

Answer-to-Question-_1_

1) Accurate delineation is the basis for establishing the correct arm's length price for goods or services traded between associated enterprises and is the cornerstone for much of chapter 1 of the Transfer Pricing Guidelines (TPG hereafter). Accurate delineation looks to forming an accurate picture of the transactions that occur between associated enterprises to use as a starting point for understanding the economically relevant characteristics and comparability needed to assess whether something is priced in accordance with what it would trade between unconnected parties.

When we look to the transactions that occur between associated Pet Group enterprises:

PG Canem (Canem)

Sale of finished products to 'associates in other jurisdictions', assumed to encompass Rana and Piscis

Provision of intra-group services inclusive of strategic direction, advertising and marketing, finance and accounting, HR, and IT support to other jurisdictions, namely PG Rana, PG Lepus and PG Piscis.

Provision of financing function to PG Rana, PG Lepus and PG Piscis

Distribution and sales fulfillment on behalf of PG Lepus

Provision of strategic direction and know-how for the R&D associated with the internally generated software of the online app to Lepus

PG Rana

Purchase of finished products, amounting to approximately 50% of products from PG Canem

Receipt of financing from PG Canem

Receipt of intra-group services inclusive of strategic direction, advertising and marketing, finance and accounting, HR, and IT support

PG Lepus

Receipt of financing from PG Canem

Receipt of distribution and sales services from PG Canem (sales fulfillment)

Receipt of experienced know-how on developing IT functionality from PG Canem

PG Piscis

Receipt of financing from PG Canem

Receipt of 100% of finished products from PG Canem

Receipt of intra-group services inclusive of strategic direction, advertising and marketing, finance and accounting, HR, and IT support from PG Canem

2) FA

In accordance with 1.51 of the TPG, in transactions between two independent enterprises, compensations usually will reflect the functions that each enterprise performs; in this way, independent enterprises are seen to be rewarded commensurate with the risks they assume and assets they employ. Therefore, in order to delineate the controlled transaction, it is necessary to perform a functional analysis to identify the economically significant activities and responsibilities undertaken by each party. We analyzed the functions performed, the assets utilized and the risks assumed.

a) PG Canem

Functions

Product procurement
Product Warehousing
Sale of goods
Service Provider
Financing
Software development

Assets
Retail Stores
Lease on 50% of retail stores
Warehouse
Plant and equipment, including forklift's
Staff
Offices

Risks
Inventory Risk
Market Risk
Procurement Risk
Credit Risk
Bad Debt risk
Foreign Exchange risk

b) PG Lepus

Functions
Administrative functions inclusive of paying invoices
Sales
Advertising through third parties
DEMPE functions on internally generated software

Assets
Office
Staff
IT equipment
Internally generated software developed likely IP

Risks

Market Risk

IP DEMPE risk arising from online platform

Foreign Exchange risk

3)

a) PG Canem

Is the most complex party to the group.

They are not only a financing entity but are a fully fledged distributor and key service provided as well as the entrepreneurial hub, providing strategic direction to the group.

b) PG Rana

I would characterize this entity as a medium risk sales and procurement hub given they do assume the risks of sourcing 50% of products and independently store and distribute.

c) PG Lepus

Appears to function partially as intangibles owner, though this appears lower risk given they do little DEMPE. They could also be seen to assume low risk sales hub given all sales are fulfilled by PG Canem

d) PG Piscis

Medium risk sales hub, no procurement risk assumed, unclear how much oversight they have to inventory and they use third parties to perform storage and distribution functions so this is relatively low risk.

Answer-to-Question-_2__

1)

In accordance with Chapter II of the TPG, entitled Transfer Pricing Methods, when selecting the most appropriate TP methodology to apply,

this should be the most appropriate to the particular case, accounting for the relative strengths and weaknesses.

A first one to speak on would be the Comparable Uncontrolled Price Method (CUP). This looks to comparables uncontrolled transactions that exhibit comparable circumstances. This is the most favored OECD method as it is the more direct and reliable but this is incredibly reliant on strong comparables or well reasoned adjustments for different circumstances and is double sided. A CUP could be internal (so the company might make the same or similar transactions with third parties) which is stronger or external

The most clear use of CUP within Pet Group's transactions is arguably the intra-group financing arrangements. As per 10.90, the widespread existence of markets for borrowing and lending money and the frequency of such transactions between independent borrowers and lenders make it easier to apply CUP.

