



Transfer Pricing Pulse: Controversy trends shaping the ENR sector in APAC

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The Energy & Natural Resources (ENR) sector in Asia Pacific (APAC) faces escalating transfer pricing (TP) controversy due to complex supply chains, geopolitical tensions, and industry shifts toward sustainability and technology. As a result, tax authorities are intensifying audits and scrutinizing the internal prices of commodities, intercompany services, financing, and use of intangibles. As a consequence, ENR businesses are operating in an environment where robust documentation, reliable benchmarking, and strong defense strategy are essential to managing TP risk.

This article outlines KPMG insights from the recent TP audits when KPMG assisted companies in the ENR space with managing the disputes.

Overall, TP controversy is shaped by several consistent themes across APAC. Tax authorities across jurisdictions have sharpened their scrutiny of global commodity trading models, seeking comprehensive transactional breakdowns and challenging inconsistencies between financial outcomes and functional characterisations. At the same time, there is inconsistent preference to different TP methods used during audits, where tax authorities from countries such as Japan may prefer to use comparable uncontrolled price (CUP), while authorities in South Korea falling back to transactional net margin method (TNMM) more often.

Singapore

Singapore has seen a pronounced increase in TP audit scrutiny, particularly in commodity trading and global trading models. The Inland Revenue Authority of Singapore (IRAS) has increasingly focused on validating the robustness of CUP analyses, reviewing the alignment between gross trading margins and functional activities, and investigating the basis for service fee stability in periods of fluctuating revenues.

One of the key points of contention in a recent audit has been the tax treatment of residual profit split method (RPSM) adjustments recorded after year-end account closure. Depending on the direction of the adjustment, IRAS has, in certain cases, taxed balancing payments or contested deductibility. To prepare for a similar scrutiny from IRAS, companies in ENR industry applying RPSM are advised to focus on the accuracy of disclosure of balancing payments in the accounts, contractual representation of the arrangement, and explanations provided in transfer pricing documentation.

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Australia

Australia continues to be one of the most active TP controversy jurisdictions in the region, driven by significant court activity and the application of the Diverted Profits Tax regime. Recent cases, including those involving Alcoa and PepsiCo, illustrate the Australian Tax Office's (ATO) ongoing focus on off-take pricing, hub models, and the characterisation of payments related to intellectual property.

The ATO's emphasis on the legal form and operation of contractual arrangements has major implications for ENR groups, particularly where complex trading structures, embedded IP, and mixed service–product flows intersect. This heightened focus underscores the need for clear documentation, careful contract drafting, and rigorous alignment of TP policies with economic substance.

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China

China maintains one of the most rigorous TP audit environments in APAC, characterized by extensive information requests, detailed functional analyses, and common requirements for taxpayers to perform transfer pricing self-adjustments. In addition to the physical buy-sell prices of ENR products, Chinese tax authorities have recently shown strong interest in paper trades while closely scrutinizing intercompany outbound payments, including royalties, service charges, and financing.

Unlike the previous practice of simply relying on benchmarks for TNMM analysis, Chinese tax authorities have recently shown a greater tendency to engage with taxpayers from a value chain perspective together with a vigorous functional analysis to discuss the profits that multinational enterprises should retain in China. Thus, the allocation of profits across the value chain becomes a key area of discussion. Chinese tax authorities may require detailed information on the profitability of overseas related parties and advocate the use of quantitative analyses to assess value chain profit distribution within the group. Based on these analyses, Chinese tax authorities may assert that the Chinese entities contribute to profit-driving activities such as marketing and trading strategy. Consequently, they may argue that a greater share of profits should be retained in China.

Beyond formal TP audit cases, which remain common, informal inquiries and challenges that encourage taxpayers to perform self-assessments and self-adjustments have become more frequent and widespread, enabling Chinese tax authorities to bypass potentially lengthy procedures and expedite tax collection. Notably, China's increasingly mature advance pricing arrangement (APA) programme is providing taxpayers with a viable pathway to achieving tax certainty, especially for complex ENR transactions involving intangibles, joint paper trades, service, and/or financing arrangements. With streamlined unilateral APA options and growing demand for tax certainty, APAs are becoming central to managing long-term TP risk in the country.

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Japan

Japan has experienced a decline in the number of TP audit cases but a marked increase in the depth and focus of those audits. Japanese tax authorities place strong emphasis on single-year testing, the use of domestic comparables, and transactional-level analyses. CUP remains heavily scrutinised, especially where indicative pricing or broader market ranges are used.

