TRANSFER PRICING
Training Module

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Introduction

Welcome to the Transfer Pricing Training Module!

Below, you will find twenty multiple-choice questions and six unique transfer pricing cases. By working your way through the questions and cases, you will be able to sharpen your transfer pricing skills! The multiple-choice questions are relatively easy to solve with the help of the book. Some have multiple correct answers. The cases are based on our experience in the field, and could be a bit more challenging.

We recommend you use all reference material possible, including the book. Some cases require you to navigate your way through external sources. The answers to the questions are included at the end of the Module. To take best advantage of this guide, we encourage you to write your responses to each question down before referring to the answers.

We wish you the best of luck!

Multiple Choice Questions

Question 1

Socks Singapore owns 100% of the shares in Socks Sweden, Socks South Africa and Socks UK. Both Socks Sweden and Socks South Africa produce socks, which are distributed via Socks UK. Socks Singapore sells its shares in Socks UK to a famous fashion company. The new owner replaces the management, but keeps the business running exactly as is.

Under the new ownership, the following is/are correct:

A) Socks Singapore, Socks Sweden, Socks South Africa and Socks UK are all associated enterprises.
B) All are associated enterprises as long as the inter-company agreements don’t change.
C) Socks Singapore, Socks Sweden, and Socks South Africa are associated enterprises.
D) None of the companies are associated enterprises.

Question 2

Freddy Furniture and Freddy Distribution are both 100% owned by Freddy Holding. Freddy Furniture supplies furniture to Freddy Distribution and IKEA. Freddy Holding provides financing services to Freddy Furniture. Freddy Holding provides management services to Freddy Distribution.

Which of the following statements is/are correct:

A) All these transactions are controlled transactions.
B) The provision of financing is a controlled transaction.
C) All furniture supplying happens through controlled transactions.
D) The provision of management services is a controlled transaction.

Question 3

Tasha Tables manufactures tables that are then sold to Tasha Wholesale. Tasha Holding owns 100% of the shares in Tasha Tables and Tasha Wholesale. Tasha Tables also manufactures a limited edition of unique Indonesian restaurant tables that it sells to independent restaurant chain, Kahuna. In turn, Kahuna rents office space to Tasha Wholesale.

Which of the following statements is/are correct:

A) Transfer pricing rules require that the sale of mass-produced tables happens at an arm's length price.
B) The rent of the office space can be considered an arm's length transaction.
C) All these transactions can be considered at arm's length.
D) The arm's length principle is not an important consideration in transfer pricing.

Question 4

According to the OECD guidelines there are five accepted transfer pricing methods. The tax authorities in Country X have issued a Decree that provides that the Profit Split Method will only be accepted in exceptional cases. You, a transfer pricing professional working on a project in Country X, started working on a transfer pricing analysis that includes the Profit Split Method as preferred method.

Which of these answers is/are correct?

A) Domestic tax authorities always have to accept the Profit Split Method. It is after all in the OECD guidelines.
B) The Profit Split Method can be used for nearly all controlled transactions.
C) Domestic tax authorities have to accept the Profit Split Method, as long as you have collected sufficient data and created solid documentation.
D) Domestic laws are leading when determining your transfer pricing obligations.

Question 5

Brazil Bikinis sells bikinis to associated enterprises all over South America.

Which of the following statements is/are true:

A) A local competitor sells bikinis from Brazil to independent enterprises in some of the countries Brazil Bikinis is operating. Data on these transactions can help the transfer pricing analysis for Brazil Bikinis.
B) If you want to determine comparability for these transactions, you could ask a model to try different brands.
C) If sufficient data on "ladies bikinis" is lacking for these transactions, you could most likely use data from the category "ladies swimwear" for your transfer pricing analysis.
D) "Ladies clothing" as a category of comparables is always going to be acceptable in this case.

Question 6

Margo Woodcraft sells wooden toys to associated enterprises. Database research shows ten potentially comparable transactions. It would be good to analyze the following terms and conditions of these transactions:

Which of the following statements is/are correct:

A) Only the price.
B) Every data point important. Transactions always must be 100% comparable.
C) It depends on how the children like them.
D) Sales price, shipping conditions, payments conditions, quality assurances and other key conditions.

Question 7

There are external sources that provide information on arm’s length transactions in easy to use reports. Information from the following source(s) is widely accepted by tax authorities around the world.