We might argue that the provision of finished goods from Canem to Rana and Piscis could be subject to an internal CUP given that Rana sources 50% of products from third party suppliers. However, this appears to be subject to a number of comparability defects given certain products are prohibited from import and this would have pricing implications. Further benchmarking could be conducted to assess whether there could be accurate adjustments to be made in forming an internal CUP. This transactions could also be based on the internal CUP of Canem selling in retail but adjustment would again need to be made as there are differentials between sale to retail and to wholesale. All comparability factors would need to be considered inclusive of economic circumstances and order size (economics of scale).

Intra-group services are not provided by Canem to external parties so there would not be an easy internal CUP here and Cost plus would be preferred.

A second transfer methodology would be Retail Price Method which goes from the retail price to find the transfer price, utilizing an appropriate gross margin. This is often used for distribution entities, of which there is no entity in the group that acts solely as a distributor so I have disregarded this.

A third methodology would be cost plus. This starts from the costs incurred by the entity then adds an appropriate margin to reflect the functions performed and market conditions.

This is a single sided TP methodology and is frequently used in the provision of services. This might even form part of low value added services (LVAS), which might be safe-harboured at 5%. Here, intra-group services inclusive of strategic direction, advertising and marketing, finance and accounting, HR, and IT support might qualify providing the benefits were not merely incidental, duplicated or centralized, in which case they would not be chargeable. But subject to further analysis, the services appear to qualify as LVAS as they are supportive, not part of the core business and do not require the use of unique and valuable intangibles. The exception might be strategic direction that might be subject to separate benchmarking.

Cost plus might also be of benefit to the supply of products, though this is often seen with semi-finished goods. But this might function well given the long term buy and supply arrangements between Canem and Rana/Piscis.

Cost plus might also serve the provision of contract R&D by Canem to Lepus but this would need to be adequately benchmarked to ensure the value creation was adequately captured.

A final two methods would be the transactional net margin method that uses net margins to allocate profit and is single sided, with the less complex party being tested. In addition to the profit split method which is two sided and seeks to split profit with accordance of the profit split in a comparable transaction with independent enterprises. PSM tends to be favoured when both sides are making unique and valuable contributions but both are used for highly integrated processes. Here, when we consider the online platform utilised by Lepus with Canem fulfilling the orders, I think there is a lack of unique contribution so TNMM makes most sense to utilise. Lepus is likely the least complex party and so should be tested. This may be rewarded on a basis such as earnings before interest and tax (EBIT) to sales.

In relation to the intra-group financing between PG Canem and its associated enterprises, we would look to both Chapter X of the TPG in addition to Chapter I.

Regardless that this is financial transaction, this is still transfer pricing so the need to accurately delineate the transaction remains and this is still required to conform to the Arm's length principle.

Article 9 of the OECD DTC provided commentary that speaks to the importance of considering thin capitalisation which is when there is a high debt holding relative to the equity holding of a company so I would like further information in regard to the various enterprises thin cap positions.

In addition when completing an analysis of the TP position in financing, it is important to consider all options available to the PG Canem's associated enterprises. This is inclusive of other sources of financing in addition to the notion that the associated enterprises had the option to not enter into this transaction so I would analysis whether a third party, considering the facts and circumstances, would reasonably enter into a financial contract at all.

As per 10.12, I would wish to accurately delineate these loans and to do this I would need to consider and assess information on the following economically relevant aspects, noting them as useful indicators. Being:

- The presence or absence of a fixed repayment date
- The obligation to pay interest
- The right to enforce payment of principle and interest
- The status of the funder in comparison to regular corporate creditors (here noting that the Pet Group's credit rating is AA and this is a useful indicator of credit worthiness)
- The ability of the associated enterprise to separately obtain funds
- The intended use of the funds
- What would happen should the associated enterprise be unable to reimburse Canem

I would assess the above facts and circumstances in order to accurately delineate the advance of funds, looking from the position of not only

the associated enterprise as as the borrower but also Canem as the lender.

Further information I would want to know is the third party interest rates to form a potential CUP in addition to the level of borrowing by each associated enterprise.

