Chapter 10.1 Brazil country practices

10.1.1 Introduction - General explanation

10.1.1.1 Brazil introduced a law on transfer pricing, through Law n. 9430/1996, in 1996.[1] The bill was proposed to deal with tax evasion trough transfer pricing schemes, and according to the proposal, it adopted the arm´s length principle.

10.1.1.2 The methodology introduced by the law listed the traditional transaction methods (CUP, cost plus method (CPM) and resale price method (RSP)) but denied the use of transactional profit methods (the profit split method and TNMM) and formulary apportionment. Regarding the CUP, for export or imports, the law introduced a methodology that is similar to OECD practices (see 10.1.2. below). However, with regard to the cost plus and resale price methods, instead of making use of comparable transactions, the

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resale price that the reselling company (

- GPM = gross profit margin = the value of gross profit margin ratio, as determined by law or tax regulations (30% in this simplified example).
- TP(parameter price) = NRP

participation value of product A in the net resale price (product B) would be: the application of the *participation ratio* of the input (product A) to th

As a consequence, the

! For imports: TP (parameter price) < PC (1 + GPM), which means that PC (1 + GPM) is the maximum acceptable transfer price for tax basis calculation.

However, due to information accessibility RPM is usually more suitable when the Brazilian company imports and CPM is usually more suitable when the Brazilian company exports, as explained below.

10.1.5. Imports

10.1.5.1. Considering the case where the product resold is subject to value added costs or manufacturing by the reselling associated enterprise, the RPM is normally more useful for imports than for exports. The reason for this is that companies may not disclose their production or manufacturing costs, even to other associated companies located in Brazil. This aspect would jeopardize the method applicability for exports, because the necessary manufacturing cost data incurred by the associated importing enterprise would be unavailable for the associated Brazilian exporting enterprise and the Brazilian tax administration. Even if the enterprises involved have complete access to each other's account book data, there is still a problem of information availability to the Brazilian tax administration.

10.1.5.2. If RPM the method is applied for import transfer pricing, the manufacturing importer uses its own account book costs to calculate the correct transfer price, with no need to request the cost data incurred by the exporting associated enterprise. Furthermore in case of imports, the tax administrat5 1095 0Tm (n) Tj 45 0 0m ( ) Tj 45 0 0 45 429 0 Tm /F3.0 1 01 0 Tm (Tj 45 0 0 451925 0 Tm (x8.28 cmBT

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