



Tax Chat

Vol. 4/2020 April

Audit / Tax / Advisory

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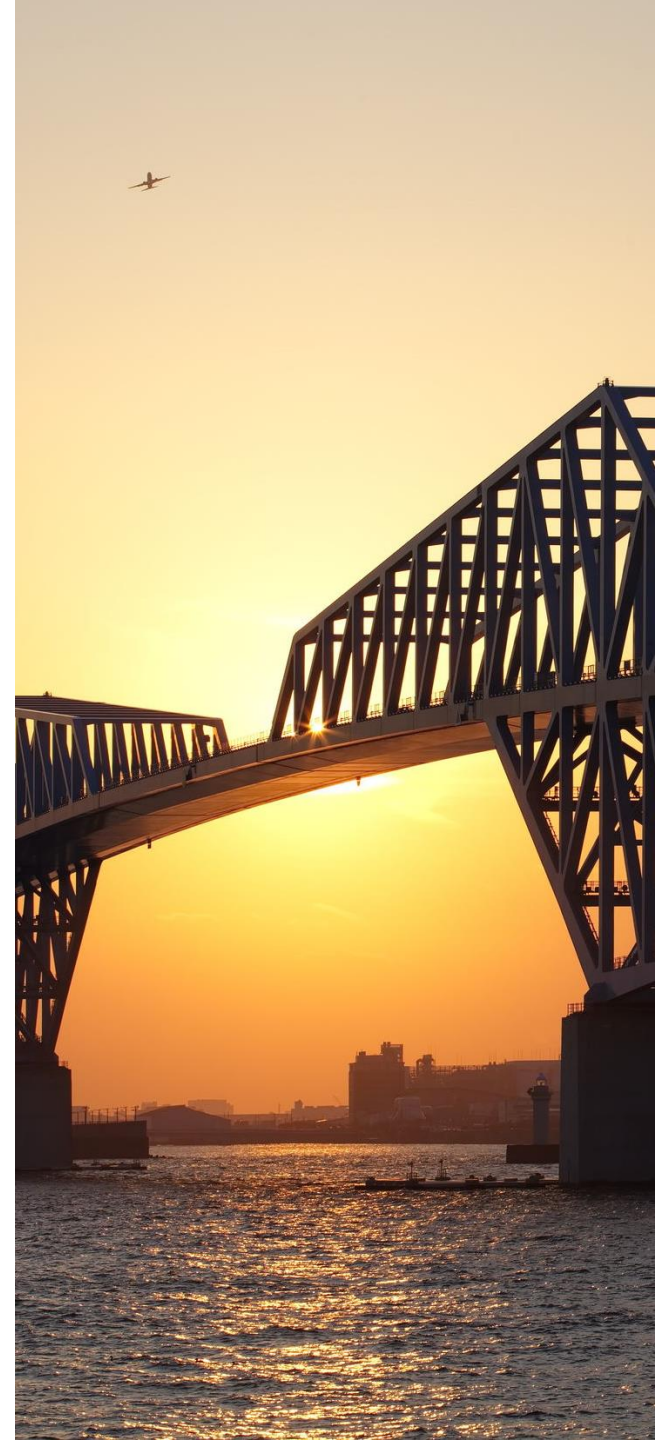
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Revised Return Form Filing Programme For The Year 2020 (updated on 10 April 2020)

Revised Return Form Filing Programme For The Year 2020 (updated on 10 April 2020)

The IRBM issued an updated [Revised Return Form Filing Programme For The Year 2020](#) on 10 April 2020. In essence, the grace period of two (2) months for submission of tax returns by companies, co-operative societies, limited liability partnerships and trust bodies now includes those with accounting period ending **31 December 2019**. A summary of the filing deadline is reproduced below:

Taxpayers	Period	Statutory Deadline	Revised Grace Period
Employers	Return for The Year Of Remuneration 2019	31 March 2020	31 May 2020
Individuals, Partnerships, Associations, Deceased Persons' Estate And Hindu Joint Families	Return for the Year of Assessment (YA) 2019	30 April 2020	30 June 2020
		30 June 2020	31 August 2020
Companies, Co-operative Societies, Limited Liability Partnerships And Trust Bodies	YA 2019 for accounting period ending:		
	31 July 2019	29 February 2020	30 April 2020
	31 August 2019	31 March 2020	31 May 2020
	30 September 2019	30 April 2020	30 June 2020
	31 October 2019	31 May 2020	31 July 2020
	30 November 2019	30 June 2020	31 August 2020
	31 December 2019	31 July 2020	30 September 2020

Note: It should also be noted that entities which close their accounting period between 31 July 2019 and 31 December 2019 but do not close on the last day of the relevant month will still qualify for the extension.

