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MALAYSIA TRANSFER PRICING GUIDELINES – CONTROLLED FINANCIAL TRANSACTIONS: INTRA-GROUP LOANS (“MFTIL”)

AUGUST 2026

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On 30 July 2026, the Inland Revenue Board of Malaysia ("IRBM") has published a comprehensive guidance on transfer pricing for intra-group loans – i.e., MFTIL.

The MFTIL complements Chapter 9 Intra-Group Financial Transactions of the Malaysia Transfer Pricing Guidelines 2024 ("MTPG 2024") where it introduces a ***simplified approach*** for eligible taxpayers that is involved in intra-group loan arrangements.

Among the key takeaways of the MFTIL are as follows: -

<table>
<tr><td>Delineation of financial transactions</td><td>1. Substance over form
2. Risk control and capacity
3. Functional analysis

The IRBM emphasises that merely labelling a financial arrangement as a "loan" is insufficient. Taxpayers must demonstrate that the transaction reflects the commercial and economic reality that would exist between independent parties. The IRBM may scrutinise:

▪ Whether the lender genuinely assumes and controls financial risks;
▪ Whether the borrower has the ability and intention to repay;
▪ Whether the terms and conditions are commercially rational; and
▪ Whether the arrangement more closely resembles equity rather than debt.

The MFTIL reiterates that transfer pricing analysis must consider the actual conduct of the parties and not solely the contractual terms.</td></tr>
<tr><td>Debt versus equity characteristics</td><td>Before determining the arm's length interest rate, taxpayers are expected to evaluate whether a purported loan should genuinely be treated as a debt. The MFTIL sets out various indicators to distinguish debt from equity, including:

▪ Existence of a legal obligation to repay;
▪ Fixed maturity date;
▪ Expectation of return;
▪ Ranking upon liquidation or dissolution;
▪ Participation in management control;
▪ Right to enforce repayment;
▪ Accounting treatment;
▪ Tax treatment; and
▪ Intent of the parties.

No single factor is determinative. Rather, the totality of facts and circumstances must be assessed.</td></tr>
<tr><td>Risk of re-characterisation and disallowance of interest</td><td>The IRBM expressly states that where a purported loan lacks the characteristics of a genuine loan, it may invoke subsection 140A(3A) of the Income Tax Act, 1967 ("ITA") to disregard the arrangement and re-characterise it as an equity contribution. Such re-characterisation may result in:

▪ Disallowance of interest deductions;
▪ Transfer pricing adjustments;
▪ Additional tax liabilities; and
▪ Potential transfer pricing surcharges.</td></tr>
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A. LENDER & BORROWER’S PERSPECTIVE

The MFTIL requires both lender and borrower’s perspective to be taken into account when determining the arm’s length interest rate.

Lender’s perspective	Borrower’s perspective
▪ Credit assessment of the borrower ▪ Loan purpose ▪ Forecast (i.e. cash flow) ▪ Credit risk	▪ Minimise financing cost ▪ Timely repayment ▪ Borrowing capacity in future

Enhanced creditworthiness analysis requirements

The MFTIL places significant emphasis on evaluating a borrower's creditworthiness when determining arm's length interest rates.

Credit ratings, which measure a borrower’s ability to meet its debt obligations, may be assessed using both quantitative factors (e.g., financial ratios) and qualitative factors (e.g., industry and jurisdiction risks).

The IRBM specifically recognises the use of credit ratings and refers to external sources such as:

- RAM Ratings;
- Moody's;
- Standard & Poor's;
- Credit Tip-Off Service (“CTOS”); and
- Central Credit Reference Information System (“CCRIS”).

The MFTIL also acknowledges *"implicit support"* arising from group membership and recognise that such support may positively influence a borrower's credit profile without requiring a separate transfer pricing adjustment.

B. COMPARABILITY ANALYSIS

1. Comparable Uncontrolled Price("CUP")

The MFTIL indicates that the CUP Method is generally the most reliable method for pricing intra-group loans due to the availability of market lending information and comparable third-party financing data ensuring that the five (5) relevant characteristics are met, but not limited to:-

- Contractual terms
- Functional analysis
- Characteristics of financial instruments
- Economic circumstances
- Business strategies

The IRBM also expressly recognises the use of internal CUPs where reliable internal comparable loans exist.

