September 2026 - Issue T39
ideas & insights

Transfer Pricing Rules 2023 & 2024 Transfer Pricing Guidelines

TP Rules 2023

The Income Tax (TP) Rules 2023 (“2023 TP Rules”) were officially released and gazetted on 29 May 2023.The rules were issued by the Ministry of Finance and the Inland Revenue Board of Malaysia (“IRBM”). They came into operation starting from the Year of Assessment (“YA”) 2023 and it supersedes the rules that was released in 2012. Significant changes were made with the intention to boost compliance and provide taxpayers with more clarity with regards to TP compliance. Some of the important changes that affect the way TP documentations (“TPD”) will be prepared moving forward is as follows:

- Mandatory preparation of TPD before filing the tax returns
- Date of TPD completion to be disclosed
- Include Master File information in Full scope TPD
- Taxpayer to indicate if any of the required information is not relevant/ available
- No longer need to follow the hierarchy of TP methods
- Director General has the power to review and replace selected TP method
- Definition of arm’s length range from 37.5 percentile to 62.5 percentile
- TP adjustment can be done to median or above if price is not arm’s length
- Use of multiple year data to justify the effect on business
- 14 days dateline to submit TPD upon request
- Focus on importance of DEMPE analysis

TP Rules 2023 – Detailed Description

Mandatory preparation of TPD before filing the tax returns

Date of TPD completion to be disclosed

- ✓ "Contemporaneous" TPD must be prepared before the filing of the tax return for the relevant year of assessment.
- ✓ While this is not a new requirement, it has now been made clearer in the rules and it allows the Tax Authorities to penalize taxpayers who did not prepare the TPD in a timely manner.
- ✓ The requirement to include the date of completion in the TPD is in line with the Tax Authorities' intention to increase compliance and to have concrete written evidence as to whether the TPD was prepared before or after the filing of the tax returns.

Include Master File information in Full scope TPD

Taxpayer to indicate if any of the required information is not relevant/ available

- ✓ Contemporaneous Full TPD must now include additional information on the MNE Group that is relevant to the taxpayer's business in Malaysia. Alternatively, the taxpayer can attach the Master file prepared by the Group or ultimate holding company with the Local TPD.
- ✓ Previously this requirement was only applicable for Group of Companies that is required to submit the Country-by-Country Report.
- ✓ In the absence of any Master File, the local taxpayer will have to request for this information from the ultimate parent company to include in the Local TPD.
- ✓ The Tax Authorities have also included a detailed list of information and/or documentation to be included or attached in the Local TPD.
- ✓ Based on the above, taxpayers must indicate in the TPD if any of the information or documents required are not applicable to the taxpayers. Failure to do so will result in an incomplete TPD.

No longer need to follow the hierarchy of TP methods

Director General has the power to review and replace selected TP method

- ✓ Previously the Guidelines requests taxpayers to select the TP method on a hierarchy basis which means that the Comparable Uncontrolled Price ("CUP") must be considered first before the other methods on the list.
- ✓ However, now the requirement is that the best method is selected and can be supported by explanation and sufficient reasoning to justify the selection.
- ✓ There is also a clause that allows the Director General to disregard the taxpayer's selected method and replace with a different method if they are the opinion that it is not the most appropriate method.

TP Rules 2023 – Detailed Description

Definition of arm's length range from 37.5 percentile to 62.5 percentile

TP adjustment can be done to median or above if price is not arm's length

- ✓ The Tax Authorities general practice or expectation previously was for taxpayers to achieve results that is above the median of the benchmarking analysis or to make an adjustment to the median of the benchmarking.
- ✓ The new rules have included a definition for the arm's length range from 37.5 percentile to 62.5 percentile and that Companies' who fall within the range may be regarded as arm's length.
- ✓ However, taxpayers should be aware that the Director General has the power to make any TP adjustment to the median or any other point above median and within the arm's length range if there is reason to believe that the comparable companies selected is not suitable.

Use of multiple year data to justify the effect on business

- ✓ The Director General may allow for use of data from the review period and prior years if it can be proven that life cycles or business cycles of the property/services are not impacted by the conditions of commercial or financial relations between associated persons.
- ✓ However, this can only be used to assist in the selection of comparable and not for the use of multiple year averages.

