

1. Course Description

This course deals with the comparability analysis which represents a core element of transfer pricing and involves both the search for comparables (the so-called economic analysis) and the analysis of the taxpayer's-controlled transaction. The course starts with an introduction to those elements of economics, accounting and statistics that provide the key knowledge for properly performing the comparability analysis. The focus of the course is on Chapter III of the OECD TP Guidelines. The standard practices applied by practitioners and tax authorities will be examined through an exploration of the theoretical framework and through cases analyzed in workshops on the use of databases and the application of transfer pricing adjustments.

2. Course schedule

Week 1

Section 1

Introduction to economics

- Porter's framework for analysing the profitability of industries and how those profits are divided among the participants (five forces analysis)
- Value chain analysis

Section 2

Introduction to Financial accounting

- Introduction to accounting concepts
- Analysis and interpretation of financial statements
- Balance sheet
- Income statement
- Cash flow statement

Section 3

Introduction to Statistics

- Introduction to statistics
- Descriptive statistics
- Regression analysis

Workshop A

Porter's analysis in the eyeglasses business for the search of comparables

Week 2

Section 4

Introduction to the comparability analysis

- Nine-steps approach
- Analysis of the controlled transaction and selection of the tested party
- Definition of comparable uncontrolled transactions
- Impact of financial statements
- Timing issues in comparability
- Arm's length range

Section 5

Internal comparables

- Definition
- OECD approach
- Analysis and use

Section 6

External comparables

- Additive vs. deductive approach
- Quantitative analysis
- Qualitative analysis

Workshop B

Use of database

Week 3

Section 7

Economic analysis for manufacturers and distributors

- Case study

Section 8

Location savings

- Overview of the issue
- Practical solution
- Case law
- Case study

Section 9

Comparability adjustments

- Working capital adjustments
- Adjustments for toll manufacturers
- Adjustments for low-risk entities
- Adjustments for economies of scale
- Adjustments for irrelevant activities
- Accounting adjustments
- Other adjustments

Exam

TP-FC.2 Intragroup Services

30 March -10 April 2020 2 weeks

19 05 23 0930

1. Course Description

This course deals with the transfer pricing aspects of intragroup services, with particular attention being paid to financial transactions. Focus will be on Chapter VII of the OECD TP Guidelines. The standard practices applied by practitioners and the tax authorities will be examined through an analysis of the theoretical framework and through workshops on the use of databases and the determination of the cost base.

2. Course schedule

Week 1

Section 1

Intragroup services according to chapter VII of the OECD TPG

- Service characterization
- Functional analysis and method selection
- Benefit analysis (duplication and shareholder costs)
- Passive association

Section 2

Determination of the cost base

- Cost base
- Allocation method
- Budget vs. actual

Section 3

Economic analysis for value added services

- Selection of the initial sample (peculiarities and issues)
- Quantitative analysis
- Qualitative analysis
- Adjustments

Workshop A

Case study on structuring intercompany service charges policy

Section 4

Financial transactions (basic)

- Basic economic principles of financing (credit rating, spread, etc)
- Interest rates
- Guarantee fees

Section 5

Financial transactions (advanced)

- Treasury services (cash pooling, netting centers)
- Back to back financing
- Factoring
- FX or commodity trading
- Hedging

Section 6

Transfer pricing in the financial industry

- Banks
- Investment funds & Asset management
- Insurance

Workshop B

Use of database for financial transactions

Exam

TP-FC.3 Intangibles and Cost Contribution Arrangements

13 April – 1 May 2020 3 weeks

19 05 23 0930

1. Course Description

This course deals with the transfer pricing aspects of intangibles and cost contribution arrangements (CCAs). This core subject of transfer pricing is extensively analyzed on the basis of Chapters VI and VIII of the OECD TP Guidelines. The standard practices applied by practitioners and the tax authorities will be examined through an analysis of the theoretical framework and through workshops in which case law on intangibles, the use of databases and the determination of buy-in and buy-out payments will be analyzed.