3)

To me, the most significant transfer pricing risk facing Pet Group would be the functional analysis and resultant reward of Lepus. For context, with only 5 employees, Lepus is operating at the net profit margin of 28%, yet is does not appear to be doing much of substance with only a small office serving the online retail space.

Yet, this online retail space has been developed via R&D contract by Canem and all orders are fulfilled by Canem. It is not explicit that this internally generated software constitutes IP but for the assumption of this risk, I will assume this is the case. Here, legal ownership, which Lepus has to the software given it's obligation to reimburse Canem employees for work to develop it, does not assume economic rights to resultant profits. It is important that reward follows risk and Lepus appears to be doing non of the development, enhcancement, maintenance, protection or explotiation.

I think the Canem tax authorities would be interested to examine the transfer pricing methodology that results in Canem having a net profit margin of 8% (though further analysis would need to be done to see what contitues profits derived from Lepus). This is particularly in lught of the 'tax holiday' in Lepus with an effective tax rate of 10%. Commercial rationale for having the online platform in Lepus, when this is solely online and has no physysical presence would likely be questioned by the relevant tax authority.

When considering the potential transfer pricing implication of the planned upgrade of the the oil refinery in Alerez by a Fregrate resident company, it is important to refer to Article 7 which states that a

'Contracting state cannot tax the profits of an enterprise of the other Contracting State unless it carries on its business through a permanent establishment'. In other words, the profit earned through the project can only be tax at source where it is resident. It therefore becomes important to consider whether the facts and circumstances of the project, undertaken in Alerez, constitutes the formation of a Permanent Establishment. To note at present, Cordell does not intend to register as a company for tax purposes in Alerez.

Commentary to Article 5 concerning the definition of permanent establishment sees the characteristics of such, contained at paragraph 1 as being "a fixed place of business, through which the business of an enterprise is wholly or partly carried on". This results in a number of conditions, namely that a 'place' of business must exist though this could be an office, this could also be a leased site or even machinery or equipment. This also necessitates that this be fixed, in this way, have some longevity, a degree of permanence and finally must be dependent on the enterprise conduct.

A good point to pull out here for potential misunderstanding is in relation to Oil refineries. I intend to not mistake this for (47), subparagraph F that denotes that all mines, oil or gas wells, quarries or any other place pf extraction of natural resources will always be permanent establishment. I want to raise this point but be clear I do not believe these sets of facts and circumstances to fall into this category given this is the 'upgrade' of an oil refinery, Cordell is assumed to complete construction and improvements and not run a oil facility itself.

Another important aspect of the commentary on Article 5 is found at paragraph 3, regarding a building site or construction project. This constitutes a permanent establishment only if it lasts over 12 months. Here, the question is not clear on the timeline of the project, it is only known that the negotiation of contracts took 6 months and that staff on rotation for 2 months at a time. I will therefore make the

assumption that the project is scheduled to last beyond 12 months.
(50). of Article 5 is clear that 'building site' is inclusive of renovation beyond mere maintenance and redecoration. Here, I will also make the assumption that the upgrade goes beyond mere maintenance. There is therefore argument that this constitutes a construction site PE.

Given the lack of clarity on timelines, there is further evidence this activity constitutes the creation of a permanent establishment by Cordell in Alerez. The first is that, in line with paragraph 4, there are exclusions where the activity is preparatory or auxilliarou in nature. These mean they are not directly linked to the trade but here, the trade is the upgrade of the oil refinery so this exclusion cannot apply.

In addition, though there is no leased or purchased office facilitiy, the use of a local company is a substitute for this and creates a fixed place of business at the oil refinery. The provision of accomadation and allowances for staff in ALerez is also an indicator of this.

I could consider an agency PE, where senior decision makers regularly and habitually conclude contracts. However, though the COO and CFO went over initially in the preparing to trade phase to conclude the contract, I do not think this meets the definition of an agency PE given this is not continuing beyond the formation of the initial contract.

Should, as I believe given I think this is a Construction Site PE, the activities of Cordell constitute the formation of a permanent establishment, then we would hypothesis the PE in Alerez as a seperate and independent enterprise and tax their business profits in accordance with Alerez's raxing rights. Corresponding adjustments can be made to deal with any double taxation and this is all outline at Article 7 of the model tax convention.

