



**CHENG & CHENG LIMITED**  
CERTIFIED PUBLIC ACCOUNTANTS

# New Updates on Hong Kong Tax Transfer Pricing Documentation Requirements



# TP Development in Hong Kong

In February 2016, OECD had developed a comprehensive framework to tackle tax avoidance and erosion (i.e. BEPS). It allows all interested countries to participate in the implementation of TP rules.



Subsequently, various countries committed to joining the BEPS project. In June 2016, Hong Kong also announced that it would join the inclusive framework for the global implementation of the BEPS project.



For fiscal years starting on or after 1 April 2018, Hong Kong taxpayers are required to prepare TP documentation (subject to exemptions). Taxpayers will be required to disclose intensive information in group and singleton level. Relevant legislation has passed through the Third Reading and will soon be enacted by the Legislative Council into law.

## Abbreviations

BEPS: Base Erosion and Profit Shifting  
OECD: The Organization of Economic Cooperation and Development

# TP Three-Tiered Documentation

## Master File

- ✓ **Group level report**
- ✓ Tax Authority to examine the **profit allocation of the Group across jurisdictions**
- ✓ To prepare supply chain analysis, to disclose major entities in the Group and their functions, intra-group transactions, the entities involved in the creation and management of significant intangible assets, etc.

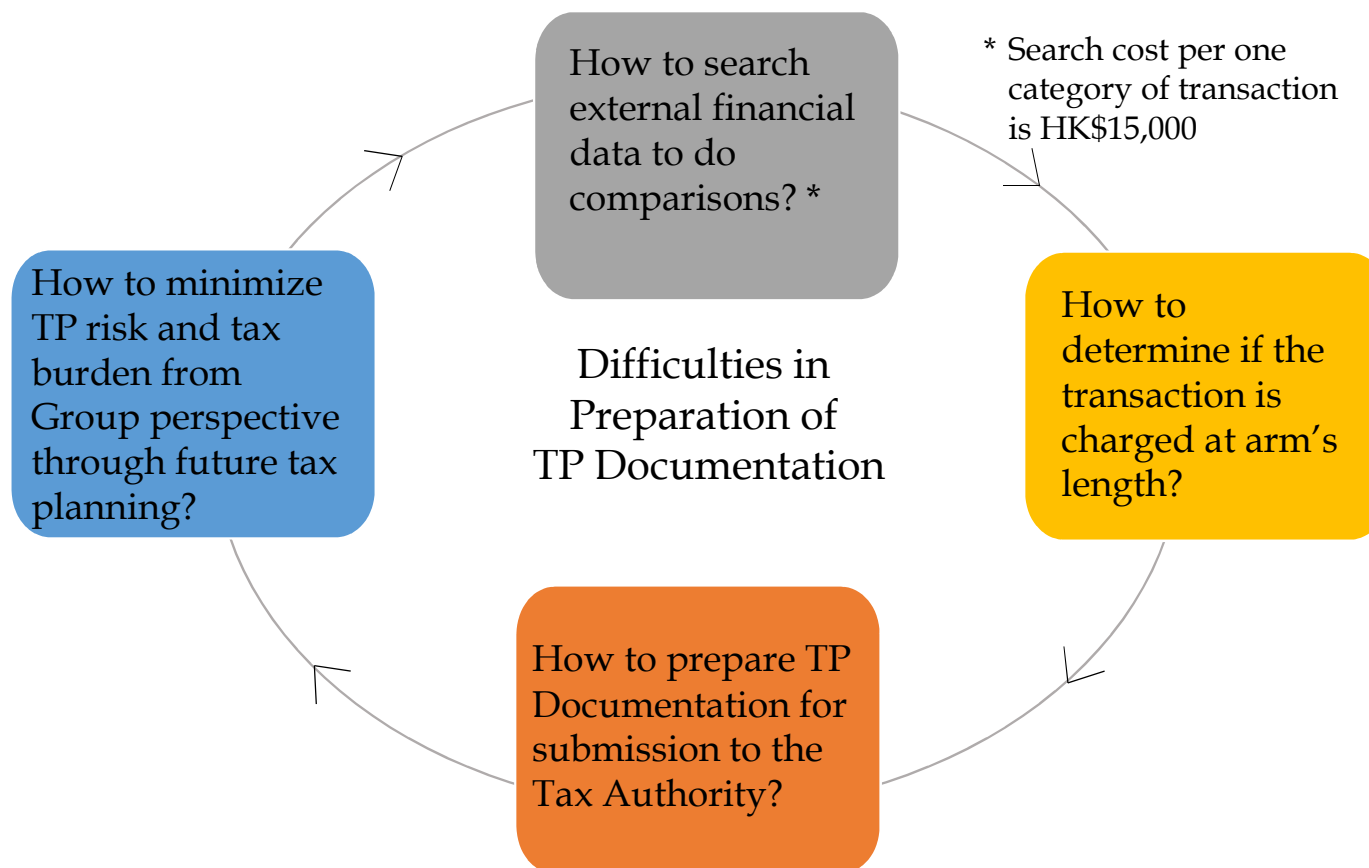
## Local File

- ✓ **Singleton level report**
- ✓ Tax Authority to examine **if each related party transaction is set at arm's length**
- ✓ To prepare risk, assessment and function profile, benchmarking study, to disclose the local entity's business and its transfer pricing policies applied, etc.

## Country-by-Country Report ("CbC Report")

- ✓ A fact sheet to disclose the financial data of the Group
- ✓ To disclose data like the amount of profit/loss before tax, paid/accrued tax, capital, previous year losses, headcount, tangible products, etc.

# TP Documentation



# Threshold for Master File & Local File

✓ Company is required to prepare Master File and Local File in Hong Kong if you meet the following Criteria (A) AND (B)

	<b>Criteria (A): Based on size of business (<i>any two out of three of the below</i>)</b>	<b>Threshold per financial year*</b>
(i)	Total annual revenue	≥ HK\$400 million
(ii)	Total assets	≥ HK\$300 million
(iii)	Employees	≥ 100

\* <Inland Revenue (Amendment) (No. 6) Bill 2017> (to be enacted into law)



## Threshold for Master File & Local File

	<b>Criteria (B): Based on related party transactions (<i>any one out of four of the below</i>)</b>	<b>Threshold (HK\$) per financial year*</b>
