



Federico Lo Bianco

Transfer Pricing of Intangibles

Definition, Shortcomings and
Improvement (including RASCI)
of the DEMPE Model

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81

Transfer Pricing of Intangibles

Why this book?

Value added tax in the European Union, a broad-based tax on final consumption, is an indirect tax. While it is intended to tax final consumption of goods and services, VAT is collected from vendors rather than directly from consumers. Yet recently, within the EU VAT system, a deviation from the traditional vendor collection model to an intermediary collection model (ICM) has been witnessed. Further academic research is needed on the principles and justifications underlying the imposition of these rather burdensome VAT related obligations on intermediaries who remain, in essence, external to the contractual relationship between the vendor and the consumer.

Therefore, this book provides an in-depth study of the involvement of various intermediaries in the EU VAT collection process. The main aim of the book is to explore the underlying principles behind third party involvement in this alternative VAT collection model, as well as its scope and limits based on the identified principles and higher-ranking norms. The book investigates the parameters that the EU legislature must consider when designing the ICM in order to achieve policy goals and remain compliant with the legal framework governing any VAT collection model within the EU.

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(including RASCI) of the DEMPE Model

Federico Lo Bianco

This book is based on the thesis submitted for a doctoral degree at
Kore University of Enna



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Abstract

Transfer prices are the prices applied to controlled transactions involving the exchange of goods or the provision of services between related parties of the same multinational group that are located in two different tax jurisdictions.

In recent years, transfer prices have caused controversy not only at a doctrinal level but also at a court level, given the high number of disputes concerning their determination.

The technical difficulties of this discipline, typically high notwithstanding the type of good or service being transferred, increase when the related parties transfer intangible assets. The increase in complexity derives from the non-material nature of such assets, as they are easily transferable from one tax jurisdiction to another through sales or licence contracts.

The OECD dedicated an entire chapter of the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration to the controlled transactions of intangible assets.

Within chapter VI of the guidelines, the OECD developed a specific approach to be used for intangibles: the DEMPE model. The acronym stands for “development, enhancement, maintenance, protection, and exploitation”. The individual terms of the acronym refer to five categories of functions, assets, and risks connected to the entire life cycle of intangible assets, typically considered to have high added value for transfer pricing purposes.

The present work aims at clarifying the crucial aspects of the DEMPE model, such as the regulatory framework that preceded DEMPE and led to its introduction, its nature and possible uses, and the possibility of applying the concept retroactively.

Having analysed these aspects, the author develops an analytical analysis of the main limits of the model, namely, the definition of its scope of application; the lack of categories of potentially important functions, assets, and risks; the presence of divergent applications of the model among the various OECD member countries; and the application of the model to organizations characterized by a high level of fragmentation.

In the final section, the author presents some proposals, based on the analysis carried out during his research, aimed at improving the current regulatory framework applicable to controlled transactions of intangible assets.

Chapter 1

Introduction

1.1. Setting the scene and societal challenges

The current transfer pricing (TP) framework of the OECD is based on the arm's length principle (ALP), set by Article 9 of the OECD Model Tax Convention on Income and Capital (OECD MC).¹ The key idea behind the ALP is that the commercial and financial conditions agreed between related parties should be comparable to the conditions agreed between independent parties in comparable circumstances.

The use of the word “conditions” is intended to include the pricing of the transactions but is not limited to such aspect. In fact, the concept of conditions is broader than mere pricing and includes the way in which the parties have decided to structure their commercial and financial relations.

In order to understand whether a controlled transaction reflects what independent parties would agree in comparable circumstances, such a transaction has to be compared with uncontrolled transactions that took place in the open market.

The comparison between controlled and uncontrolled transactions is the essence of the ALP and, consequently, of the current OECD TP framework. This is valid under any circumstance because the OECD prescribes that, even when there are no comparable transactions, the conditions of the controlled transaction should approximate the behaviour of independent parties in comparable circumstances.

Yet the idea of comparing transactions for TP purposes conceptually struggles with the idea of comparing transactions of intangibles. This is because, due to their nature, intangibles are hard to compare.

For instance, if a marketing intangible is licensed intercompany, how can this agreement be compared to an uncontrolled licensing of a (different) marketing intangible of a different company that necessarily reflects

1. OECD, Model Tax Convention on Income and Capital, 2017, art. 9.

divergent vision and values, thus generating a divergent perception in the eyes of the customers?

