



Pan European Comparables and Value Chain Analysis

Tools for applying TP rules in the EU

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- Objective: Introduce proposed discussion topics to structure the future work of the EU Joint Transfer Pricing Forum
 - Two topics are covered in this presentation
 1. Comparability adjustments
 2. Value Chain Analysis
- Both topics relate to tools for applying transfer pricing rules in the EU



Tool #1 – Comparability Adjustments



- What is at stake?
 - Tax authorities may have a tendency to require country specific comparable companies searches

BUT

 - Performing country specific comparable companies search can be very costly and burdensome for MNEs; and,
 - Data in some EU Member States/Sectors can be very limited

- In a common EU market, can the case be made for a more systematic use of pan-European comparable company searches?

Why does it matter?



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- This is highly relevant for the EU
 - Large number of countries involved
 - Potential for multitude of country specific searches and significant compliance burden (leading to non compliance)
 - Across Europe, broad access to companies financials (statutory accounts) but with significant discrepancies between countries
- This topic is particularly relevant also for developing countries

Questions the forum may wish to address



- How to specifically address the homogeneity and comparability tests in the EU Single Market?
- Can reliable adjustment be applied to pan European comparable companies?
- Can the arm's length principle be applied in the absence of local/domestic comparable companies?
- Should simplification approaches be considered?

Failure to address this comparability issue may result in deviations from arm's length



Tool #2 – Value Chain Analysis

Value Chain Analysis in Transfer Pricing



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The concept of value creation is included in most BEPS related OECD Discussion Drafts and in the EU Action Plan

- A common mistake
 - Value chain analysis is often confused with profit split method
- What is at stake?
 - Value chain analysis can be very informative and go a long way in increasing transparency

Why does it matter?



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- The concept of value creation and the value chain analysis is very often included in recent discussions and is starting to be used more systematically
- However, without guidance, the interpretation of what is meant by value creation will vary significantly within the EU
 - Reduced benefit and effectiveness for tax authorities
 - Increased uncertainty for taxpayers
- A EU tailored solution would:
 - Complete the OECD work and reduce uncertainty
 - Improve significantly transparency with regards to corporate income tax basis

Questions the forum may wish to address



- What should be expected from a value chain analysis?
- What data needs to be provided together with a value chain analysis?
- What is the link between value chain analysis and Country by Country Reporting?
- What guidance can be provided in this respect?