MCO – FAQ by the IRBM (updated on 16 April 2020)

MCO – FAQ by the IRBM (updated on 16 April 2020)

The IRBM has updated its [FAQ on Tax Matters](#) following the extension of the MCO period to 28 April 2020. The updates, as at 16 April 2020, are as follows:

Income Tax Estimates and Payments

Income Tax Estimates and Payments	
	Extension of deadline
Submission of all types of tax estimates which are due within the MCO period	31 May 2020
Tax estimate payments which are due on 15 April 2020 and 15 May 2020	31 May 2020
Revision in the third month of instalment* that falls in April 2020 <i>*the third month of instalment in 2020 is based on the company's basis period</i>	31 May 2020
Payment for CP500* which is due in March 2020 and May 2020 <i>*instalment payment of estimated tax payable for a person other than a company, trust body, co-operative society or limited liability partnership</i>	Deferred starting from April 2020 to June 2020
Revision of CP500	On or before 30 June 2020

MCO – FAQ by the IRBM (updated on 16 April 2020)

Income Tax Estimates and Payments (cont'd)

- All Small Medium Enterprises (SME) are entitled for deferment of CP500 payment.
 - Deferment of CP500 payment will be given automatically to eligible taxpayers based on payment records with the IRBM.
 - Taxpayers do not need to pay the deferred payments for CP204/ CP500. The balance of tax (if any) has to be settled upon the submission of the income tax return.
- Deferment of CP204 / CP500 payment by the companies / businesses that qualify under the Economic Stimulus Packages (ESP) will not be subject to tax increase under Section 107C(9) / 107B(3) of the Income Tax Act 1967 (ITA).



MCO – FAQ by the IRBM (updated on 16 April 2020)

Deferment of Estimated Tax Payments for SMEs

- All types of businesses with SME status are eligible for automatic deferment of CP204 payments for three (3) months beginning April 2020 until June 2020.
- The sources of data that will be used by the IRBM in order to determine whether the SMEs qualify for the deferment of estimated tax payments is based on the YA 2018 Return Form received by the IRBM.
- The additional criteria under Paragraph 2A and 2B, Schedule 1 of the ITA* will not be applicable for a business to qualify as an SME for these deferments of instalment payments. Businesses will only need to fulfill the following criteria (as per Item 6, Part D of the FAQ) :
 - i. Have a paid-up capital of less than or equal to RM2.5 million ordinary shares at the beginning of the basis period for a YA; and
 - ii. Have a gross business income of RM50 million and below.

**Based on Paragraphs 2A, 2B and 2C, Schedule 1 of the ITA, a company with SME status is defined as follows:*

- i. A company resident and incorporated in Malaysia which has a paid-up capital in respect of ordinary shares of RM2.5 million and less at the beginning of the basis period for a year of assessment and gross income from source or sources consisting of a business not exceeding RM50 million; and*
- ii. The company mentioned in the bullet point above will not be a SME if more than:*
 - 50% of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;*
 - 50% of the paid-up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or*
 - 50% of the paid-up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company; and*
- iii. "Related company" means a company which has a paid-up capital in respect of ordinary shares of more than RM2.5 million at the beginning of the basis period for a year of assessment.*

MCO – FAQ by the IRBM (updated on 16 April 2020)

Deferment of Estimated Tax Payments for SMEs (cont'd)

- The IRBM will notify taxpayers who are entitled for deferment of tax estimate payments by e-mail registered with the IRBM in the near future. If the taxpayer is entitled to a deferment based on the criteria outlined in Item 6, Part D of the FAQ (see page 8) but has yet to receive the e-mail, the taxpayer will not have to make a payment for the instalment which is due on 15 April 2020.
- Taxpayer can reject the automatic deferment and continue paying tax estimates based on the original payment schedule without having to inform the IRBM.
- If it is found that the company is eligible for deferment of tax estimate based on the current situation of the company, taxpayers can appeal by letter / e-mail to the Records Management and Taxation Information Division. A notification e-mail will be issued if the appeal is approved.



