OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration 2017

Advance pricing arrangement (APA)
An arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time. An advantage pricing arrangement may be unilateral involving one tax administration and a taxpayer or multilateral involving the agreement of two or more tax administrations.

Arm's length principle
The international standard that OECD member countries have agreed should be used for determining transfer prices for tax purposes. It is set forth in Article 9 of the OECD Model Tax Convention as follows: where "conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not accrued, may be included in the profits of that enterprise and taxed accordingly".

Arm length range
A range of figures that are acceptable for establishing whether the conditions of a controlled transaction are arm's length and that are derived either from applying the same transfer pricing method to multiple comparable data or from applying different transfer pricing methods.

Associated enterprises
Two enterprises are associated enterprises with respect to each other if one of the enterprises meets the conditions of Article 9, sub-paragraphs 1a) or 1b) of the OECD Model Tax Convention with respect to the other enterprise.

Balancing payment
A payment, normally from one or more participants to another, to adjust participants' proportionate shares of contributions, that increase the value of the contributions of the payer and decreases the value of the contributions of the payee by the amount of the payment.

Buy-in payment
A payment made by a new entrant to an already active CCA for obtaining an interest in any results of prior CCA activity.

Buy-out payment
Compensation that a participant who withdraws from an already active CCA may receive from the remaining participants for an effective transfer of its interest in the results of past CCA activities.

Comparability analysis

A comparison of a controlled transaction with an uncontrolled transaction or transactions. Controlled and uncontrolled transactions are comparable if none of the differences between the transactions could materially affect the factor being examined in the methodology (e.g. price or margin), or if reasonably accurate adjustments can be made to eliminate the material effects of any such differences.

Comparable uncontrolled transaction

A comparable uncontrolled transaction is a transaction between two independent parties that is comparable to the controlled transaction under examination. It can be either a comparable transaction between one party to the controlled transaction and an independent party ("internal comparable") or between two independent parties, neither of which is a party to the controlled transaction ("external comparable").

Comparable uncontrolled price (CUP) method

A transfer pricing method that compares the price for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction in comparable circumstances.

Compensating adjustment

An adjustment in which the taxpayer reports a transfer price for tax purposes that is, in the taxpayer's opinion, an arm's length price for a controlled transaction, even though this price differs from the amount actually charged between the associated enterprises. This adjustment would be made before the tax return is filed.

Contribution analysis

An analysis used in the profit split method under which the combined profits from controlled transactions are divided between the associated enterprises based upon the relative value of the functions performed (taking into account assets used and risks assumed) by each of the associated enterprises participating in those transactions, supplemented as much as possible by external market data that indicate how independent enterprises would have divided profits in similar circumstances.

Controlled transactions

Transactions between two enterprises that are associated enterprises with respect to each other.

Corresponding adjustment

An adjustment to the tax liability of the associated enterprise in a second tax jurisdiction made by the tax administration of that jurisdiction, corresponding to a primary adjustment made by the tax administration in a first tax jurisdiction, so that the allocation of profits by the two jurisdictions is consistent.

Cost contribution arrangement (CCA)

A CCA is a contractual arrangement among business enterprises to share the contributions and risks involved in the joint development, production or the obtaining of intangibles, tangible assets or services with the understanding that such intangibles, tangible assets or services are expected to create benefits for the individual businesses of each of the participants.

Cost plus mark-up
A mark-up that is measured by reference to margins computed after the direct and indirect costs incurred by a supplier of property or services in a transaction.

Cost plus method
A transfer pricing method using the costs incurred by the supplier of property (or services) in a controlled transaction. An appropriate cost plus mark-up is added to this cost, to make an appropriate profit in light of the functions performed (taking into account assets used and risks assumed) and the market conditions. What is arrived at after adding the cost plus mark up to the above costs may be regarded as an arm's length price of the original controlled transaction.

Direct-charge method
A method of charging directly for specific intra-group services on a clearly identified basis.

Direct costs
Costs that are incurred specifically for producing a product or rendering service, such as the cost of raw materials.

Functional analysis
The analysis aimed at identifying the economically significant activities and responsibilities undertaken, assets used or contributed, and risks assumed by the parties to the transactions.

Global formulary apportionment
An approach to allocate the global profits of an MNE group on a consolidated basis among the associated enterprises in different counties on the basis of a predetermined formula.

Gross profits
The gross profits from a business transaction are the amount computed by deducting from the gross receipts of the transaction the allocable purchases or production costs of sales, with due adjustment for increases or decreases in inventory or stock-in-trade, but without taking account of other expenses.

Independent enterprises
Two enterprises are independent enterprises with respect to each other if they are not associated enterprises with respect to each other.

Indirect-charge method
A method of charging for intra-group services based upon cost allocation and appointment methods.

Indirect costs
Costs of producing a product or service, although closely related to the production process, may be common to several products or services (for example, the costs of a repair department that services equipment used to produce different products).

Intra-group service
An activity (e.g. administrative, technical, financial, commercial, etc.) for which an independent enterprise would have been willing to pay or perform for itself.

Intentional set-off
A benefit provided by one associated enterprise to another associated enterprise within the group that is deliberately balanced to some degree by different benefits received from that enterprise in return.

Marketing intangible
An intangible that relates to marketing activities, aids in the commercial exploitation of a product or service and/or has an important promotional value for the product concerned. Depending on the context, marketing intangibles may include, for example, trademarks, trade names, customer lists, customer relationships, and proprietary market and customer data that is used or aids in marketing and selling goods or services to customers.

Multinational enterprise group (MNE group)
A group of associated companies with businesses establishments in two or more countries.

Multinational enterprise (MNE)
A company that is part of an MNE group.

Mutual agreement procedure
A means through which tax administrations consult to resolve disputes regarding the application of double tax conventions. This procedure, described and authorized by Article 25 of the OECD Model Tax Convention, can be used to eliminate double taxation that could arise from a transfer pricing adjustment.

Net profit indicator
The ratio of net profit to an appropriate base (e.g. costs, sales, assets). The transactional net margin method relies on a comparison of an appropriate net profit indicator for the controlled transaction with the same net profit indicator for the controlled transaction with the same net profit indicator in comparable uncontrolled transactions.

"On call" services
Services provided by a parent company or a group service centre, which are available at any time for members of an MNE group.

Primary adjustment
An adjustment that a tax administration in a first jurisdiction makes to a company's taxable profits as a result of applying the arm's length principle to transactions involving an associated enterprise in a second tax jurisdiction.

Profit potential
The expected future profits. In some cases it may encompass losses. The notion of "profit potential" is often used for valuation purposes, in the determination of an arm's length compensation for a transfer of intangibles or of an ongoing concern, or in the determination of an arm's length indemnification for the termination or substantial renegotiation of existing arrangements, once it is found that such compensation or indemnification would have taken place between independent parties in comparable circumstances.