Additionally, authorities frequently utilise donation rules for TP adjustments, adding a layer of complexity for ENR taxpayers. Intangible property, including exploration rights, know-how, and marketing assets, continues to attract close attention, along with outbound services and personnel-related charges from Japanese headquarters.

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India

India has become a high-intensity TP litigation market, with rising disputes around financial and funding transactions, especially where hybrid, quasi-equity or interest-free instruments are involved. A unique feature of the Indian regime is that the arm's-length nature of transactions is examined from both sides, as withholding tax obligations trigger scrutiny not only of Indian companies but also of foreign AEs receiving cross-border payments. This has intensified challenges on instrument characterization and the re-casting of interest-free or equity-linked funding as debt requiring arm's-length interest.

In the renewable sector, specified domestic transactions within large integrated groups continue to face close examination, particularly in relation to intra-group funding, equipment supply and EPC arrangements central to project development. The recent Tribunal ruling in the case of ITA No. 4828/Mum/2024 for a large ENR player has reinforced that TP assessments must reflect commercial realities and sector-specific regulatory constraints, not merely margin-based benchmarks. Against this backdrop, Advance Pricing Agreements (APAs) have emerged as the most attractive certainty tool—allowing ENR taxpayers to resolve complex financing and sector-specific issues within a year, in stark contrast to the 5–10 years typically required under traditional litigation. As a result, multinationals are increasingly relying on APAs to secure early certainty and avoid prolonged disputes in India's evolving TP environment.

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Indonesia

Indonesia's TP controversy landscape has become increasingly unpredictable, with authorities frequently changing TP methods between years for the same taxpayers and taking narrow interpretations of acceptable pricing components. Challenges have included the exclusion of premiums, surcharges, and logistics-related fees in CUP analyses and the rejection of benchmarks such as the Means of Platts Singapore (MOPS).

While taxpayers have seen favourable outcomes at the Objection and Appeals stage in some cases, especially where the authorities' calculation approaches lacked completeness or internal consistency, ENR groups continue to face substantial uncertainty. This environment underscores the importance of maintaining detailed transactional data, strong comparability analyses, and contemporaneous documentation.

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Malaysia

Malaysia's TP Rules 2023 have significantly strengthened the country's TP compliance framework. With strict contemporaneous documentation requirements, short response timelines, and penalties ranging from fines to potential imprisonment, Malaysia now has one of the most stringent TP regimes in the region.

A key change is the introduction of a new arm's-length range defined between the 37.5th and 62.5th percentiles, replacing the use of the broader interquartile range. Ongoing developments, including forthcoming guidelines on hybrid financing instruments and cash pooling, indicate that Malaysian authorities are intensifying enforcement in areas particularly relevant to ENR multinationals.

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Korea

Korea continues to conduct intensive TP audits (including field audits) on a periodic basis, supported by robust information-gathering capabilities. Korean tax authorities often prepare their own sets of comparables before commencing audits and frequently request financial information from overseas affiliates. Commodity transactions involving premiums or discounts are particularly scrutinised.

Case studies show a widespread trend of rejecting CUP due to perceived comparability limitations, with TNMM increasingly becoming the method of choice both in audits and APA filings. ENR companies operating in Korea must therefore maintain comprehensive functional analyses, clear documentation of pricing determinants, and strong justification for method selection. During field audits, tax authorities often also request access to internal correspondence and other documents, so TP analysis needs to align with actual business conduct.

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Conclusion

Across APAC, transfer pricing controversy in the ENR sector is becoming more frequent, complex, and data driven. Tax authorities are challenging existing pricing models with greater industry knowledge and analytical tools. ENR businesses need to proactively improve TP governance, reassess current policies, and consider APAs and MAPs for greater tax certainty.

KPMG's APAC ENR Transfer Pricing team is well placed to support clients with complex transfer pricing challenges, leveraging local expertise and industry know-how. The team includes local specialists with deep expertise in ENR sector. We offer end-to-end services, including policy design, TP audit defense strategy, TP compliance documentation, and audit and APA management, TP automation helping clients minimize controversy and enhance certainty through strong TP design, implementation and proactive engagement with authorities.

KPMG has established a dedicated APAC ENR Working Group that brings together senior transfer pricing and controversy specialists across key jurisdictions. This industry-focused group enables us to provide pragmatic and cutting-edge solutions and deliver consistent, coordinated support to multinational ENR groups navigating transfer pricing complexities across the region. We would welcome the opportunity to discuss how these insights may apply to your group—please reach out to your KPMG contact or the authors to explore a tailored approach to managing your transfer pricing controversy risks in APAC.

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