

# Macau introduces transfer pricing and advance pricing arrangement regulations

24 December 2024

---

## In brief

---

The Legislative Assembly of the Macau Special Administrative Region (SAR) passed the bill for approval of Código Tributário (Tax Code) (hereinafter referred to as the new legislation) on 16 December 2024. The new legislation approves the additional chapters in the Complementary Tax Law, inter alia, to introduce the transfer pricing regime and advance pricing arrangement (APA) mechanism, which will soon be signed by the Chief Executive and published in the Gazette, with the effective date of the transfer pricing regulations being 1 January 2026.

This is a milestone for Macau taxation, as the new legislation formally introduces the transfer pricing regime and documentation requirement into Macau tax regulations, promoting the modernisation of Macau's tax system and making it more aligned with the latest international tax standards. Apart from transfer pricing, the new legislation also introduces certain international tax concepts into the Tax Code such as tax residency and permanent establishment etc.

While borrowing from the relevant transfer pricing regulations and guidelines from the Organisation for Economic Co-operation and Development (OECD), Chinese mainland, and Hong Kong SAR, there are still many uncertainties in the interpretation and practical application of the new legislation. The Financial Services Bureau will issue detailed rules for the implementation of the transfer pricing regime through administrative regulations.

Multinational enterprise groups should continue to closely monitor developments in this area and carefully assess whether and how the new transfer pricing regime and APA mechanism apply to them.

---

## In detail

---

The government of the Macau SAR submitted the draft Tax Code to the Legislative Assembly as early as 2021. After few years of study and discussion, the Tax Code was reviewed in detail and passed on 16 December 2024. The new legislation approves the additional chapters to the Complementary Tax Law introducing transfer pricing mechanisms. Transfer pricing refers to the pricing of commercial or financial transactions made between Macau taxpayers and related parties in other tax jurisdictions. The new legislation stipulates that Macau taxpayers should conduct transactions with related parties according to the arm's length principle, meaning that transactions should be conducted under terms and conditions that would typically be agreed upon between unrelated parties in comparable transactions.

The new legislation defines three types of related party relationships: (a) direct or indirect participation in leadership, control, capital contribution or decision-making; (b) direct or indirect participation in leadership, control, capital contribution or decision-making by the same third party; and (c) one party directly or indirectly influences the other party, allowing it to set terms and conditions in transactions that differ from those typically agreed upon between unrelated parties in comparable transactions. Enterprises, organisations, or individuals that have the aforementioned related party relationships with Macau taxpayers

and can directly or indirectly exercise significant influence on relevant management decisions will be regarded as related parties.

The new legislation stipulates that in cases where the Macau taxpayer or its related parties do not comply with the arm's length principle, the Financial Services Bureau may use the transfer pricing methods specified in Article 43-E to make indirect assessments and tax adjustments. Additionally, if the competent authority of the related party's tax jurisdiction adjusts the assessable profits of the related party, the Financial Services Bureau may make corresponding adjustments in accordance with the provisions of the tax treaty signed between the Macau SAR and the tax jurisdiction concern.

The new legislation requires Macau taxpayers to prepare all material documents related to transfer pricing within nine months after the end of each fiscal year and to retain these documents for seven years after the end of the relevant fiscal year. Additionally, the new legislation requires the inclusion of a summary table of controlled transactions conducted by the Macau taxpayer with related parties outside of Macau as an annex to the annual tax return.

The new legislation also introduces the APA mechanism. If the annual amount of controlled transactions is MOP 40 million or more, Macau taxpayers can sign an APA with the Financial Services Bureau regarding the commercial or financial transactions between related parties, to determine the arm's length pricing policy and calculation method for these transactions conducted within a specified period. Taxpayers must submit a formal application, pay relevant fees to the Financial Services Bureau, and submit a series of documents to explain details such as the proposed period covered by the APA, related parties involved, controlled transactions, proposed transfer pricing method and calculation method. The APA shall cover no more than five years including the covered tax years. As long as the facts and circumstances are consistent with or similar to those specified in the APA, it is also possible to apply for a rollback i.e., retrospective adjustment for up to two tax years prior to the signing date.