2. Course schedule

Week 1

Section 1

Definition and identification of intangibles

- OECD approach (TPG and commentary on Article 12 OECD M.C.)
- IASB/accounting approach
- IP law approach
- Case study

Section 2

Determination of the remuneration for the exploitation of intangibles (legal vs. economic ownership)

- Ownership of intangibles
- DEMPE analysis
- Transactions involving the use or transfer of intangibles
- Comparability analysis involving intangibles

Workshop A

Case study on marketing intangibles

Week 2

Section 3

Determination of the remuneration for the exploitation of intangibles (transfer pricing methods)

- Application of CUP method to intangibles
- Application of TNMM to intangibles
- Application of profit split to intangibles
- Other methods

Section 4

Pricing intangibles in the absence of comparables: application of evaluation techniques to intangibles

- Rule of thumb
- Valuation techniques
- Purchase price allocation
- Case study: hard to value intangibles

Workshop B

Use of database for IP remunerations

Section 5

Cost contribution arrangements

- Concept of CCA
- Types of CCA
- Application of arm's length principle to CCA (participant contributions)
- Balancing payments

Week 3

Workshop C

Determination of buy-in and buy-out payments

Section 6

Exploitation of intangibles: cost contribution arrangements vs. licence agreements

- Main features and differences
- Choosing between these two exploitation models
- Case study

Workshop D

Case study on the arm's length aspect of intangibles

Exam

1. Course Description

This course deals with the transfer pricing aspect of business restructurings which represents one of the most controversial issues in the transfer pricing arena due to its peculiarities (e.g., non recurrent transactions, use of evaluation techniques). Focus will be on Chapter IX of the OECD TP Guidelines. The standard practices applied by practitioners and the tax authorities will be examined through an analysis of the theoretical framework and through workshops in which real restructurings will be analyzed by addressing both the evaluation techniques used for determining the indemnification due and the way options realistically available should be identified.

2. Course schedule

Week 1

Section 1

Milestones of chapter IX of the OECD transfer pricing guidelines

- Definition of business restructuring
- Understanding of business restructuring
- Functional analysis pre and post restructuring
- Exit charge
- TP policy post restructuring

Section 2

Analysis of the options realistically available

- Origin of the approach
- Impact on business restructuring
- How to assess the options realistically available

Workshop A

Case Studies on the selection of options realistically available

Week 2

Section 3

Drafting a business case

- Reasons behind the importance of the business case (business vs. tax)
- Analysis of possible restructurings (input or output?)
- Analysis supporting the restructuring selected
- Assumptions (how to avoid the use of hindsight?)
- Link with chapter IX and VI OECD TPG

Section 4

Valuation Techniques and business restructuring

- Application of evaluation techniques to business restructuring
- Determination of the relevant flows (pre restructuring and post restructuring)
- Discounted cash flow
- Timeframe
- DCF approach
- Two-sided approach

Workshop B

Case studies on the determination of the indemnification

Section 5

Supply chain restructurings and related transfer pricing aspects

- Distribution activities
- Manufacturing activities
- Procurement
- Supply chain

Week 3

Section 6

Business restructurings involving intangibles

- Centralization of IPs
- Split of DEMPE functions
- Closure of CCA
- Renegotiation of contracts

Section 7

Other business restructurings and related transfer pricing aspects

- Financial activities
- R&D
- Services
- Others

Workshop C

Case study on business restructuring

Exam

TP-FC.5 Comparative transfer pricing & dispute resolution

19 05 23 0930

25 May – 26 June 2020 5 weeks

1. Course Description

This course provides an introduction to transfer pricing rules and standard practices that exist and are being applied in today's world outside the framework of the OECD Transfer Pricing Guidelines. Focus is first on the EU law and documentation rules, in particular through an analysis of the EU Commission's infringement procedures on State Aid and the work of the EU Transfer Pricing Joint Forum. In week 2, the US IRC Sec. 482 Regulations, which form a prominent regime in today's international scenario, are examined. The next two weeks focus on the UN Manual and on the local rules and practices a range of selected areas and countries. In the last week, the Advance Pricing Agreement procedure (as described by Chapter IV OECD TP Guidelines and implemented in most of the important tax jurisdictions), the Mutual Agreement Procedure and the EU Arbitration Convention and the 2017 EU Council Directive on tax dispute resolution mechanisms in the EU are analyzed in detail. To conclude, in a special seminar the trends are analyzed in transfer pricing audits involving all the relevant stakeholders (tax authorities, tax consultants and multinational enterprises).

