



ROLE OF AN ACTUARY IN TRANSFER PRICING

NICHOLAS ACTUARIAL SOLUTIONS

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This white paper sets out key takeaways from the Inland Revenue Board of Malaysia's updated transfer pricing guidelines, which for Labuan insurers, captives and their related companies, imply a need for a transfer pricing documentation with actuarial assessments. This is a succinct summary. We welcome discussions and collaborations.

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INTRODUCTION

Offshore insurers and captives are established with the objective to bring focus to risk management. Unfortunately, due to the technical nature of risk and insurance, uninformed stakeholders are often confused and unable to distinguish between risk management and tax avoidance.

Malaysia is a recent entrant to OECD's Base Erosion and Profit Shifting project, thus committing to enforcing transfer pricing standards. In parallel, the Inland Revenue Board of Malaysia (IRBM) has been updating its transfer pricing guidelines, with the latest changes effective 15th July 2017.

From our experience, most Labuan insurance companies and captives do not violate OECD transfer pricing requirements, nor those of IRBM. Nonetheless, due attention needs to be paid.

KEY TAKEAWAYS

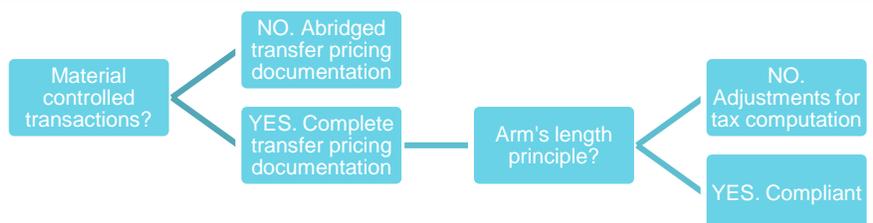
Transfer Pricing Documentation. The burden of proof on whether the transfer pricing guidelines are adhered to, falls on the taxpayer. Hence Labuan insurers, captives, and their related companies would need to consider the requirement for an abridged or complete transfer pricing documentation depending on their business circumstances.

Controlled Transactions. Labuan insurers and captives, and their related companies, need to establish if they are involved in controlled transactions in a material way as defined under the IRBM guidelines.

Arm's Length Principle. The tax computation for controlled transactions needs to be calculated in accordance with the arm's length principle. This is achieved through demonstrating that the business model, pricing strategy and actual pricing are in line with transfer pricing standards, or through adjusting the tax computation accordingly i.e. maintaining transaction price as-is and adjust tax payable.

Actuarial Assessment. A simple actuarial assessment will determine whether or not there are material controlled transactions, and if so, further select an appropriate transfer pricing method and illustrate that Labuan insurers, captives and related parties are in line with IRBM guidelines.

Transfer Pricing Decision Tree



BACKGROUND

"Role of an Actuary in Transfer Pricing" is our fifth issue of succinct white paper. Our objective of issuing succinct white papers is to enable our thought leadership to reach a wider audience, and make a larger positive impact. Our white papers are publicly available and we do not claim any proprietary intellectual property on the contents.

Labuan insurers and captives, and their related companies, are now put under the spotlight of tax authority. Simple actuarial assessments with complete documentation shall avoid challenges and penalties from the tax authority.

ABOUT US

Nicholas Actuarial Solutions is founded as a platform to collaborate with like-minded businesses and individuals to make a difference. Our interests are wide and varied, with our core focus being the actuarial field.

Our mission is to develop and implement novel and cutting edge solutions to make our clients more successful.

It is our vision to achieve global recognition of our thought leadership and innovative solutions in the actuarial field.

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