A) Google
B) Oriana
C) Bureau van Dijk
D) US Customs Data

Question 8

Philippines Mobile sells high-end smartphones. The shares in Philippines Mobile are 100% owned by Singapore Mobile. The smartphone they sell is the "Matrixphone," which is the absolute number one for Filipinos, because its camera allows users to take selfies as no other smartphone can.

China Mobile, a 100% subsidiary of Singapore Mobile produces the "Matrixphone," and sells it to the Philippines. It is looking for the correct price. In search of comparables (in this case "high-end smartphones"), there are 15 hits (see next page):

Comparable Phone Sales	**Price per Phone**
1	521 USD
2	650 USD
3	400 USD
4	300 USD
5	420 USD
6	560 USD
7	322 USD
8	600 USD
9	299 USD
10	350 USD
11	555 USD
12	435 USD
13	325 USD
14	400 USD
15	375 USD

Select which of the following statements is/are true:

A) The median price is 400 USD
B) The prices in this set of data are too random to be used.
C) All prices can be used because they represent transactions between independent enterprises.
D) The arm's length range is 337,5 (1st quartile) to 538 (3rd quartile).
E) The arm's length range is 325 (1st quartile) to 595 (3rd quartile).

Question 9

Select the option with the three traditional transaction methods:

A) Cost Plus Method, Transactional Net Margin Method, Resale Price Method.
B) Cost Plus Method, CUP Method, TNMM.
C) CUP Method, Resale Price Method, Cost Minus Method.
D) CUP Method, Resale Price Method, Cost Plus Method.

Question 10

CUP Method stands for:

A) Comparable Uneven Price Method
B) Count Unrealized Profit Method
C) Comparable Uncontrolled Price Method, a traditional transaction method that compares the terms and conditions (including the price) of controlled transactions with those of comparable uncontrolled transactions between independent enterprises.
D) Comparable Uncontrolled Price Method, a transactional profit method that measures the net operating profits realized from controlled transactions and then compares their profit level to that realized by independent enterprises engaging in comparable transactions.

Question 11

Which of the following statements about the Resale Price Method is correct:

A) This method calculates the Net Resale Minus Margin: the ratio of EBIT to turnover. It basically measures the return on sales of a company. By using this net ratio, the comparison eliminates differences resulting from categorizing sales under sales revenues or other revenues.
B) For the resale price method, costs are generally irrelevant.
C) It takes the price at which an associated enterprise sells a product to a third party. This price is called a “resale price.” Then, the resale price is reduced with a gross margin (the “resale price margin”) and determined by comparing gross margins in comparable uncontrolled transactions. After this, costs associated with the purchase of the product, like custom duties, are deducted. What is left can be regarded as an arm’s length price.

Question 12

The following statements about the Cost Plus Method are correct:

A) The Cost Plus Method is not often used.
B) A market-based arm’s length mark-up is not used with the Cost Plus Method.
C) The Cost Plus Method compares gross profits generated by a transaction with the cost of sales.
D) The Cost Plus Method is a traditional transaction method.

Question 13

The Net Cost Plus Margin measures:

A) The ratio of turnover to total cost.
B) The ratio of operating profit to total cost.
C) The ratio of operating profit to turnover.
D) The ration of operating profit to turnover.

Question 14

The Profit Split Method is used when:

A) A) There are different controlled transactions that are highly integrated.
B) B) There is a joint exploitation of valuable intangible assets such as brands.
C) C) There is no sufficient data on comparables.
D) D) No one is looking.

Question 15

Which statement of method selection is correct:

A) If a traditional transaction method and a transactional profit method are equally reliable, the traditional transaction method is to be preferred.
B) If the CUP Method and any other transfer pricing method can be applied in an equally reliable manner, the CUP Method should not be used.
C) Even if a traditional transaction method is unreliable, the traditional transaction method is still preferred.
D) If the CUP Method and any other transfer pricing method can be applied in an equally reliable manner, the CUP Method is to be preferred.

Question 16

Which statement is correct about the objectives of transfer pricing documentation:

A) To ensure that taxpayers give appropriate consideration to transfer pricing requirements in establishing prices and other conditions for transactions between associated enterprises and in reporting the income derived from such transactions in their tax returns.
B) To provide tax administrations with the information necessary to conduct an informed transfer pricing risk assessment.
C) To provide tax administrations with useful information to employ in conducting an appropriately thorough audit of the transfer pricing practices of entities subject to tax in their jurisdiction, although it may be necessary to supplement the documentation with additional information as the audit progresses.
D) All of the above.

