draft guidelines on arm's length principle defined the Person to include an individual, company, partnership, cooperative society, trust and body of persons, but does not include any State office or any State institution.

Additionally, Regulations has provided certain exemption category to prepare Transfer Pricing documentation as under:

- Person categorised as Micro, Small and Medium Enterprises (MSMEs) under the Law on Small and Medium Enterprises (Law number 6/2013) during the year under consideration and past 2 years.
- Domestic transactions (except loan transactions) with a related party who are undertaking business in the Maldives and such transaction is subject to tax at the same rate or is exempt from tax for both parties.
- Domestic loan transactions with a related party doing business in the Maldives, provided that the lender is not in the business of borrowing and lending.
- Domestic Loan transactions with a related party, that do not exceed MVR 15 Millions and which has applied indicative margin as published by the MIRA.
- Routine support services provided only to entities within the group and a mark-up of 5% is applied.
- Value of all other inter-company transactions (i.e. transactions other than those that are eligible for transaction-specific exemption) does not exceed MVR 5 Millions.



# Associated Parties and Control

Associated parties are defined where one party:

- Controls, or is controlled by, the other or both parties are controlled by the same party; or
- Is a relative of the other party; or
- Is a partnership and the other party is a partner in that partnership; or
- Is a partner in a partnership and the other party is a partner in the same partnership; or
- Is a trust and other party is a beneficiary of that trust; or
- Is a trust and the other party is a settlor of the trust
- Is a head office and the other party is a permanent establishment in Maldives

The circumstance where a person or any of its associates can be directly or indirectly required by another person to act in accordance with the directions of the second person, in which case the second person shall be treated as controlling the first person. In relation to a person and company, following circumstances may be considered as control:

- Holding majority shares or voting rights of company
- Managing the operations of the company or right to manage the operations of the company
- Right to derive the majority of distributed income
- Acquiring or right to acquire the majority of the capital upon dissolution

# Transfer Pricing compliance requirement in Maldives

<b>Compliance</b>	<b>Time limit as per Regulation</b>	<b>Time limit for FY 2021</b>
Local File	Not later than filing due date of tax return	30 <sup>th</sup> June 2022
Master File	Not later than filing due date of tax return	30 <sup>th</sup> June 2022
Country by Country Report	On or before 12 months from end of reporting fiscal year	31 <sup>st</sup> December 2022
Country by Country Notification	On or before last day of reporting fiscal year	31 <sup>st</sup> December 2021
Schedule 4 (Related Party Disclosure Form)	Not later than filing due date of tax return	30 <sup>th</sup> June 2022



# Transfer Pricing Documentation

Documentation is the most important and critical part of the whole transfer pricing exercise as it helps the businesses to explain the functional analysis and comparability analysis to justify before the authorities that the controlled transactions are at arm's length. OECD under BEPS Action 13, recommends that a 3-tier documentation is to be maintained by the businesses (which is also adopted by Maldives).

## Local File

Local file is transfer pricing documentation report containing detailed information on all controlled transaction of the taxable person, including information and economic analysis evidencing that the conditions of its controlled transactions are at arm's length.

## Master File

Master file provides a “blueprint” of the MNE group and provide an overview of the MNE group business, including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activity.

## Country by Country (CbC) Report

CbCR is a report of the MNE group containing certain information relating to the global allocation of the MNE group's income and taxes paid together with certain indicators of the location of economic activity within the MNE's. It is applicable to taxpayers having consolidated turnover of Euro 750 Million and above.

## Schedule 4 (Related Party Disclosure Form)

Schedule 4 is a Disclosure Form to report cross-border transactions of taxpayer with it's associated parties. It is applicable for those taxpayers having turnover more than MVR 20 Millions.

# Other Important Considerations



## Transfer Pricing Method

MIRA has adopted same 5 Transfer Pricing methods as suggested by OECD in its guidelines. Additionally, in the absence of application of any of these 5 methods, taxpayers may also adopt 'Other Method' having regard to nature of transactions.



## Language

Transfer Pricing documentation should be prepared either in English or Dhivehi.



## Frequency of Documentation

Local file and Master file may be prepared once every three years, provided there is no change in the condition or circumstances of the taxpayer and their controlled transactions. However, CbC Report needs to be prepared/ submitted annually.



## Comparability Data

While it is preferred to use local comparable data, taxpayers may also use regional comparable data in the absence of local comparable data.

# Way Forward



Transfer pricing as a subject has been very litigation fertile in the jurisdictions where it is already implemented. Transfer Pricing analysis is a very subjective matter, which involves various assumptions in the process of determining an arm's length price.

Therefore, it is critical for Taxpayers in Maldives to review and wherever required re-formulate the transfer pricing policy which can be easily defended before tax authority. The Key here is robust 'documentation' and full proof benchmarking methodology.



While we await more guidance/clarification from tax authority, meantime, the taxpayers in Maldives (headquarter entity or subsidiary of foreign headquarter group) are recommended to:

- Conduct a health-check for their intra-group transaction (domestic or cross-border) keeping in mind requirements of Transfer Pricing Regulation
- Perform a benchmarking search exercise to identify potential comparable companies/ agreement from public domain/ licensed database as part of comparability analysis in order to justify pricing/ profitability of related party transactions
- Formulation of Transfer Pricing policy documentation and ensuring that pricing/ profitability of related party transactions are in line with policy document
- Take corrective steps for the risk areas identified in health-check analysis
- Preparation of inter-company agreements in line with latest Transfer Pricing Regulation and ensuring it is in alignment with actual conduct of the parties
- Ensure accurate/ appropriate disclosures to be submitted in Transfer Pricing Declaration form and preparation local file/ master file documentation within prescribed time.

## Receive guidance from the Crowe team of Transfer Pricing Specialists



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