14 days dateline to submit TPD upon request

- ✓ Previously this dateline was only included in the TP Guidelines. It has not been included in the Rules as well.
- ✓ Failure to submit the TPD within 14 days will result in penalties even if there is no adjustments made or additional taxes payable.

Focus on importance of DEMPE analysis

- ✓ Emphasizes the importance of the Development, Enhancement, Maintenance, Protection and Exploitation ("DEMPE") analysis for intangible property
- ✓ Any party that contributes to the functions above should be entitled to an arm's length consideration, regardless of legal ownership

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TP Rules 2023 – Additional Requirements

Intra-group Services

Intra-group services are those services rendered between associated persons. A person should be able to exhibit that the intra-group services have been rendered and the provision of such services generates an economic benefit or commercial value to his business and the charge for the intra-group services is justified.

Intra-group services shall be disregarded if it involves:

- Shareholder or custodial activities
- Duplicative services
- Services that provide incidental benefits or passive association benefits
- On-call services

Cost contribution arrangement

When a person engages in a cost contribution arrangement with a related party to share the costs and risks of a controlled transaction, the person should ensure that the allocation of costs for such arrangement is comparable to how two unrelated parties would have done the allocation at arm's length in a similar arrangement.

Intangible property

Intangible property refers to an asset which is neither a physical asset nor a financial asset but such asset is capable of being owned or controlled for use in commercial purposes, whose use or transfer would be compensated had it occurred in a transaction between independent persons in comparable circumstances which includes patent, invention, formula, process, design, model, plan, trade secret, know-how or marketing intangible.

Any party that contributes to the functions above should be entitled to an arm's length consideration, regardless of legal ownership.

Interest on financial assistance

The TP Rule stipulates that all financial assistance is subject finance charge, discount, premium or other consideration relating to a controlled transaction.

Any person in a controlled transaction who provides or receives financial assistance (i.e. loan, interest bearing trade credit, advance or debt), directly or indirectly, to or from another person with or without consideration, shall determine the arm's length interest rate for such assistance.

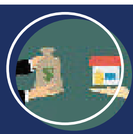
TP Guidelines 2024

On 30 December 2024, the IRBM issued the Malaysian Transfer Pricing Guidelines 2024 (“TP Guidelines 2024”), which take effect from the YA 2023. These updated guidelines are to be read together with the Income Tax Act 1967 and the 2023 TP Rules. Key changes include expanded guidance and new requirements for contemporaneous transfer pricing documentation (“CTPD”).

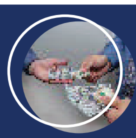
Scope for preparation of CTPD

In the transfer pricing guidelines 2024, the IRBM further relaxed requirements by revising the threshold for preparing full CTPD, as follows:

Gross Business Income > RM30 million



RPTs Cross Border > RM10 million



Financial assistance > RM50 million

Companies that does not fall within the threshold are allowed to prepare documentation that is less extensive, i.e. Minimum CTPD. A PE shall prepare its own full CTPD separately from its head office and related branches, as specified under the TP Rules.

Exemption for preparing transfer pricing documentation

To ease the compliance burden for taxpayers, the TP Guidelines 2024 excludes the following persons (which include a company, a body of persons and a sole proprietor) from preparing a full or minimum CTPD:

- Individual not carrying on a business; or
- Individuals carrying on a business (including partnerships) who only engage in domestic controlled transactions; or
- Person who entered into controlled transactions with a total amounting to not more than RM 1 million,
- Person who entered solely into domestic controlled transactions with another person where both parties; (a) do not enjoy tax incentive (b) are taxed at the same rate; and (c) do not suffer losses for 2 consecutive years

