Oecd Transfer Pricing Guidelines For Multinational Enterprises And Tax Administrations 2017 Volume 2017

This document contains an unofficial English translation by the Netherlands' Ministry of Finance of Decree No. IFZ 2001/295M, officially published in Dutch on 30 March 2001. Rights can only be derived from the original Dutch text of the decree.

Transfer pricing is one of the most important issues for multinational companies as they strive to ensure that each company in the group earns a fair share of the profits after considering its functions and risks. Tax authorities, however, are concerned that the inter-company transfer prices are being used to reduce taxable profits in their jurisdiction. This has resulted in a sharp rise in transfer pricing regulations and enforcement, which makes transfer pricing controversies a major tax issue for companies, and particularly so in an era when base erosion and profit shifting (BEPS) issues are taking centre stage and new requirements on transfer pricing documentation and country-by-country reporting are being implemented by governments.

This book contains the official text of the 2017 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, together with information on transfer pricing in selected countries. The countries were chosen on the basis of their geographical and economic importance as well as the amount of transfer pricing activity.

Comprises Part I of a report that will be a revision of the OECD 1979 report on transfer pricing entitled "Transfer Pricing and Multinational Enterprises ("1979 Guidelines)."

The OECD Transfer Pricing Guidelines provide guidance on the application of the “arm’s length principle”, which is the international consensus on transfer pricing, the valuation, for tax purposes, of cross-border transactions between associated enterprises.

OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations provides guidance on the valuation for tax purposes of cross-border transactions between associated enterprises.


The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations are of the utmost importance in the sphere of transfer pricing. Unlike article 9 of the OECD Model, which is rather general in wording, the OECD Transfer Pricing Guidelines offer a detailed guidance on transfer pricing methodology. The significance of the OECD Transfer Pricing Guidelines became even more noticeable when the BEPS Project was completed, because numerous changes to the global transfer pricing regime were envisaged in the amended guidelines and not in the text of the OECD Model itself. The aim of this article is to analyse the status of the OECD Transfer Pricing Guidelines in international and Polish domestic law, as well as current practice of their application.

How many of us still have time to read 600+ page guidelines? How many of us have time to take those guidelines and combine them with chapters adopted after the guidelines were published? How does a student begin to study a work of this size, without getting hopelessly lost? This book reflects my love for systematic thinking and reducing clutter. It is aimed at giving fast, accurate, information through diagrams and summaries.

In this book, the 2017 OECD Transfer Pricing Guidelines are summarized three times: first as a one-page overview, then as a longer executive summary and finally as an extended summary of most of the
paragraphs of the 2017 OECD Transfer Pricing Guidelines. The extended summary references the actual paragraphs in the 2017 OECD Transfer Pricing Guidelines. As the 2017 OECD Transfer Pricing Guidelines is a live document, which is continuously updated, I will substitute existing the 2017 OECD Transfer Pricing Guidelines chapters and paragraphs with draft and final material published after 2017. These texts are clearly marked and will first concern the profit allocation to PEs, the profit split method and financial transactions, when those documents are finalised by the OECD. All references within the book are hyperlinked for fast and easy reading between texts. This book does not pretend to be a replacement of the 2017 OECD Transfer Pricing Guidelines; it is an introduction, giving an overview of the wide variety of topics covered, with paragraph references to the underling Guideline paragraphs, so that we know where to find them. The original work can be bought from the OECD at http://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm. For more information about me, please see my website (www.johannmuller.net), my YouTube channel, Taxpics (https://www.youtube.com/user/taxpics) and my LinkedIn profile (https://www.linkedin.com/in/johannhmuller).

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The position of soft obligations as legal sources is a continuously discussed topic in international law. As policy documents, guidelines and non-binding agreements often are regularly updated, the question of the applicability of different editions to various points in time may arise. The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines) were revised most recently in July 2017, and these timing issues therefore appear in, for example, the undertaking of historical transfer pricing reviews and audits of years prior to the release of the updated OECD Guidelines. This article explores the arguments for using the new edition of the OECD Guidelines by comparison to an approach discussed in literature on finding guidance from different versions of the OECD Model Tax Convention (OECD Model) and its Commentary.

