Table of contents

Chapter 1: Introduction

1. Drivers of business restructuring
   1.1. Global business models to maximize synergies and economies of scale
   1.2. Improvement of productivity of the supply chain
   1.3. Other external and internal factors

2. Business restructuring from an economic perspective
   2.1. Business perspective
   2.2. Stakeholder’s perspective

3. Tension between commercial aims and tax environment

Chapter 2: Business Models

1. Introduction

2. Business modelling for tax and transfer pricing purposes
   2.1. Manufacturer
      2.1.1. Toll manufacturer
      2.1.2. Contract manufacturer
      2.1.3. Fully-fledged manufacturer
   2.2. Distributor
      2.2.1. Commission agent
      2.2.2. Commissionaire
      2.2.3. Classic buy-sell distributor
      2.2.4. Fully-fledged distributor
   2.3. Service provider

3. Business restructurings
   3.1. Intangible property transfers
   3.2. Conversion from fully-fledged to contract manufacturing model
   3.3. Conversion from fully-fledged distributor to stripped distributor model

4. Centralized services and cost allocation agreements

Chapter 3: OECD Policy Framework

1. OECD policy framework in the area of international taxation
   1.1. OECD in general
   1.2. OECD tax work
   1.3. Arm’s length principle and OECD Guidelines
1.3.1. Comparability analysis
1.3.2. Transfer pricing methods
1.3.3. Recent developments
1.3.4. Other relevant guidance in the OECD Guidelines
1.4. Permanent establishment issues
1.4.1. Definition of a permanent establishment
1.4.2. Attribution of profits to permanent establishments

2. Prevention and resolution of transfer pricing and other international tax disputes
2.1. Dispute resolution
2.2. Dispute prevention

3. OECD project on business restructuring
3.1. Restructurings that are within the scope of the OECD project
3.2. Origins of the project
3.3. Transfer pricing dimension of business restructurings
3.4. Presentation of the OECD Discussion Draft
3.4.1. Relationship with permanent establishment issues
3.4.2. Relationship with domestic anti-abuse rules
3.5. Main tentative conclusions from the OECD Discussion Draft
3.5.1. Issues Note 1: Special considerations for risks
3.5.2. Issues Note 2: Arm’s length compensation for the restructuring itself
3.5.3. Issues Note 3: Remuneration of post-restructuring controlled transactions
3.5.4. Issues Note 4: Recognition of the actual transactions undertaken

4. Conclusion

Chapter 4: EU Policy Framework

1. Developments with EU legislation
   1.1. Impact of existing secondary EC law on business restructuring
      1.1.1. Parent-Subsidiary Directive
      1.1.2. Merger Directive
      1.1.3. Interest and Royalties Directive
      1.1.4. Arbitration Convention
   1.2. Impact of proposed secondary EC law on business restructuring: Common Consolidated Corporate Tax Base and Home State taxation
      1.2.1. Common Consolidated Corporate Tax Base
      1.2.2. Home State taxation
      1.2.3. Impact of Common Consolidated Corporate Tax Base and Home State taxation
   1.3 Impact of proposals of the EU Joint Transfer Pricing Forum on business restructuring

2. Impact of case law on business restructuring
2.1. General
2.2. CLT-UFA S.A. case
2.3. FCE Bank case

3. Coordination in the field of exit taxes

Chapter 5: Article 9 of the OECD Model Convention

1. Introduction

2. Arm’s length (comparability) analysis and recognition, or non-recognition of transactions undertaken
   2.1. Introduction
   2.2. Meaning of “conduct of parties”
   2.3. Determining whether terms and conditions between the respective parties are arm’s length from a commercial or financial perspective
   2.4. Choice between comparability adjustment or non-recognition of (part of) a transaction
   2.5. Endeavouring to understand the envisaged tests by means of examples
   2.6. Trade-off between equity and efficiency
   2.7. Valuing the restructuring itself and the post-restructuring transactions

3. Arm’s length compensation for intangibles and related risks
   3.1. Introduction
   3.2. Building the commercial business case
      3.2.1. Comparison of pre- and post-restructuring scenarios
      3.2.2. Business reasons for and the expected benefits from the restructuring
      3.2.3. Existence of probable alternative commercial choices; possible indemnities
   3.3. Determining exit values: valuation methods used by appraisers and valuation practitioners
      3.3.1. Income-based approach: excess earnings approach
      3.3.2. Income-based approach: incremental margin analysis
      3.3.3. Market-based methods
      3.3.4. Methods to establish bargaining power
      3.3.5. Rule of thumb used in civil court cases as a last resort
      3.3.6. Intangible transferred at a point in time where it does not have an established value
   3.4. Impact of intangibles and related risks in the post-restructuring valuation
   3.5. The use of one-sided transfer pricing methods
      3.5.1. More emphasis on two-sided methods, especially profit split methods
      3.5.2. Role of control in a post-restructuring situation