CTPD Flowchart

Are you a person having controlled transaction as defined under section 140A of the ITA? NO → **CTPD is not required**; YES ↓	Taxpayers who do not have controlled transactions (as defined under section 140A of the ITA) do not have to prepare a CTPD
Are you a permanent establishment (PE) as defined under the Rules and having controlled transaction? YES → **Prepare a full CTPD**; NO ↓	A PE should prepare a full CTPD regardless of any threshold as provided under para 1.7 of the Guidelines
Are you: (a) individuals not carrying on a business?; or (b) individuals carrying on a business (including partnership) who only engaged in domestic controlled transactions?; or (c) person who entered into controlled transactions with a total amounting to not more than RM1 million?; or (d) a person who entered solely into a domestic controlled transaction with another person where both parties – i. do not enjoys tax incentives; ii. are taxed at the same headline tax rate; or (and) iii. do not suffers losses for two consecutive years prior to the controlled transactions? YES → **CTPD is not required**; NO ↓	• Individual who is not carrying on a business → does not require to prepare a CTPD • A sole proprietor or a partnership that only engaged in domestic controlled transactions → does not require to prepare a CTPD • Total amount of domestic and cross border controlled transactions equal to RM1 million and below → does not require to prepare a CTPD • A person who only has domestic controlled transactions where both parties do not enjoys tax incentives, are taxed at the same headline tax rate or do not suffers from continual losses → does not require to prepare a CTPD
Do you meet the following THRESHOLD? 1. For a person carrying on a business, gross business income > **RM30M,** and cross border controlled transactions totalling **RM10M and more** annually; **or** 2. Where a person provides or receives controlled financial assistance more than **RM50M** annually. YES → **Prepare a full CTPD**; NO ↓	• Taxpayer who meet either condition 1 or 2 or both shall prepare a full CTPD
May opt to prepare a full or minimum CTPD	

CTPD requirements

According to the TP Rules 2023, the IRBM mandates that a CTPD be brought into existence prior to the deadline for filing a Corporate Income Tax (“CIT”) return (i.e. 7 months after the financial year end of the companies, or any extended CIT return filing, in a given YA). The completion date of the TPD must be indicated on the TPD and must be provided within 14 days upon request during a tax audit. Failure to comply with this requirement may result in a penalty ranging between RM20,000 and RM100,000 for each YA under the section 113B of ITA.

❑ Full CTPD Scope

The required contents of a comprehensive full CTPD are outlined in Paragraph 11.7, Chapter 11 of the TP Guidelines 2024, and are aligned with the requirements under the TP Rulesas follows:

a) Group worldwide organizational structure
b) Description of MNE Group businesses
c) MNE’s intangible assets
d) MNE’s intercompany financial activities
e) MNE’s financial and tax position

In the event that a master file has been prepared for the Group, it can be included as an attachment and does not have to be repeated in the report

f) Local organizational structure and company background
g) Nature of business/industry and market conditions
h) Controlled transactions
i) Pricing policies including formula adopted and sample documents to justify
j) Assumption, strategies and information regarding factors that influenced the price setting policies
k) Functions, assets and risk analysis including risk analysis framework
l) Comparability analysis
m) Selection of the transfer pricing method including basis to justify the selection
n) Application of the transfer pricing method
o) Financial information
p) Other relevant/supporting documents.

❑ Minimal TPD Scope

Taxpayers who are eligible to prepare a minimum CTPD are subject to a reduced documentation requirements.
For minimum CTPD, the scope of controlled transactions and pricing policy is limited to key controlled transactions, which are defined as:

1. Transactions related to the taxpayer’s principal business activity, and
2. Transactions that, while not principal in nature, individually contribute 20% or more of the taxpayer’s operating revenue for the relevant YA.

The IRB has released a template to simplify TPD compliance and reduce administrative burden of compliance for SMEs (PIN 1/2023). Companies that fall below the threshold can choose to fill in the details requested in the minimum TPD template

The template is a form that consists of 4 parts as follows:

The template is a form that consists of 4 parts as follows:

Company Information

- Company reg no.
- Tax reference
- Address
- Financial period
- Principal activity
- Industry code/ Type of business activity

Group Information

- Name, Country, Address and Tax No. of Ultimate, Holding Subsidiary and Affiliate Companies
- Global and Company organization chart
- Reporting lines

RPTs

- Type, amount of RPT and percentage of transactions
- Name, Country, Business activity, Tax No. and relationship of related companies involved in transaction
- Agreement/ supporting documentation

Policy

- Pricing policy for each type of RPT
- Pricing basis (i.e. costs elements & profit mark-up)
- Sample documentation
- Comparability study

Low value adding intra-group services (“LVAS”)

The IRB has adopted a simplified approach for LVAS (though this approach is only applicable to Malaysia service providers or foreign service providers who have similarly adopted the Organisation for Economic Co-operation and Development (“OECD”) simplified approach in their jurisdiction).

