



Tax and Legal Newsletter

PKF

Filing an annual Corporate Income Tax Return (PND 50)

A company or juristic partnership, having its accounting period ended 31 December 2021, is required to submit its audited financial statements and corporate income tax return (PND 50) to the Thai Revenue Department (TRD) within 150 days following the end of the accounting period i.e., on or before 30 May 2022. However, before this submission, it is always prudent for the Company to refer back to the estimated mid-year tax return (PND 51) it submitted earlier that year (on or before 31 August 2021) and check the amount of profit it declared in that return (and paid tax on) and compare it to the actual net taxable profit now being declared in the PND 50. If the estimated taxable profit declared in the PND 51 Return is 75% or less than the actual net profit now being declared in the PND 50 Return, it is better for the Company to file an amended PND 51 (and increase the estimated net taxable profit in that Return in line with the profit shown in the PND 50 Return). In doing this, the Company will have to pay a 1.5% per month surcharge on the estimated net profit difference (between the original and the revised PND 51) but it will avoid a 20% surcharge levied on the underpaid half-year tax.

Filing a Transfer Pricing Disclosure Form

For accounting periods starting on or after 1 January 2021, where an entity has affiliated companies (related parties) and has an annual total revenue of THB 200 million or more, it is required to complete and file a Transfer Pricing Disclosure Form (TP Disclosure Form) with the submission of its annual corporate income tax return (PND 50) and audited financial statements, irrespective of whether it has any transactions with any affiliated company (related party). For these purposes, an affiliated company is not just a parent company or individual shareholder but includes a group relationship and indirect holdings meeting the minimum control criteria.

Where a company is required to complete a TP Disclosure Form, in most cases it is also required to complete a TP Local File; although for a company meeting certain conditions, a benchmarking analysis will not be needed. The requirements of a Local File are outlined in Annex II to Chapter V of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. However, there are slight deviations as the TRD require some additional information.

Transfer pricing documentation must be prepared in the Thai language. Please note, under the Thai Revenue Code, a Tax Assessment Officer can request transfer pricing documentation within a 5 year period following the submission of the Transfer Pricing Disclosure Form.

Submission of a Company's Audited Financial Statements to the Ministry of Commerce

All juristic persons under the Thai accounting laws (companies or juristic partnerships) are required to file their audited financial statements with the Ministry of Commerce within five months following the respective year end. For a private limited company and a public limited company, the audited financial statements must be submitted within one month following their approval at a General Meeting of Shareholders. Consequently, this can mean that there is an obligation to file the audited financial



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statements before the deadline to file the annual corporate income tax return (PND 50). The submission of a private or public limited company's audited financial statements with the Ministry of Commerce should be accompanied with a Shareholders' List stating the shareholders of the company on the date of the General Meeting of Shareholders.

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