Profit split method
A transactional profit method that identifies the combined profit to be split for the associated enterprises from a controlled transaction (or controlled transactions that it is appropriate to aggregate under the principles of Chapter 3) and then splits those profits between the associated enterprises based upon an economically valid basis that approximates the division of profits that would have been anticipated and reflected in an agreement made at arm's length.
Resale price margin
A margin representing the amount out of which a reseller would seek to cover its selling and other operating expenses and, in the light of the functions performed (taking into account assets used and risks assumed), make an appropriate profit.

Resale price method
A transfer pricing method based on the price at which a product that has been purchased from an associated enterprise is resold to an independent enterprise. The resale price is reduced by the resale price margin. What is left after subtracting the resale price margin van be regarded after adjustments for other costs associated with the purchase of the product (e.g. custom duties), as am arm's length price of the original transfer of property between the associated enterprises.

Residual analysis
An analysis used in the profit split method which divides the combined profit from the controlled transaction under examination in two stages. In the first stage, each participant is allocated sufficient profit to provide it with a basic return appropriate for the type of transactions in which it is engaged. Ordinarily this basic return would be determined by reference to the market returns achieved for similar types of transactions by independent enterprises. Thus, the basic return would general not account for the return that would be generated by any unique and valuable assets possessed by the participants. In the second stage, any residual profit (or loss) remaining after the first stage division would be allocated among the parties based on an analysis of the facts and circumstances that might indicate how this residual would have been divided between independent enterprises.

Secondary transactions
A constructive transaction that some countries will assert under their domestic legislation after having proposed a primary adjustment in order to make the actual allocation of profits consistent with the primary adjustment. Secondary transaction may take the form of constructive dividends, constructive equity contributions, or constructive loans.

Shareholder activity
An activity which is performed by a member of an MNE group (usually the parent company or a regional holding company) solely because of its ownership interest in one or more other group members, i.e. in its capacity as shareholder.

Simultaneous tax examinations
A simultaneous tax examination, as defined in Part A of OECD Model Agreement for the Undertaking of Simultaneous Tax Examinations, means an "arrangement between two or more parties to examine simultaneously and independently, each on its own territory, the tax affairs of (a) taxpayer(s) in which

they have a common or related interest with a view to exchanging any relevant information which they so obtain".

Trade intangible
An intangible other than a marketing intangible.

Traditional transaction methods
The comparable uncontrolled price method, the resale price method, and the cost plus method.

Transactional net margin method
A transactional profit method that examines the net profit margin relative to an appropriate base (e.g. costs, sales, assets) that a taxpayer realizes from a controlled transaction (or transactions that it is appropriate to aggregate under the principles of Chapter 3)

Transactional profit method
A transfer pricing method that examines the profits that arise from particular controlled transactions of one or more of the associated enterprises participating in those transactions.

Uncontrolled transactions
Transactions between enterprises that are independent enterprises with respect to each other.

United Nations Double Taxation Convention between Developed and Developing Countries

Person

The term ”person”, which is defined in subparagraph (a)as including an individual, a company and any other body of persons, should be interpreted very broadly. Accordingly to paragraph 2 of the Commentary on Article 3 of the OECD Model Convention, the term also includes “any entity that, although not incorporated, is treated as a body corporate for tax purposes. Thus, e.g. a foundation may fall within the meaning og the term “person”. Partnerships will also be considered to be “persons” either because they fall within the definition of “company” or, where this is not the case, because they constitute other bodies of persons”.

Company

This definition of the term “company”, like the corresponding definition in the OECD Model Convention, is formulated with special reference to Article 10 on dividends. The definition is relevant to that Article and to Article 5, paragraph 8, and Article 16, corresponding to Article 5, paragraph 7, and Article 16 of the OECD Model Convention.

Enterprise of a Contracting State

Subparagraph (c) defines the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State”. It does not define the term “enterprise” per se, because, as noted in the Commentary on the OECD Model Convention, “the question whether an activity is performed within an enterprise or is deemed to constitute in itself an enterprise has always been interpreted according to the provisions of the domestic laws of the Contracting States”.

International Traffic

The definition of the “international traffic” is based on the principle that the right to tax profit arising from the operation of ships or aircraft in international traffic resides only in the Contracting State in which the place of effective management is situated. This principle is set forth in Article 8 (alternative A), paragraph 1 (corresponding to Article *, paragraph 1, of the OECD Model Convention), and in Article 8 (alternative B), paragraph 1, and the first sentence of paragraph 2 (provided in the latter case that the shipping activities concerned are not more than casual). However, the Contracting States may agree on a bilateral basis to substitute a reference to residence in subparagraph (d) if appropriate to conform to the general tenor of the other articles relating to international traffic. In such cases, as noted in the Commentary on the OECD Model Convention, “the words ‘an enterprise that has its place of effective management in a Contracting State’ should be replaced by ‘an enterprise of Contracting State’ or ‘a resident of a Contracting State’”.

Accelerated Competent Authority Procedure ("ACAP")
In addition to an ongoing request for competent authority assistance, a taxpayer may request assistance for subsequent filed, but yet to be audited, taxation years on the same issue. The inclusion of these subsequent "ACAP" years in the MAP discussions not only prospectively resolves double taxation but also alleviates the burden of a separate audit and MAP process.

Advance pricing arrangements ("APA")
An arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time. An advance pricing arrangement may be unilateral involving one tax administration and a taxpayer or multilateral involving the agreement of two or more tax administrations.

Anti-abuse rules / anti-avoidance laws
Domestic taxation laws that are intended to prevent taxpayers from avoiding tax or abusing tax laws for the sole purpose of obtaining a reduction, avoidance or deferral of tax.

Arm's length principle
The international standard that OECD Member countries have agreed should be used for determining transfer prices for tax purposes. It is set forth in Article 9 of the OECD Model Tax Convention as follows: where "conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly."

Arm's length range
A range of figures that are acceptable for establishing whether the conditions of a controlled transaction are arm's length and that are derived either from applying the same transfer pricing method to multiple comparable data or from applying different transfer pricing methods.

Assessment – taxation by
Taxation by means of either the tax authority or the taxpayer ("self-assessment") computing tax due over a period, usually a calendar or fiscal year. In effect, the taxpayer pays tax on an income amount after the gross amount has been received, as compared to taxation by a final withholding tax where a tax amount is retained and forwarded to the tax authorities before a net amount (of dividends, for example) is paid to the taxpayer.

Associated enterprises
Two enterprises are associated enterprises with respect to each other if one of the enterprises meets the conditions of Article 9, sub-paragraphs 1a) or 1b) of the OECD Model Tax Convention with respect to the other enterprise. See Article 3 for the definition of "enterprise".