The same is valid for trade intangibles: if any patent is unique in light of the innovative way through which it allows the owner to create or improve products or services, how can this patent be compared to another patent – which, by definition, will be different in the way it creates or improves products or processes?

To address this complex matter, and under the pressure of a widespread misapplication of the economic ownership concept at the level of national courts,² the OECD decided to expand the guidance on TP with a specific chapter of the OECD Transfer Pricing Guidelines (TPG)³ dedicated to intangibles.⁴

In doing so, the OECD did not replace the ALP with another principle but, rather, developed a new concept in the context of the BEPS (base erosion and profit shifting) Project⁵ to strengthen the already existing framework: the DEMPE (development, enhancement, maintenance, protection, and exploitation) model.⁶ The latter consists of a new set of more detailed rules to be applied exclusively to transactions involving intangibles.

DEMPE provides guidance to taxpayers and tax authorities on which functions, assets, and risks should be carefully delineated when dealing with intercompany transactions of intangibles, with the aim of undertaking a thorough functional analysis and pricing the transaction accordingly.⁷

2. The concept of economic ownership of intangibles was created and endorsed by the OECD in the pre-BEPS version of the guidelines. It will be analysed in the dedicated historical section of the present work (section 3.1.).

3. OECD, Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, 2022.

4. Ibid, chap. VI.

5. More details on the OECD BEPS Project can be found on the OECD website available at <https://www.oecd.org/en/topics/policy-issues/base-erosion-and-profit-shifting-beps.html> and in the OECD, BEPS Actions 8-10: 2015 Final Reports, Aligning Transfer Pricing Outcomes with Value Creation, 2015.

6. OECD, Transfer Pricing Guidelines, 2022, chap. VI, sec. B.

7. The tax literature is not uniform about the possible use of DEMPE for delineation purposes. The author believes that this should be possible, but the debate on this matter will be deepened in the dedicated section of the present book.

Yet, notwithstanding the improvement brought to the previous rules,⁸ DEMPE does not provide sufficient guidance in terms of accuracy, comprehensiveness, consistency, and granularity for the TP analyses of intangibles. Insufficient accuracy refers to the lack of precise definition of the DEMPE scope; insufficient comprehensiveness refers to the lack of sections dedicated to categories of functions, assets, and risks considered important when dealing with intangibles; insufficient consistency refers to national departures from the neutral OECD concept of DEMPE; and insufficient granularity refers to the inability of the model to delineate and price controlled transactions of intangibles occurring within fragmented organizations.

The tax literature does not offer long-term solutions to address such societal challenges, and this book was written to address those challenges.

1.2. Research question

To structure the discussion clearly and logically, the author based the present work on one primary and multiple secondary research questions, which will be assessed in two different subsections of the present chapter. The first subsection points out the main research question, while the second lists the secondary research questions.

1.2.1. Primary research question

The primary research question the author addresses is the following: Is DEMPE a resilient model to delineate and price intercompany transactions of intangibles? In other words, the research aims to assess (i) whether the DEMPE model is an effective approach to delineating and pricing intercompany transactions of intangibles and (ii) whether the OECD should readjust this model or even move to a new and alternative concept.

To answer this primary research question, many conceptual and practical considerations on the DEMPE model should be made. The author transposed these considerations into multiple secondary research questions. The answer to the main research question will be directly determined by the sum

8. Some tax scholars believe that DEMPE introduced instability in the international tax system, but the following chapters of the present book will discuss the improvements that it brought to the transfer pricing framework. On the criticism, see R. Finley, Pillars 1 and 2 Agreement Complements Transfer Pricing System, Tax Notes International, 2021.

of the conclusions drawn in the research carried out within each of secondary research questions.

1.2.2. Secondary research questions

Each of the secondary research questions focuses on a peculiar aspect of DEMPE, often with a narrow research scope. Setting a narrow scope helped the author in finding blind corners in the current literature, thus being able to address the topics by provoking an innovative debate and offering unprecedented solutions.