Many enterprises seek advance certainty in their transfer pricing methodologies, particularly as compliance enquiries by tax authorities can be time consuming, costly and lead to the potential for double taxation.

It is important to note that clear and well developed transfer pricing documentation inclusive of the local and master file in addition to the CbCr data is the first step to compliance and avoiding double taxation. Dependent on jurisdiction, there might also be access to guarantees such as Safe Harbours for items like low value added services (LVAS) to have set TP methodologies like COSt + 5%.

However if a company wishes for further certainty then they might wish to enter into advance pricing agreement (an APA). This can be unilateral (between them and one state), bilateral (between them and two states) or multilateral (between them and many states). This is an advance agreement that provides the taxpayer with certainty over their transfer pricing methodologies and pre-agrees an appropriate set of criteria to arrive at an arm's length price for given transactions over the course of an agreement.

Advantages wise, this provides certainty that tax authorities are comfortable with TP methodologies. This is also an advantage as BEPS action 14 regards this as best practice. This gives certainty to companies over a specified period that they are protected from double taxation through compliance activity providing they can demonstrate they have complied with the terms of the APA.

Disadvantages wise, this method can be costly and time consuming and in bi or multi, it is not certain that all states will agree. The APA is only valid for the specified transactions so if the business changes significantly, this will not be covered and might have to be applied for again. In addition unilateral APAs do not provide protection from double taxation from the state not signed up to the APA. Additionally, the act of requesting an APA from a tax authority might lead to compliance questions that challenge earlier methodology.

Should compliance activity result in an adjustment that leads to double taxation and a corresponding adjustment is not given by the other tax

authority then the mutual agreement procedure, as seen in Article 25 of the model tax convention can be utilised to solve disagreements between states. The company must apply to the competent authorities within three years of the adjustment that results in double taxation and the CAs will resolve to reach agreement.

The advantages of this are that the company has three years to appeal and then it is the job of the competent authorities to reach resolution. However as a disadvantage, resolution is not always reached as in the case of Glaxosmithcline. Should this not happen then there is now a system for arbitration when MAP has not been succesful within two years.

Answer-to-Question-__7__

1) As seen withn Chapter V, Documentation, the country-by-country reports which also formed BEPS action point 13 is a requirement for large multinational enterprises to file annually. The aim is to provide tax authorities with a high level detail of the groups activities to allow it to better understand the functions, risks and assets of the company and thereby lead to less need for compliance. The OECD note that in preparing this documenation there is a lot to collate so recommend this is finanlised no later than one year post the end of the fiscal year of the parent.

The CbCr collates high level data, broken down by each juristiction in which they suffer tax and operate. THis will detail the revenue, the profit before income taxand income tax paid and accrued. MNEs also need to report their number of employees, stated capital, retained earnings and tangible assets in each tax jurisition. There is also the duty to indentify each entity within the group doin business in a particularl tax juristiction and provide an indication of the business actitivies each entity engages in.

As a company to prepare this, I would look at entity level to the entity accounts and then utilise this to extract the required information to

form the CbCr.

For an entity, the value of this document is increased protections from compliance in addition to a good holistic overview of the group which might lead to easier TP commonalities.

For a tax authority, this document is valuable to reducing time burdens on compliance activity as well as to provide good indicators of risks given the number of key metrics provided.

2)

As per 1.61, risk management is used to refer to the function of assessing and responding to risk associated with commercial activity. This is comprised of three decision making elements, the decision taken on risk bearing, the making of decisions on how to respond to risk as well as the capability to mitigate risk,

Intra-group services are services provided within a group. There are risks in confirming both that these have been provided (i.e that they are not incidental benefits, shareholder activities or duplicated) in addition to what the group should charge for these services to align with the arm's length principle.

One way to comply is to use Cost +5% for Low Value Added services, this represents a safe harbour for a TP risk perspective and could cover services that are supportive in nature and do not provide valuable intangibles. LVAS such as HR or IT functions would be examples.

Intra-group services that do not qualify as LVAS such as R&D on valuable intangibles need to be accurately benchmarked for comparable controlled transactions to assure that the risk uptaken is commensurate with the reward in line with the arm's length principle.

Services can be direct cost for discrete items or indirect costed where it is harder to assign value and this might be completed on allocation keys