Comparability (analysis)
A comparison of a controlled transaction with an uncontrolled transaction or transactions. Controlled and uncontrolled transactions are comparable if none of the differences between the transactions could materially affect the factor being examined in the methodology (e.g. price or margin), or if reasonably accurate adjustments can be made to eliminate the material effects of any such differences.

Compensating adjustment
An adjustment in which the taxpayer reports a transfer price for tax purposes that is, in the taxpayer's opinion, an arm's length price for a controlled transaction, even though this price differs from the amount actually charged between the associated enterprises. This adjustment would be made before the tax return is filed.

Competent authority
"Competent authority" is a term used in tax conventions to identify the person who represents the State in the implementation of the treaty, as defined under Article 3 of a tax treaty. A sample clause might be: The term "competent authority" means, in the case of Utopia, the Commissioner of Taxation or an authorised representative of the Commissioner and, in the case of Ruritania, the Minister of Finance or an authorised representative of the Minister. The competent authority has certain specific functions under the treaty, including acting as a contact point for both taxpayers and the other competent authority in Mutual Agreement Procedures. Sometimes there are different competent authorities for different functions under the treaty.

Controlled transactions
Transactions between two enterprises that are associated enterprises with respect to each other.

Correlative adjustment
A term used in the transfer pricing context. An adjustment that creates an increase or decrease in the tax imposed on one member of the group of controlled taxpayers correlating to the "primary adjustment" made in respect of another member of the same group. The adjustment may be to the income of the group member or to an allowance of relief under a foreign tax credit or exemption mechanism. This term is generally seen as interchangeable with the term "corresponding adjustment", although when speaking of a particular monetary adjustment, some prefer to refer to "correlative adjustments".

Corresponding adjustment
An adjustment to the tax liability of the associated enterprise in a second tax jurisdiction made by the tax administration of that jurisdiction, corresponding to a primary adjustment made by the tax administration in a first tax jurisdiction, so that the allocation of profits by the two jurisdictions is consistent.

Dual Residence
The situation wherein a person, being either an individual or a company, is determined "resident" under the domestic tax laws of both the States having concluded a tax treaty. This would mean the possibility of juridical double taxation - both States taxing the person as their resident. The provisions of Article 4(2) and Article 4(3) of the OECD Model Tax Convention are designed to solve such situations by treating the person as resident - for purposes of the treaty - of only one of the States. See also: "Tie-Breaker Rules".

Economic double taxation

"Economic double taxation" is where two different legal persons are taxed on the same income or other taxable item by more than one State. This may occur, for example where two States take different views of the profits made in transactions between a subsidiary resident in one of the States in its transactions with a parent company in the other State, so that at least some part of the profits on the transaction are taxed in both States. The OECD Model Tax Convention does not often deal with economic double taxation, but Article 9 seeks to address aspects of this sort of double taxation of related entities. As noted by the Commentary on Article 10, at paragraph 40 certain States' domestic tax laws and treaty practice seek to avoid or mitigate economic double taxation caused by the simultaneous taxation of the company's profits at the level of the company and of the dividends at the level of the shareholder. Compare "juridical double taxation".

Exemption Method

The method of relieving double taxation under Article 23A of the OECD Model Tax Convention. Under this method, where a resident ("R") of one of the treaty partner States receives an amount that may be taxed in the other treaty State (which we can call for these purposes the "source State") under the tax treaty, the residence State must, when taxing R, exempt that amount from residence State taxation. In other words, R will not have to pay any tax to the residence State on the amount where the source State may levy tax under the treaty, whether or not it actually does so. This is the principle under paragraph 1 of Article 23A. Paragraph 2 provides an exception, however in that where amounts are only liable to source State taxation to a limited extent under Article 10 (Dividends) or Article 11 (Interest), the State of residence need only give a credit, rather than an exemption in respect of that amount. Paragraph 4 provides an exception to the general exemption provision in paragraph 1. It provides that that obligation does not apply in certain circumstances where to apply it would result in double non-taxation as a result of different approaches to the application of the treaty which are both consistent with the meaning of the treaty. This system of tax exemption deals with avoidance of "juridical double taxation", where the person liable to the residence State taxation is the same person liable to the source State taxation. Article 23A does not provide for a "full exemption" system, but is rather, an "exemption with progression" system (Paragraph 3). This means that although an amount which may be taxed in the source State is exempt in the residence State, the residence State is still allowed to take that amount into account when determining the amount of tax that the resident must pay on his or her other (that is, non-exempt) income. For example, the income may be taken into account as received in order to decide what marginal tax rate applies to the other income.

Foreign Tax Credit

A credit given for foreign tax in calculating the amount of tax to be paid in a person's country of residence. In effect, a taxpayer need not pay residence country tax on the income where the source country of the income taxes that income to an equal or greater degree. Where the residence country tax is higher, the amount of foreign tax is deducted from the amount of local tax otherwise to be paid. This avoids double taxation where, as is often the case, a tax treaty allows both the source and residence country some taxing rights.

Functional analysis

An analysis of the functions performed (taking into account assets used and risks assumed) by associated enterprises in controlled transactions and by independent enterprises in comparable uncontrolled transactions.

Independent enterprises
Two enterprises are independent enterprises with respect to each other if they are not associated enterprises with respect to each other.

Juridical double taxation
"Juridical double taxation" occurs where the same legal person is taxed twice on the same income or other taxable item by more than one State. A common situation is where the source country taxes a payment as it flows to a person (by dividend or interest withholding tax, for example, which is in effect a tax on the recipient collected by a withholding agent such as the company paying the dividend) and the residence state of the recipient also taxes that person on the same item as part of his or her worldwide income. The division of taxing rights in the OECD Model Tax Convention, when combined with the effect of Article 23 is designed to prevent such juridical double taxation as far as is possible. Compare "economic double taxation".

MAP
See mutual agreement procedure.

Multinational enterprise group (MNE group)
A group of associated companies with business establishments in two or more countries.

Multinational enterprise (MNE)
A company that is part of an MNE group.

Mutual agreement procedure (MAP)
A means through which competent authorities consult to resolve disputes regarding the application of double tax conventions. This procedure, which is described and authorized by Article 25 of the OECD Model Tax Convention, can be used to eliminate double taxation that could arise from a transfer pricing adjustment, but can also be relevant for other aspects of a tax treaty's operation. In the case of MAP relating to transactions between associated enterprises, see also Article 9, especially paragraph 2.

OECD Model Tax Convention
The Model Tax Convention on Income and Capital published by the OECD, as amended from time to time. The OECD Model Tax Convention includes Commentaries on the articles of the Model. The OECD Model Tax Convention serves as a model for the negotiation of bilateral tax treaties between countries.