Some of the answers to these secondary questions can be directly or indirectly influenced by the answers given to other research questions previously addressed. The secondary research questions that the author aims to address in the present work are the following:

- (1) Are intangibles important in the modern digitalized economy?
- (2) Is TP a relevant area for countries and multinational corporations?
- (3) What is an intangible? Is there one or multiple definitions of intangible?
- (4) What can be considered an intangible for TP purposes?
- (5) Where does the TP definition of intangible come from?
- (6) Can intangibles be categorized for TP purposes?
- (7) Why are intangibles a particularly problematic type of assets in the context of TP?
- (8) What is the historical evolution of the treatment of intangibles in the field of TP?
- (9) Who created DEMPE? How, when, and why was it born?
- (10) Is there any conceptual predecessor of DEMPE or it is a brand-new concept?
- (11) What is the nature of DEMPE? Is it an arm's length or a formulary concept? Is it a mere update to the ALP or should it be considered as a brand-new requirement?
- (12) What is the aim of DEMPE? Is it a valuation-only or also a delineation (and non-recognition) concept?
- (13) Can DEMPE be applied retroactively? What is the EU and OECD member states' court experience?
- (14) Since which fiscal year should DEMPE be considered applicable?
- (15) Which are the shortcomings of the current DEMPE concept?
- (16) What is the meaning of "development", "enhancement", "maintenance", "protection", and "exploitation" for TP purposes?

- (17) Should the original OECD formulation of DEMPE be amended and/or integrated with other letters (categories of functions, assets, and risks)?
- (18) Is there any departure at national level from the original DEMPE concept among the OECD member states?
- (19) Should DAEMPEE (development, acquisition, enhancement, maintenance, protection, exploitation, exploration) be strengthened by implementing external (non-tax) tools when multiple group entities are contributing to the same DAEMPEE function, asset or risk?
- (20) What is the most appropriate external tool to strengthen the application of DEMPE?
- (21) What is RACI (responsible, accountable, consulted, and informed), and what are the possible variations of RACI?
- (22) Which are the benefits of implementing a RASCI (responsible, accountable, support, consulted, and informed) matrix?
- (23) What is the meaning of “responsible”, “accountable”, “supportive”, “consulted”, and “informed” for project management purposes?
- (24) Is there any needed deviance from the project management meaning of “responsible”, “accountable”, “support”, “consulted”, and “informed” to successfully implement the matrix in the TP area?
- (25) Which are the conceptual analogies between TP (DEMPE) and project management (RASCI)?
- (26) Can RASCI be used for delineation, non-recognition, and valuation purposes?
- (27) Can RASCI help to address the shortcomings of the OECD delineation process and of the post-BEPS risk framework?
- (28) Is it preferable to use pre-existing RASCI matrixes created for business and project management purposes or to create one exclusively for TP purposes?
- (29) Is the DAEMPEE and RASCI scoring approach compatible with the arm’s length principle?
- (30) Can a standardized DAEMPEE and RASCI delineation methodology be set out?
- (31) Is there already any DAEMPEE and RASCI delineation methodology proposed by the literature and/or used in practice?
- (32) Can a standardized DAEMPEE and RASCI valuation methodology be set out?
- (33) Is there already any DAEMPEE and RASCI valuation methodology proposed by the literature and/or used in practice?
- (34) How can the current OECD Guidelines be amended to endorse and give guidance on the use of RACI?

- (35) Does the wording of the OECD Guidelines need to be adjusted guarantee a successful implementation of RASCI?
- (36) How can the Proposal of EU Directive on Transfer Pricing be amended to include the DAEMPEE concept and the RASCI matrix?
- (37) Should the implementation of the EU Directive on Transfer Pricing happen under the guidance of a set of DAEMPEE and RASCI model rules?
- (38) Should the DAEMPEE and RACI approach be used as a primary method or only to corroborate another TP method?

Only once these secondary research questions are addressed can the answer to the main research question be provided.

This book is organized following a funnel structure. The questions start from a very general understanding of the topic and end with very specific questions, many of which cannot be answered by looking at the current tax legislation and literature.

1.3. Research approach

The present section aims to explain how the author approached the research work needed to answer the research questions. The main distinction to be made is between qualitative and quantitative research.

1.3.1. Qualitative research

1.3.1.1. Introduction

For the vast majority of the research, the author conducted qualitative research. This was done using six different approaches: (i) analytical analysis of the DEMPE concept as embedded in the TPG; (ii) historical analysis of the OECD TP approach to intangibles that led to the birth of the DEMPE concept; (iii) literature review of the various opinions on DEMPE expressed by tax scholars; (iv) case law assessment focusing on the retroactive applicability of DEMPE; (v) empirical research, consisting of interviews to tax practitioners, aimed at understanding the difficulties that emerged in practice since DEMPE was adopted by the OECD and implemented by taxpayers; and (vi) an interdisciplinary analysis focusing on the possibility of integrating DEMPE with a concept (RACI) borrowed from a field other than tax law (project management).

