

AI in Transfer Pricing: Insight, Illusion and Risk

Appendix: Example ChatGPT Conversation

The following appendix presents a practical example of a conversation between ChatGPT and Andersen Australia, illustrating how an AI can guide you through the key requirements and best practices for transfer pricing documentation in Australia.

This sample exchange demonstrates how common questions are addressed, what information is typically requested, and how tailored, actionable guidance can be provided in real time. Use this as a reference for the types of queries you might raise—and the level of detail you can expect

Andersen Australia - Question: Do you need transfer pricing documentation in Australia?

ChatGPT - Answer:

Yes — transfer pricing documentation is effectively required in Australia if you have related-party dealings, even though the law doesn't say "you must prepare a report by X date."

Here's how it works in practice:

The legal position

Australia's transfer pricing rules (in the Income Tax Assessment Act 1997 and aligned with the OECD guidelines) require that:

- Related-party transactions be conducted at arm's length.
- Taxpayers be able to demonstrate this if the ATO asks.

So while documentation isn't explicitly mandatory upfront, you are expected to have it.

Why documentation really matters

Having contemporaneous transfer pricing documentation:

- Shows you took reasonable care.
- Helps avoid penalties (up to 50% of the tax shortfall if you can't support your pricing).
- Is often requested during an ATO review or audit.
- Is needed to correctly complete the International Dealings Schedule (IDS).

If you don't have documentation and the ATO challenges your pricing, you're on the back foot.

Who should have it

You should strongly expect to prepare transfer pricing documentation if you:

- Have cross-border related-party transactions
- Are part of a multinational group
- Lodge an IDS
- Have material transactions (services, IP, financing, goods, etc.)

Small or low-risk taxpayers may take a lighter approach, but the expectation doesn't disappear.

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What “documentation” usually means

Typically aligned with OECD standards:

- Local file (Australian entity + transactions)
- Master file (group overview, if applicable)
- Benchmarking / economic analysis
- Intercompany agreements

Bottom line

- Yes, in substance you need transfer pricing documentation in Australia
- It's not about ticking a box — it's about being able to defend your pricing
- Having it can significantly reduce audit risk and penalties

If you want, tell me:

- Whether this is inbound or outbound
- Rough size of the group
- Type of transactions

and I can tell you how much documentation is “enough” for your situation (pragmatic, not overkill).

Andersen Australia - Question: How much documentation is enough?

ChatGPT - Answer:

Great question — this is where transfer pricing gets practical rather than theoretical.

“Enough” documentation in Australia means: just sufficient to show reasonable care, given your risk profile.

Not a glossy 200-page report unless you actually need it.

Here's a clean way to think about it:

The ATO's unstated rule of thumb

The ATO looks at:

- Materiality (how big are the transactions?)
- Risk (type of transaction, jurisdictions involved).
- Complexity (IP, financing vs routine services).
- Your profile (size, history, MNE vs private group).

The higher these are, the more documentation you need.

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What's “enough” at different levels

● Low risk / small transactions

Example:

- Limited cross-border services.
- No IP, no financing.
- Small private group.

Enough =

- Clear description of the transactions.
- Intercompany agreement (even a simple one).
- Explanation of the pricing method.
- Commercial rationale.
- Light benchmarking (or market references).

Often 10–15 pages + appendices is fine.

● Medium risk (most Australian MNEs)

Example:

- Management fees, services, distribution, routine manufacturing.
- IDS lodged.
- Moderate transaction values.

Enough =

- OECD-style local file.
- Functional analysis.
- Method selection and justification.
- Benchmark study (current or refreshed).
- Financial testing.

Usually 30–60 pages, focused and defensible.

● High risk / ATO focus areas

Example:

- IP, royalties, financing, restructures.
- Low-tax jurisdictions.
- Persistent losses in Australia.
- Large inbound groups.

Enough =

- Robust local file.
- Master file consistency.
- Detailed DEMPE analysis (for IP).
- Strong benchmarking and sensitivity analysis.
- Evidence of actual conduct.
- Contemporaneous preparation.

This can easily be 80–120+ pages, but every section needs to earn its place.

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Timing matters (a lot)

To get penalty protection, documentation should be:

- Contemporaneous (by tax return lodgement)
- Updated when facts change
- Benchmarks refreshed every ~3 years (with annual roll-forward)

Retro-fitting documentation after an ATO review starts = much weaker protection.

A very practical test

Ask yourself:

“If the ATO asked why this price is arm’s length, could we walk them through it calmly in under an hour — with evidence?”

If yes → you probably have enough

If no → you don’t

Common mistake I see

- Over-documenting low-risk services
- Under-documenting IP and financing
- Treating documentation as a compliance artefact instead of a defence file

If you want, tell me:

- Transaction types
- Approx annual value
- Inbound vs outbound
- Private group vs listed MNE

I’ll tell you exactly what to prepare — and what to skip so you don’t waste time or fees.

Andersen Australia - Question: What need to be included in compliant transfer pricing documentation?

ChatGPT - Answer:

In Australia, “compliant” transfer pricing documentation means documentation that would satisfy the ATO that you’ve taken reasonable care and applied the arm’s-length principle, in line with the OECD Guidelines.

Think of it as a defence file rather than a formality.

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Below is what the ATO expects to see — not necessarily all long, but all covered.

