

Committee of Experts on International Cooperation in Tax Matters

Update of the Transfer Pricing Manual
Report on the editorial process

Approval of the update

- On 13 October 2016 the Committee of Experts approved the update by the Subcommittee
- Subject to editing and correction of errors and inconsistencies
- The update includes
 - New chapter on Services, intangibles, cost contribution arrangements and business restructurings
 - Revision taking account of G20/OECD BEPS reports
 - New four part format

Updateprocess

- Written comments from Committee and Public/stakeholderstrbsy-1.2 (/)-1.1 (n)

Consistency checks

- One Committee member commented on
- Alternate use of expression «low value adding» and «low margin» services in new chapter on services; and
- Alternate use of «full fledged» and fully fledged» in business restructuring chapter
- Decision: consistent use of «low value adding» and «fully fledged»

Comment on «sixth method» addition in chapter on transfer pricing methods

- Text arrived at in subcommittee result of difficult discussions
- Finetuned balance between view not to include in methods chapter and inclusion with informative references to domestic law practices in Latin American countries and caution about disadvantages (incl. risk of double taxation)
- Suggestion to amend statement about clear criteria when applying a «(ack of) substance» test
- Some members of subcommittee strongly opposed to change text because perceived as changing substance and shifting balance of compromise text.
- Coordinator's recommendation: Not to change

Comments from Treaty Policy Working Group (Carol A. Dunahoo and Gary Sprague)

- General comments:
 - Be even more ambitious in future work in guidance on e.g. intragroup services and interest rate issues
 - Further simplification in practical guidance to developing countries
 - Use of Country by Country report in documentation, local filing, confidentiality etc.
 - Penalties for non compliant documentation where arm's length norm is not breached
 - Clearer statement about the role of Part on country practices

Treaty Policy Working Group cont.

- Specific suggestions for chapter on transfer pricing in domestic law:
 - On safe harbour rules, recognize the role of such rules for simplification purposes
 - Disagreement with statement regarding what «thin capitalization» means
 - On value of APA's for business, replace word «depend» by «rely»
 - Problem of time differences leading to double taxation