MCO – FAQ by the IRBM (updated on 16 April 2020)

Deferment of Estimated Tax Payment for SMEs (cont'd)

Crowe's comments:



The IRBM has clarified that the YA 2018 Return Form received by the IRBM will be used as the source of data to determine whether the SMEs qualify for the deferment of estimated tax payments. Further clarification is needed from the IRBM on whether the IRBM is referring to:

- i. the financial statement disclosure in the YA 2018 Return Form; or
- ii. the disclosure in Item XII at page 1 of the Form e-C for YA 2018.

If the financial statement disclosure in the YA 2018 Return Form is referred to, the following criteria will be considered:

- i. Have a paid-up capital of less than or equal to RM2.5 million ordinary shares at the beginning of the basis period for a year of assessment; and
- ii. Have a gross business income of RM50 million and below.

If the disclosure in Item XII at page 1 of the Form e-C for YA 2018 is referred to, the SME status is determined based on Paragraphs 2A, 2B and 2C, Schedule 1 of the ITA.

MCO – FAQ by the IRBM (updated on 16 April 2020)

Institution or Organisation Approved under Section 44(6) of the ITA

	Extension of deadline
Submission of the audited accounts	30 June 2020

Appeals

	Extension of deadline
Submission of Notice of Appeal (Form Q) to the Special Commissioners of Income Tax (SCIT) where the due date falls within the MCO period <i>Note: Taxpayers are required to file Form N and state that the delay is due to the implementation of MCO.</i>	31 May 2020

Statement Of Monetary And Non-monetary Incentive Payment To An Agent, Dealer Or Distributor (Form CP58)

	Extension of deadline
Submission of Form CP58 where the due date falls within the MCO period	31 May 2020

Tax Audit or Investigation

	Extension of deadline
Submission of documents for audit or investigation which is due within the period of 18 March 2020 until 15 May 2020	31 May 2020
Feedback required to be provided to the IRBM letters within the period of 18 March 2020 to 15 May 2020	31 May 2020

MCO – FAQ by the IRBM (updated on 16 April 2020)

Country-by-Country Reporting (CbCR)*

Entities in Malaysia responsible for the filing of the CbCR report	
	Extension of deadline
Submission due on 31 March 2020	15 May 2020
Submission due on 30 April 2020	31 May 2020

Constituent entities in Malaysia responsible for the submission of CbCR notification	
	Extension of deadline
Submission due on 31 March 2020	31 May 2020
Submission due on 30 April 2020	31 May 2020

Notification of Change in Accounting Period (Form CP204B)

	Extension of deadline
Form CP204B required to be submitted within the MCO period	31 May 2020



*Country-by-Country Reporting (CbCR) is a form of reporting by multinational enterprises (MNEs) initiated by the Organisation for Economic Co-operation and Development (OECD) in the Base Erosion and Profit Shifting (BEPS) Action 13 Report.

MCO – FAQ by the IRBM (updated on 16 April 2020)

Employer's Obligations

	Extension of deadline
Form CP21, CP22, CP22A and CP22B* which are required to be submitted during the MCO period *CP21: Notification by Employer of Departure from the Country of an Employee CP22: Notification of Commencement of an Employment CP22A: Notification of Cessation of Employment for Employment of Private Sector Employees CP22B: Notification of Cessation of Employment for Employment of Public Sector Employees	From 29 April 2020 onwards
Monthly Tax Deduction (MTD) data and making the MTD / CP38 payment for the March and April 2020 remuneration	31 May 2020

- If the application for certificate of residence through the online system (e-Residence) failed due to supporting documents needing to be included, application for the certificate can be submitted on 29 April 2020. For urgent cases which cannot be delayed, please contact IRBM at the following e-mail address: lhdn_int@hasil.gov.my. Please visit the following link for further information:

http://www.hasil.gov.my/bt_goindex.php?bt_ku mp=5&bt_skum=6&bt_posi=6&bt_unit=1&bt_se qu=1&bt_lgv=2

- Application for Tax Clearance Letter* can be made through e-SPC at any time or by coming to the IRBM premises beginning 29 April 2020. The processing of Tax Clearance Letter applications will be made beginning 29 April 2020.

