Transfer Pricing and Customs Valuation

Two worlds to tax as one

Chapter 1: Introduction

1. Introduction
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4. Some key differences between customs and transfer pricing
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1.2 Transfer pricing: scope
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1.2.2 Cross-border transactions and dealings
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1.2.4 Commercial or financial transactions
1.3 Valuation of transactions between associated enterprises: the role of comparability analysis for transfer pricing purposes. Taking account of the functions, assets and risks involved in a transaction (Para. 1.15 to 1.35 of the OECD Guidelines)
1.4 Valuation of transactions between associated enterprises: transfer pricing methods
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1.4.4 Choice of the transfer pricing method (Para. 1.68 to 1.70, 2.49 and 3.1 to 3.4 of the OECD Guidelines)

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1.5.3 Intangibles and services

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1.6.1 Year-end compensating adjustments upon filing of the tax return

1.6.2 Primary adjustments (Commentary on Article 25 of the OECD Model)

1.6.3 Corresponding adjustments (Para. 4.32 to 4.39 of the OECD Guidelines)

1.7 Dispute resolution (Art. 25 of the OECD Model and Commentary thereon)

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1.9 Other administrative aspects

1.10 Conclusion

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3.6.4.4 Definition of related parties
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   1.1. The transaction value
   1.2. The significance of «relationships» between buyer and seller

2. Alternative measures of value

3. Additions to the transaction value

4. Exclusions from the transaction value

5. Case study: referring to the CCC only

6. First sale price

7. Declaration of particulars relating to customs value (D.V.1 form)

8. Case study: how royalties related to imported goods affect vat and customs duties

9. Case study: royalties and first sale price in the transactions between associated entities
10. Customs value and transfer pricing
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10.2 A new trend: the holistic approach
10.3 Arm’s length principle: a shared principle?
10.4 Controls of transactions: an operational convergence
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2.2 Specific NAFTA Agreement Articles
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2.3.1.2 Supporting Guidance
2.3.1.3 Documentation requirements
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3.2 Specific ASEAN Agreement Articles
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1. General Remarks – Transfer pricing from a customs and tax perspective.

2. The examples of the interpretative note to Article 1.2(a) and the methods of the OECD Guidelines.

3. Consistency in the decisions of tax and customs administrations on transfer pricing cases

4. Frequent mistakes when examining transfer pricing from a customs perspective

5. Timing problems

6. Aggregation of transactions

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2. VAT Transfer Pricing Rules
   2.1 Preliminary remarks on taxable transactions under VAT
   2.2 Taxable amount under VAT/GST
   2.3 Transfer Pricing: VAT v. Income tax
   2.3.1 The scope of transfer pricing rules as to the transactions covered
   2.3.2 The definition of “related parties”
   2.3.3 Valuation principle and methodology

3. Interaction between transfer pricing adjustments and VAT
   3.1 General remarks
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2. Exchange of Information
3. Advance Pricing Agreements
   3.1 Introduction
   3.2 APA Basics
   3.3 APA Process
   3.4 Operation of APA
   3.5 Interplay of APAs and customs valuations
   3.6 Korean advance customs valuation arrangements
4. Resolution of disputes
   4.1 Transfer pricing
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5. Acceptance of adjustments
   5.1 Transfer pricing
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6. Conclusion

Chapters 9 – 21: Country Surveys (incl. 2 case studies)

Includes chapters on: Australia, Brazil, Canada, China, France, Germany, India, Japan, Mexico, Netherlands, South Africa, United Kingdom, United States

Where possible country coverage includes:

1. Transfer Pricing Rules and Methods in the United States
   1.1 Statutory Language
   1.2 Methods of Determining Arm’s Length Ranges
   1.2.1 Tangible Property Transfers
1.2.1.1 The Comparable Profit Split method
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1.2.2 Intangible Property Transfers
1.3 Transfer pricing and services
1.3.1 In General
1.3.2 Transfer Pricing Methods for Services
1.4 Cost Sharing Regulations
1.5 Marketing Intangibles
1.6 Section 1059 A
1.6.1 Section 1059A – A Nexus between Tax and Customs

2. Customs valuation in the United States
2.1 General introductory comments
2.2 The Basics of Customs Valuation – an Introduction to the U.S. Statute
2.3 Hierarchy of Valuation Methods
2.3.1 Transaction value of identical or similar merchandise
2.3.2 Deductive value
2.3.3 Computed value
2.3.4 Residual value
2.4 Transaction Value Defined
2.5 When is Transaction Value Not the Proper Method?

3. Interaction between transfer pricing and customs valuation
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3.1.2 Transaction Value and Transfer Pricing – The Legal Standard
3.1.3 Customs Valuation Issues Specific to Transfer Pricing
3.1.4 Transaction Value and the “Arm’s Length” Standard
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3.1.6 Retroactive Price Adjustments and the Importance of Reconciliation

4. Conclusion

Chapter 22: Conclusion