After concluding an APA, the Financial Services Bureau will confirm the taxing basis for the controlled transactions involved through direct assessment, as well as make retrospective adjustments and conduct monitoring for the prior tax years in the case of rollback. Taxpayer needs to submit an annual compliance report to the Financial Services Bureau within seven months after the end of each covered tax year, and keep relevant records for seven years from the end date of the APA. If the taxpayer does not comply with the terms of the concluded APA, it must file its annual tax return based on the pricing of similar transactions with unrelated parties. Otherwise the Financial Services Bureau will make corresponding adjustments via indirect assessment.

It is expected that the new legislation will be signed and promulgated by the Chief Executive and published in the Gazette soon. The effective date of the transfer pricing regulations will be 1 January 2026. The detailed rules for implementing the transfer pricing regime will be prescribed by supplementary administrative regulations, particularly including the following technical matters, namely determination of transfer pricing methods, definition of related party relationships, declaration of controlled transactions, disclosures of material documents, application and fee schedules for APA, content of APA annual compliance reports, adjustment procedures, and circumstances under which the obligation to prepare and retain material documents may be exempted.

---

## The takeaway

---

We note that the new legal provisions define transfer pricing as the pricing of commercial or financial transactions conducted between Macau taxpayers and related parties in other tax jurisdictions. Along with the proposed collection of cross-border transaction data through a summary form, it can be anticipated that Macau's transfer pricing regulation and supervision would focus on cross-border controlled transactions. Notably, Article 20 of Section 1, Chapter 3 of the Tax Code defines taxpayers to include natural persons, legal persons, and legally equivalent entities, regardless of whether they are taxpayers or withholding agents. The definition of related party in the new legislation also refers to enterprises, organisations, or individuals, indicating that the transfer pricing regulation and supervision in Macau may not solely focus on corporate level. We highly recommend that multinational enterprise groups continue to closely monitor subsequent developments and implementation details to carefully evaluate whether and how the new transfer pricing regime applies to their group's subsidiaries and branches in Macau.

The new legislation allows the Financial Services Bureau to adopt the transfer pricing methods set out in the OECD Transfer Pricing Guidelines for tax assessments and adjustments in cases where controlled transactions do not comply with the arm's length principle. Corresponding adjustments can also be made according to the tax treaties signed between the Macau SAR and other jurisdictions to which the related parties belong. This aligns with the fundamental principles of the OECD Transfer Pricing Guidelines. We also understand that the Macau SAR government referred to relevant laws and guidelines of Chinese mainland and Hong Kong SAR during the drafting process, and so the practical application and enforcement

remain to be observed. We understand that the Financial Services Bureau will publish supplementary administrative regulations and may solicit public opinions. It is worth noting that unlike the departmental interpretations and practice notes in Hong Kong, administrative regulations as an independent legal source under the Macau SAR Basic Law, carry legal effects.

The new legislation requires the preparation and record keeping obligations of the cross-border controlled transactions summary and 'all material documents'. Information disclosed in the summary table should reflect the operational situation of the Macau taxpayer for the relevant fiscal year as reported in the annual tax return and must be verified by certified accountants. However, the Macau SAR government has indicated that an exemption threshold might be considered to minimise additional burden on taxpayers and tax agents. The supplementary administrative regulations will soon specify details such as disclosure requirements and exemption thresholds regarding 'all material documents'. It is worth noting that Article 18-A of the Complementary Tax Law and Administrative Regulation No. 1/2020 have stipulated that if a multinational enterprise group has a consolidated total revenue of MOP 7 billion in the preceding fiscal year, the ultimate parent entity established in Macau must fulfill the obligation to report the operational activities of the multinational enterprise group, where the relevant information scope and obligations are in accordance with the OECD's Action 13 of the Action Plan on Base Erosion and Profit Shifting (BEPS). Whether the requirements of Administrative Regulation No. 1/2020 will be abolished, replaced, or amended in the future remains to be seen.

The effective date of the new legislation regarding transfer pricing regulations is 1 January 2026. According to Article 13 of Section 2, Chapter 2 of the Tax Code, tax regulations only apply to taxable events occurring after their effective dates and do not have retroactive effect.

While the new legislation is a milestone in modernising Macau's tax system, the Macau SAR government has not yet proposed any action plan for the implementation of the BEPS 2.0 Pillar Two global minimum tax rules. We understand that the Macau SAR government is currently studying and consulting stakeholders on the possible implications of the Global Anti-Base Erosion (GloBE) and domestic minimum top-up tax rules. Multinational enterprise groups with Macau operations should stay tuned for further announcements.