**Tax Clearance Letter (Surat Penyelesaian Cukai [SPC]) is a letter issued by the IRBM to notify the employer of a deceased / retiring / resigning employee's tax liability to enable the employer to make the final payment of salary / compensation / gratuity to the employee.*

MCO – FAQ by the IRBM (updated on 16 April 2020)

Approved Research and Development (R&D) Project under Section 34A of the ITA

	Extension of deadline
Submission of completed Application Form for an Approved R&D Project (Borang 1) (New Project/Extension Project) which ends on either 31 March 2020 or 30 April 2020	30 June 2020

Withholding Tax

	Extension of deadline
Payment which falls within the MCO period Note: Penalty will not be imposed on late payment during that period	29 April 2020 until 31 May 2020

Labuan Entities

	Extension of deadline
Submission of irrevocable election form to be taxed under the ITA 1967 (Form LE3) for YA 2021 and 2022 where the due date is within the MCO period	31 May 2020
Submission of documents and payment of tax during the MCO period	31 May 2020

MCO – FAQ by the IRBM (updated on 16 April 2020)

Increase in Tax and Compound

- Increase in tax will not be imposed for late payment of taxes (all types of income taxes) which should be paid within the MCO period provided that payment of the taxes is made by 31 May 2020.
- Compound payment for MTD which should be paid within the MCO period can be made before 31 May 2020.

Tax Refund

Tax refunds will be processed as usual. However, in an ongoing audit case, taxpayers are required to submit the supporting documents as requested within the MCO period for the purpose of tax refund.



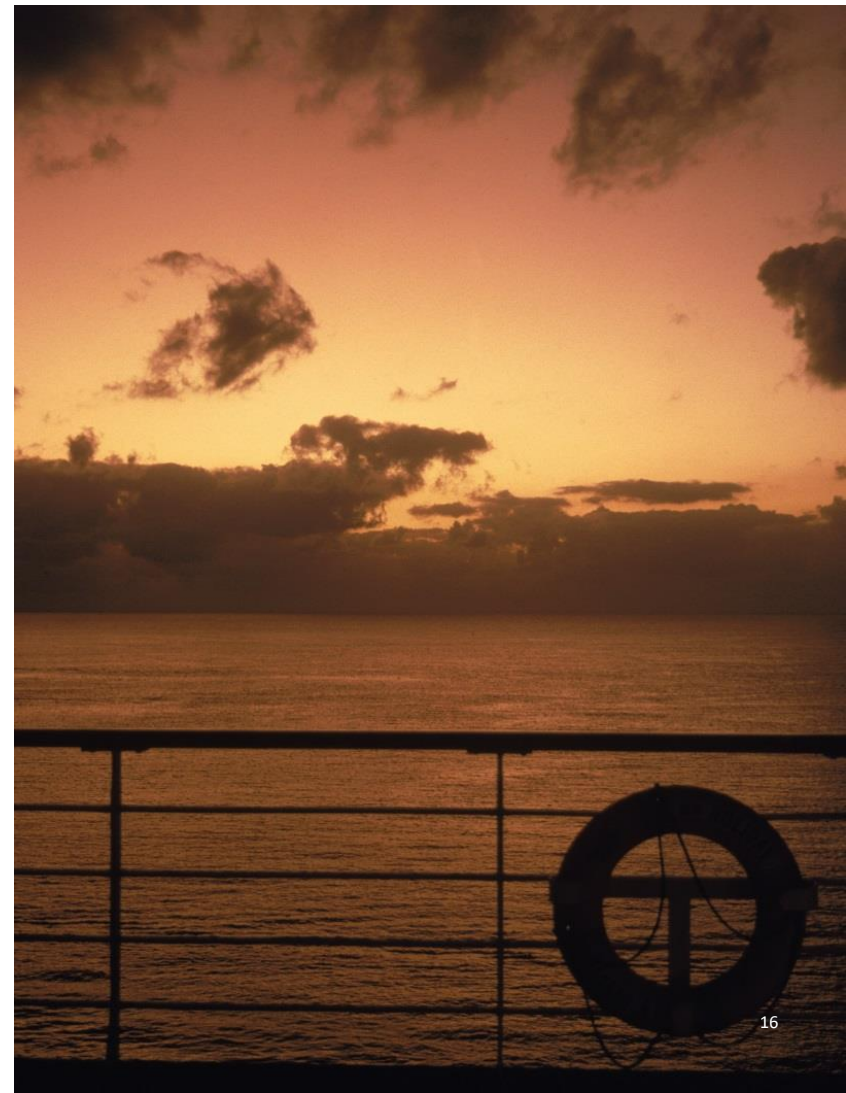
MCO – FAQ by the IRBM (updated on 16 April 2020)