The following subsections will explain each approach individually.

1.3.1.2. Analytical analysis

A detailed analytical analysis was the first part of the author's work.⁹ The analytical studies started with a focus on the rise of intangibles in the digital economy and the importance of TP for related parties and countries.

The author then framed the various definitions of "intangible" by understanding which type of assets can be considered intangibles for accounting, intellectual property law, tax treaty, and TP purposes.

After having adequately understood the scope of the definitions, a deep dive into section B of Chapter VI of the TPG¹⁰ was undertaken, which is the place where DEMPE is set out. This phase of the work was necessary to gain a comprehensive understanding of the DEMPE concept. The analytical analysis allowed the author to assess, among other topics, (i) the nature of DEMPE as an arm's length or formulary concept, (ii) the aim of DEMPE as a valuation-only or also delineation and (eventually) non-recognition concept, and (iii) its scope of application.

Once section B of Chapter VI was scrutinized, the author studied section A of Chapter VI¹¹ and then Chapter I¹² in order to understand whether and how DEMPE interacts with other relevant sections of the TPG.

Before delving into the literature review, it was of key importance to focus on the essence of the concept as it is expressed in the TPG in order to be able to critically assess, in a second moment, the various positions and opinions expressed by tax scholars.

The preliminary analytical study allowed the author to avoid being over-influenced by other authors' opinions, especially regarding the nature and aim of the concept, as these are particularly debated in the tax doctrine. Consequently, following this approach, the author was able to develop his own view before moving to other scholars' opinions.

9. According to J. M. Smits, *The Mind and Method of the Legal Academic*, Edward Elgar, 2012, p. 11, there is not one academic discipline without proper description and understanding of the research object.

10. OECD, *Transfer Pricing Guidelines*, 2022, chap VI, sec. B.

11. *Ibid*, chap. VI. sec. a.

12. *Ibid*, chap. I.

The analytical analysis followed the so-called *de lege lata* approach, which studies the law as it is. It starts from the assumption that a law already exists and aims at deepening its meaning, purpose, and possible interpretations.¹³ The latter is a crucial point for the present book because, as will be examined, there are various diverging interpretations of DEMPE in different countries.¹⁴

The outcome of the analytical analysis is mainly included in chapters 2., 3., and 4. of the present work.

The last part of the analytical analysis consisted of studying the Proposal of EU Directive on Transfer Pricing¹⁵ to verify whether it included DEMPE and, if so, how the concept is framed within it.

The outcome of this last analytical work is included section 6.3. of this book, which discusses the possible amendments to the proposed directive.

1.3.1.3. Historical analysis

The long-term historical analysis involved a granular understanding of the various steps and reasons that brought from the birth of the ALP to the birth of the DEMPE model. The analysis starts in the year 1917 and ends in the year 2022.¹⁶

Particular attention was given to the transposition of the concept from the 2015 BEPS Final Report¹⁷ to the 2017 TPG.¹⁸ Moreover, the author assessed the latest version of the TPG¹⁹ to understand whether DEMPE was subject to change.

13. J. Kollmann, *Taxable Supplies and Their Consideration in European VAT: With Selected Examples of the Digital Economy*, IBFD Doctoral Series, volume 46, Amsterdam, IBFD, 2019, p. 3.

14. Law, in general, is a hermeneutic discipline in which texts and documents are the main research object and their interpretations is the main activity of the researchers. On this point, see M. van Hoecke, *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?*, European Academy of Legal Theory Monograph Series, Hart, 2011, p. 4.

15. European Commission, *Proposal for a Council Directive on Transfer Pricing*, 12 September 2023.

16. Between 2022 and 2024, the OECD did not update DEMPE.

17. OECD, *BEPS Actions 8-10: 2015 Final Reports*, 2015.

18. OECD, *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, 2017, chap. VI.

19. OECD, *Transfer Pricing Guidelines*, 2022, chap. VI, sec. B.

The historical overview was not undertaken independently from the present framework but, rather, aimed at correctly framing the model within the current (post-BEPS) TP rules and their substance requirements.