2. Course schedule

Week 1

Section 1

Fundamentals of EU tax law

- Introduction to the fundamental freedoms
- Brief introduction to the CCCTB
- Introduction to the EU Transfer Pricing Joint Forum (TPJF)
- ECJ cases dealing with transfer pricing issues

Section 2 - with the participation of EU TPJF members

EU Transfer Pricing Joint Forum activities

- Overview of the reports released
- Comparison of the EU TPJF reports with the OECD TP guidelines

Section 3

EU Commission procedures on transfer pricing and State Aid

- State Aid: an overview
- State Aid in tax matters: the logical framework developed by the EU Commission
- EU Commission infringement procedures on State Aid (i.e., investigations of the tax ruling practices of OECD Member State and requests for disclosing rulings granted to MNEs)
- Amazon case (Exploiting the advantages of tax rulings and avoiding taxable presence in the country where goods are sold)
- Starbucks case (Reducing the effective tax rate by planning on the computation of the items forming the cost base)
- Apple case (How cost contribution arrangements can indefinitely park income outside the resident state)
- Luxemburg Leaks (What is it all about?)

Workshop A

State Aid case study

Week 2

Section 4

US regulations

- Introduction to the 482 regulation
- Transfer pricing methods (different methods for service activity and transfer of intangibles)
- US transfer pricing regulation on services

Section 5

US regulations

- US intangible regulations v. the OECD TPG
- Commensurate with income standard (comparison with the German CWI)
- US landmark case law

Workshop B

US case study

Week 3

Section 6

UN Manual on transfer pricing for developing countries

- Introduction to the UN Manual
- Comparability analysis
- Application of transfer pricing methods
- Specific location advantages
- Position of some states (China-India)
- Case law of non-OECD Members

Section 7

Transfer Pricing in Africa

- Comparability analysis
- Application of transfer pricing methods
- Specific location advantages
- Rules of some states
- Case law

Section 8

Indian developments

- Indian position on marketing intangibles
- Remuneration of manufacturing activities
- Case law

Week 4

Section 9

Australian transfer pricing rules

- Position of Australian transfer pricing rules on the value of the OECD TPG
- Rules involving services and CCA
- ATO position regarding distribution and hub activities

Section 10

Other domestic rules

- BEPS Action 4
- Selected domestic Thin cap rules (incl. Netherlands, Germany, Italy and UK)
- Dutch Decree on financial transactions
- German Decree on business restructuring

Section 11

Advance pricing agreements

- Definition and concept
- Advantages
- Unilateral v. bi- & multilateral
- Rollback
- Best practice

Week 5

Section 12

Mutual agreement procedure

- Article 25 OECD Model and the OECD Multilateral Instrument
- Mutual agreement procedure in the context of transfer pricing
- Best practice

Section 13

EU Arbitration Convention and the 2017 EU Directive on Tax Dispute Resolution Mechanisms

- Scope
- Advantages and linkages with domestic litigation procedures
- National implementation and issues

Special seminar

Transfer pricing audits: trends and tools for the taxpayers and tax authorities (joint audit and exchange of information in the field of transfer pricing)

Exam

TP-FC.6 TP and Digitalization of the Economy

29 June – 3 July 2020 1 week

19 05 23 0930

1. Course Description

This course focuses on the transfer pricing perspectives of today's hot topic in the international tax debate: the challenges posed by the digitized economy. After an introduction on the different business models applied in the digital economy, an analysis will be made of the transfer pricing challenges and of the approaches suggested by the OECD and EU. This examination will deal with the application of the various solutions (e.g., global formulary apportionment, withholding tax) and will include an entire day on the application of the profit split to the different business models. The last lecture will deal with the new world of the blockchain and its interaction with transfer pricing.

2. Course schedule

Week 1

Section 1

Special seminar on the business models of the digital economy and the specific tax issues

- Analysis of the most important business model (marketplace, online advertising, cloud)
- Value chain in the digital economy
- Specific tax issues (PE, transfer pricing)
- Landmark case law

Section 2

Transfer pricing challenges of digital economy

- OECD Discussion drafts
- EU proposals of directives
- Unilateral measures

Section 3

Profit split and its application to the digital economy

Origin and development of the method

- Principles
- Strengths of the method
- Determination of the combined profit
- Contribution profit split and Residual profit split
- Application of the profit split to the different business model in the digital economy

Section 4

Blockchain and transfer pricing

- Introduction to the blockchain
- Impact of the blockchain on supply chain and treasury activities

Exam