The service provider shall apply a profit mark-up of 5% to all costs in the pool (expect for any pass-through costs) and the mark-up under this approach does not need to be justified by a benchmarking study. However, all relevant documents should be prepared on the simplified approach.

TP Audit Framework

The IRBM has updated its TP Audit Framework ("TPAF") over the years to change how tax audits are done. The newest and current version is the TPAF 2025, which came out on 31 July 2025. This version replaced the 2024 Framework which was releases together with the TP Guidelines 2024 to change the way penalty surcharges are calculated for businesses.

Key takeaways of the TPTAF 2025 are as follows:

Key takeaways	Details
Year of assessment	The IRB may carry out a comprehensive audit for up to six (6) YAs. However, the Yas covered to raise the assessment may be extended to seven (7) prior years of assessment, depending on the audit findings.
Basis for selection of cases	Basis used in the selection of TP tax audit cases is based on: • Selection through risk assessment criteria for controlled transactions; • Restructuring of the company group; and • Information received from third parties including foreign tax authorities.
Audit settlement	For TP tax audits that only involve related companies in Malaysia, if there are any adjustments made to any of those related companies, the offsetting adjustment for the same amount will not be automatically given to the other related parties. The application for an offsetting adjustment must be made by the other related parties, and audits will be carried out to ensure that the application may be considered on the provisions of the Act.
Voluntary disclosure	Voluntary disclosures are made after the deadline for submission of the Return Form but before the audit commences. The information and documentation required, along with the Voluntary Disclosure Form to be submitted is set out and included in the TPTAF 2025.
Offence, penalty and surcharge	A surcharge at a rate of up to 5% on the amount of the transfer pricing adjustment may be imposed instead (0% to 4% for a voluntary disclosure). A surcharge still may be imposed even if no additional assessment is raised because the surcharge rate is imposed on the amount of the adjustment itself.

Penalty

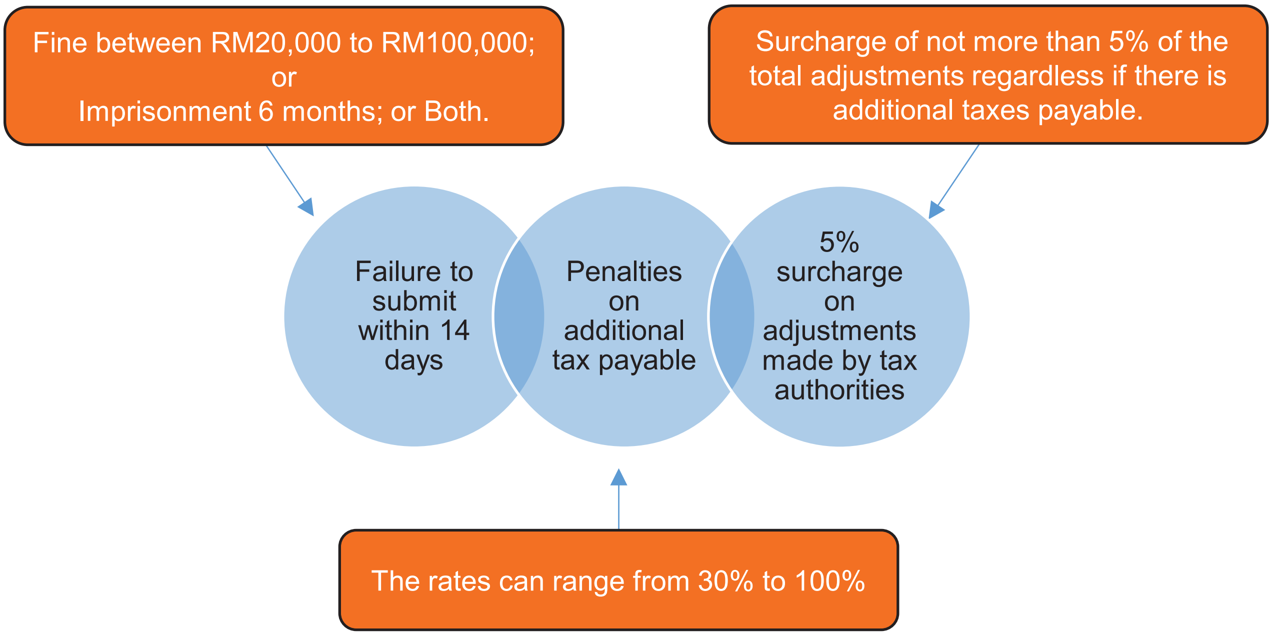
TPTAF has established a penalty structure for the failure to submit the TPD within the required timeframe as well as for adverse audit findings.