Question 17

An in-house tax-professional in Germany is instructed by his boss to ensure that the company complies with all transfer pricing documentation requirements. The company's revenue is EUR 90m, and growing every year by 20%. The company is engaged in more than EUR 20m in annual controlled transactions, of which 60% consists of goods.

The following statement(s) is/are correct (hint: look for example at the latest transfer pricing guide of EY that can be found here):

A) They have to create a Master File and a Local File, but not a Country-by-Country Report.
B) They do not have to create a Master File immediately, but might have to in the future.
C) They have to create a Local File and Transfer Pricing Documentation on all controlled transactions.
D) Their documentation requirements are limited to Transfer Pricing Documentation on controlled transactions with a value exceeding EUR 600k.

Question 18

The following are valid reasons to sign transfer pricing agreements:

A) Transfer pricing agreements allow associated enterprises freedom to set prices.
B) Transfer pricing agreements ensure that there is an audit trail on the controlled transaction.
C) Tax authorities often ask taxpayers to provide evidence on the terms and conditions of controlled transactions. Transfer pricing agreements can serve as such evidence.
D) It is a transfer pricing documentation requirement.

Question 19

The following statements about potential disputes with tax authorities are correct:

A) The restructuring of a business, the invoicing of management fees, and the licensing of intangible assets are all examples of common dispute areas.
B) Nothing can be done to prevent disputes.
C) Preparing solid documentation, ensuring timely compliance, establishing a good relationship with the tax authorities, taking on non-aggressive positions, and concluding Advance Pricing Agreements, are all measures you can take to limit the risk of a dispute.
D) Preparing solid documentation, ensuring timely compliance, establishing a good relationship with the tax authorities, significant profit-shifting, and establishing Advance Pricing Agreements are all measures you can take to limit the risk of a dispute.

Question 20

The following is true when you maintain contemporaneous transfer pricing documentation:

A) Only in the case of an audit you create a complete set of documentation.
B) You follow the OECD guidelines to discover what kind of documentation you need to prepare.
C) You actively apply the arm’s length principle and you do this by calculating the correct transfer price before the actual transactions take place.
D) You build transfer pricing documentation throughout the year as transactions are made.

Case Studies

Case 1: Michael Mobile

Facts

- ✔ Michael Mobile sells mobile phones in Asia Pacific.
- ✔ Michael Mobile Australia (**MMA**) is the head office of Michael Mobile and located in Sydney, Australia. MMA performs core functions such as manufacturing, marketing and distribution, and owns the intellectual property rights for Michael Mobile. MMA employs 20 employees.
- ✔ Michael Mobile Singapore (**MMS**) is the sales office for South East Asia. MMS purchases mobile phones from MMA against a price that is set by MMA (**transfer price**) and sells these phones to external customers only. MMS employs 5 employees.
- ✔ Both MMA and MMS assume risks due to their activities, but the risk profile of MMS is significantly lower.
- ✔ Michael Mobile has various competitors that apply the same business model.
- ✔ The financial statements of MMA and MMS for FY 2017 show the following information (all numbers are in USD 1k):

	MMA	MMS	Consolidated
Income before taxes	4,000	500	4,500
Statutory tax rate	30%	17%	28.6%
Taxes	1,200	85	1,285
Net income	2,800	415	3,215

Questions

1) What is/are the controlled transaction(s)? (You can assume that MMA and MMS are associated enterprises).
2) Can you think of any risks should the transfer pricing not have been substantiated?
3) The application of the arm's length principle is based on a comparison of the terms and conditions of a transaction between associated enterprises and the terms and conditions of comparable transactions between independent enterprises. Which factors are important to determine comparability?
4) Which TP method(s) would you consider suitable to test whether the transfer price agreed between MMA and MMS is in accordance with the arm's length principle? And for what reasons?
5) Let's assume that an arm's length transfer price would result in MMS reporting an income before tax of 1,500 (instead of 500). What would be the financial consequences for MMS, MMA and on a consolidated level? What would be the effective consolidated tax rate?