This type of work allowed the author to understand and critically assess (i) the novelties that DEMPE introduced in comparison with the previous framework²⁰ and (ii) the steps that were necessary for its implementation.²¹ This part of the analysis takes place in section 3.1.

1.3.1.4. Literature review

The author conducted a comprehensive literature review of the articles, chapters, and books written in Italian and English that discuss or at least mention DEMPE. The language restrictions are due to Italian being the author's native language, while English is the only second language in which the author is fluent enough to critically assess the nuances of the wording used by tax scholars worldwide.

The author noticed that the vast majority of articles and books discussing and/or mentioning DEMPE are written in English. Consequently, the two languages on which the author has a fluent command were enough to conduct a comprehensive literature review. The author also noticed an extremely limited number of articles written in German that discussed DEMPE. These were scrutinized with the support of a translation software.

The literature review was needed for a fruitful understanding of DEMPE for two main reasons.

The first is connected with the divergent opinions existing on the DEMPE concept. These discrepancies concern not only marginal aspects but also some key fundamental ideas behind the foundation of DEMPE, such as its nature (arm's length or formulary concept) and its aim (characterization and/or valuation concept). Some of these positions are, at least in the author's view, very far from the meaning that the OECD intended to give to DEMPE. These doctrinal positions could not have been understood (and thus critically assessed) by the author without reading all the existing literature contributions on the topic.

20. With specific reference to the concept of economic ownership.

21. With specific reference to the developments related to the BEPS Actions 8-10.

The second reason concerns the fact that the literature noticeably expanded on the possible DEMPE-related practical ramifications, some of which could not have been foreseen with the mere reading of the TPG.²²

In the present work, the author (i) cites the various scholars' positions and opinions, (ii) critically assesses them, and (iii) provides his own view on the debate.

The literature review positively permeated all chapters of this book, so the benefits and ideas deriving from this type of work conducted by the author are spread throughout.

1.3.1.5. Case law assessment

The case law assessment was conducted with the aim of understanding how the various national courts interpret and thus apply DEMPE. In particular, the author decided to select some case law concerning the fiscal years that preceded the introduction of DEMPE into the TPG. This decision was made because the main purpose of the case law analysis is to assess the retroactive applicability of the model.

The case law analysis was needed because the other types of analysis conducted would not be enough to unveil the actual application that the national court gave to DEMPE.

For instance, even if, according to the analytical study and interpretation of the TPG, the author sees no possibility to apply DEMPE retrospectively, the case law assessment will show that this happened in more than one country.

1.3.1.6. Empirical research

Moving from the belief that the law can be tested empirically,²³ the empirical research was a very fruitful type of work that the author conducted to better understand the practical shortcomings of DEMPE.

Therefore, the empirical research does not focus on what the law is or says but rather on what consequences it causes once applied in reality. One may

22. Probably, not even the OECD foresaw all the possible practical ramifications and consequences when drafting the DEMPE concept.

23. J. M. Smits, *The Mind and Method*, 2012, p. 28.

argue that this approach may look difficult to reconcile with the analytical analysis discussed in section 1.3.1.2. Yet, they are both of crucial importance. First, it is important to get a deep understanding of the law as it is (analytical analysis, *de lege lata*). Then, it is crucial to get familiar with the real outcomes of the practical application of the law, which unveil any eventual shortcoming and help the understanding of whether the law is resilient and fits the purpose. This additional work was necessary to adequately formulate the RACI-related discussions in chapter 5. and the author's proposals contained in chapter 6., both following a *de lege ferenda* approach.

The author's empirical research consisted of interviewing experienced tax practitioners. The interviews were conducted orally between May 2023 and September 2024. The interviewees were carefully selected from the author's professional network, built by participating in scientific events and conferences in the area of international tax law around Europe during the last 3 years.

Preference was given to tax professionals currently serving as head of tax and head of TP in multinational groups, but tax consultants with a high level of seniority were also interviewed. The interviewees were picked in order to cover the broadest possible geographical area, which comprehends Italy, Germany, Belgium, Austria, Netherlands, Luxembourg, and Thailand, among others.

The interviews aimed at understanding not only the actual changes that the implementation of DEMPE caused in practice but also the challenges that remain open because they are unaddressed by the model. The results of the interviews positively permeated all the chapters of the present book.

