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# EU Joint Transfer Pricing Forum

Transfer pricing:  
An issue for SMEs?

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- Thresholds
  - Commission Recommendation OJ L 124 (2003)
    - Criticism
    - An arbitrary concept (multiple thresholds, problems with adopting Recommendation in cases of related parties)
    - State aid bloc exemptions rely on very petty figures, leading to complex and unnecessary consequences – especially with regard to co-operations with state funded R&D institutions
  - US SBA Small Business Administration
    - Clear thresholds, mostly based on the number of employees (e.g. manufacturing 1500, mining 500, services 500)
    - Retailers are only eligible to the programmes if their total revenue is below USD 7 million
  - Definitions are not useful for transfer pricing issues

- Example
  - A manufacturer of drugs for pets maintains his headquarters in Austria and a subsidiary in Germany
  - The market is in Germany, Switzerland (total 60%) and the rest of the world
  - The total revenue is EUR 2 million
  - The gross margin amounts to 50%; contract manufacturers are the suppliers
  - Only 3 people employed apart from the owner/manager
  - Manager is paid in Germany due to strongest funds
  - Accounting outsourced; no cost unit calculation
  - Markets highly volatile

- Functional analysis
  - Mixed activities within all facilities
    - Exact examination impossible
- Transaction methods
  - CUP, resale price method
    - No comparables
  - Cost plus
    - Upon which basis? Any form of documentation too costly
  - Profit split method
    - An alternative?

- Example
  - Assembler of diagnostic tools, supplier of hospitals
  - Total revenues of EUR 7 million
  - 5 subsidiaries in the Czech Republic, Hungary, Slovenia, Slovakia and Serbia
  - Competitors Roche and Co. (big fish, no comparables)
  - Vienna is the location of the headquarters where most of the assembly work is done; however, adjustments for domestic purposes are carried out locally
  - The entire group is financed by the company's headquarters
  - No documentation; accounting work for the subs is outsourced to local accountants

- Solution
  - Idea borrowing from the TAXUD, within the TAXUD
  - Customs concept of a single European authority
  - Art 496 c of the Implementation Code
  - Simplicity by acting between the administrations of the MS
  - Contracting between customs administrations
  - Successfully applied in certain regions
  - The approach can also be applied for transfer pricing concepts for smaller businesses
  - Reasonable threshold: total revenue of the group of EUR 10 million