Case 2: Big Foot

Facts

- ✔ Big Foot is a company that manufactures and sells shoes in Africa.
- ✔ Big Foot Nigeria (**BFN**) is the headquarters of Big Foot and is in Lagos, Nigeria. BFN employs 100 employees who are engaged in the provision of headquarter services such as IT, administration, HR, and marketing for the factory and the sales offices of Big Foot in Africa.
- ✔ Big Foot Zimbabwe (BFZ) is 100% owned by BFN and operates a factory in Zimbabwe. BFZ employs 70 employees and produces two shoe models:
  - The Big Foot “Straight Walker” is the cheaper model, and is sold to both Big Foot’s sales offices and external sales offices (there is no difference in price).
  - The Big Foot “Player Walker” is the more comfortable and expensive model, and is sold exclusively to Big Foot’s sales offices, which in turn sell it on the market.
- ✔ Big Foot Namibia (**BFNa**) and Big Foot Botswana (**BFB**) are 100% owned by BFN and operate as sales offices of Big Foot. Both companies employ 10 employees and receive a commission from BFN based on their sales. Occasionally, these offices carry out sales activities for external clients at the same commission rate.

Questions

1) Which controlled transactions can you identify?
2) Are there any controlled transactions that are assumed to be at arm’s length?
3) How should Big Foot create transfer pricing documentation for these controlled transactions?
4) The OECD recently introduced the Master File and Local File documentation requirements and Country-by-Country Reporting. At what point will these requirements apply to Big Foot in Nigeria?

Case 3: Filipino Pipes

Facts

- ✔ Filipino Pipes (**FP**) is a Philippine-based manufacturer of pipes.
- ✔ During financial years 2013, up to and including 2017, the business model of FP could be considered “full-fledged manufacturing.” Under this model, FP manufactured pipes for numerous third parties and assumed full risks in relation to its activities. The assets of FP consisted of tangible assets, such as real property and stocks, but also of intangible assets such as client lists and marketing knowhow.
- ✔ FP’s business did not go very well and financial years 2013, up to and including 2017, all showed a negative EBIT.
- ✔ Since a stand-alone scenario was not a viable business case anymore, FP became a target for competitors and eventually China Construction (**CC**) bought FP early 2018. CC did not pay more than the net asset value of Filipino Pipes, which indicates that there was no goodwill involved in the transaction of the business.
- ✔ After the acquisition, CC changed FP’s business model into that of a “contract manufacturer.” FP now exclusively manufactures pipes for CC. Because of this change, all the assets and risks of FP were transferred to CC (against book value). CC pays FP remuneration for its manufacturing activities, which is equal to FP’s total costs and mark-up of 5% (the net cost-plus method). The expectation is that the new business model results in a positive EBIT for FP in the coming years.

Questions

1) Can you identify the controlled transactions in both the ‘full-fledged manufacturing’ business model and ‘contract manufacturing’ business model?
2) What are your thoughts on the risk profile of FP before and after the change in business model? Do you think it influences the allocation of profits?
3) What do you think about the application of the cost-plus method to the new business model?
4) Do you see any risk of the Philippine tax authorities (the BIR) claiming that FP is entitled to an arm’s length remuneration due to the change in business model? What arguments could be brought forward against such a position?
5) What are important aspects for FP and CC to document in relation to the change in business model?

Case 4: PetroCanada

Facts

- ✔ PetroCanada (**PC**) is a Canadian oil-exploration company. PC operates all over the world, including in the following countries:
  - PC Canada: headquarters
  - PC Singapore: trade / invoicing company for PetroCanada’s oil
  - PC Brunei: oil exploration company with highly volatile profits
  - PC Cayman Islands: group financing company which issues bonds in the market and on-lends the funds to Canada
- ✔ PetroCanada did not prepare any transfer pricing documentation.

Questions

1) Which activities carried out by PetroCanada group companies may trigger the interest of the Canadian tax authorities and for what reason?
2) Which actions could PetroCanada take to reduce the chance of a dispute with the Canadian tax authorities?
3) Assume that the Canadian tax authorities do not agree with the profit allocation to PC Singapore and PC Cayman Islands and issue a tax assessment with adjustment to the transfer pricing resulting in higher taxes for PC Canada. What strategy would you choose here?
4) Let’s assume that the Canadian tax authorities make a transfer pricing adjustment, which affects the taxable profits of PC Canada. One of the mechanisms available to eliminate the double taxation that results from this adjustment is the mutual agreement procedure (**MAP**). Describe the MAP (*HINT: Google may be helpful here*). Do you think the MAP is an effective way to eliminate double taxation in this case?