OECD Transfer Pricing Guidelines
The Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations first published by the OECD in 1995, as amended from time to time. The Guidelines provide guidance on the use of the arm's length principle to determine transfer pricing between associated enterprises.

Permanent establishment ("PE")
Term given definition by Article 5 of the OECD Model Tax Convention, and used to determine whether the business profits of a resident enterprise of the treaty partner may be taxed under Article 7 in the other

treaty partner. As Article 7 makes clear, the amount of business profits so taxable is the amount attributable under that Article to the permanent establishment. The PE test is broadly a test of whether there is the minimum economic connection necessary to justify source State taxation of such business profits under the tax treaty. There are generally two aspects required for there to be a PE, a relationship to a particular place (the geographical aspect) and a presence for a particular point of time (the temporal aspect). There are, however, special rules for some types of PEs under the OECD Model Tax Convention, such as "construction" PEs, where the temporal period required is more than 12 months, and certain PEs constituted by "dependent agent" arrangements, where no time period applies. There are also some exclusions under the OECD Model Tax Convention, presences which are specifically stated not to be PEs, such as activities related solely to storage, display or delivery of goods or merchandise or other so-called "preparatory or auxiliary activities". Sometimes the term "permanent establishment" is used in domestic tax legislation as well, but it may not have exactly the same meaning as in the tax treaties.

Primary adjustment
An adjustment that a tax administration in a first jurisdiction makes to a company's taxable profits as a result of applying the arm's length principle to transactions involving an associated enterprise in a second tax jurisdiction.

Repatriation
In the transfer pricing context, this term refers to the act by which an enterprise that has been party to a controlled transaction with an associated enterprise and has been found, in accordance with a transfer pricing adjustment, to have derived as a result of that transaction an amount of income that exceeds an arm's length amount, returns the excess funds to its associated enterprise.

Residence State
The residence State is the country where a person is resident under the treaty at the relevant time. In international tax law, this is a basis for taxation of the global income of the resident. See the text of Article 4, and its explanation, for more on treaty residence.

Secondary adjustment
An adjustment that arises from imposing tax on a secondary transaction in transfer pricing cases.

Secondary transaction
A constructive (that is, notional) transaction that some States assert under their domestic transfer pricing legislation after having proposed a primary adjustment in order to make the actual allocation of profits consistent with the primary adjustment. Secondary transactions may take the form of constructive dividends (that is items treated as though they are dividends, even though they would not normally be regarded as such), constructive equity contributions, or constructive loans.

Simultaneous tax examinations
A simultaneous tax examination, as defined in Part A of the OECD Model Agreement for the Undertaking of Simultaneous Tax Examinations, means an "arrangement between two or more parties to examine simultaneously and independently, each on its own territory, the tax affairs of (a) taxpayer(s) in which they have a common or related interest with a view to exchanging any relevant information which they so obtain".

Source State

The State where, for the purposes of a treaty, a taxable amount is regarded as arising. As rules in domestic law about where an amount arises differ (e.g. some might look to where the profits that become a dividend are made as the source of a dividend, whereas others may look to the State from which the dividend is paid), the OECD Model Tax Convention often provides implied or specific rules. For example, a State A – State B tax treaty, if it was based on the OECD Model Tax Convention, would allow State B as the source State to impose a limited withholding tax on dividends paid by corporations resident in State B to residents of State A (see Article 10), but would prohibit State B from imposing a tax on dividends paid to a resident of State A by a corporation resident in State C, even if those dividends were paid out of profits earned by the corporation in State B (see Article 21).Source States may, under general international tax law, tax income sourced in that State. The residence State may then provide an exemption or a credit for tax paid in the source State under domestic law. A tax treaty often limits or prevents source State taxation, and also generally provides that the residence State must give a credit or exemption for tax paid in the source State under Article 23. Compare "residence State".

'Source' Tax

Tax on an item of income imposed in the State wherein that income is derived, or tax on an item of capital imposed in the State wherein that capital is situated. Many Articles of the OECD Model Tax Convention provide for an exemption from, or a reduction of, such "source" tax on certain items of income or capital.

Tested party

The participant in a controlled transaction that is the party by reference to whom a particular transfer pricing method is applied.

'Tie-Breaker' Rules

These rules, Article 4 of the OECD Model Tax Convention, at paragraph 2) for individuals, and paragraph 3 for companies, seek to determine a single residence for tax treaty purposes, in those cases where a person is a resident for domestic law purposes under the domestic tax laws of both treaty States. That can most obviously happen when the two States apply different tests for residency. The tie-breaker rules do not themselves affect the situation at domestic tax law generally, although domestic laws sometimes expressly provide that certain tax benefits are not available to a domestic law resident who is regarded as a resident solely of the treaty partner State under the relevant treaty's tie-breaker rules. See also: Dual Residence.

Transfer pricing

The terms and conditions applying in transactions between associated enterprises.

Transfer pricing adjustment

An adjustment to the tax liability of an enterprise when a tax jurisdiction applies the arm's length principle to transactions between associated enterprises in a transfer pricing case. See "primary adjustment" (by the initial tax jurisdiction), "corresponding adjustment" (by the jurisdiction of the other associated enterprise) and "compensating adjustment" (reported by the taxpayer based on the arm's length principle though it differs from the actual terms and conditions of the transaction). See also a "secondary adjustment" (an adjustment arising from taxing certain notional transactions).

Transfer pricing methodologies

The methods used to make transfer pricing adjustments. The following is a list of methods and terminology used in transfer pricing:

• Comparable uncontrolled price (CUP) method: A transfer pricing method that compares the price for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction in comparable circumstances.

• Cost plus mark up: A mark up that is measured by reference to margins computed after the direct and indirect costs incurred by a supplier of property or services in a transaction.

• Cost plus method: A transfer pricing method using the costs incurred by the supplier of property (or services) in a controlled transaction. An appropriate cost plus mark up is added to this cost, to make an appropriate profit in light of the functions performed (taking into account assets used and risks assumed) and the market conditions. What is arrived at after adding the cost plus mark up to the above costs may be regarded as an arm's length price of the original controlled transaction.

• Profit split method: A transactional profit method that identifies the combined profit to be split for the associated enterprises from a controlled transaction (or controlled transactions that it is appropriate to aggregate under the principles of Chapter I of the OECD Transfer Pricing Guidelines) and then splits those profits between the associated enterprises based upon an economically valid basis that approximates the division of profits that would have been anticipated and reflected in an agreement made at arm's length.

• Resale price margin: A margin representing the amount out of which a reseller would seek to cover its selling and other operating expenses and, in the light of the functions performed (taking into account assets used and risks assumed), make an appropriate profit.

