

REPTUNE®



Reptune: The Transfer Pricing Documentation Tool You Need

PRESENTED BY

LENNART VAN DEN KOMMER

WILL JAMES, &

RODRIGO MORA ROMERO

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BKD
CPAs & Advisors

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INTRODUCTIONS



Lennart van den Kommer – TP Tuned
Co-Founder and Transfer Pricing Adviser



William D. James – BKD
Partner – International Tax Services
Transfer Pricing Leader



Rodrigo Mora Romero – BKD
Senior Manager – International Tax Services
Transfer Pricing



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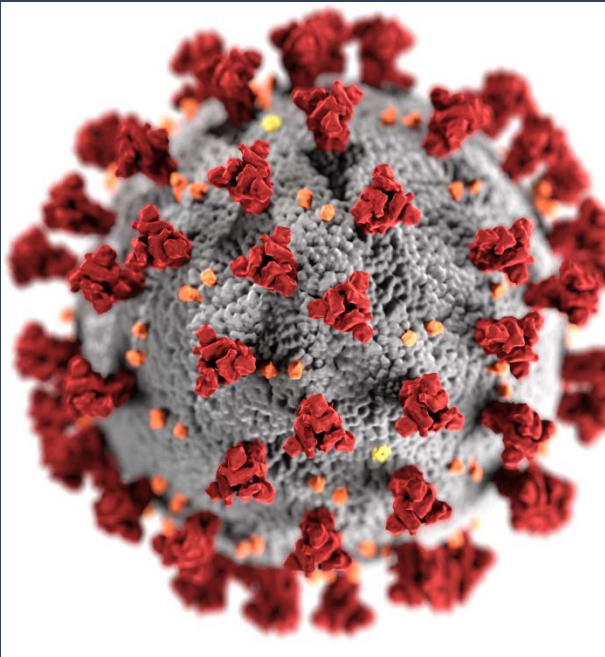
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Reptune in Action

TRANSFER PRICING FOR OFFENSE & DEFENSE

- Offense – Transfer pricing (TP) planning offers opportunities to achieve tax savings by
 - Taking advantage of different tax rates in other jurisdictions
 - Using tax attributes of entities within the group to use net operating loss carryforwards (NOLs) & other methods to lower the effective tax rate
 - Preparing robust documentation that can be used to defend the strategic approach for intercompany transactions
- Defense – TP documentation offers penalty protection, *i.e.*, U.S., &/or shifts burden of proof, *i.e.*, Netherlands

TRANSFER PRICING & THE COVID-19 PANDEMIC



- The COVID-19 crisis has upended the global economy & impacted all industry sectors & TP documentation will become critical
 - Multinational Enterprises (MNEs) will be profoundly impacted & will need to alter their tax & TP strategies to deal with the adverse impact of the crisis
 - Documentation to support the reasons & rationale for any changes in TP agreements that will need to be prepared in advance in order to be respected by the tax authorities—ex-ante
 - In future tax years, tax authorities will be looking for revenues to cover the cost of recovery packages & MNEs will be targets
 - Taxpayers will need to maintain robust TP documentation to support their TP positions—losses that may be due to COVID-19



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TRANSFER PRICING DOCUMENTATION REQUIREMENTS

- Most countries have implemented TP documentation requirements
 - Country by Country Reports, Master File, Local File, or Specific Local Transfer Pricing Requirements
 - Annual obligation
- Penalties may apply for lack of TP documentation
 - For example, U.S. is 20% or 40% of additional tax
- Many countries require that the TP documentation be prepared in advance/at the time of filing the tax return
- Preparation of TP documentation can serve to mitigate adjustments to taxable income, which result in double-taxation, penalties, & interest
- TP documentation is also a great self-assessment tool



U.S. TRANSFER PRICING DOCUMENTATION REQUIREMENTS

U.S. has no materiality threshold safe harbors

- Risk-based approach to documentation

U.S. has 10 documentation requirements

- ***Understanding the U.S. taxpayer business and transactions***

1. Overview of taxpayer's business including economic & legal factors which affect pricing
2. Description of organizational structure covering all related party transactions
3. Any specific documents required by Section 482 regulations, e.g., cost-sharing agreements or market penetration

- ***Understanding the determination of the Best Method and how it was applied***