2. Cost of funds

Where comparable uncontrolled transactions are unavailable, taxpayers may determine an arm's length interest rate using the cost of funds method. This approach considers the lender's funding costs, risk premium, and appropriate profit margin, while also taking into account market conditions and the borrower's realistically available financing alternatives.

The method may be particularly relevant for back-to-back financing structures, intermediary financing arrangements, and structured financing transactions such as sukuk issuances. Taxpayers applying this method should ensure that the resulting interest rate is supported by market evidence and that any opportunity cost associated with internally generated funds is appropriately considered.

B. COMPARABILITY ANALYSIS (CONT'D)

3. Simplified Method[1]

A notable feature of the MTFIL is the introduction of a simplified method that allows eligible taxpayers to adopt prescribed benchmark rates without performing a detailed benchmarking exercise. The simplified approach introduced may significantly reduce compliance burden for qualifying taxpayers.

Deposit Rate Approach	Average Lending Rate Approach
a. The taxpayer is **not** in the business of borrowing and lending; b. The interest income from the intra-group loan is taxed under paragraph 4(c) of the ITA; c. The source of the loan is from **taxpayer's internal funds**; d. The loan is denominated in **Ringgit Malaysia**; e. The aggregate amount of intra-group loan in the year of assessment does not exceed **RM50 million**; and f. The taxpayer only engages in intra-group loan with associated person who is **resident in Malaysia**.	a. The taxpayer is **not** in the business of borrowing and lending; b. The interest income from the intra-group loan is taxed under paragraph 4(c) of the ITA; c. The loan is denominated in **Ringgit Malaysia**; and d. The aggregate amount of **cross border** intra-group loan in the year of assessment does not exceed **RM50 million**.

Additionally, taxpayers applying the transfer pricing method other than the simplified approach may refresh their interest rate benchmarking once every **three (3) years**, provided there are no material changes in facts and circumstances.

Taxpayers who fall under the eligibility of preparing a minimum Contemporaneous Transfer Pricing Documentation ("CTPD") or exempted from preparing the CTPD may use the simplified method to demonstrate arm's length principle.

[1] Not applicable where loan capital is borrowed from one entity and transferred from the original borrower to the ultimate borrower

C. DOCUMENTATION AND COMPLIANCE REQUIREMENTS

Taxpayers engaging in intra-group loans must maintain adequate supporting documentation, including:

- Loan agreements;
- Credit assessments;
- Evidence supporting arm's length interest rates; and
- Comparability analyses (where applicable).

Taxpayers who choose the **simplified method** must keep and retain evidence and supporting documentation as follows:-

- Loan agreement;
- Confirmation that the loan is funded from internal funds;
- Confirmation of the currency, amount and loan terms;
- Confirmation that the lender is not in the business of borrowing and lending;
- Proof that the loan is denominated in Ringgit Malaysia and relevant eligibility criteria are met; and
- Proof that the applicable deposit rate or Arm's Length Rate ("ALR") is based on the official Bank Negara Malaysia or IRBM's website.

The MTFIL further states that:

- CTPD must be submitted within **fourteen (14) days** upon request by the IRBM; and
- Records, including CTPD, must be retained for seven (7) years.

Next steps for taxpayers

- Reassessing transfer pricing policies for intercompany financing arrangements
- Evaluating whether loans possess the characteristics of genuine debt
- Determining whether the simplified method is applicable
- Ensuring all comparability analysis and supporting information is incorporated in the CTPD

What can RKT transfer pricing team provide?

- Reviewing existing intra-group loan arrangements and agreements
- Debt-versus-equity assessments
- Interest rate benchmarking studies
- Evaluating eligibility for the simplified method
- Updating CTPD to comply with the MFTIL

Should you require any support, please reach out to the transfer pricing team in RKT Tax Consultants (APAC) Sdn Bhd.

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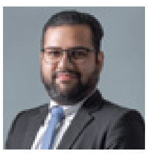

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