• Resale price method: A transfer pricing method based on the price at which a product that has been purchased from an associated enterprise is resold to an independent enterprise. The resale price is reduced by the resale price margin. What is left after subtracting the resale price margin can be regarded, after adjustment for other costs associated with the purchase of the product (e.g. customs duties), as an arm's length price of the original transfer of property between the associated enterprises.

• Traditional transaction methods: The comparable uncontrolled price method, the resale price method, and the cost plus method.

• Transactional net margin method: A transactional profit method that examines the net profit margin relative to an appropriate base (e.g. costs, sales, assets) that a taxpayer realizes from a controlled transaction (or transactions that it is appropriate to aggregate under the principles of Chapter I of the OECD Transfer Pricing Guidelines).

• Transactional profit method: A transfer pricing method that examines the profits that arise from particular controlled transactions of one or more of the associated enterprises participating in those transactions.

Uncontrolled transactions

A transfer pricing term for transactions between enterprises that are independent enterprises (that is, that are not "associated enterprises") with respect to each other.

Unilateral relief

As part of the MAP process, one competent authority provides relief from double taxation or taxation not in accordance with the treaty. This unilateral relief can be by way of one competent authority withdrawing its initial adjustment or by the other competent authority providing a correlative adjustment.

Withholding Tax

A tax imposed at source, whereby a third party, the paying agent (such as a bank paying interest or a company distributing dividends to shareholders), must "withhold" an amount from the payment and remit it to the local tax authorities. It is a common way of ensuring that tax is collected from benefits accruing to overseas taxpayers who are beyond a State's immediate legal jurisdiction. Withholding tax will be "final" if there is no later adjustment as part of assessment. Otherwise, it is regarded as "provisional", and depending on the taxpayer's final tax liability there may be a refund or (more rarely) a requirement for further payment by the taxpayer. Articles 10 and 11 of the OECD Model Tax Convention set limits on allowable withholding tax rates on dividends and interest under the treaty. Whether the correct tax to be applied by a State is a withholding tax on gross receipts (such as under Article 11) or a tax on net amounts (such as taxation of business profits under Article 7 (Business Profits) can be a significant issue under treaties.

Adjustments
See Transfer Pricing Adjustment.

Advance Pricing Agreement Arrangement (APA)
An arrangement in respect of certain specified transactions that determines in advance the appropriate criteria for determining transfer pricing. The agreement may be made by the taxpayer unilaterally with the tax administration or may be a bilateral or multilateral agreement involving the tax administrations of other countries.

Affiliated Parties
Affiliated parties are entities linked by a common interest normally defined in terms of a certain level of shareholding or other criterion.

Allocation Key
An allocation key is used to allocate costs of a service provider among other related entities for the purposes of computing the arm's length fee under the Cost Plus Method using an indirect charge approach. The allocation key may be a quantity such as turnover, employee numbers, working hours or floor space.

Arm's Length Principle (ALP)
The arm's length principle is an international standard that compares the transfer prices charged between related entities with the price of similar transactions carried out between independent entities at arm's length. An adjustment may be made to the extent that profits of a related party differ from those that would be agreed between independent entities in similar circumstances.

Arm's Length Range
The arm's length range is a range of values from which an arm's length price may be selected, arrived at by applying an appropriate transfer pricing method.

Artificial Profit Shifting
The allocation of income and expenses between related entities or between branches of a single legal entity with the aim of reducing the total tax payable by the group.

Associated Enterprise (AE)
Associated enterprises are enterprises under common control. This will generally be the case where the same persons participate directly or indirectly in the management, control or capital of both enterprises.

Average
When a transfer price is found to be outside the arm's length range the transfer pricing rules of some countries require the price to be adjusted to the average value (usually the median) of the range.

Basic Arm's Length Return Method (BALRM)
The basic arm's length return method assigns an estimated arm's length rate of return to the sale, licensing or transfer of intangible property. The method was proposed in a White Paper in the US in 1988 but has not been adopted in US transfer pricing legislation. Some aspects of the method are, however, present in the comparable profits method. The method focuses on the returns realized on the assets or costs used in performing each function by a related party, and examines the return of uncontrolled entities performing the same functions at arm's length.

Benefit Test
In considering the arm's length return for intra-group services the benefit to the recipient of the services, if any, should be taken into consideration. If no benefit is received by the recipient of the services this would indicate that no remuneration should be paid for the services.

Berry Ratio
The ratio of gross income to operating costs, sometimes used to establish the arm's length price using the Transactional Net Margin Method.

Best Method Rule
A rule requiring the taxpayer to use the transfer pricing method that results in the most reliable measure of the arm's length price in the circumstances. The rule does not give priority to the same transfer pricing methods in all circumstances.

Business Restructuring
The cross-border redeployment of functions, assets and risks by a multinational entity.

Centralized Services
Services performed by a headquarters or group service company on behalf of a number of entities in the group. Typical centralized services include accounting, legal services, pensions, payroll or tax.

Comparability Adjustments
Adjustments made to improve the accuracy and reliability of the comparables to ensure that the financial results of the comparables are stated on the same basis as those of the tested party.

Comparability Analysis
An analysis carried out to compare the controlled transaction with the conditions that prevail in transactions at arm's length between independent entities. This involves an understanding of the economically significant characteristics of the controlled transaction and a comparison of the conditions of the controlled transaction with those of the comparable transactions.

Comparability Factors
Factors taken into account in determining the level of comparability of the controlled and comparable transactions. These are attributes of the transactions or parties that could materially affect prices or

profits, including the characteristics of the property or services, functional analysis, contractual terms, economic circumstances and business strategies pursued.

Comparable Adjustable

Transaction Controlled and uncontrolled transactions are comparable if either none of the differences between them could materially affect the arm's length price or profit or, where such material differences exist, reasonably accurate adjustments can be made to eliminate their effect. A comparable transaction to which such comparability adjustments can be made is a comparable adjustable transaction.

Comparable Data

These may be internal comparables, i.e. transactions between the tested party and independent parties, or external comparables, i.e. transactions between two independent entities that are not party to the controlled transaction.

Comparable Profits Method

Under US transfer pricing regulations CPM is a method to determine an arm's length consideration for transfers of intangible property. If the reported operating income of the tested party is not within a certain range, an adjustment will be made. The method involves comparing the operating income that results from the consideration actually charged in a controlled transfer with the operating income of similar uncontrolled taxpayers.

Comparable Search

A comparable search involves the identification of potentially comparable transactions or companies. These may be internal comparables, i.e. transactions between the tested party and independent parties, or external comparables, i.e. transactions between two independent entities that are not a party to the controlled transaction. A search for external comparables involves consideration of the comparability factors; development of screening criteria; initial identification and screening; and secondary screening, verification and selection of comparable transactions.

Comparable Uncontrolled Price (CUP) Method

A transfer pricing method comparing the price of the property or services transferred in the controlled transaction with the price charged in comparable transactions in similar circumstances.