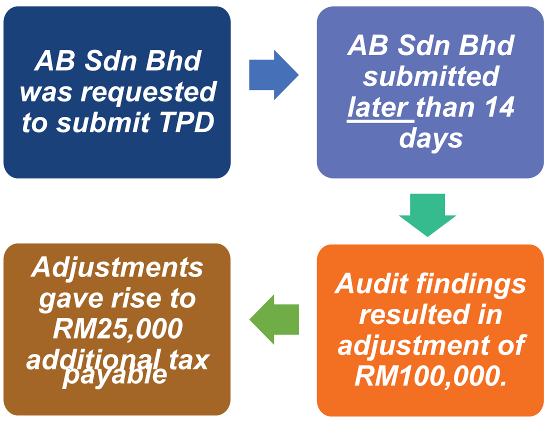
From the year of assessment 2023, a taxpayer who fails to submit a TPD within 14 days from the date of service of a written notice has committed an offence under subsection 113B(1) of the ITA. The taxpayer may be fined not less than RM20,000.00 and not more than RM100,000.00 or imprisonment for not more than 6 months or both.

The amount of penalty that will be imposed based on the period of delay in submitting the TPD is as follows:

No	Period of delay (number of days)	Penalty amount
1	Up to 7 days	RM20,000.00
2	More than 7 days up to 14 days	RM40,000.00
3	More than 14 days up to 21 days	RM60,000.00
4	More than 21 days up to 28 days	RM80,000.00
5	More than 28 days	RM100,000.00

Illustration on Penalties





	Penalty (RM)
Fine between RM20k and RM100k. (assumed at minimum penalty amount)	20,000
5% surcharge (of the adjustment) x 100,000	5,000
Additional tax payable	25,000
Penalty on additional tax (assumed at 35%)	8,750
Total penalty	**58,750**

Income Tax (Country-by-Country Reporting) Rules 2016 (“CbyCR Rules”)

The tax authorities issued the CbyCR Rules followed by the Labuan CbyCR Regulation, effective from 1 January 2017.

The Rule is applicable to MNE Groups that fulfil the following criteria:

Income Tax (CbyCR) Rules 2016	Labuan Business Activity Tax (CbyCR) Regulations 2017
Total consolidated group revenue • RM 3 Billion	**Total consolidated group revenue** • RM 3 Billion
Constituent entities • Ultimate holding entity; or • Incorporated under the companies act 2016; or • Surrogate holding entity; or • Permanent establishment in Malaysia.	**Ultimate holding / Constituent entities** • Labuan entity carrying on a Labuan business activity

Timeline

The rules state that the ultimate parent (reporting entity) would have to complete the CbyC Report and submit it to the tax authorities on or before 12 months from the last day of the reporting FY (i.e. 31 December 2024 if the tax payer’s year end is 31 December 2023).

Penalty under Section 112A & 113A of the ITA and Labuan Regulations

Income Tax (CbyCR) Rules 2016	Labuan Business Activity Tax (CbyCR) Regulations 2017
Failure of submission/Incomplete and/or incorrect information provided to the DGIR: • Fine of not less than RM20,000 and not more than RM100,000; and/or • Imprisonment of not exceeding 6 months.	Failure of submission/Incomplete and/or incorrect information provided to the DGIR: • Fine of not exceeding RM1,000,000; and/or • Imprisonment of not exceeding two years.

Additionally, there is also a requirement for the Malaysian Companies to notify the tax authorities under Subrule 6(1) and 6(2) of the PU (A) 357/2016 either by disclosing the information as part of the tax returns or by submitting the manual notification form.

Malaysian parent entities and subsidiaries submitting the ***Form C , TR , TA , TC or TN*** (tax return forms, whichever is applicable) can furnish the notification ***by way of tax returns*** while companies filing Form LE & TF are required to furnish the notification using a manual notification form as follows:

Reporting entity *[Annex B1]*	The reporting entity shall notify the Director General in writing if it is the ultimate holding entity on or before the last day of the FY. Details of all Malaysian and foreign non-reporting constituent entities must be included
Non-reporting entity *[Annex C1 & C2]*	The Malaysian subsidiary must notify the Director General in writing of the identity and tax residence of the reporting entity on or before the last day of the FY.

Tax Return Form

Throughout the year from FY 2014 to FY 2022, the income tax return form has been amended to include additional disclosures as follows:

a) Transfer Pricing Documentation and its related information

Tax payer is to disclose its characterization, other related information and all type of transactions they are involved in with a related party and the amount.

b) Disclosure of whether the taxpayer is subject to interest restriction under Section 140C.

Tax authorities introduced Restriction on deductibility of interest under Section 140C of the Income Tax Act 1967, effective 1 July 2019 onwards aimed at restricting the deduction of interest expense in relation to cross border transaction. The Rules are applicable to:

- ✓ companies who have been granted any financial assistance in a controlled transaction;
- ✓ the total amount of any interest expense for all such financial assistance exceeds RM500,000 in the basis period.

The maximum amount of interest that is deductible is 20% of the Tax EBITDA. The balance is allowed to be carried forward.

c) Disclosure on CbyCR

Tax payer is to disclose if CbyCR is relevant for the Group and fill in the relevant information of the reporting entity.

Key Take-aways

- ✓ Tax authorities may enforce a tax audit at any time of the year.
- ✓ Tax authorities have provided a time and cost-efficient template for SME companies to encourage compliance.
- ✓ In addition to the template, taxpayers also need to include documentation or analysis to justify that the RPT is carried out at market price (i.e. comparability study)
- ✓ It is essential for the taxpayers to indicate the completion date on the TPD.
- ✓ Although there are exemptions for the preparation of TPD, in case of an audit, there are possibilities for adjustments that will result in additional tax.
- ✓ There is a risk of IRB imposing the 5% surcharge on adjustments on top of penalty imposed.
- ✓ Taxpayer's responsibility is to maintain the relevant records, documentation and calculation to justify the arm's length nature of the inter-company transactions.
- ✓ Taxpayers need to reassess the completeness and robustness of the TPD prepared previously and make amendments to the scope where necessary.
- ✓ Taxpayers should ensure contemporaneous preparation of the TPD.

How We Can Help

Our dedicated team of professionals has experience in various disciplines to respond effectively and efficiently to our clients' individual requirements. This professional capability allows us to advise and plan strategies critical to our clients' needs and success within the challenges of the present business environment.

Our service includes a total approach to our clients' problems and needs. Using a team approach, our services are tailored to meet our clients' individual requirements. We stress on a high degree of competence, professionalism and commitment among our team members.

We offer the following services with a clear focus on the business issues and regulatory requirements of the client's industry:

- Audit and Assurance
- Tax & Transfer Pricing Advisory and Compliance
- Business Advisory
- China Belt and Road Desk
- Financial and Transaction Advisory
- Risk, Governance and Sustainability Advisory
- Valuation Advisory
- Migration Advisory
- Offshore Advsory

Should you have any questions or require any assistance on the above, please do not hesitate to drop us an email or call us.

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WHY ShineWing TY TEOH 为什么选择信永中和迪威？

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Global Largest Accounting Firm IAB 2024	Global Revenue (USD' Million) Year 2023	Offices across 21 Countries & Regions Year 2023	People including 640 Partners Year 2023	Malaysia Largest Accounting Firm IAB 2024	Offices across Malaysia Year 2024

- ✓ Registered Auditor of Public Company Accounting Oversight Board (PCAOB), USA
- ✓ Approved Auditor of Labuan Financial Services Authority (Labuan FSA), Malaysia
- ✓ Approved Training Employers
- ✓ Independent Member Firm of Praxity

Team Leaders & Members Credentials

WHAT WE OFFER 我们的专业服务

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+ 审计 + 商务外包与咨询 + 中国企业服务部 + 数据咨询 + 家族办公室及私人客户服务 + 企业融资与并购咨询 + 日本企业服务部 + 市场进入咨询 + 移民服务 + 纳闽离岸咨询 + 风险管理及内控咨询 + 新加坡企业服务部 + 税务咨询 + 转让定价咨询 + 美国企业服务部 + 估值咨询

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