Case 5: Svensson

Facts

- ✔ Svensson is a Finnish company, which manufactures and sells mobile phones all around the world. Currently, all of its R&D, manufacture, sales, and marketing activities are carried out by Svensson Finland (**SF**) in Helsinki. SF has 50 employees.
- ✔ A few years ago, Svensson opened a small sales subsidiary in Bulgaria, Svensson Bulgaria (**SB**). So far, SB only performs sales activities and has 5 employees. SB does not take legal title to the mobile phones it sells, and receives a commission fee of 5% on the gross amount of the sales.
- ✔ The Bulgarian mobile phone market is booming and SB is reporting higher sales every month. The Finnish market, on the other hand, is becoming more challenging following the entrance of sophisticated players from the United States. Thus, SF is considering restructuring its business model and relocating its headquarters to Bulgaria.
- ✔ The corporate income tax rate of Finland is 20%. In Bulgaria, a 10% rate applies.
- ✔ In FY 2018, the consolidated commercial profits of Svensson were USD 3.5m. USD 500k is attributed to SB (all related to sales) and USD 3m is attributed to SF (USD 1m is attributable to R&D; USD 1m to manufacturing and USD 1m to sales and marketing).

Questions

1) Can you design a tax-efficient structure based on the above facts and the transfer pricing knowledge you have gained? (HINT: You may need to relocate some activities). Please feel free to make assumption(s) where necessary.
2) In which country would you like to obtain an APA with the tax authority and why?
3) Please calculate the total tax burden of Svensson in the initial situation. Would there be any change in the total tax burden of Svensson after implementation of your tax-efficient structure? How much is the benefit?

Additional information

- ✔ Let’s assume that Svensson decides to relocate its headquarter to Bulgaria. Thus, all the R&D and sales and marketing activities will be carried out in Bulgaria from then on. However, SF will continue to manufacture the mobile phones in Finland.

Additional questions

4) Which TP method(s) could be suitable to determine an arm’s length remuneration for SF if it sells these mobile phones to SB?
5) If you were a transfer pricing advisor, which questions would you ask Svensson to understand whether TNMM is a suitable method here?