Comparable Uncontrolled Transaction

A transaction between independent enterprises that is similar to the controlled transaction and takes place in similar circumstances.

Compensating Adjustment

A compensating adjustment is made by a taxpayer who reports an arm's length transfer price for a controlled transaction even though this price differs from the amount actually charged between the associated enterprises. This adjustment would be made before the tax return is filed.

Competent Authority Procedure

Under a double taxation treaty or other agreement the contracting states may each appoint a Competent Authority that is empowered to resolve disputes arising from the interpretation or application of the agreement. This Mutual Agreement Procedure is provided for in the treaty or in another agreement such as the EU Arbitration Convention (Convention 90/436/EEC on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises).

Conduit Company
An entity entitled to the benefit of a tax treaty in respect of income arising in a foreign country, in a situation where the economic benefit of that income accrues to persons in another country who would not have been entitled to the treaty benefits if they had received the income directly rather than via the conduit company.

Connected Persons
In the context of transfer pricing, connected persons are associated enterprises to which transfer pricing laws and regulations may apply. Connected persons are defined in terms of the control of one person over the other or two persons under the control of another person.

Contribution Analysis
Where the Profit Split Method is used, the contribution analysis requires the combined profit to be divided between the associated enterprises based on the relative value of the functions performed by each of the associated enterprises participating in the controlled transactions.

Control
Control is essentially defined for the purpose of Article 9 of the UN Model Double Tax Convention as a situation where one enterprise participates directly or indirectly in the management, capital or control of another; or where the same persons participate directly or indirectly in the management, capital or control of both enterprises.

Controlled Foreign Corporation (CFC)
A corporation normally located in a low-tax jurisdiction and controlled by shareholders resident in another country. Controlled foreign corporation legislation normally combats the sheltering of income in such corporations by attributing a proportion of the income sheltered in the corporation to the shareholders in the country where they are resident.

Controlled Transaction
Transactions between associated enterprises for the transfer of property or services. The term may also be used to denote a transaction between related enterprises which is the subject of a transfer pricing analysis.

Coordination Centre
An enterprise, the only purpose of which is to coordinate the activities of associated enterprises, to do research or to carry out support activities for those enterprises.

Correlative Adjustment
See Corresponding Adjustment.

Corresponding Adjustment
An adjustment made to the profits of an associated enterprise by the tax authority in a second jurisdiction, corresponding to a primary adjustment made by the tax authority in the first jurisdiction, so that the allocation of profits of the group by the two jurisdictions is consistent.

Cost Contribution Arrangement (CCA)
A cost contribution arrangement is an arrangement between enterprises to share the costs and risks of developing, producing or obtaining assets, services or rights. The arrangement sets out the responsibilities and risks of the participants and the nature and extent of the interest of each participant in the assets, services or rights resulting from the arrangement.

Cost Plus Method (CPM)
The Cost Plus Method evaluates the arm's length nature of an inter-company charge for tangible property or services by reference to the gross profit mark-up on costs incurred by the supplier of the property or services. It compares the gross profit mark-up earned by the tested party with the gross profit mark-ups earned by comparable companies.

Cost Sharing Arrangement (CSA)
A cost sharing arrangement is the term used to describe a cost contribution arrangement between enterprises to share the costs and risks of developing intangible assets. The arrangement would normally set out the contributions of the participants and define their share in the results of the assets resulting from the arrangement.

Country-specific File
Under the EU Code of Conduct on Transfer Pricing Documentation, taxpayers are recommended to keep documentation, including a country-specific file. This should contain a detailed description of the taxpayer's business strategy, details of country-specific controlled transactions, a comparability analysis, selection and application of a transfer pricing method, internal and external comparables etc.

Direct Charge Method
A method of directly charging each recipient of intra-group services on a clearly identified basis, not involving apportionment of costs between recipients based on an allocation key.

Documentation Requirements
Documentation requirements relate to transfer pricing documentation that is required by the transfer pricing rules of a particular country. The required documentation may be listed in the law or regulations, or in some countries may not be specified in detail.

Fair Market Value
The fair market value is the value that a particular asset or service would have on the open market on the assumption that adequate knowledge of the market is available to the buyer and seller, they are acting in their best interests without external pressures and a reasonable amount of time is allowed for the transaction to take place.

Formulary Apportionment
Under formulary apportionment a formula is used to apportion the group's net income between the various entities and branches in the group. The formula normally uses some combination of factors such as property, payroll, turnover, capital invested or manufacturing costs.

Functional Analysis
An analysis involving the identification of functions performed, assets employed and risks assumed with respect to the international controlled transactions of an enterprise. The functional analysis seeks to identify and compare the economically significant activities and the responsibilities undertaken by the independent and associated enterprises.

Global Formulary Apportionment (GFA)
A method with which to allocate the global profits of an MNE group amongst the associated enterprises on the basis of a multi-factor weighted formula. Possible factors are property, payroll and sales or other factors that may be defined while adopting the formula.

Gross Profit
The result of deducting from total sales the cost of sales, including all the expenses directly incurred in relation to those sales.

Group Service Centre
A special department within a parent company or regional holding company, or any other associated enterprise within a multinational group such as a group services company, providing services to associated enterprises.

Head Office Expenses
Expenses of the head office of a legal entity, some of which may relate to an overseas branch of the same legal entity.

Indirect Charge Method
A method under which fees for intra-group services are computed on the basis of apportionment of costs using an allocation key, with an appropriate mark-up.

Intangibles
Intangibles are property that has no physical existence but whose value depends on the legal rights of the owner. Examples of intangibles are intellectual property such as patents, copyright and trademarks.

Intentional Set-off
A benefit provided by one associated enterprise to another that is deliberately balanced to some extent by different benefits received from that enterprise in return.

Interquartile Range
This term is used in the transfer pricing rules of some countries to describe the values between the 25th and 75th percentile of the range of arm's length results derived from application of a transfer pricing method. In some jurisdictions this range may be used as the arm's length range.

Internal Comparables
Transactions between one of the parties to a controlled transaction (taxpayer or foreign related enterprise) and an independent party.

Intra-group Services
Services carried out by one entity in a multinational group for another entity or entities in the same group. Joint International Tax Shelter Information Centre (JITSIC) The Joint International Tax Shelter Information Centre was set up in 2004 as a joint task force to identify and curb abusive tax transactions. The current member states are Australia, Canada, Japan, United Kingdom, the United States, the Republic of Korea and China. Two countries, France and Germany, have observer status.

Location Savings
Cost savings or benefits such as cheaper production or service costs resulting from locating a manufacturing or other operation in a low-cost jurisdiction.

Marketing Intangibles
Intangibles relating to marketing activities, aiding in the commercial exploitation of a product or service or with important promotional value for a product or service.