(i)	Transfers of properties (excludes financial assets / intangibles)	≥ \$220 million
(ii)	Transactions in financial assets	≥ \$110 million
(iii)	Transfers of intangibles	≥ \$110 million
(iv)	Any other transactions (e.g., service income / royalty income)	≥ \$44 million

\* <Inland Revenue (Amendment) (No. 6) Bill 2017> (to be enacted into law)



# Threshold for CbC Report

- ✓ Company is required to prepare CbC Report  
if the Group's consolidated annual turnover is  $\geq$  HK\$6.8 billion\*

\* <Inland Revenue (Amendment) (No. 6) Bill 2017> (to be enacted into law)



# Obligation to Report

Year-end date	First reportable period	Due date for preparation
Between 1 January to 31 March	1 April 2018 – 31 March 2019 (already commenced)	31 December 2019
Between 1 to 31 December	1 January 2019 – 31 December 2019	30 September 2020
Between 1 April to 30 November	Say, if the year-end date is 31 July, then the period is 1 August 2018 – 31 July 2019	9 months after your accounting year-end





# Threshold for TP Documentation in China

TP Documentation	Threshold (RMB) per financial year*
CbC Report	Consolidated annual revenue $\geq$ 5.5 billion
Master File	Total amount of related party transactions $\geq$ 1 billion
Local File	Amount of related party transactions meet <i>any one of the following</i> :
	(i) For transactions involve physical goods, $\geq$ 200 million
	(ii) For transactions involve transfer of financial assets or intangible assets, $\geq$ 100 million
	(iii) For transactions of other types (e.g. service transaction, royalties for use of intangibles, financing transactions), $\geq$ RMB 40 million (in aggregate)

\* <The State Administration of Taxation, Public Notice [2016] No.42>



# Services Scope

Pre-IPO restructuring and  
IPO TP Review

We helped client in Pre-IPO restructuring and acted as tax consultant to express opinion on transfer pricing compliance status in the Prospectus.

TP documentation  
preparation

We helped client prepare Master File, Local File and CbC Report to the IRD (Hong Kong) and the SAT (The PRC).

Tax planning from  
TP perspective

We helped client prepare benchmarking report to evaluate their TP risk and provide recommendations to lower their group effective tax rate from TP perspective.

IRD's tax dispute (e.g.  
enquiry letter and field  
audit and investigation)

We helped client settle field audit cases and IRD's enquiry letter with TP approach.

Overseas tax authorities  
challenge

TP benchmark is a commonly accepted approach to resolve cross-border tax dispute (including CFC rule, diverted profit tax in UK and Australia).





## Our Contacts

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