Chapter 6: Permanent Establishment Issues

1. The presence of a permanent establishment
Chapter 7: VAT Aspects of Business Restructurings

1. Introduction
   1.1. General
   1.2. Introduction to the VAT system of the European Union

2. Group financing activities

3. Transfer of assets
   3.1. Scope of the non-taxability
   3.2. Definition of “totality of assets”
   3.3. Successor’s intention to continue the business
   3.4. Business licence or authorization
   3.5. Right to deduct VAT

4. Transfer of shares
   4.1. General
   4.2. Selling of shares outside the scope of VAT

5. Issue of new shares

6. Outsourcing

7. Changes to the business model as described in Chapter 2
   7.1. Transfer of intellectual property
   7.2. From fully-fledged manufacturer to contract manufacturer
   7.3. From fully-fledged distributor to stripped distributor
   7.4. Commissionaires

Chapter 8: Customs Duties

1. Introduction

2. Customs law

3. General Agreement on Tariffs and Trade; World Trade Organization
   3.1. General Agreement on Tariffs and Trade
   3.1.1. The Geneva Conference
   3.1.2. Fundamental principles
   3.2. World Trade Organization
   3.2.1. Uruguay Round
   3.2.2. New order

4. The European Union
   4.1. The European Communities: ECSC, EEC and EAEC/Euratom
   4.2. EU customs law
Chapter 9: Tax Accounting Considerations

1. Introduction

2. International accounting framework
   2.1. General
   2.2. Income tax accounting standards

3. Tax law considerations
   3.1. Plant closures
   3.2. Migration of intangibles
   3.3. Conversion into limited risk entities

4. Specific tax accounting impacts
   4.1. Transfer pricing uncertainties
      4.1.2. FIN 48: A further overview
      4.1.3. IAS 12 versus FIN 48: Overview and key differences
      4.1.4. Accounting for transfer pricing tax uncertainties: specific considerations
   4.2. Deferred tax accounting
      4.2.1. Pre-tax accounting: deferred tax implications
      4.2.2. Intercompany asset transfers
      4.2.3. Realizability of deferred tax assets
4.2.4. Outside basis differences
4.3. Comprehensive example

5. Conclusion

**Chapters 10-15: Country Chapters (incl. Case Study)**

Includes chapters on: China, Germany, India, Switzerland, United Kingdom, United States

Where possible country coverage includes:

1. Introduction

2. Corporate income tax framework
   2.1. Corporate income tax system
   2.2. Taxable entities
   2.3. Taxable income
   2.4. Tax losses
   2.5. Tax rates
   2.6. Tax treatment of R&D expenses
   2.7. Taxation of intellectual property

3. Tax consequences of various models
   3.1. Characterization of manufacturing entities
   3.2. Principal manufacturer vs. contract or toll manufacturer
   3.3. Characterization of distributing/selling companies
   3.4. Conversion from fully-fledged distributor to a limited risk distributor
   3.5. Service company or commissionaire or agent
   3.6. Contract service providers

4. Transfer pricing details
   4.1. Issues arising upon restructuring
   4.2. Issues arising with regard to intangibles
   4.3. Post-restructuring issues
   4.4. Recognition of transactions
   4.5. Consequences of restructurings not subject to re-characterization
   4.6. Treatment of business restructuring expenses
   4.7. The bargaining theory applied to business restructuring
   4.8. Specific industries
     4.8.1. Automotive industry
     4.8.2. Pharmaceutical industry
     4.8.3. Banking industry

5. Permanent establishment perspective
   5.1. Existence of a permanent establishment
   5.2. Allocation of profits to a permanent establishment
     5.2.1. General concept
     5.2.2. Allocation of assets
5.2.3. Valuation and depreciation of assets
5.2.4. Capital gains
5.2.5. Allocation of risks
5.2.6. Intra-company dealings
5.2.7. Difference with authorized OECD approach
5.2.8. Specific industries
6. Anti-avoidance provisions

7. Case law
8. Case Study: restructuring a manufacturing operation

Chapter 16: Conclusions

1. Introduction
2. Business perspective and business models
3. Tax consequences of various models
4. Indirect taxes
5. Tax accounting
6. OECD Report
7. Future prospects