Masterfile
The EU Code of Conduct on Transfer Pricing Documentation recommends that the documentation of a multinational enterprise consists of two main parts, a master file and a country-specific file. The masterfile contains common standardized information relevant for all EU group members.

Median Valve
The median value is the value at the mid-point of the arm's length range. Transfer pricing rules sometimes provide that a transfer price that is outside the arm's length range should be adjusted to the median value of the range.

Multiple Year Data
Data in respect of the controlled and comparable transactions covering a number of years.

Mutual Agreement Procedure (MAP)
A procedure by which the competent authorities of contracting states consult with a view to resolving disputes over the application of double taxation treaties. This procedure may be used to eliminate double taxation arising from a transfer pricing dispute.

OECD Transfer Pricing Guidelines
Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations from the Organisation for Economic Co-operation and Development (OECD). The guidelines are regularly updated.

Operating Profits
The net income of a company after deducting direct and indirect expenses but before deductions for interest and taxes.

Operating Margin (OM)
Operating profit divided by sales.

Primary Adjustment
An adjustment made by a tax administration to a company's taxable profits as a result of applying the arm's length principle to transactions involving an associated enterprise in another tax jurisdiction.

Profit Shifting
Allocation of income and expenses between related corporations or branches of the same legal entity in order to reduce the overall tax liability of the group or corporation.

Profit Split Method
The Profit Split Method seeks to eliminate the effect on profits of special conditions made or imposed in a controlled transaction by determining the division of profits that independent enterprises would have expected to realize from engaging in the transaction or transactions.

Profit Level Indicator (PLI)
A measure of a company's profitability that is used to compare comparables with the tested party. A profit level indicator may express profitability in relation to sales, costs/expenses, or assets.

Related Parties
Related parties are entities under common management, control or ownership, or where one entity controls the other entity.

Resale Price Method (RPM)
The Resale Price Method analyses the price of a product that a related sales company charges to an unrelated customer, i.e. the resale price, to determine an arm's length gross margin that the sales company retains to cover its sales, general and administrative expenses and still make an appropriate profit. The remainder of the product's price is regarded as the arm's length price for the transactions between the sales company and a related party.

Residual Profit Split
Under a residual profit split analysis the combined profits from the controlled transactions are allocated between the associated enterprises based on a two-step approach. In the first step sufficient profit is allocated to each enterprise to provide basic arm's length compensation for routine contributions. In the second step, the residual profit is allocated between the enterprises based on the facts and circumstances.

Return on Assets (ROA)
Operating profit divided by the operating assets (normally only tangible assets).

Return on Capital Employed (ROCE)
Operating profit divided by capital employed which is usually computed as the total assets minus cash and investments.

Return on Cost of Goods Sold
Gross profit divided by cost of goods sold.

Return on Total Cost (ROTC)
Operating profit divided by total costs

Roll-back
Under certain circumstances an advance pricing agreement in respect of future tax years may be rolled back and used as an appropriate transfer pricing method for past open tax years, considering all the facts and circumstances.

Rulings
A ruling or advance ruling is a written statement issued to the taxpayer by the tax authorities interpreting and applying the tax law to a specific set of facts.

Safe Harbour
A safe harbour in a transfer pricing regime is a provision that applies to a defined category of taxpayers or transactions and that relieves eligible taxpayers from certain obligations otherwise imposed by a country's general transfer pricing rules. A safe harbour substitutes simpler obligations for those under the general transfer pricing regime.

Secondary Adjustment
An adjustment that arises from imposing tax on a secondary transaction. A secondary transaction is a constructive transaction that may be asserted in some countries after making a primary adjustment, in order to make the actual allocation of profits consistent with the primary adjustment. Secondary transactions may take the form of constructive dividends, constructive equity contributions or constructive loans.

Secret Comparables
This generally refers to the use of information or data about a taxpayer by the tax authorities to form the basis of transfer pricing scrutiny of another taxpayer, which is often not given access to that information, because for example it may reveal information about a competitor's operations.

Shareholder Services
Services performed by a member of a multinational group (usually the parent company or a holding company) in its capacity as a shareholder, for example preparation of consolidated accounts.

Tested Party
The tested party is the party in relation to which a financial indicator (e.g. mark-up on cost, gross margin or net profit) is tested when using the Cost Plus Method, Resale Price Method or Transactional Net Margin Method.

Thin capitalization
A company is said to be "thinly capitalized" when it has a high proportion of debt capital in relation to its equity capital. The two most common tests for determining whether this ratio is too high are, firstly, by reference to the arm's length principle and, secondly, by reference to a fixed ratio of debt to equity. Many countries have rules designed to discourage thin capitalization, particularly in an international context.

Excessive debt funding of companies from abroad is often viewed as leading to an unacceptable erosion of a country's revenue base.

Trade Intangibles
Trade intangibles are commercial intangibles other than marketing intangibles. Examples of trade intangibles are patents or copyright.

Transactional Net Margin Method (TNMM)
The Transactional Net Margin Method examines the net profit margin relative to an appropriate base (e.g. costs, sales, assets) that a taxpayer realizes from a controlled transaction. This is compared to the net profit margins earned in comparable uncontrolled transactions.

Transfer Pricing
The general term for the pricing of cross-border, intra-group transactions in goods, intangibles or services.

Transfer Pricing Adjustment
An adjustment made by the tax authorities to the profits of an enterprise after determining that the transfer price of a transaction with a related party does not conform to the arm's length principle.

Transfer Pricing Method
A transfer pricing method is a methodology by which the arm's length principle is applied to determine the arm's length price of a transaction. Examples of transfer pricing methods are the Comparable Uncontrolled Price Method, Resale Price Method, Cost Plus Method, Transactional Net Margin Method and the Profit Split Method. Other appropriate methods are also used in some jurisdictions.

Uncontrolled Transaction
A transaction between independent and unrelated enterprises.

Accrued interest
Interest that has accumulated but has not yet been paid.

Attachment (of salary)
Deduction made by the employer from an employee's earnings, when required to do so by a court order. See also Garnishment.

Bankrupt
A bankrupt is an individual who is unable to pay his debts and against whom a bankruptcy order has been made by a court. The court takes control of the individual's property which is then realised (i.e. converted into cash) for distribution amongst the creditors.

Bankruptcy
The process of dealing with a bankrupt. Where there is a domestic priority for tax debts in such proceedings, this does not apply by virtue of paragraph 5, Article 27 of the Model Convention, to a revenue claim of a Contracting State.

Closing a case
The case is closed when no further actions are to be taken. This can be the result of the collection of the revenue claim, the withdrawal of the request by the competent authority of the applicant state, or the revenue claim is uncollectible in the requested state.

Collection period
The period between the date of the request and the date the claim is paid.

