Transfer Pricing in V4 Countries

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Transfer price in practice in Hungary

Dr. Veronika Poreisz

Mariann Berényiné Papp

SZÉCHENYI EGYETEM
UNIVERSITY OF GYŐR

Dunamenti Adóklaszter
DUNA

Definition of associated companies (HU)

1. Majority influence (direct and indirect)
   1. More than 50% of votes (in case of private members the votes of direct relatives are added up)
   2. the right to elect senior executives
   3. transfer of votes by agreement - so more than 50% combined votes
2. The same executive (direct relative not relevant)
3. The business and the foreign establishment

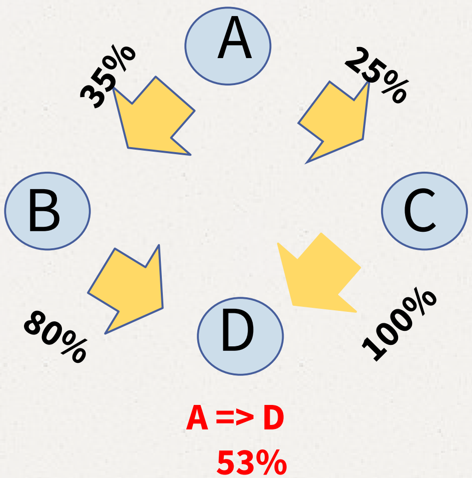
Typical problems
Definition of associated companies I.

1. Indirect assotiation is not considered

Company	Votes	Associated
1. A => B	35%	No
2. A => C	25%	No
3. B => D	80%	Yes
4. C => D	100%	Yes
5. A => D	53%	Yes

A => D Indirect association

(80*0,35)+(100*0,25)=28+25=53



Typical problems
Definition of associated companies II.

2. No summarizing of votes in case of individual members (domestic partner and children, parents, siblings)

3. No relationship is established (or needless established) on executive identity – close family members are also considered

Typical problems
Definition of associated companies II

4. The municipality and its business association do not apply transfer pricing rules and are not considered to be related parties.

5. The ownership shares are examined instead of votes

6. International groups of companies have no information about the ultimate parent company

International issues

1. The percentage of major influence differ by countries (50%, 25%,)

2. Not only the same executives but also the members of the management establish a relationship.

- **Problem:** Managing when a business is associated under one country's rule and not in another.

Reporting obligation(HU)

1. The associated company must be notified to the tax authorities, but only when the contract is first concluded.
   - **Failure**: fine of 500 thousand Forint / partner
2. The end of the affiliation must be report
   - **Failure**: fine of 500 thousand Forint / partner
3. The CbCR requires to report to the tax authority the final parent company, or who is required to report..
   - **Failure**: fine of 20 million Forint

Typical problems
Reporting obligation

1. No announcement:
   - Missing report due to negligence or only one of the associated companies reports
   - Missing report due to false stated association.
2. Missing CbCR
   - Do not know the ultimate parent company
   - Not able to report.

International issues

1. The tax authority has a complete overview of multinational groups within a short period of time
   a. CbCR
   b. Master File
   c. Direct communication of tax authorities.
2. There may be double taxation
   - for example, a foreign parent company is associated with 25%, its tax authority has raised the tax base, the Hungarian party cannot deduct it because it is not affiliated.

Obligation of Corporate tax base correction (HU)

1. The tax base adjustment obligation is from the first forint if the applied price is different from the transfer price - regardless of the transfer price reporting obligation.
2. The taxpayer who is not required to make a transfer price record should also check whether the normal market price and the transaction / contract prices were in line with this.
3. The taxpayer is entitled to a mutual consultation procedure to avoid double taxation (MAP)

Typical problems

Tax base correction

1. A common mistake is that anyone who is not required to keep a transfer price record does not take into account the tax base adjustment obligation, as the company does not think the rule applies.

2. Free services are not taken into consideration (free use of headquarters, use of free tangible assets, guarantees, free use of intellectual property for own business purposes)

International issues
Tax base correction

It can lead to **double taxation**

- if, for example, Hungarian and foreign group members have been contracted at transfer price for years,
- but this is overruled by the foreign tax authority and increases the tax base outside.
- Hungarians cannot reduce it because they have been considering the price as a TP for years, possibly in their audited records.

Transfer pricing obligation (HU) I.

1. **Who is required?**
   - Any corporate Tax subject who is not subject to the exceptions
2. **Who is not obligated?** The main exceptions are:
   - Under 50 people at group level
   - At company level below 10 m Euro turnover or balance sheet total
   - is a non-profit corporation
3. Those who are obligated may be **exempt from one transaction**
   - HUF 50 million (approx. EUR 150 thousand) (at TP)

Transfer pricing obligation (HU) II.

1. **Deadline for preparation**: before corporate tax (in every year)
2. **Do not have to sign, declare, submit to the tax authority, only submisson for inspection.**
3. **Possibility of group subject (corporate tax) from 2019**
4. **From 01.01.2018**
   a. 3 level documentation
   b. Mandatory content requirements
   c. Master File – common document
   d. Full analysis in Local File (no exclusion limit)
   e. The order of methods has remained
   f. Application of interquartile

Typical problems
Reporting obligation

1. The **tax base** recorded in the register does not match the declaration.
2. The **order of the methods** is not applied
3. **Methodological dispute**
   a. the database cannot be verified or reconstructed
   b. the taxpayer also averages his profitability for 3 years
   c. the sample do not contains the returns at least 3 years of profitability
   d. the losses are not excluded from the sample
   e. function analysis is not acceptable or is not in line with real risk.

International issues

1. In the **comparative sample**, the profitability of the companies accounting under IFRS was compared without any adjustment.
2. **By international database**, country characteristics, price levels, efficiency, etc. are different and they were not unadjusted for analysis.
3. For a **domestic database**, it is even more difficult to find at least 10 sample elements.

Country by Country Report
(HU)

1. The legalization of the text is exactly the same as the EU legislation

2. If the Master Filet is not prepared by the ultimate parent or any member, the Hungarian company must prepare it after 1 year.

Typical problems
Country by Country Report

1. Without the knowledge of the final parent company, the Hungarian is unable to describe the group, and it is not certain whether the group reaches the threshold and becomes obligated to CBCR.
2. A joint document is not always prepared by the parent company, and may contains very incomplete information. Mostly, the Hungarian subsidiaries has no insight into intangible assets, R&D.

International issues

- There is typically no final parent company in Hungary, as it has a turnover of over 750 mEuro (OTP, MOL).
- Typically, there are subsidiaries.
- Hungarians typically report to the final parent company. Pay attention to the announcement (see above)

Thank you for your kind attention!

Dr, Veronika Poreisz
poreisz@sze.hu

Mariann Berényiné Papp
berenyi.p.mariann@altamix.hu