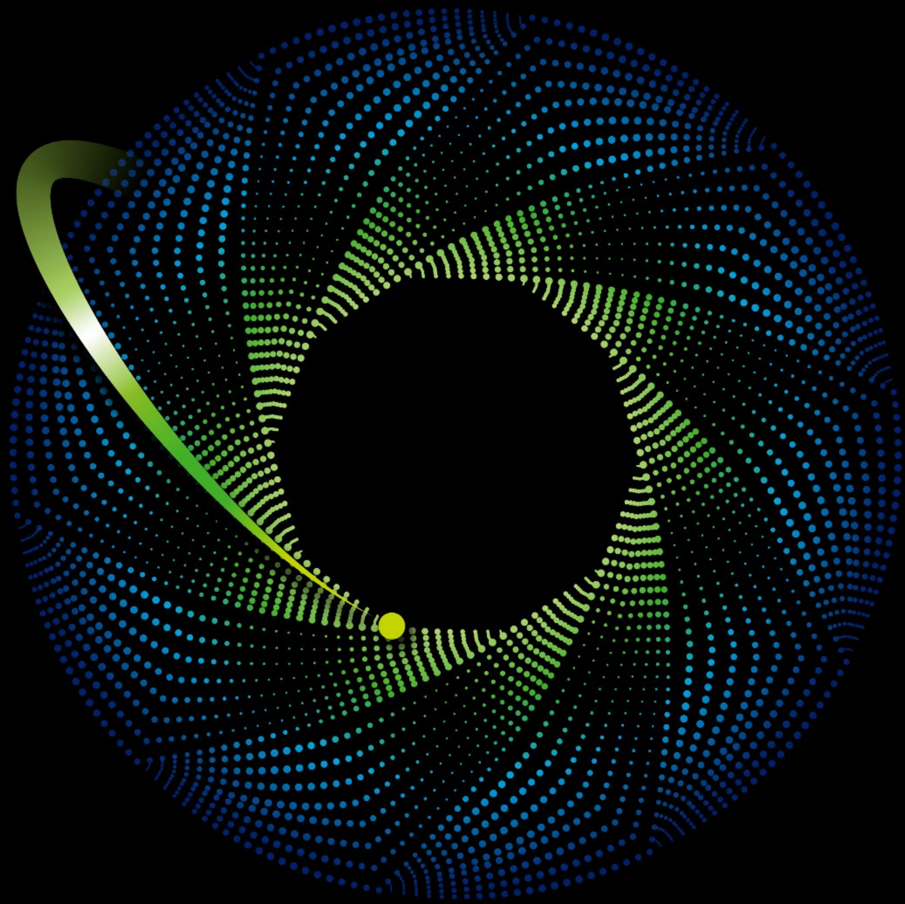

Tax Newsletter

Timely news and information on national tax issues

Global Profitability Analysis – Considerations for the application of the arm's length principle

As a general rule, the transactions subject to transfer pricing must be analyzed transaction per transaction.

In certain circumstances, taxpayers may find themselves limited when performing an individual transfer pricing analysis on an intercompany transaction. In such cases, and to the extent that these are fully justified, it may be necessary to apply a global profitability analysis.

Circumstances in which the use of a global profitability analysis is viable

The proper application of a global profitability analysis could be justified in the following cases:

1. Situations in which separate transactions are closely linked with each other, or when one transaction is a continuation of the other. One example of this would be the determination of the price of a set of similar products, in which the determination of the price of each product or of each particular transaction is impractical (purchase of raw material, materials and accessories).

2. When the taxpayer does not have segmented financial information available and the application of an indirect analysis is necessary. This is likely to occur (i) when in general terms, the taxpayer's business does not require financial information per segment, or (ii) when an analysis of the related counterpart is performed, and it is impractical to obtain segmented financial information for that counterpart.

If a transaction is being indirectly analyzed, its representation with respect to income, costs or expenses should be low. Otherwise, it would be understood that there is financial information available regarding the business segment in question.

Selection of the most reliable Transfer Pricing Method

The Transactional Net Margin Method (TNMM) is generally the most reliable method in these types of cases, which is based on the concept that the profits obtained by the comparable companies tend to be on level with each other within a reasonable period of time.

Selection of the Profit Level Indicator (PLI)

A reliable application of the TNMM requires the selection of a PLI that provides the most reliable measure that the taxpayer would have obtained in transactions that meet the arm's length principle.

The PLI should be determined, considering the following:

If the tested transaction corresponds to income, the PLI must be based on the Net Cost Plus (NCP). If the tested transaction corresponds to a cost or expense, the PLI should be based on the Operating Margin (OM).

Finally, it is important to add that the selection of the TP method, PLI, and information that supports the proper application of the global analysis must be reasonably justified by the taxpayer in each fiscal year analyzed.

According to the **OECD transfer pricing guidelines**, it is not appropriate to use a method based on global profitability analysis simply because the comparable data is difficult to obtain or is incomplete.

The use of a global profitability analysis that is not duly justified would lead one to infer that the related transactions do not comply with the arm's length principle, thus giving the tax authorities the opportunity to **apply a direct method by comparing or adjusting the prices of the related transaction with the unrelated transaction.**

This type of situation is one of the most common reasons for tax adjustments made by Tax Administrations.

More information:

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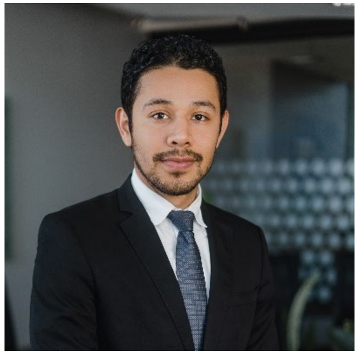

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Tax Calendar
May 2023

Use our 2023 Tax Calendar to keep informed about:

Tax Obligations before the Tax Office (Ministerio de Hacienda)

Municipal Tax Obligations

Payroll Management Obligations

May 2023

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

To learn more about May’s obligations:

Download the 2023 Tax Calendar

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