Conservancy Measures
Measures of conservancy are applied when the revenue claim is not yet enforceable, and they are aimed at preventing the taxpayer from disposing of his assets in a way that is harmful to his creditors' interests. Such measures could include the seizure or the freezing of assets of the taxpayer, or placing a lien on the taxpayer's property. Also known as Interim measures and Precautionary measures).

Deed of settlement
Legally binding debt settlement arrangement or compromise agreement made by the debtor and all his creditors, which sets out how and when the debtor will pay the debt (usually a reduced amount). This effectively removes the burden of bankruptcy from the debtor, also known as voluntary arrangement.

Deferral of payment
Administrative decision by tax authority that allows the taxpayer to postpone the payment of a tax claim.

Distrain (an asset)
To take possession of the debtor's goods and then to sell those goods if the debt remains unpaid.

Distraint
This is the act or process of distraining.

Enforceable tax claim
This is a tax claim which is correct and can be legally pursued.

Enforcement actions
Actions adopted by tax authorities to collect a tax debt. Means of enforcement typically include distraint and the application of penalties.

Expiry of the claim
Date on which the collection right of a tax claim expires. See also statute of limitations.

Fines
Surcharges imposed by tax authorities for either late filing of a tax return or non-payment of tax due. The surcharge can be a fixed amount, a percentage of taxes due, or a combination of these.

Garnishment
An order by the Court that money or property that belongs to a debtor but is in the possession of another is applied to the payment of the debt owed. For example, the order can be directed to an employer to withhold all or part of an employee's wages and to send the money to the court or directly to the tax authority which brought the action. See also 'Attachment'

Interim measures
See "Conservancy measures"

Late payment
Payment made after the date by which the tax was due to be paid.

Late payment
Payment made after the date by which the tax was due to be paid.

Lien
The right to take and retain the debtor's property until the settlement of the tax debt.

Liquidation
This is the process whereby a company has its assets realised and distributed to satisfy (as far as possible) its liabilities and to repay the creditors. This is usually followed by the dissolution of the company.

Mutual Agreement Procedure
Procedure for resolving difficulties arising out of the interpretation or application of tax treaties, in particular where taxpayers are subjected to taxation which is not in accordance with the provisions of the treaty.

Precautionary measures
See 'Conservancy Measures'

Remit
To choose not to collect a tax debt. As a result, the tax debt no longer appears in the tax authority's accounts as an amount receivable. A tax debt may be remitted on a number of grounds e.g. cost, compassion or fairness. The tax is not permanently written off, but can be brought back into charge when the debtor's circumstances change. Enforceable tax claims may also be written off permanently where collection is not possible, for example because of insolvency or because the debtor cannot be found.

Remission
The act or process of remitting. This is sometimes known as 'waiver of claims'.

Seizure
The act of taking possession of goods or property of a debtor to pay the debt. The seizure is complete when the goods are within the power of the legally authorised officer.

Set-off
The setting of money cross-claims against each other to produce a balance, i.e. the tax claim is reduced by the amount of any separate tax repayment or other amount which is due to be paid to the taxpayer.

Statute of limitations
A statute prescribing the time period during which legal action can be taken. If a lender allows time to pass without receiving any payment an action for recovery may become barred. If the debtor acknowledges the debt in writing or makes a part payment within the original limitation period, then the time limits generally start to run again from the date of acknowledgement or the date of payment.

Voluntary arrangement
See "Deed of settlement"

Waiver of claims
See "Remission" and "Remit".

Convention on Mutual Administrative assistance in Tax Matters

For the purposes of this Convention, unless the context otherwise requires:

a the terms “applicant State” and “requested State” mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;

b the term “tax” means any tax or social security contribution to which the Convention applies pursuant to Article 2;

c the term “tax claim” means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;

d the term “competent authority” means the persons and authorities listed in Annex B;

e the term “nationals” in relation to a Party means:

i all individuals possessing the nationality of that Party, and

ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2 As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3 The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question

Abbreviations and Acronyms

AEOI
Automatic Exchange of Information

CRS
Common Reporting Standard

EU
European Union

FATCA
Foreign Account Tax Compliance Act

FATF
Financial Action Task Force

FI
Financial Institution

IT
Information Technology

Model CAA
Model Competent Authority Agreement

OECD
Organisation for Economic Co-operation and Development

TIEA
Ta Information Exchange Agreement

Definitions

For the purposes of this agreement ("Agreement"), the following terms have the following meanings:

a) the term "[Jurisdiction A]" means […].

b) the term "[Jurisdiction B]" means […].

c) the term "Competent Authority" means:
(1) in the case of [Jurisdiction A], […]; and
(2) in the case of [Jurisdiction B], […].

d) the term "[Jurisdiction A] Financial Institution" means (i) any Financial Institution that is resident in [Jurisdiction A], but excludes any branch of that Financial Institution that is located outside [Jurisdiction A], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction A], if that branch is located in [Jurisdiction A].

e) the term "[Jurisdiction B] Financial Institution" means (i) any Financial Institution that is resident in [Jurisdiction B], but excludes any branch of that Financial Institution that is located outside [Jurisdiction B], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction B], if that branch is located in [Jurisdiction B].

f) the term "Reporting Financial Institution" means any [Jurisdiction A] Financial Institution or [Jurisdiction B] Financial Institution, as the context requires, that is not a Non-Reporting Financial Institution.

g) the term "Reportable Account" means a [Jurisdiction A] Reportable Account or a [Jurisdiction B] Reportable Account, as the context requires, provided it has been identified as such pursuant to due diligence procedures, consistent with the Common Reporting Standard, in place in [Jurisdiction A] or [Jurisdiction B].

h) the term "[Jurisdiction A] Reportable Account" means a Financial Account that is maintained by a [Jurisdiction B] Reporting Financial Institution and held by one or more [Jurisdiction A] Persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction A] Reportable Person.

i) the term "[Jurisdiction B] Reportable Account" means a Financial Account that is maintained by a [Jurisdiction A] Reporting Financial Institution and held by one or more [Jurisdiction B] Persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction B] Reportable Person.

j) the term "[Jurisdiction A] Person" means an individual or Entity that is identified by a [Jurisdiction B] Reporting Financial Institution as resident in [Jurisdiction A] pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of [Jurisdiction A].

k) the term “[Jurisdiction B] Person” means an individual or Entity that is identified by a [Jurisdiction A] Reporting Financial Institution as resident in [Jurisdiction B] pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of [Jurisdiction B].

l) the term “TIN” means a [Jurisdiction A] TIN or a [Jurisdiction B] TIN, as the context requires.

m) the term “[Jurisdiction A] TIN” means a […].

n) the term “[Jurisdiction B] TIN” means a […]. 2.

Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction