Transfer pricing: your questions answered

1. What is transfer pricing?

Transfer pricing refers to the pricing arrangements when goods, services or intellectual property are transferred between related parties in different countries.

Tax laws may require companies to demonstrate that their transfer pricing arrangements are comparable to those agreed between independent parties in the same or similar circumstances.

Transfer pricing is important for multinationals of all sizes operating in the Asia Pacific region.

This is a result of several factors:

• The approach taken by several countries in the region to introduce transfer pricing rules, notably Thailand, has led other governments to step up their own enforcement. Training and resources have consequently been targeted at transfer pricing.

• The issuance by the OECD of detailed transfer pricing guidelines has raised the matter’s profile, and has led to an exchange of ideas and expertise by the authorities.

• The perception that multinationals investing in the region are not paying their “fair share” of taxes by manipulating transfer prices.

2. Why should I care about transfer pricing?

A transfer pricing enquiry from the tax authorities can be costly:

• A large amount of valuable time can be expended on gathering financial data, some from years long past.

• Your pricing might actually be wrong. You may owe additional taxes, interest and penalties dating back several years.

• Your business could suffer double taxation. Although it might be possible to obtain corresponding relief in another country for additional taxes, not for interest and penalties, the process will be drawn-out and expensive.

• Even if your pricing is correct, can you demonstrate this clearly?

“Doing the right thing” now, while the information is readily available, can save time and money later.

Having the right documentation on hand when the authorities begin their questioning is not only required by law in some countries, it can make transfer pricing a non-issue.

Not having transfer pricing documentation readily available can lead to sleepless nights and costly settlements.

Documenting your transfer pricing can be more than a compliance exercise. It can also be a valuable tool for uncovering tax and commercial opportunities that have not been identified previously.

3. What are the indicators of potential transfer pricing exposures?

You may have such exposures if you:

• Sell goods to (or buy them from) an overseas subsidiary or parent, without having a logical, written explanation for how the prices were set.

• Sell products to related parties at different prices than to third parties.

• Make losses in one or more of your overseas subsidiaries.

• Provide various head office services to your overseas subsidiaries without charge.

• Own intellectual property, such as technology, know-how or trade names, for which no charge is made to your overseas subsidiaries or parent.

• Charge, or pay, a “round sum” amount to cover several different and ill-defined services.

• Make advances to your parent or overseas subsidiaries without formal loan documentation, and without interest being charged.

• Provide loan guarantees for your foreign parent or subsidiaries without charge.

• Show low margins for your industry.

• Have sudden changes in your gross or net margins arising from changes in pricing.
4. How should I address transfer pricing?

List the transactions with related parties in different countries (including those for which no charge is made).

Consider the price applied to each transaction.

- Is it reasonable?
- What justification could you produce for the price, if asked by the authorities?

For example:
- Do you sell the same product to third parties for a comparable price?
- Are the profit margins of each company inline with those of comparable companies in your industry?
- If services are provided, is the price related to the costs incurred?

Document these justifications, and collect the supporting evidence.

If anything is not being charged for, consider making a charge (in particular pay attention to services and intangibles).

Ensure that the relevant documents are produced:

- Sales of goods should be accompanied by invoices
- Services and royalties should be supported by service or royalty agreements, and so on.

Establish a file to hold all your transfer pricing documentation in one place.

Monitor transactions with related parties and update your transfer pricing documentation for any changes as they occur.

5. How can BDO help?

BDO Richfield Advisory Limited provides transfer pricing services to multinationals operating in Thailand and the Asia Pacific region.

We realise that transfer pricing issues must be addressed, but that companies should focus primarily on their business, dealing with regulatory burdens in an efficient manner. Our transfer pricing team works with clients to create and implement appropriate transfer pricing solutions in a variety of ways, including:

- Diagnostic risk assessment of transfer pricing policies and practices
- Preparation of documentation, including legal agreements
- Valuations to support the transfer of intangibles
- Tax audit support
- Negotiation of advance pricing arrangements with tax authorities

BDO Richfield Advisory Limited is a member of BDO International, a world-wide network of public accounting firms, called BDO Member Firms, serving international clients. Each BDO Member Firm is an independent legal entity in its own country. In the Asia Pacific region we are supported by a network of over 80 offices.

By working closely with BDO International’s Transfer Pricing Centre of Excellence, our clients receive transfer pricing services of the highest standard.

Contact us
For further details of how we can help you, please contact Andrew Jackomos by email at andrew.jackomos@bdo-thai.com or Paul Ashburn at paul.ashburn@bdo-thai.com

BDO Richfield Advisory Limited
Tax & Legal Services

28th Floor, CTI Tower
191/16 New Ratchadapisek Road
Klongtoey, Bangkok 10110, Thailand
Telephone : +66 2 260 7290
Telefax : +66 2 260 7297
www.bdo-thai.com

Five questions on Transfer Pricing