Real Property Gains Tax (RPGT)

	Extension of deadline
Submission of RPGT returns and payments of RPGT where the due date falls within 18 March 2020 to 31 May 2020	31 May 2020

Stamp Duty

	Extension of deadline
All documents which should have been duly stamped between 18 March 2020 to 30 May 2020	31 May 2020
Payment for notice of assessment on stamp duty which falls within the MCO period	31 May 2020



Media Release by the RMCD

Media Release by the RMCD

Following the extension of the MCO period to 28 April 2020, the RMCD also issued a [Media Release](#) on 14 April 2020.

Payments

The payment deadlines for the following returns with taxable periods ending 29 February 2020 and 31 March 2020 have been further extended to **13 May 2020**:

- Sales tax or service tax for SST-02 returns
- Service tax for imported taxable service for SST-02A returns
- Tourism tax for TTx-03 returns
- Departure levy for DL-02 returns

Penalty

Any penalties which may be imposed by the RMCD for returns with taxable periods ending 29 February 2020 and 31 March 2020 would be given full remission if the payment is made on or before **13 May 2020**.

Submission of any returns / forms to the RMCD

It is unclear whether similar extension of time is given on the submission of returns / forms to the RMCD.



PN 2/2020 - Claiming of Capital Allowance on the Development Cost for Customised Computer Software under the Income Tax Rules 2019

PN2/2020 - Claiming of Capital Allowance on the Development Cost for Customised Computer Software under the Income Tax Rules 2019

Existing

[Income Tax \(Capital Allowance\) \(Development Cost For Customised Computer Software\) Rules 2019 \[P.U.\(A\) 274/2019\]](#) was gazetted on 3 October 2019.

Additional guidance

The IRBM issued [PN2/2020 – Claiming of Capital Allowance on the Development Cost for Customised Computer Software under the Income Tax Rules 2019](#) on 16 March 2020 to provide guidance on the implementation of the above Income Tax Rules.

Details of additional guidance

Under the above Rules, the development cost for customised computer software refers to expenditure incurred:

- in the production of new software; or
- in the improvement of the existing software to be used for the purpose of a business.



PN2/2020 - Claiming of Capital Allowance on the Development Cost for Customised Computer Software under the Income Tax Rules 2019



Details of Changes (cont'd)

The qualifying expenditure for the purpose of claiming capital allowance under these Rules consists of:



Consultation fee incurred on the development of the software includes:

- specifically for the purpose of developing a new software system
- modification or modernisation of the existing software.

Consultation fee related to initial procedure or planning stage such as feasibility study or preliminary study is excluded.



Payment for the right to use the software exclusively.



Incidental fee such as capitalized payment for the change of requirement of the software which is used in a business.

- ****Note: When the above payments are made to a non-resident recipient, withholding tax under Section 109 or 109B of the ITA shall be applicable.***

PN2/2020 - Claiming of Capital Allowance on the Development Cost for Customised Computer Software under the Income Tax Rules 2019