Bachelor Thesis from the year 2015 in the subject Economics - International Economic Relations, Management Center Innsbruck, language: English, abstract: Due to increased globalisation over the last years and enhanced activities of multinational enterprises (MNEs), intra-firm trade has become more and more important. Intra-firm trade is estimated to constitute about one third of the global trade; and about 50% of all exports within the member states of the Organisation for Economic Co-operation and Development (OECD) are intra-firm exports. In order to determine the expenses and revenues for the associated companies, transfer prices (TP) have to be set for the respective goods of intra-group transfers (Organisation for Economic Co-operation and Development [OECD]). Intra-group transfers can be defined as the transaction of tangible or intangible property from one entity of a MNE to another entity, considered as sale and “may apply to departments, divisions, subsidiaries, or affiliate business units”. A TP therefore is the internal monetary value imposed on goods, services or unmanufactured material that is transferred within a MNE group. According to the OECD (2010) intra-firm transfers are likewise defined as controlled transactions (i.e., transactions between two associated enterprises).

The increase in global trade and foreign direct investment has seen a large rise in companies operating across national borders. The growth of these multinational companies (MNCs) has been closely followed by the issue of inter-company transfer prices being used to reduce taxable profits. Today, transfer pricing is one of the most important issues facing...
MNCs as they attempt to fairly distribute their profits amongst each company in the group while dealing with tax authorities who are implementing transfer pricing regulations and strengthening enforcement in order to prevent a loss of revenue. The result of which is that transfer pricing controversies have become a major tax issue for companies. Transfer pricing is one of the most important issues for multinational companies as they strive to ensure that each company in the group earns a fair share of the profits after considering its functions and risks. Tax authorities, however, are concerned that the inter-company transfer prices are being used to reduce taxable profits in their jurisdiction. This has resulted in a sharp rise in transfer pricing regulations and enforcement, thereby making transfer pricing controversies a major tax issue for companies.

This book contains the official text of the 2010 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, together with information on transfer pricing in selected countries. The countries were chosen on the basis of their geographical and economic importance as well as the amount of transfer pricing activity. Each country chapter provides a concise description of the current transfer pricing laws, guidelines and methodologies in practice in that particular country, and the information is presented in a domestic as well as an international context.

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Value Creation and its effects on Transfer Pricing and tax law Emerging from the OECD/G20 BEPS Project, a new, somewhat fuzzy notion of Value Creation came to permeate not only Transfer Pricing language but also wider allocation rules and anti-abuse provisions in international tax law. The notion of ‘Value Creation’ reframes the interpretation and application of the Arm’s Length Principle (ALP) that is embedded in Articles 7 and 9 of the OECD Model Convention. This new Value Creation notion and approach assist in understanding key enterprise functions while different industry sectors manifest these concepts in various ways. Situating such notions and this approach within the law of tax treaties and analyzing terms of the OECD Transfer Pricing Guidelines alongside their factual context is the aim of this book. Here, law students address Transfer Pricing and Value Creation
in sectors as varied as commodities trade, automotive, consumer products, food and beverages, pharmaceutical and life sciences, telecommunications, and the key topic of value creation in a digitalized economy. Our LL.M. students were required to address issues not explored in legal research and to discuss factual topics relevant for Transfer Pricing. All students focused on topics that are new to the international tax debate that keep evolving and on factual matters that often escape legal research.

The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations provide guidance on the application of the “arm's length principle”, which is the international consensus on transfer pricing, i.e. on the valuation, for tax purposes, of cross-border transactions between associated enterprises. In a global economy where multinational enterprises (MNEs) play a prominent role, transfer pricing is high on the agenda of tax administrators and taxpayers alike. Governments need to ensure that the taxable profits of MNEs are not artificially shifted out of their jurisdictions and that the tax base reported by MNEs in their respective countries reflect the economic activity undertaken therein. For taxpayers, it is essential to limit the risks of economic double taxation that may result from a dispute between two countries on the determination of an arm’s length remuneration for their cross-border transactions with associated enterprises. Following this original 1979 publication, the OECD Transfer Pricing Guidelines were approved by the OECD Council in their original version in 1995. A limited update was made in this 2009 edition, primarily to reflect the adoption, in the 2008 update of the Model Tax Convention, of a new paragraph 5 of Article 25 dealing with arbitration, and of changes to the Commentary on Article 25 on mutual agreement procedures to resolve cross-border tax disputes. A subsequent edition was released in 2010, in which, Chapters I-III were substantially revised, with new guidance on: the selection of the most appropriate transfer pricing method to the circumstances of the case; the practical application of transactional profit methods (transactional net margin method and profit split method); and on the performance of comparability analyses. Furthermore, a new Chapter IX, on the transfer pricing aspects of business restructurings, was added. Consistency changes were made to the rest of the Guidelines. Digitised document - Electronic release on 24/11/2011.