Case 6: The Beer Group

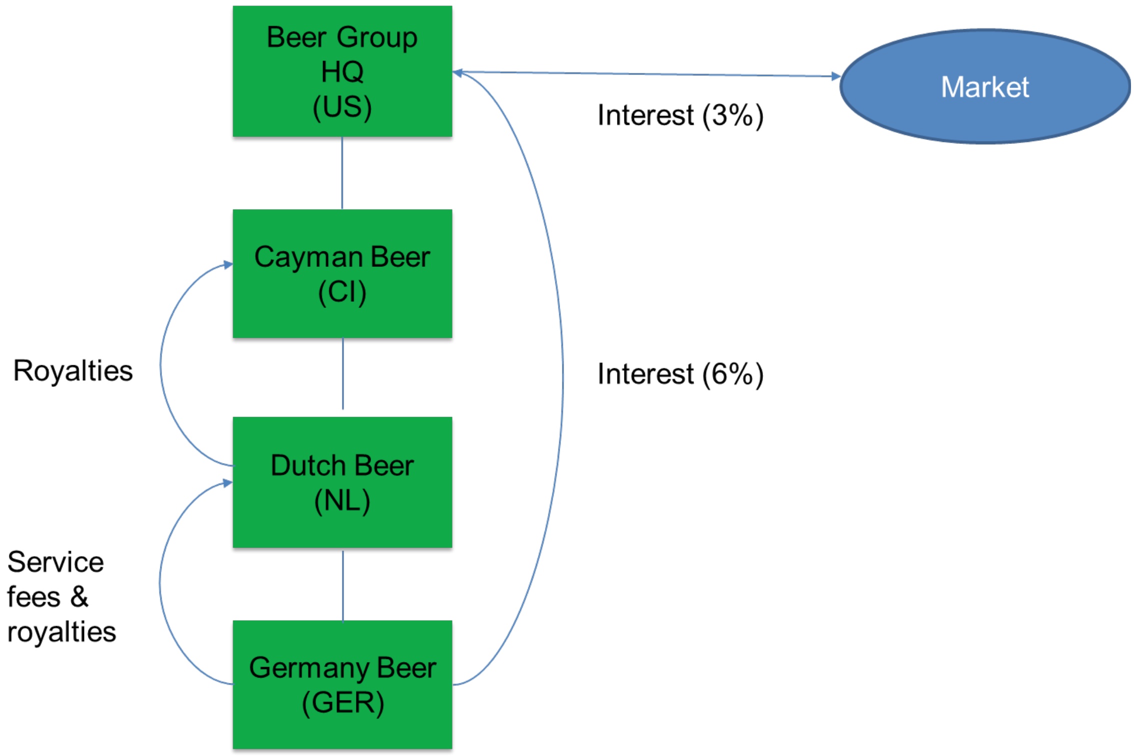
Facts

- ✔ The Beer Group is a multinational well known for its beer brand “Orka.”
- ✔ The headquarter company of the Beer Group is in the US (**Beer Group HQ**).
- ✔ The IP rights of the brand “Orka,” which have a substantial value, are owned by a Cayman Islands company (**Cayman Beer**). Cayman Beer has licensed the IP rights for Europe to a company in the Netherlands (**Dutch Beer**).
- ✔ Dutch Beer bottles “Orka” for Europe in its brewery located in the Netherlands.
- ✔ Germany Beer is part of The Beer Group, and is responsible for sales in Germany, the main European market. Germany Beer has concluded a USD 100m loan with Beer Group HQ.
- ✔ In 2018, Germany Beer makes the following payments to group companies:
  - Interest on the loan to Beer Group HQ (6% on the amount of the loan)
  - Royalties for the use of the IP to Dutch Beer (10% on its turnover)
  - Service fees for the bottling of the beer to Dutch Beer (10% on its turnover)
- ✔ In 2018, Dutch Beer makes the following payments to group companies:
  - Royalties for the use of the IP to Cayman Beer (95% of the royalties received from Germany Beer).

In addition, please note the following:

- ✔ The IP is managed and controlled by Beer Group HQ.
- ✔ A direct payment of royalties from Germany Beer to Cayman Beer would be subject to 10% withholding tax in Germany (instead of now 0%).
- ✔ The IP income of Cayman Beer is not taxed in the Cayman Islands.
- ✔ For the purposes of providing the loan to Germany Beer, Beer Group HQ has attracted USD 100m financing in the market at an interest rate of 3%.

The above is summarized in the chart below:



Questions

1) Which arrangements mentioned above may result in profit shifting?
2) Which of the arrangements mentioned above could be considered a transfer pricing issue?
3) What are the transfer pricing risks in this business model?

Answers Multiple Choice

Question 1: C

Question 2: B and D

Question 3: A and B

Question 4: D

Question 5: A and C

Question 6: D

Question 7: B and C

Question 8: A and D

Question 9: D

Question 10: C

Question 11: C

Question 12: A, C and D

Question 13: B

Question 14: A and B

Question 15: A and D

Question 16: D

Question 17: B and C

Question 18: B and C

Question 19: A and C

Question 20: C and D

Answers Cases

Case 1: Michael Mobile

1) The controlled transaction is the internal sale of mobile phones from MMA to MMS.

2) There are a few risks:
   - The Australian or Singaporean tax authorities can challenge the transfer pricing applied to the controlled transaction. This can result in a transfer pricing adjustment in Australia, Singapore or both countries, which in turn can result in higher tax costs and penalties/late payment interest.
   - A transfer pricing adjustment at one associated enterprise (e.g. MMA) is not always followed by a corresponding transfer pricing adjustment at the other associated enterprise involved in the transaction (e.g. MMS). Singapore and Australia have concluded a double tax treaty and based on that treaty a transfer pricing adjustment in one state should be followed by a corresponding adjustment in the other state. However, this requires a Mutual Agreement Procedure which can be a lengthy and costly process.

3) OECD Guidelines list the following five comparability factors:

   1. The characteristics of the property or services transferred
   2. The functions performed by the parties (considering assets used and risks assumed)
   3. Contractual terms of the controlled transaction
   4. The economic circumstances of the parties
   5. The business strategies pursued by the parties in relation to the controlled transaction.

