Just as we started to understand BEPS…what is the potential impact of COVID-19?

EMEA Transfer Pricing | 26 May 2020
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Agenda

- INTRODUCTION
- RECENT TRENDS
- COVID-19 IMPACT
- THEORY AND PRACTICE
Recent Trends
Recent Trends

New or revised recent guidance on transfer pricing - OECD

- A wide range of recent initiatives from the OECD including:
  - Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy, May 2019
  - Transfer Pricing Guidance on Financial Transactions, February 2020
  - Inclusive Framework exploring option of developing new transfer pricing guidance in relation to COVID-19, with input from stakeholders, May 2020
Recent Trends

New or revised guidance on transfer pricing - OECD
Recent Trends – UK

Statistics on transfer pricing audits

Recent Trends – UK

Statistics on transfer pricing audits

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<thead>
<tr>
<th>Department</th>
<th>Pre-BEPS</th>
<th>Post-BEPS</th>
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<tr>
<td>Distribution</td>
<td>Return on sales IQR: 1.5%-2%</td>
<td>Return on sales/ profit split IQR: 3%-4% (domestic)</td>
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<tr>
<td>Marketing</td>
<td>Cost plus markup IQR: 5%-7.5%</td>
<td>Return on sales/ profit split IQR: 2.5%-4.5% (domestic)</td>
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<td>R&amp;D</td>
<td>Cost plus markup IQR: 4%-8%</td>
<td>Cost plus markup/ profit split IQR: 9%-15%</td>
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<td>Management</td>
<td>Cost plus markup IQR: 5%-7.5%</td>
<td>Return on sales/ profit split IQR: 0.2-0.8% (regional)</td>
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Sources: Baker McKenzie database of UK audits, 76 cases, 2015-present
COVID-19 Impact
COVID-19 Impact

Transfer pricing

- COVID-19 potentially has an impact on all intercompany arrangements (manufacturing, sales, services, financing etc.) as it fundamentally changes the surrounding economic circumstances

- Audit settlements are approximately 1.5-2.5x higher than pre-BEPS as a result of greater pressure on tax authorities

- Fiscal stimulus adds to the national debt burden of a number of governments which will increase the pressure on tax authorities further – we model that this could mean audit settlements are another 0.5-1x higher

- Audit settlements will be made when supply chain profit in a number of industries will significantly reduce.
What impact do you expect COVID-19 will have, on compliance, ongoing tax audits and on APAs?

What are the "new" driving factors which might make a MNE more willing to consider a business restructuring?

What are your views on the impact of COVID-19 on the work of the OECD on the BEPS 2.0 initiatives? Will COVID-19 and the ensuing economic recession give a mortal wound to BEPS 2.0, or conversely, will it hasten progress?