

Inland Revenue Authority
OF Singapore

Singapore's Approach to Transfer Pricing

Presented by:
Chai Sui Fun

Inland Revenue
Authority
of Singapore



Presentation Outline

- Transfer Pricing in Singapore
 - IRAS' Position
- Transfer Pricing Consultation (2008)
- Further Measures to Mitigate TP risks/adjustments
 - Advance Pricing Arrangements
 - Administrative Guidance on APAs
 - APAs - status?
 - Mutual Agreement Procedure
- What's Next for TP in Singapore?

Transfer Pricing in Singapore

● IRAS' Position

- Endorse arm's length standard
 - ✓ internationally acceptable
 - ✓ ensure fair share of profits & tax in Singapore
 - ✓ expect taxpayers to adhere to standard
- Recognize determining arm's length prices not science
 - ✓ advocate pragmatic approach
 - ✓ focus on voluntary compliance (as far as possible
 - ✓ encourage and help businesses actively manage TP risks
 - TP risks pose increasingly serious tax exposures to Singapore businesses with international transactions as tax authorities worldwide focus on TP

Transfer Pricing in Singapore

- Reflecting the position, guidance for application of arm's length standard

- Historically (before February 2006)

- ✓ non-prescriptive and based on general principle underlying arm's length standard i.e.

“Transactions with related parties should be made under comparable conditions and circumstances as transactions with an independent party”

- ✓ no separate formal TP guidance issued
 - nonetheless, follows internationally endorsed TP concepts & methodologies e.g. OECD TP Guidelines

Transfer Pricing in Singapore

- February 2006
 - ✓ Formal guidance on transfer pricing issued
 - ✓ But position on transfer pricing has not changed as guidelines
 - seek to provide guidance, not regulations
 - only reinforce expectation that taxpayers have to adhere to arm's length standard
 - continue to recommend adoption of pragmatic approach to determining arm's length prices
 - continue to recognize businesses know their operations best and in best position to adopt sound practices in determining arm's length prices (voluntary compliance)
 - clarify avenue for taxpayers to seek IRAS' assistance in resolving issues to facilitate their compliance with the arm's length standard

Transfer Pricing in Singapore

● Why Formal TP Guidelines Then?

- Clarify IRAS' position and provide greater certainty on application of arm's length principle in Singapore
 - And businesses WANT this!
- Facilitate voluntary compliance
 - ✓ including identification of further areas to provide guidance e.g. supplementary circular on related party loans and services
- Raise awareness in business community of international transfer pricing risks
- Impress taxpayers on need to adopt sound TP practices to manage TP risks and mitigate
 - ✓ exposure to TP adjustments
 - ✓ double taxation

Inland Revenue Authority Of Singapore

Two Years On

Inland Revenue Authority Of Singapore

Where are we?

Inland Revenue Authority Of Singapore

How to know?

Inland Revenue Authority OF Singapore

Go ask our businesses!