This article analyses the paragraphs 1.119 to 1.128 of the 2017 OECD Transfer Pricing Guidelines and their relation to the comparability analysis, sham transactions and domestic anti-avoidance rules. The authors discuss the nature of the transfer pricing rules, the limits of the OECD Transfer Pricing Guidelines to the application of transfer pricing rules and the main features of the comparability analysis, sham transactions and the anti-avoidance rules. It is concluded that part of these paragraphs contains recommendations that exceed the purpose of the transfer pricing rules when they are structured over the arm's length principle. OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017 OECD Publishing

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The 2001 edition of Transfer Pricing Guidelines was substantially revised in July 2010. See the current edition. This compact version of Transfer Pricing Guidelines provides the complete and current text of the OECD pricing guidelines accepted by ...

...describes and interprets the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations of the Organization for Economic Cooperation and Development (OECD), as last revised in 2010. Practitioners will most often encounter the Guidelines in tax audits and competent authority proceedings where the Guidelines are used to shed light on the transfer pricing regulations of a particular country or to reconcile seemingly contradictory transfer pricing rules of two countries. The OECD Guidelines were heavily influenced by transfer pricing developments in the United States, and the portfolio draws attention to analogs and potential discrepancies between the Guidelines and the U.S. transfer pricing regulations.

Despite the vast literature on the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines), its status has received little consideration. The image in the literature is that the OECD Guidelines is a significant publication, given the substantial cross-border trade between associated enterprises. In the OECD/G20 BEPS Project, the Final Report on Actions 8-10, published in 2015, revised the OECD Guidelines as part of the sweeping measures to counter aggressive tax avoidance by certain multinational enterprises (MNEs), such as Google LLC, Facebook Inc. and Apple Inc. BEPS Actions 8-10, inter alia, revised the guidance on intangibles and cost contribution arrangements to prevent profits from intangibles being allocated to low-tax jurisdictions. As anticipated, the OECD has reported that transfer pricing disputes are rising. In particular, BEPS Action 14, on dispute resolution, requires tax treaties to include article 9(2) of the OECD Model Tax Convention, on corresponding transfer pricing adjustments, in tax treaties. Moreover, BEPS Action 14 (element 1.1 of the minimum standard) requires that access to the mutual agreement procedure be available for transfer pricing cases in tax treaties and that countries implement the resulting mutual agreements. As a minimum standard, members of the Inclusive Framework are obliged to implement this measure, which further elevates the status of the OECD Guidelines, as resulting disputes will be resolved on the basis of the principles in the OECD Guidelines. The membership of the Inclusive Framework exceeds 135 countries. As there is a dearth of transfer pricing case law, the consequence is that courts have only established limited jurisprudence on the topic. One Australian transfer pricing case concluded that the OECD Guidelines had no formal status in treaty interpretation. It is asserted in this article that the OECD Guidelines is part of the Commentary accompanying the OECD Model Convention on Income and on Capital. Even so, it is argued that treaty countries should not only use the OECD Guidelines as a guidance document in their domestic rules, but expressly state in their tax treaties that the OECD Guidelines are to be used for the interpretation of the associated enterprises article. In addition, the treaty statement should specify whether the static or ambulatory approach should be applied. This article asserts that the best way forward is for the OECD to illuminate the status of the OECD Guidelines by including a clear statement in the Commentary on the intrinsic character of the OECD Guidelines and expressly identify which parts of the OECD Guidelines form part of the Commentary, adapting the approach taken in
the Commentary on the business profits article incorporating the 2010 Report on the Attribution of Permanent Establishments. This consolidated version of the OECD Transfer Pricing Guidelines includes the revised guidance on safe harbours adopted in 2013, as well as the recent amendments made by the Reports on Actions 8-10 and 13 of the BEPS Actions Plan and conforming changes to Chapter IX. The revised OECD Guidelines provide new guidance on risk allocation: however, the framework on risk analysis adds an extra layer of complexity to the transfer pricing analysis. Taxpayers should take a proactive stance and carefully consider and document the allocation of risks in controlled transactions.

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