4. Description of selected method & explanation of rationale for selecting method



U.S. TRANSFER PRICING DOCUMENTATION REQUIREMENTS

U.S. has 10 Documentation Requirements

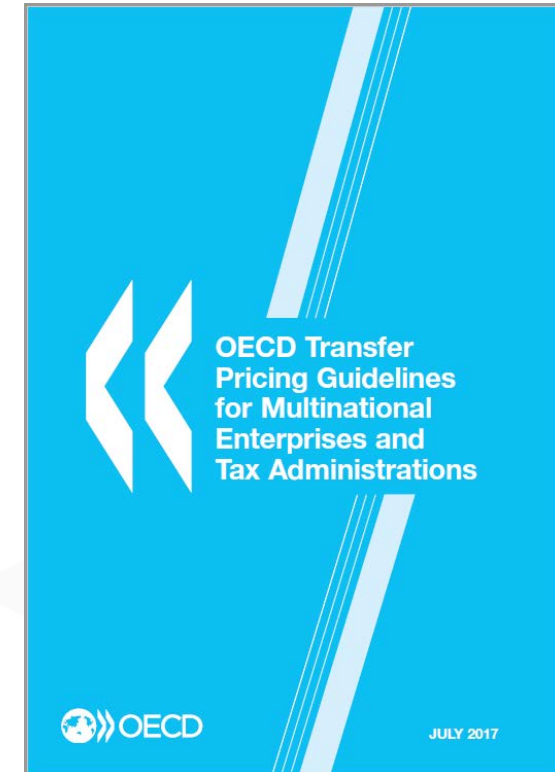
- ***Understanding the determination of the Best Method & how it was applied***
 5. Description of unselected methods considered & explanation of why they were not selected
 6. Description of controlled transactions, including terms of sale & any internal data used to analyze those transactions
 7. Description of comparables used, how comparability was evaluated, & adjustments made
 8. Explanation of economic analysis & projections used in developing method
- ***Other items***
 9. Summary of relevant documents collected between the end of tax year & date return was filed
 10. General index of principal & background documents & recordkeeping of those documents



Most countries adhere to the OECD's Transfer Pricing Guidelines

- Substantially revised on October 5, 2015, as a result of the OECD's Base Erosion & Profit Shifting (BEPS) initiative
- Chapter V – documentation chapter was completely rewritten

TRANSFER PRICING DOCUMENTATION – OECD



- Guidance on Transfer Pricing Documentation & Country-by-Country Reporting (CbC) is comprised of following sections
 - Chapter V – Documentation
 1. Introduction
 2. Objectives of transfer pricing documentation
 3. A three-tiered approach to transfer pricing documentation
 4. Compliance issues
 5. Implementation & review



- Annex I – Master File
- Annex II – Local File
- Annex III – CbC Report
- General instructions for Annex III to Chapter V
- Specific instructions for Annex III to Chapter V



- A three-tiered approach to TP documentation
 - Master File
 - Multinational enterprise's (MNE) organizational structure
 - Description of MNE's business or businesses
 - Information on MNE's intangibles
 - Information on MNE's intercompany financial activities
 - Information on MNE's financials

MASTER FILE

- **Local File**
 - Supplements master file
 - Contains the following
 - General information on local entity
 - Analysis of local country transactions, including
 - Comparability analysis
 - Application of most appropriate method
 - Benchmarks, agreements, APAs
 - Financial information



- CbC Report provides information on entities involved in intercompany transactions, such as
 - Tax jurisdiction
 - Revenues (unrelated parties/related parties)
 - Profit before income tax, income tax paid and accrued
 - Capital, accumulated earnings
 - Employees
 - Tangible assets
 - Business activities (Table 2)





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BENEFITS OF USING A TRANSFER PRICING DOCUMENTATION TOOL

- Trends
 - TP has become a key focus area for tax authorities
 - TP compliance rules have increased significantly imposing a significant administrative burden
 - Multinationals are more keen to comply in order to mitigate risks
 - TP documentation rules have become more aligned globally (BEPS Action 13)



BENEFITS OF USING A TRANSFER PRICING DOCUMENTATION TOOL

- **Your TP Documentation Challenges**
 - Identifying global compliance requirements (scoping)
 - Gathering the necessary data
 - Preparing complete & consistent TP documentation
 - Meeting local country deadlines & requirements
 - Limited resources



BENEFITS OF USING A TRANSFER PRICING DOCUMENTATION TOOL

- Benefits that a TP documentation tool should offer
 - Automation!
 - Control
 - Compliance
 - Security
 - Cost savings



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REPTUNE IN ACTION

- Reptune – Live Product Demonstration!
- Key Features
 - Dashboard
 - Data
 - Report generator
 - Status/workflow
 - Knowledge

Questions?



Lennart van den Kommer
lennart@tptuned.com
+31 (6) 2518-6830



Will James
wdjames@bkd.com
+1 (314) 802-1556



Rodrigo Mora Romero
rmoraromero@bkd.com
+1 (713) 499-4788

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