Inland Revenue Authority Of Singapore

This leads to

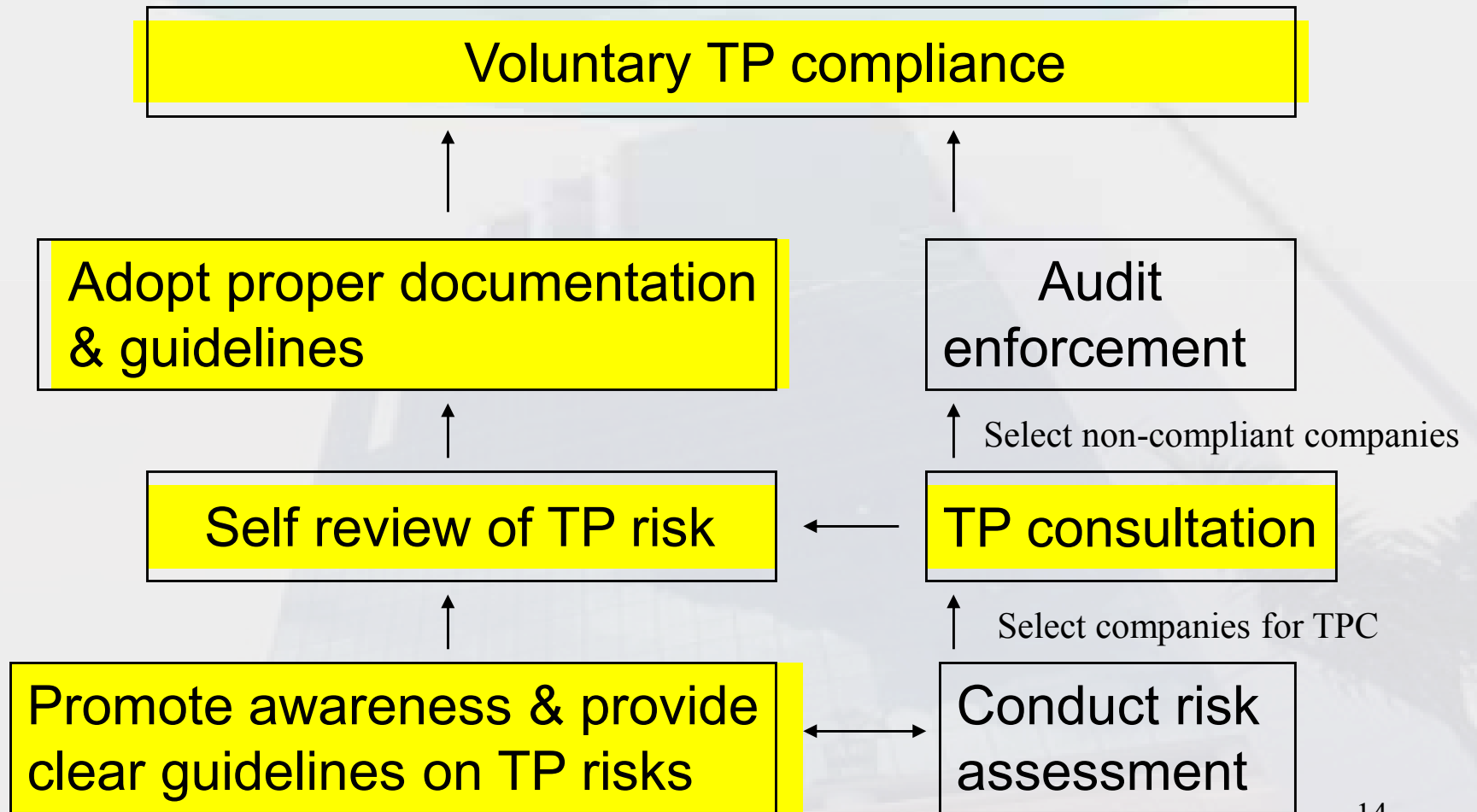
Transfer Pricing Consultation

- To answer questions
 - How did our businesses do in terms of maintaining and strengthening TP practices to ensure compliance with arm's length standard and mitigate TP risks?
 - What have changed?
 - What more we could do to facilitate voluntary compliance, help businesses?
 - Where do we go from here?

Transfer Pricing Consultation

- Objectives:
 - Assess level of awareness of TP Guidelines
 - Assess level of compliance with TP Guidelines
 - Identify potential areas where IRAS can further facilitate and advise companies on sound TP practices
 - Ensure presence to reinforce expectation of compliance with arm's length principle
- TP Consultation reflects IRAS' philosophy and approach towards tax compliance

TP Consultation - A Strategy for TP Compliance



TP Consultation

- How we have done it !
 - Risk assessment: identify companies to engage with
 - Questionnaire followed by field visits
 - Focus is on understanding business operations, TP policy and practices adopted, and steps taken by taxpayers to ensure compliance with arm's length standard
 - Assess overall findings
 - Follow up on findings

TP Consultation - Risk Assessment

- Start with sample of companies potentially with TP issues, examples:
 - High cross-border related party transactions
 - Sustained losses or low profit margins with no apparent commercial reasons when corporate group appears profitable
 - Transactions with lower tax jurisdictions
- No presumption of non-compliance with arm's length standard

TP Consultation - Process

- Send Questionnaire on:
 - Business activities & products/services
 - Group structure
 - Types & values of related party transactions
 - Extent of documentation
- Assess scope of work to be conducted based on findings
- Customize questions based on focused scope
- By appointment, conduct further fact-finding field visits & discussion
- Discuss findings with taxpayer, give suggestions, follow up

TP Consultation - Status?

