



FERRARI & ASSOCIATI
Studio Legale e Commerciale



Transfer pricing

March 2021



Introduction

- **Studio Ferrari & Associati** was founded in 2001 thanks to a proven work organization as a team, the Firm is able to identify complete and adequate solutions to the needs of the Client, maintaining high technical competence and unchanged individual commitment.
- **gda** is an auditing company established on March 24, 1987 and registered in the register of auditors since its establishment. Initially born from a small group of professionals to offer high quality auditing services, gda has progressively developed its staff, the services offered and its national and international connections.
- **Our partnership** stems from the awareness that the evolution in the profession of chartered accountant and auditor requires ever greater specialization and the possibility of offering its customers a 360-degree service while maintaining dimensions and characteristics such as not to lose sight of the direct relationship with the customer who has always distinguished us.

Framework

- Tax audits have become more and more frequent. These have focused, for companies belonging to multinational groups, on the determination of transfer prices. The need to prepare a documentary set is now uniformly recognized by the companies and their respective tax consultants with sufficient experience in the field of international taxation.
- The tax authorities of all countries focus their energies on audits in this field, counting on an ever-increasing number of specialists in the sector. In addition, the exchange of information between countries is increasingly widespread, aiming at transparency on cross-border taxation. This issue does not only concern multinationals: small and medium-sized enterprises are also affected when they carry out operations abroad.
- One of the most complex parts for the purposes of preparing the documentation is represented by the economic analysis that must be contained in the Country file in order to support the transfer prices applied. In fact, this analysis requires, in addition to a consolidated experience in the sector and international best practices, also the availability of adequate tools.



Framework



- Transfer Pricing governs the fairness of the prices at which an associated company transfers goods or provides services to the same multinational group.
- Transfer pricing must be determined on the basis of the conditions and prices that would have been agreed between independent parties operating under conditions of free competition and in comparable circumstances (**arm's length principle** instead of the reference to the normal value provided by the previous wording).

ITALIAN LAW

Tuir (art. 110 c. 7e2; art. 9 c. 3 e 4)
Circular 58/E
Protocol 2010/137654

INTERNATIONAL REGULATION

OECD Transfer Pricing Guidelines
Treaties against double taxation (art. 9)
European Arbitration Convention 90/436/EEC





Framework



The **OECD Guidelines** recognize that the determination of transfer prices is the result of a logical deductive process.

This process is typically composed of the following phases:

- ✓ Analysis of the reference sector;
- ✓ Comparability analysis;
- ✓ Identification of internal comparables;
- ✓ Analysis of information sources;
- ✓ Selection of the method for determining the price and identification of the relevant economic data;
- ✓ Identification of external comparables;
- ✓ Determination of corrective measures.



DETERMINATION OF THE TRANSFER PRICE





Framework



- The Provision of the Director of the Agenzia delle Entrate **No. 360494 of 23.11.2020** introduced substantial changes relating to the appropriate documentation and the eligibility requirements of the same.

For every company, the document set must be made up of the Masterfile and the Countryfile, and signed by the legal representative or his/her delegate by electronic signature with time stamp.

SMEs* can access the simplified documentation scheme. This document contains the description of intra-group services, contracts or written agreements for the supply of services, the valorization of operations which, for the determination of which a simplified approach is used.

* SMEs = companies with revenues or business volume not exceeding 50 million euros for the period to which the documentation refers.





Approach



- **Verification of compliance with the Transfer Pricing policy in force:**
 - ✓ quick audit or simulated checks on the Transfer Pricing policy in force;
 - ✓ opinion on the TP policy adopted.

- If the TP adopted is suitable assistance in preparing and/or updating the documentation in support of the Transfer Pricing policy adopted (master file and national documentation).

- If not suitable definition and design of the correct Transfer Pricing policy:
 - ✓ assessment of the group structure and intragroup transactions;
 - ✓ definition of methods and their application mechanics;
 - ✓ economic analyzes (comparability analyzes, valuations, market analyzes, etc.);
 - ✓ definition and drafting of contracts
 - ✓ definition and drafting of the master file and national documentation





Output



— The **Masterfile** is a common set of information for all companies in the group.

The Masterfile is generally divided into the following points:

- General description of the multinational group;
- Group structure;
- General strategies pursued by the group;
- Flows of operations;
- Intragroup transactions;
- Illustration of the value chain;
- Functions performed, capital goods used and risks assumed;
- Intangible assets;
- Transfer Pricing Policy;
- Relations with the tax administrations of the member countries of the European Union concerning "Advance Price Arrangements" (APA) and "rulings" on transfer pricing.





Output



- The **Country File** is a specific documentation for each individual contributor, aimed at highlighting:
 - ✓ the methods for determining the transfer prices practiced in cross-border transactions carried out by the taxpayer;
 - ✓ the correspondence of these prices to the "normal value".

- The National Documentation is generally divided into the following points:
 - General description of the company;
 - Sectors in which the company operates;
 - Operational structure of the company;
 - General strategies pursued by the company;
 - Intragroup transactions;
 - Presence of Cost Contribution Agreement (CCA);
 - Documentation Related to Financial Information.





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