4) Refer to the below overview:

Method	Suitable	Reason
CUP	Maybe	This is only possible if there are comparable uncontrolled transactions and sufficient information on those transactions (mainly on the price).
Resale Price	Maybe	This is only possible if there are comparable uncontrolled transactions and sufficient information on those transactions (incl. gross margin).
Cost Plus	No	The activities seem to go beyond the level of routine-like low risk activities.
TNMM	Yes	Can be a fall-back if the CUP or Resale Price don’t provide satisfactory results.
Profit Split	No	There is no joint venture or equal sharing of risk.

5) The consolidated tax rate goes down from 28.6% to 25.6% and the consolidated income after taxes improves by 130.

	MMA	MMS	Consolidated
Income before taxes	3,000	1,500	4,500
Statutory tax rate	30%	17%	25.6%
Taxes	900	255	1,155
Income after taxes	2,100	1,245	3,345

Case 2: Big Foot

1) The controlled transactions are:

    a) The provision of headquarter services by BFN to BFZ and BFNa/BFB
    b) The sale of the Big Foot Straight Walker by BFZ to BFNa/BFB
    c) The sale of the Big Foot Player Walker by BFZ to BFNa/BFB
    d) The provision of sales services by BFNa/BFB to BFZ

2) Yes, there are controlled transactions that can be considered at arm's length:
    - **Transaction b**: there is no difference in terms and conditions applied for Big Foot's sales (controlled transaction) and external sales offices (uncontrolled transaction). The terms and conditions of the controlled transaction can therefore be deemed at arm's length.
    - **Transaction d**: There is no difference in terms and conditions (commission rate) applied for BFZ (controlled transaction) and external parties (uncontrolled transaction). The terms and conditions of the controlled transaction can therefore be deemed at arm's length.

3) The first step is to perform a transfer pricing analysis on all the controlled transactions. Please refer to chapter 3 of the book. The second step is to prepare documentation based on the 7 building blocks:

    1. Executive summary
    2. Introduction
    3. Description of facts, controlled transaction(s) and assumptions
    4. Functional analysis
    5. Choice of transfer pricing method
    6. Economic analysis
    7. Conclusion

4) The preparation of the Master File and Local File is generally required if a certain revenue threshold is met. The amount of the threshold depends on local legislation. For example, the Netherlands has made it obligatory for an entity to prepare a Master File and Local File if that entity belongs to a group that has consolidated revenues of more than EUR 50m.

    CbCR is required for MNEs that have consolidated revenues of EUR 750m or more. This threshold is set by the OECD and followed by nearly all countries that implemented CbCR.

    As of 2018, the Local-File, Master-File and Country-by-Country Reporting are not yet required in Nigeria. This might change in the future however.

Case 3: Filipino Pipes

1) Full-fledged manufacturing business model: no controlled transactions. Contract manufacturing business model: manufacturing pipes by FP for CC.

2) In most businesses there is a strong relation between risk on the one hand and allocation of profits and losses on the other. The risk profile of FP is much lower after CC has taken over nearly all risk. Based on the application of transfer pricing rules, this should result in a low, yet stable profit.

3) The application of the Cost Plus Method seems suitable here, since the activities of FP have changed from full-risk to low-risk and these activities seem to have a routine like character. In case there is not enough information available to apply the Cost Plus Method, an alternative could be the TNMM with costs as a Profit Level Indicator.

4) FP has transferred nearly all its activities to CC. This transfer included the transfer of assets such as inventory and client list. The BIR might take the position that these activities and assets had surplus value at the time of the transfer and CC should have paid remuneration. Arguments against such a position:

    - FP was in a loss-making position for several years and continuing stand-alone did not seem a realistic alternative. The expectations under the new business model were much better. Therefore, FP did not have any option but to agree with the change in business model. This makes the change in business model, including transfer of activities and assets against no remuneration, a logical decision.
    - The BIR will probably collect more taxes under the new business model than under the old one.

5) Important aspects include:

    - Business and financial reasons for the change in business model.
    - Summary of alternatives to changing the business model and why those alternatives were not chosen.
    - Comparison of financials (e.g.) EBIT before and after changing business model.
    - Substantiation of the transfer price for the controlled transaction.