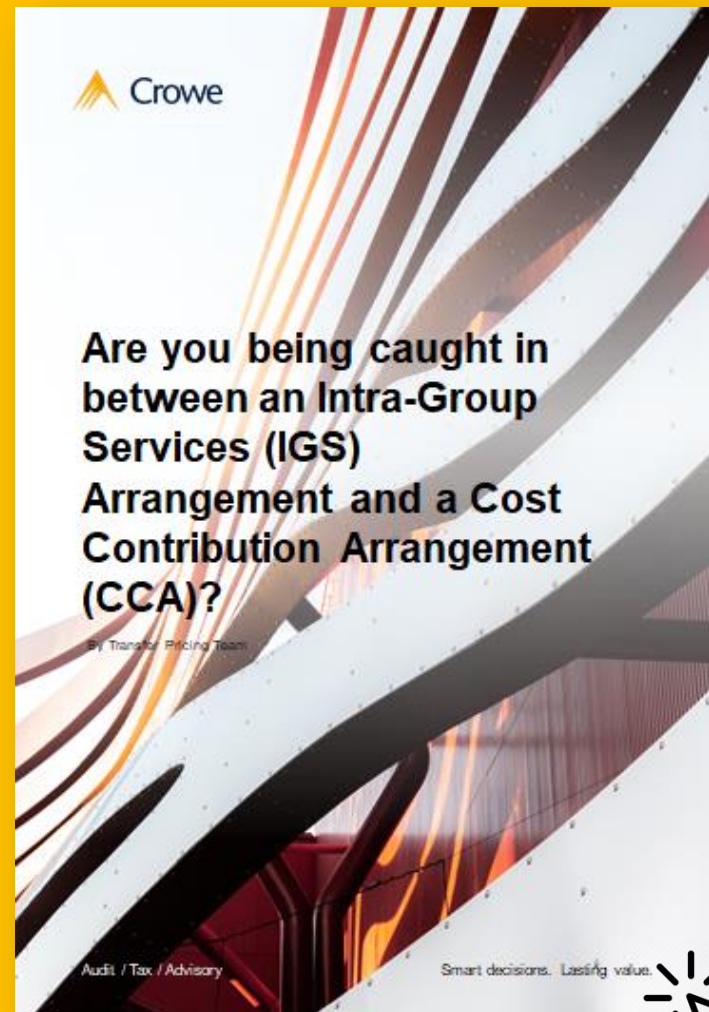
Examples of capital allowances that can be claimed in respect of the development cost for customised computer software:

YA development cost for customised computer software incurred	YA customised computer software is capable of being used in business	Implication / Tax Treatment
2018, 2019 and 2020	2020	<ul style="list-style-type: none"> ▪ Cost incurred from YA 2018 is a qualifying expenditure. ▪ Capital allowance can be claimed from YA 2020.
2017, 2018 and 2019	2019	<ul style="list-style-type: none"> • Cost incurred from YA 2018 is a qualifying expenditure. • Cost incurred before YA 2018 is disregarded. • Capital allowance can be claimed from YA 2019.

Are you being caught in between an Intra-Group Services (IGS) Arrangement and a Cost Contribution Arrangement (CCA)?

An article by:
The Transfer Pricing Team,
Crowe KL Tax Sdn Bhd

[Read more](#)



Crowe KL Tax Events



Crowe

Covid-19: A Practical Approach to Transfer Pricing on Intra-Group Services Amid Global Economic Uncertainty

A Webinar Training via Zoom

Date: 13 May 2020, Wednesday
Time: 10am – 12pm & 2pm – 4pm (4 hours)
Fee: RM99 nett / person

[Read more](#)

Audit / Tax / Advisory

Smart decisions. Lasting value.

Amidst the Covid-19 pandemic globally, as a CEO or CFO of the Malaysian subsidiary of multinational enterprises (“MNEs”), you are faced with the immediate concerns on keeping up the robustness of the company’s transfer pricing process.

It is a common practice for MNEs or group of companies to adopt a shared services model whereby one of the companies is designated to house the personnel that could cater to the business needs for the entire group, giving rise to an intragroup services arrangement. These intragroup services can range from services such as accounting, finance, legal, human resources, IT, marketing, technical support, engineering, procurement, logistics, research, product development, business planning, strategic management, etc. To comply with the transfer pricing rules and regulations, the provision of services must be priced at arm’s length supported by sound analysis and comprehensive documentations. To mention a few, you will need to draw up an agreement between the parties involved, ascertain the scope of services provided, design a robust pricing mechanism, application of a transfer pricing model, employ allocation basis for different service recipients, etc.

- Are you observing the specific rules and regulations governing the pricing of intragroup services?
- What else can you do to improve the pricing mechanism?
- How prepared are you with the existing transfer pricing documentations if required to be submitted to the Inland Revenue Board for tax audits?

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