- Work-In-Progress
 - Conducted visits to more than 20 companies
 - Overall findings to be compiled and reviewed to determine follow up work e.g.
 - ✓ expand coverage?
 - ✓ further guidance?
 - Early days to make conclusion!
- Overall, companies engaged receptive to TP Consultation and used opportunity to help us better understand their business models and operations

Further Measures to Mitigate TP risks/adjustments

- Adoption of sound TP practices mitigate TP risks but not eliminate TP exposures totally
- Taxpayers may still be subject to TP adjustments
 - Different views of tax authorities on arm's length prices
 - Different TP rules

Further Measures to Mitigate TP risks/adjustments

- Advance Pricing Arrangements (APAs)
 - Another measure for taxpayers to further mitigate TP risks
 - Unilateral/Bilateral/Multilateral
 - Unilateral APAs offer partial mitigation
 - APA process resource and data intensive for both taxpayers and IRAS
 - Premised on taxpayers having good TP documentation

Further Measures to Mitigate TP risks/adjustments

- Taxpayers must understand commitment and requirements
- IRAS expects taxpayers to commit needed time/resources and proactively support APA process as required
 - act in good faith at all times
 - provide timely responses to requests for information
 - engage with tax authorities

Further Measures to Mitigate TP risks/adjustments

- Administrative Guidance on APAs (October 2008)
 - Seeks to provide guidance on requisites to ensure successful APA efforts, particularly where bilateral/multilateral APA are involved
 - Key Message: IRAS will work with taxpayers to address TP issues provided taxpayers also do their part well to help us do this with them

APAs - Status?

● Bilateral/multilateral APAs

- Concluded 5 bilateral/multilateral APAs
 - Generally, outcomes acceptable to APA applicants
 - Process and outcome dependent on sound TP practices adopted and quality of support provided by taxpayers
- Ongoing discussions for more than 10 bilateral/multilateral cases

● Unilateral APAs

- 2 unilateral APAs concluded
 - As with bilateral/multilateral APAs, process and outcome dependent on sound TP practices adopted and quality of support provided by taxpayer
- 4 other applications under review

Mutual Agreement Procedure

- Facility available under tax treaties for taxpayers to seek competent authority's assistance to resolve double taxation issues, including those arising from TP adjustments
 - Very time and resource intensive process for CA
 - A consideration: have the affected taxpayers made reasonable efforts in adopting sound TP practices?
- Outcome of MAP process invariably hinges on
 - Sound TP practices being adopted by the affected taxpayers (e.g. good TP documentation and data)
 - Quality and extent of support given by the affected taxpayers in supporting the MAP process (time, resources, quality of information provided etc.)

What's Next for TP in Singapore?

- Complete TP Consultation
- Identify what further guidance may be provided to facilitate taxpayers' voluntary compliance and management of TP risks
- Expect taxpayers to do their part in strengthening TP capability and practices to comply with arm's length standard

What's Next for TP in Singapore -

- IRAS continues to strengthen in-house TP capability and facilitate TP capability building among tax practitioners
 - Continue to work with taxpayers, tax community
 - Continue to work through tax organizations such as **Tax Academy of Singapore** (<http://www.taxacademy.sg>)
- Some examples of capability building projects with Tax Academy of Singapore:
 - Training workshops: Application of OECD TP Guidelines and Advanced Issues in TP Implementation
 - Tax Conference: Regional Perspectives in TP

What's Next for TP in Singapore -

- Question asked before and again:
Transfer Pricing Regulations?
 - We will monitor closely TP landscape and compliance in Singapore to assess need
 - We will not rush into this!

Inland Revenue Authority Of Singapore

Thank You