Overall, many uncertainties on the interpretation and practical application of the provisions remain, and the above insights are for reference only. Having said that, we can foresee that the Macau SAR government will further strengthen the enforcement of transfer pricing compliance in the near future. We strongly recommend that multinational enterprise groups to consider the following measures: (1) closely monitor the introduction of supplementary administrative regulations to ensure that transfer pricing documentation complies with upcoming regulatory requirements; (2) regularly review transfer pricing arrangements to enhance compliance and mitigate potential risks; and (3) ensure the accurate implementation of reasonable transfer pricing policies.

Separately, according to PwC's recent global survey, many multinational enterprises believe that in the next three to five years, disputes over international taxation will continue to increase, due to the following specific reasons:

- The widespread fiscal revenue pressure faced by governments worldwide
- Changes in domestic tax laws and international tax systems, including the global minimum tax
- Increasing complexity and regional involvement of multinational enterprises' business models
- More extensive tax incentives and measures
- The development of tax technology empowering tax administration

We believe that the introduction of new legislation incorporating the APA mechanism will enable taxpayers to flexibly apply APA, effectively resolving current or potential future complex international tax issues and providing tax certainty. Nevertheless, detailed rules and practical matters of Macau's APA mechanism, such as the applicability of unilateral, bilateral, or multilateral APA, fee schedules, direct or indirect assessment procedures and scenarios where the Director of the Financial Services Bureau rejects APA applications or revoke any APA, still need to be clarified via supplementary administrative regulations.

## Let's talk

---

For a deeper discussion of how this impacts your business, please contact:

### PwC's Transfer Pricing Leaders and Partners

Charles Lee  
+86 (755) 8261 8899  
[charles.lee@cn.pwc.com](mailto:charles.lee@cn.pwc.com)

Jeff Yuan  
+86 (21) 2323 3495  
[jeff.yuan@cn.pwc.com](mailto:jeff.yuan@cn.pwc.com)

Jeremy Ngai  
+852 2289 5616  
[jeremy.cm.ngai@hk.pwc.com](mailto:jeremy.cm.ngai@hk.pwc.com)

Cecilia Lee  
+852 2289 5690  
[cecilia.sk.lee@hk.pwc.com](mailto:cecilia.sk.lee@hk.pwc.com)

Wengee Poon  
+852 2289 5675  
[wengee.w.poon@hk.pwc.com](mailto:wengee.w.poon@hk.pwc.com)

Tiffany Wu  
+852 2289 3662  
[tiffany.m.wu@hk.pwc.com](mailto:tiffany.m.wu@hk.pwc.com)

Peter Brewin  
+852 2289 3650  
[p.brewin@hk.pwc.com](mailto:p.brewin@hk.pwc.com)

Ali Tse  
+852 2289 3508  
[ali.mh.tse@hk.pwc.com](mailto:ali.mh.tse@hk.pwc.com)

Alex Xiang  
+852 2289 5817  
[alex.xiang@cn.pwc.com](mailto:alex.xiang@cn.pwc.com)

### PwC's Macau Tax Team

Cindy Lau  
+853 8799 5119  
[cindy.v.lau@hk.pwc.com](mailto:cindy.v.lau@hk.pwc.com)



## One-stop tax information platform of Shui Jie 3.0 version Your exclusive tax think tank



- For Android users, please scan the QR code to access to Tencent App store
- Shui Jie web portal - <https://shuijie.pwcconsultantssz.com>

In the context of this News Flash, China, Chinese mainland or the PRC refers to the People's Republic of China but excludes Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region.

The information contained in this publication is for general guidance on matters of interest only and is not meant to be comprehensive. The application and impact of laws can vary widely based on the specific facts involved. Before taking any action, please ensure that you obtain advice specific to your circumstances from your usual PwC's client service team or your other tax advisers. The materials contained in this publication were assembled on 24 December 2024 and were based on the law enforceable and information available at that time.

Please visit PwC's websites at <http://www.pwccn.com> (China Home) or <http://www.pwchk.com> (Hong Kong Home) for practical insights and professional solutions to current and emerging business issues.

# [www.pwchk.com](http://www.pwchk.com)

© 2024 PricewaterhouseCoopers Ltd. All rights reserved. PwC refers to the Hong Kong member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.