

TAX ADVISORY for VietTech on optimizing tax of new location



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- 1 P/E in Malaysia: YES
- 2 Key findings: Withholding Tax for Vietnam, Thailand and Malaysia
- 3 Transfer Pricing methods: CUP method, CLM, TNMN
- 4 Arm's length interest rate using CUP method and Intercompany sales using Cost plus pricing method
- 5 2 strategic for tax planning

VietTech Co.

Main Product: Advances microchips and Sensors, AI technology trained

	Function	Asset	Risk
VietTech	<ul style="list-style-type: none">R&D activities for microchips and SensorsOwning IPCore manufacturing	<ul style="list-style-type: none">IP: Intangible assetFinal products	<ul style="list-style-type: none">Supply chain disruptions or quality issuesMalfunction, damage, or obsolescence of plantLoss or theft of intellectual property
ThaiTech	<ul style="list-style-type: none">Assembling plantDistribution and sellingUsing royalties from IP	<ul style="list-style-type: none">IP rights from VietTechComponent from VietTechPlant and equipment	<ul style="list-style-type: none">Forming PEReputational damagePotential legal
Malaysia Branches	<ul style="list-style-type: none">Selling and marketing to the jurisdictionReceiving training from VietTech	<ul style="list-style-type: none">Final ProductsMarketing and sell Employees	<ul style="list-style-type: none">Forming PEHuman Capital Risk
SingTech	<ul style="list-style-type: none">Procurement and Financing CentrePurchasing MaterialSelling MaterialProviding intercompany loan, financing for the group	<ul style="list-style-type: none">On-going MaterialFinancial asset	<ul style="list-style-type: none">Financial RiskCompliance Risk

FUNCTIONAL ANALYSIS MODEL

Tax-Consideration:

Strategy Suggestion

- More income source in Vietnam as a main tax Authority

Consideration

Public Adviser to Vietnam Government suggest Tax refund for incorporate has income source in Vietnam

Risk

- Polity Delayed or Cancellation

Focus on ESG aspect

- Focus on ESG aspect for more *"intangible value"*
- Effective tax planning for

Tax incentives for ESG pioneer corporates

- Overbudget expense more than "Tax expense"

Does Malaysia Need to Reconsider the Issue of PE? Absolutely **Yes**

Deloitte.

Activities

Sale and Marketing

Physical presence



Regulatory Compliance



The term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

They has office

Risk

✗ The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;



Malaysia need to constitute to PE

Duration

The place of business must be maintained for a certain period. While there is no universally fixed timeframe, tax treaties may specify thresholds (e.g., ≥ 183 days in 12 months in Vietnam).

High possibility that occur the double personal income tax

SERVICE PE

VietTech send employees training and guidance services the employees to

High possibility that service PE will be formed

*Considerations regarding **taxes between the VN and market countries:***

- ***DTT and DTA (exemption/ credit machinism)***
- ***Authority to sign contracts, Labor payroll, Labour accomodation,..***

		Interest	Royalties	Dividend payment
VietTech	Domestic	n/a	n/a	n/a
	International	-	-	n/a
Malaysia Office	Domestic	n/a	n/a	n/a
	International	15%	10%	n/a
ThaiTech	Domestic	1%	3%	10%
	International	15%	15%	10%
SingTech	Domestic	n/a	n/a	n/a
	International	15%	15%	n/a

CUP method

Cause

- VietTech grants exclusive licence to ThaiTech for manufacturing the microchips
- Product is the most pivotal factor in determining the transactions between two entities

Method

Commercial data base to benchmark ATA: %/revenue

Pros

- Directly compare prices between transactions, easy to apply because similar independent transactions.
- Accurate results can be provided by applying good comparative data are available.

Cons

- May not fully account for the impact of proprietary technology and other factors on price
- Accurately calculating the expenses involved in manufacturing can be challenging.