Core components (non-negotiable)

1. Group & entity overview

- Legal and ownership structure
- Countries of operation
- Description of the Australian entity's role in the group
- Business strategy and any recent changes

Purpose: sets context for everything that follows

2. Transaction identification

For each related-party transaction:

- Nature of the transaction (services, goods, IP, financing, etc.)
- Counterparties and jurisdictions
- Annual values
- Whether it's inbound or outbound
- Contractual terms

The ATO should be able to clearly see what happened and with whom

3. Functional analysis (the backbone)

- Functions performed by each party
- Assets used (especially IP)
- Risks assumed (commercial, financial, operational)

This must reflect actual conduct, not just contracts.

This determines who should earn what

4. Most appropriate method selection

- Methods considered (CUP, TNMM, cost plus, resale minus, etc.)
- Why the chosen method is most reliable
- Tested party rationale

"Because that's what we always use" is not acceptable

5. Economic / benchmarking analysis

- Search strategy and screening criteria
- Comparable companies or transactions
- Arm's-length range
- Financial indicators tested
- Outcome vs range (and explanation if outside)

Benchmarks should generally be refreshed every 3 years.

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6. Financial analysis & testing

- Transaction-level financials
- Reconciliation to statutory accounts
- Adjustments (if any)
- Results by year

The ATO must be able to trace numbers back to the tax return

7. Intercompany agreements

- Signed agreements (or at least executed in substance)
- Consistent with actual conduct
- Pricing terms clearly stated

Agreements alone are not enough — but missing agreements is a red flag.

Additional elements (risk-dependent):

8. Commercial rationale

- Why the transaction exists
- Why it makes business sense
- Evidence of benefit received (especially for services)

Very important for management fees.

9. IP-specific analysis (if relevant)

- Identification of IP
- DEMPE functions
- Legal vs economic ownership
- Royalty setting rationale

High ATO focus area.

10. Financing analysis (if relevant)

- Credit rating analysis
- Debt capacity
- Interest rate benchmarking
- Thin capitalisation consistency

11. Consistency checks

- Alignment with:
 - IDS
 - Country-by-Country reporting
 - Master file (if applicable)
 - Financial statements

Inconsistencies often trigger reviews.

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What “compliant” does NOT mean

- ✗ A generic global report dropped into Australia.
- ✗ Purely legal agreements with no economic analysis.
- ✗ Benchmark with no explanation.
- ✗ Documentation prepared after an ATO audit starts.

ATO’s quiet benchmark

If reviewed, the ATO will ask:

- Was it contemporaneous?
- Does it reflect reality?
- Is the conclusion reasonable and explainable?

If yes → penalty protection.

If no → exposure.

One-line takeaway

Compliant transfer pricing documentation clearly explains who does what, why the pricing makes sense, and proves it with data — at the time the tax return is lodged.

If you want, tell me:

- Transaction types.
- Approx value.
- Industry.
- Inbound or outbound.

I can turn this into a tailored checklist for your situation.

Andersen Australia - Question: Please provide the tailored checklist

ChatGPT - Answer:

Perfect — I’ll give you a practical, ATO-ready checklist you can actually use.

Think of this as a “build only what applies” list, not a maximalist wish-list.

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Tailored transfer pricing documentation checklist (Australia)

A. Always required (baseline – every file)

These are non-negotiable, regardless of size or risk.

- Australian entity overview (business, strategy, changes)
- Group structure (legal + geographic)
- Identification of all related-party cross-border transactions
- Transaction values by counterparty
- Intercompany agreements (or written terms)
- Functional analysis (functions, assets, risks – actual conduct)
- Selection of most appropriate TP method (with rationale)
- Financial reconciliation to statutory accounts
- Conclusion on arm's-length outcome
- Documentation prepared by tax return lodgement

If this isn't covered, the ATO will say reasonable care was not taken.

B. Add based on transaction type (this is the “tailoring”)

Services & management fees (very common, high scrutiny)

- Clear description of services provided
- Evidence of benefit received by Australia
- Exclusion of shareholder / duplicative activities
- Cost base definition and allocation keys
- Mark-up rationale
- Benchmark for mark-up (internal or external)
- Consistency with IDS disclosures

ATO focus: “What did Australia actually get?”

Distribution / buy-sell of goods

- Supply chain description
- Characterisation (limited vs full-risk distributor)
- Gross vs net margin rationale
- Comparable company search
- Working capital adjustments (if relevant)
- Loss explanation (if recurring)

ATO focus: persistent losses + low margins.

Financing (loans, guarantees, cash pooling)

- Purpose of the financing
- Credit rating analysis (borrower)
- Debt capacity analysis
- Interest rate benchmarking
- Guarantee fee analysis (if applicable)
- Thin cap / debt deduction alignment

ATO focus: inbound interest deductions.

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Business restructures / changes

- Description of pre- and post-structure
- Commercial rationale
- Options realistically available
- Compensation analysis (if functions/risks shifted)
- Profit impact analysis

ATO focus: value leaving Australia.

C. Benchmarking checklist (when benchmarking is required)

- Clear search strategy
- Screening criteria explained
- Independent, comparable companies
- Arm's-length range calculated
- Results tested against range
- Benchmark refreshed (or justified roll-forward)

Rule of thumb:

- Refresh every 3 years
- Annual financial updates in between

D. Consistency & ATO “trigger” checks

- IDS aligns with documentation
- Financials reconcile to tax return
- Agreements match actual conduct
- Results are commercially plausible
- No unexplained inconsistencies year-on-year

This is where many files quietly fail.

E. What you can safely keep light

- ✓ Group history fluff
- ✓ Boilerplate OECD text
- ✓ Over-engineering low-risk services
- ✓ Global master file repetition (unless required)

The ATO values clarity > volume.

The ATO reality test

If reviewed, you should be able to:

- Explain the pricing in plain English
- Walk through the logic in 30–60 minutes
- Show documents that existed before the review

If yes → this checklist is sufficient.