Case 4: PetroCanada

1) 1) The following applies:

   - Activities of PC Cayman Islands, because Cayman Island is a tax haven and there is a back-to-back financing arrangement.
   - Activities of PC Singapore, since Singapore (by some) is considered a tax haven and it might not be the most logical location for trading (a more logical location would be the headquarters).
   - Activities of PC Brunei because of variable profits.

2) PetroCanada can take several actions. In this case, the most useful actions are probably:

   - Perform a transfer pricing analysis
   - Prepare transfer pricing documentation
   - Ensure that the business operations are in accordance with the transfer pricing agreements
   - Conclude an APA with the Canadian tax authorities

3) There are different strategies available. PetroCanada can reach out to the Canadian tax authorities and try to reach a compromise on the profit allocation to Singapore and Cayman Islands resulting in a new tax assessment. PetroCanada can also file an objection against the tax assessment and, if that doesn’t work, litigate against the dispute in tax court. Another strategy is to ask for mediation to settle the dispute.

4) Key elements include:

   - The case must be presented within three years
   - Agreement should be reached within two years after notification
   - Otherwise, arbitration as extension of MAP
   - There is no guaranteed solution

5) There are various possible answers as to whether the MAP is an effective way to eliminate double taxation. A general downside of the procedure is that it takes a long time to get a decision, and in the meantime there is uncertainty on financial consequences. On the other hand, successful completion of the MAP takes away that uncertainty in two countries at the same time. Whether the MAP can be an effective way to eliminate double taxation should be assessed based on the merits of each particular case.

Case 5: Svensson

1) This is an open question, but the answer below only serves as the most logical example:

   - Since the tax rate in Bulgaria is lower than in Finland, Svensson may consider relocating its headquarters to SB. In doing this, more functions, risks and assets would be allocated to Bulgaria, which has an according effect on the profit allocation to SB. Research and Development, manufacturing and sales and marketing activities can be transferred to SB.
   - It should be noted that such a transfer is considered a “hidden” controlled transaction and a market conform remuneration should be paid.

2) Obtaining an APA is not so common in Bulgaria. However, Finland has more experience on this matter. This in mind, you would probably want to get an APA in Finland beforehand, covering any remuneration for the relocation of the R&D, manufacturing and sales and marketing activities from SF to SB, to prevent surprises later on.

3) Please refer to the below overview (all numbers in USD 1k):

Initial situation

	SF	SB	Consolidated
Income before taxes	3,000	500	3,500
Statutory tax rate	20%	10%	18.6%
Taxes	600	50	650
Income after taxes	2,400	450	2,850

New situation

	SF	SB	Consolidated
Income before taxes	0	3,500	3,500
Statutory tax rate	20%	10%	10%
Taxes	0	350	350
Income after taxes	0	3,150	3,150

Benefit: the income after taxes is 300 higher!

4) Based on the OECD Guidelines, the most appropriate method for a particular case shall be used. In this case, the cost-plus method and TNMM seem suitable for the activities of SF. This is due to the nature of the routine-like, low risk activities.

5) Examples of questions to be asked are:

   - Is SF assuming any risks related to sales, stocks, operations, IP, etc.?
   - Is there a CUP?
   - Is there detailed information on third party pricing?

Case 6: The Beer Group

1) **From a German tax perspective:**

   - The interest payment to Beer Group US: the Beer Group US lends at 3% on the market.
   - The royalty payments to Dutch Beer: these payments reduce the taxable income of Germany Beer and are not subject to withholding tax due to the application of the EU Royalty and Interest Directive. Furthermore, Dutch Beer on-pays 95% of the royalty payments to Cayman Beer where no tax is due. As there is no management and control of the IP in the Netherlands, there can be discussion on whether Dutch Beer is the Beneficial Owner of the royalty payment received from German Beer.
   - The service fee payment to Dutch Beer might be considered too high however subject to review.

   From a Dutch tax perspective:

   - The royalty payments to Cayman Beer: the payments reduce the taxable income in the Netherlands and are not subject to withholding tax. Cayman Beer does not pay tax on the royalty income. As there is no management and control of the IP at the level of Cayman Beer, Cayman Beer might not be considered the beneficial owner.

2) All arrangements are transfer pricing issues.

3) Main transfer pricing risks are:

   - The German tax authorities can challenge the royalty payment's amount, interest payment and service fee payment.
   - The Dutch tax authorities can challenge the royalty payment.
   - The US tax authorities can argue that the IP income of Cayman Beer is US income.