Transactional net margin method

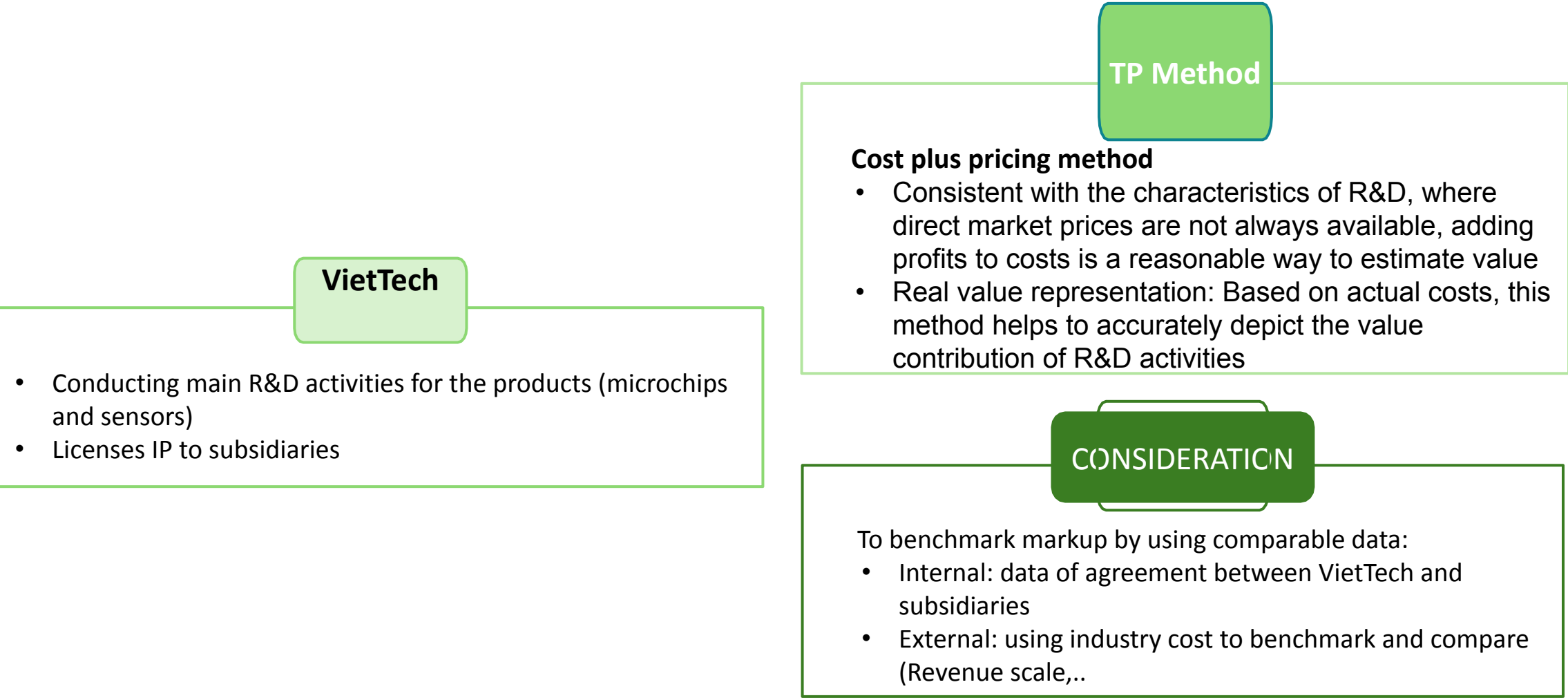
- A large amount of operational expenses are not taken into account in CUP method, leading to inaccuracy in the royalty fee calculation

Benchmark CTC: Markup on transaction

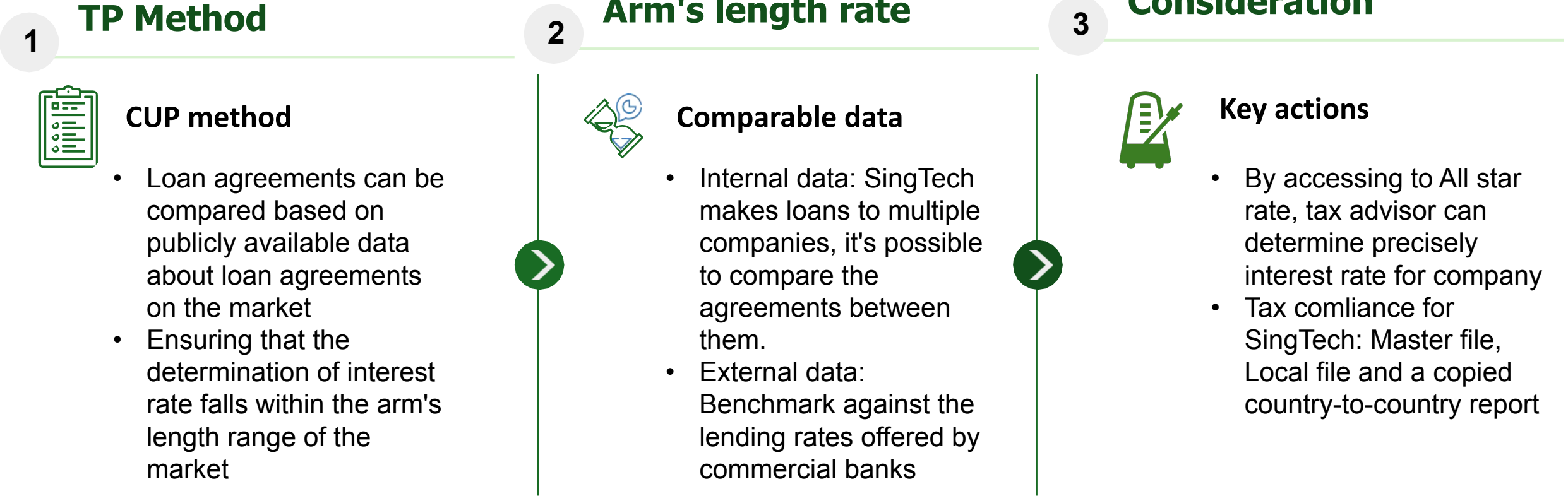
- More flexibility in determining transaction value.
- Reflects overall business performance encompassing administration cost.