1.3.1.7. Interdisciplinary analysis

The author dedicated a section of the present work to addressing cases featuring the application of DEMPE to organizations presenting a high level of fragmentation. When discussing this type of scenario, the author draws a connection between tax law and project management by assessing the possible integration of DEMPE with matrixes derived from the project management field.²⁴ The author focuses on the responsibility assignment matrixes (RAM) and, specifically, the RACI.

24. Project management is believed to be the right discipline to address the scenario featuring multiple contributors to a single DEMPE because, by definition, project management "is the application of knowledge, skills, tools, and techniques to project activities

The use of a non-tax tool such as RACI required granular research within the project management literature discussing RAMs. The research aimed primarily to (i) understand how and why RACI is used for project management purposes; (ii) define the meaning of “responsible”, “accountable”, “support”, “consulted”, and “informed” for project management purposes; (iii) understand whether any deviation from the definitions at point (ii) is needed to adapt the concept for the TP realm and to answer the RACI-related questions listed in section 1.2.2. of the present work; (iv) discover whether RACI has already been used and endorsed in the field of TP; and (v) assess whether RACI can be used as a helpful proxy to strengthen TP analyses.

The decision to move out from the legal framework comes from the fact that both project management and TP have to deal with situations in which one single function, asset or risk is shared among different people, departments or companies. Yet, the TP framework is not offering any tool to deal with these fragmented scenarios, while project management offers the RACI matrix.

Both DEMPE and RACI, even if belonging to two different scientific fields, focus on understanding who is involved in which process and through which role this involvement happens. This is the key conceptual links that inspired the author and brought him to develop a section focusing on the use of the RACI matrix for TP purposes.

The interdisciplinary analysis followed the so-called *de lege ferenda* approach, which aims to understand how the law should be. This is because the current TP framework lacks any explicit endorsement for RACI. Thus, any RACI-related discussion falls under the *de lege ferenda* approach.

The interdisciplinary analysis brought to the development of an entire chapter (chapter 5.) dedicated to RACI. Moreover, model rules, amendments to the TPG, and amendments to the Proposal for EU Directive on Transfer Pricing to endorse and give guidance on RACI are discussed in chapter 6.

to meet project requirements. It is the practice of planning, organizing, and executing the tasks needed to turn a brilliant idea into a tangible product, service, or deliverable.” See Project Management Institute, What is Project Management?, available at <https://www.pmi.org/about/what-is-project-management>. Consequently, the project management and transfer pricing disciplines share the needs of defining the scope of the projects, identifying, organizing, and executing the deliverable at stake, and managing risks.

1.3.2. Quantitative research

The quantitative research conducted by the author is limited. The two parts of the present work that are based (also) on a quantitative approach are as follows:

- Section 3.2.3., which (i) presents the statistics resulting from a survey on the TP methods that are used when implementing the DEMPE model and (ii) reports the statistics resulting from a survey on the impact of DEMPE on intangible-related decision-making processes.
- Section 5.4.1., which discusses the statistics resulting from a survey on the implementation of DEMPE and the possibility of using extra (non-tax) tools for its implementation.

The author did not submit any written questionnaire about the statistical use of the methods and the implementation of DEMPE in combination with other tools or models. Consequently, within the present book, he reported the findings published in articles written by other tax scholars, with no updates on their findings. The article on the methods used in the context of a DEMPE analysis is based on surveys submitted to tax directors of multinational corporations between February and April 2019.²⁵ The article on the implementation of DEMPE in combination with extra tools is based on surveys submitted to 21 TP managers between July and September 2023.²⁶

The reported quantitative data are of key importance in the discussions about (i) the nature of DEMPE, in order to defend its qualification as an arm's length concept (section 3.2.); and (ii) the future willingness of using extra (non-tax) tools, such as the RACI matrix (chapter 5.).

1.4. Research scope

To better understand the exact research scope of the present work, the author explicitly distinguishes between the positive and the negative scope. The positive scope comprehends what will be addressed in the present work,

25. J. White, Survey Result: Effective IP Management, *International Tax Review*, 2019. The results of this survey are also replicated in another publication on the same journal, with no differences in terms of reported quantitative results for DEMPE purposes. See J. White, *Intangibles: Re-engineering substance*, *International Tax Review*, 2019.

26. A. Riedl and O. Miakota, DEMPE – Still a Long Way to Go, *International Transfer Pricing Journal*, Vol. 31, No. 5, 2024.

Notes



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