What is transfer pricing (TP)?

Transfer pricing refers to the pricing of transactions between related parties within a group. Country-specific laws govern the pricing of such transfers of goods, services, and various intangible assets, as well as financial transactions.

Cash repatriation analysis

Head office (HO), COVID-response and management services

- HO services can (and potentially should) be recharged by the parent to subsidiary entities. Often this is structured as a recharge of costs, plus a markup.

- To enhance cash-repatriation to the HO location and potentially mitigate the groupwide tax rate, investment managers and portfolio companies should consider:
  - Are all COVID-19 expenses being captured and accurately recharged? Examples of missing costs may include, but are not limited to, increased software expenses, COVID-19 “response teams,” and/or increased insurance costs.
  - Is the role of technology and IP currently being considered/adequately recharged?
  - Are any costs being excluded from the management fee calculation that should be reassessed?
  - Are alternative allocation keys available, reallocating which entities bear the costs of HO (potentially easing cash outlay in certain jurisdictions)?
  - Can/should the “markup” be adjusted in light of COVID-19? New tax authority guidance may tolerate below-arm’s length results depending on economic circumstances.
Mitigate cash outlay

Subadvisory/delegated investment and research functions
— Investment managers are facing increasing pressure on cash outlays, such as for reimbursement of expenses of local investment/research teams.
— To mitigate cash outlays from the HO location, investment managers should consider, among other things:
  – Can the profitability of delegated investment and research functions be reduced in light of COVID-19?
  – Are alternative methods of “rewarding” such functions available?
  – Are any other fixed-return entities able to reduce their TP profitability as a result of COVID-19?

Evaluate funding arrangements

Financial transactions (e.g., loans, treasury functions, cash pools, hedging, etc.)
— Rules governing intercompany financial transactions have changed. Investment managers and portfolio companies need to carefully assess the potential impact on any related-party funding (including any blocker loans inserted into deal structures).
— Debt markets have been highly volatile since COVID-19, impacting the ability to support and price intercompany financing.

Achieving certainty

Tax authority engagement and certainty
Engaging tax authorities at the right moment, effectively negotiating disputes, achieving certainty over a company’s tax positions for a number of years going forward—we assist our clients extensively in this space:
— Advanced pricing agreements (APAs).
— Audit defense
— Analysis of potential country-by-country reporting risks
— Preparing for tax authority discussions
— Tax authority response letters.

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