- The results may be impacted by various unrelated variables.
- Additional financial information from similar companies is required.

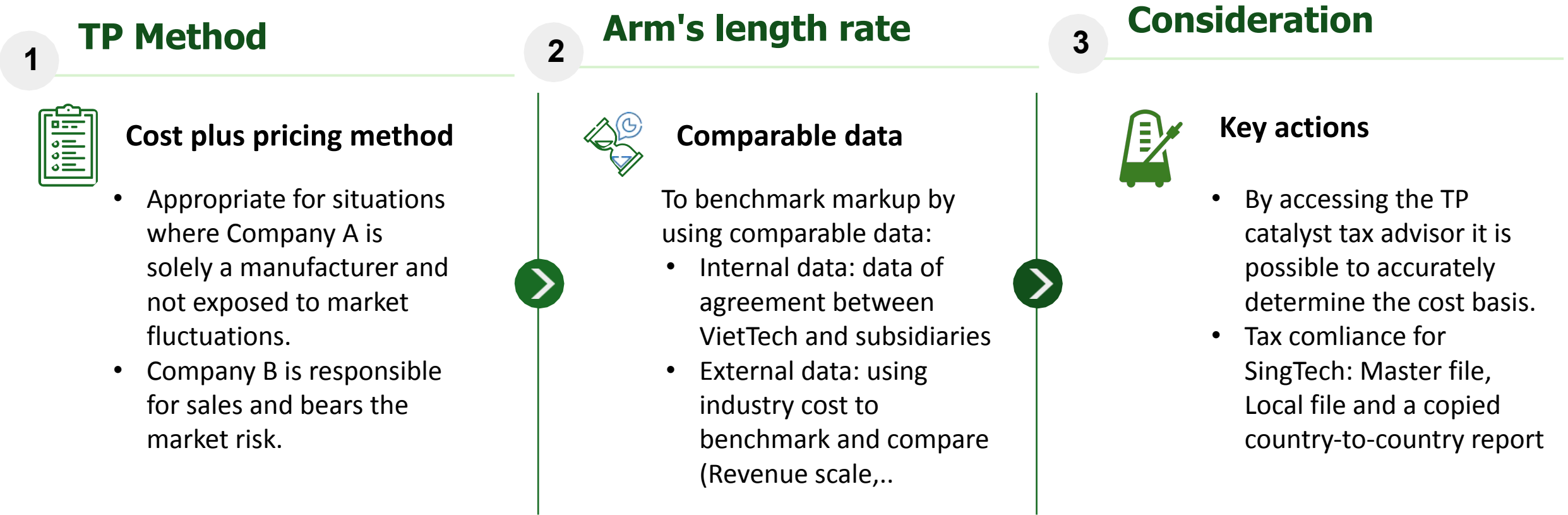
R&D Cost charged from VietTech to subsidiaries



Loans transaction



Intercompany sales from VietTech to ThaiTech



Current

- Malays
- Thailand
- Royalty transaction
- R&D activities provided by VietTech
- Intercompany loans provided by SingTech
- Intercompany sales provided by VietTech
- Two scenarios for potential strategic tax planning

Proposed

Tax planning


- ü Viet Nam income's source

PE

- ü Create a subsidiary entities instead of branches.
- ü Thailand
- ü Malay constitutes two PE

TP Methods

- ü Royalty transactions: CUP method and TNMM
- ü R&D Activities: Cost plus method
- ü Loans transaction: CUP method
- ü Intercompany sales: Cost plus method



*“In this world
nothing is certain
but death and taxes”*

- Benjamin Franklin -