Tax Rules on Intra Group Loans

The Malaysia Transfer Pricing Guidelines on Controlled Financial Transactions released on 30 July 2026, serve as a supplement to Chapter 9 of the Malaysia Transfer Pricing Guidelines and establish detailed rules on pricing, economic substance, and documentation for related-party financing.

1st 09/2026

Introduction

The Inland Revenue Board of Malaysia ("IRB") had published the Malaysia Transfer Pricing Guidelines on Controlled Financial Transactions: Intra-Group Loans ("MFTIL Guidelines") on 30 July 2026. These Guidelines serve as a comprehensive guide to determine the arm's length nature of the intra-group loans and serves as an essential supplement to the broader Malaysia Transfer Pricing Guidelines 2024.

Under the new MFTIL Guidelines, setting an arm's-length interest rate for related-party financing requires a four-step framework: accurately characterizing the transaction, evaluating functional profiles, assigning risks, and executing a formal market benchmarking analysis. These core strategies, form the foundation of the guideline's four structural chapters.

Chapter 1: The Ultimate Reality Check (Debt vs. Equity)

The IRB closely scrutinizes intra-group financing to detect hidden equity structured as corporate debt. If a transaction is found to lack the commercial and economic substance of a genuine loan, the Director General can recharacterise it as equity, disallow your corporate interest deductions, and impose statutory surcharges.

Criteria	Debt	Equity
a. Existence of a legal obligation to repay	Fixed and enforceable obligation to repay principal and interest	No obligation to repay; repayment depends on profits or discretion of the management
b. Fixed maturity date	Repayment scheduled on a specific date or upon demand	No fixed maturity, redeemable at issuer's discretion
c. Expectation of return	Interest is predetermined	Return depends on profits/ dividends

Criteria	Debt	Equity
d. Ranking upon liquidation or dissolution	Ranks as a creditor (before equity holders)	Ranks as equity (after debt obligations)
e. Participation in management or control	No participation in the borrower's management	Usually includes voting rights or influence in management
f. Right to enforce repayment	Enforceable in courts as a debt contract	Legal recourse is limited; depends on the residual claim
g. Treatment in accounting and financial reports	Liability	Equity
h. Tax treatment under the relevant tax laws	Treated as interest-bearing loan	Treated as capital contribution or equity
i. Intent of the parties	Debtor-creditor relationship	Ownership interest

Chapter 2: The Double Lens Principle

Taxpayers are prohibited from setting interest rates for related-party loans without proper economic justification. To comply with transfer pricing rules, the interest rate must reflect market realities by considering the commercial positions of both the lender and the borrower.

The golden rule here is creditworthiness. Multinational groups must formally evaluate and retain credit reports from recognized agencies like RAM Ratings, Moody's, or Standard & Poor's (S&P). For local Malaysian Small & Medium Enterprises (SMEs), using reporting systems like CTOS and CCRIS is acceptable to justify commercial risk profiles.

The MFTIL Guidelines state that membership in a Multinational Enterprise ("MNE") group affects a subsidiary's borrowing conditions in two distinct ways:

1) Group Policy Influence: The overarching financial policies of the MNE group often shape the specific loan types, terms, and pricing available to the entity from independent lenders.

2) Implicit Group Support: Lenders may offer lower borrowing costs and higher credit ratings based on the passive expectation that the MNE parent will assist during financial distress. This type of passive economic benefit is called "implicit support". Because it arises automatically from being part of the group, it does not require any intercompany service fees or transfer pricing adjustments.

Chapter 3: Arm's Length Compliance

A comparability analysis can assist to determine the appropriate pricing approach for establishing the arm's length interest rates. Taxpayers must select the most suitable pricing approach to calculate and justify their cross-border or domestic intra-group interest rates.

Pricing approach	Description
Comparable Uncontrolled Price Method ("CUP Method")	• Consider the the borrower's credit rating, the specific issuance, all applicable terms and conditions, and other comparability factors. • Benchmark rate against the following: o Publicly available data for other borrowers with the same credit rating and terms. o Realistic alternative financial transactions that share comparable economic characteristics. For example, bond issuances, third-party loans, deposits, convertible debentures or commercial papers. o Potential internal CUP, such as other independent loans received or granted by the taxpayer or its related group entities. • If an external CUP is performed, appropriate adjustments may be required to enhance comparability.
Cost of Funds Method	• In absence of a CUP, this method may be employed. • The cost of funds represents the borrowing expenses that the lender incurs in acquiring the necessary capital for lending, such as: o Borrowing Costs - the actual interest or expenses paid to secure the capital. o Operational Expenses - costs for arranging, managing, and servicing the loan. o Risk Premium - extra charge reflecting the specific economic risks of the loan. o Profit Margin - an appropriate return that includes the incremental cost of equity needed to back the financing. • This method may be appropriate for pricing loans in circumstances where capital is sourced externally and subsequently passes through one or more associated intermediary entities before reaching the ultimate borrower. • If a lender acts only as an agent or intermediary, its arm's-length return should be limited. Instead of earning a full financing margin, it should only recover the specific costs and risks of providing that intermediary service. • Lenders must separate external borrowings from internal capital (like retained earnings) when calculating the cost of funds. o External Funds are evaluated using the actual, visible borrowing interest rates paid to third parties. o Internal Funds are evaluated using an opportunity cost, such as the interest income lost by not placing the cash into a fixed deposit.

Pricing approach	Description
	• The MFTIL Guidelines does highlight that if cost of funds higher than prevailing market averages is applied, the taxpayer is required to carry out a comprehensive comparability analysis to demonstrate that the rate aligns with the arm's length principle.
Comparable Uncontrolled Price Method ("CUP Method")	• Taxpayers who are exempted from preparing the CTPD or eligible to prepare a minimum CTPD can opt for this method. However, this method cannot be used for back-to-back loan arrangements. It does not apply if a company borrows capital from one related entity and simply passes it through to the final borrower • This method designates two rates, both which are publicly available on Bank Negara Malaysia's ("BNM") official website with its own set of eligibility factors: **Deposit rate** The average fixed deposit rate of commercial banks published by the BNM at the end of the calendar month or such other reference lending rate prescribed by the DGIR. Taxpayer must fulfil the following eligibility criteria: o Not in the business of borrowing and lending; o Interest income of the intra-group loan is taxed o Loan is from internal funds; o Loan is denominated in Malaysian Ringgit ("MYR"); o The related party is a resident in Malaysia; and o Loan does not exceed MYR 50 million in the financial year. **Average Lending Rate ("ALR")** The ALR of commercial banks published by the BNM at the end of the calendar month or such other reference lending rate prescribed by the DGIR. Taxpayer must fulfil the following eligibility criteria: o Not in the business of borrowing and lending; o Interest income of the intra-group loan is taxed o Loan is denominated in MYR; and o Loan does not exceed MYR 50 million in the financial year.

According to the MFTIL Guidelines, taxpayers are permitted to review the arm's length interest rates established through the most appropriate pricing method, other than the simplified method, once every three (3) years in order to minimise compliance costs, provided that all facts and circumstances remain unchanged.

Chapter 4: Compliance Action Plan

The MFTIL Guidelines mentions that the taxpayer engaged in intra-group loans is required to maintain relevant documentation as follows:

- Agreements
- Credit assessments
- Supporting evidence demonstrating compliance
- Terms of the intra-group loans
- Interest charged

Conclusion

With the introduction of the MFTIL Guidelines, the IRB is setting an expectation on the taxpayer to study if the intra-group loan that they receive or provide is consistent with the arm's length principle. Therefore, taxpayers with existing intra-group loans should focus on:

1. Reviewing the existing intra-group loan, if it has debt or equity characteristics.
2. Assessing the creditworthiness of the related party borrower and document the assessment
3. Evaluating the most appropriate method to establish the arm's length interest rates.
4. Studying the current documentation in relation to the intra-group loans, to determine if they meet the compliance requirements.

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