

DOI: 10.5281/zenodo.11425242

TRANSFER PRICING POST-BEPS: REGULATORY COMPLIANCE AND METHODOLOGICAL LIMITATIONS

Mohamed Naceur Mahjoubi^{1*}, Abu Elnasr E. Sobaih^{2*}, Ichraf Ben Flah³ and Hussein N. E. Edrees⁴

¹*Accounting Department, College of Business Administration, Dar Al Uloom University, Saudi Arabia;*
m.mahjoubi@dau.edu.sa (M.N.M.) <https://orcid.org/0009-0008-6383-8720>.

²*Management Department, College of Business Administration, King Faisal University, Saudi Arabia;*
asobaih@kfu.edu.sa (A.E.E.S.) <https://orcid.org/0000-0002-2730-689X>.

³*Accounting department, College of Business, Imam Mohammad Ibn Saud Islamic University (IMSIU),*
Riyad, Saudi Arabia, itbenflah@imamu.edu.sa (I.B.F.): <https://orcid.org/0009-0005-7651-9209>.

⁴*Data Management and Decision Support Office, King Faisal University, Saudi Arabia; haltahir@kfu.edu.sa*
(H.N.E.E.) <https://orcid.org/0000-0003-2471-6823>.

Received: 10/10/2025

Corresponding Author: Abu Elnasr E. Sobaih

Accepted: 10/11/2025

(asobaih@kfu.edu.sa)

ABSTRACT

This article examines transfer pricing in the post-BEPS context, linking recent academic literature with OECD normative developments. Three major findings emerge. First, profit shifting practices persist despite reforms, leading to significant tax losses, especially in developing economies. Second, the arm's-length principle shows notable institutional resilience: practitioners are pragmatically adapting it rather than challenging it. Third, traditional valuation methods reveal their limitations in the face of integrated configurations, marked by the absence of market prices, the circularity of value flows, and the complexity of collaborative ecosystems. The article analyzes valuation methodologies and their allocative inefficiencies, assesses HTVI guidance on the use of ex post data, and examines Amount B, highlighting the tension between standardization and economic precision. Managerial recommendations emphasize a hybrid approach: standardization for routine functions, detailed analyses for complex configurations, and strategic use of multilateral APAs. In conclusion, current frameworks show conceptual limitations in the face of economic transformations, requiring continuous methodological adaptation.

KEYWORDS: Transfer Pricing, BEPS 2.0, Arm's Length Principle, Profit Shifting, Intangible Assets, HTVI, Amount B, Tax Governance, Valuation Methods.

1. INTRODUCTION

Transfer pricing management has gradually become a key strategic, financial, and tax issue for multinational groups. Transfer pricing refers to the commercial and financial conditions applied to transactions between related entities within the same group. These transactions may involve the sale of tangible goods, the provision of services, the transfer of intangible assets, such as patents, trademarks, software, or data, as well as intragroup financial transactions. Correctly setting these prices is essential not only to fairly distribute profits between tax jurisdictions, but also to prevent the risk of tax adjustments and optimize the allocation of resources within the group.

The globalization of value chains and the increase in cross-border flows have significantly complicated the transfer pricing landscape. The growing importance of intangible assets introduces additional challenges, as these assets are often difficult to value, highly intangible, and sensitive to market fluctuations. Furthermore, contemporary business models, whether digital or traditional, exhibit increasing levels of complexity and functional integration that challenge the application of traditional valuation methods. Transactions involving data, algorithms, and integrated services raise particular questions about the identification of value-creating entities and the attribution of profits (Eden et al., 2019; Roques, 2018). Determining the true economic contribution of each entity and identifying the functions, assets, and risks associated with complex transactions pose major challenges for practitioners and tax authorities.

Since the launch of the Base Erosion and Profit Shifting (BEPS) project and the consolidated publication of the OECD guidelines in 2022, the international transfer pricing framework has undergone major evolution. However, recent academic debates reveal persistent tensions regarding the relevance of the arm's length principle in a context where multinational enterprises operate in a highly integrated manner and intragroup transactions often have no equivalent in the market (Rogers & Oats, 2021). International tax authorities now require more detailed documentation, including justification of the valuation methods used, identification of the functions, assets, and risks of the entities involved, as well as a rigorous analysis of intragroup transactions. Companies continue to use transfer pricing manipulation strategies to shift profits to low-tax jurisdictions. This practice is well documented and generates significant tax losses for countries, particularly in developing economies

(Cristea & Nguyen, 2016; Kalra & Afzal, 2023). In fact, recent macroeconomic evidence reveals that the scale of profit shifting has worsened rather than improved, with the fraction of multinational profits shifted to tax havens increasing from less than 2% in the 1970s to 37% in 2019 (Tørslov et al., 2023; Wier & Zucman, 2022). Similarly, Alexander, De Vito and Jacob (2020) showed that in the European context, stricter application of tax rules and broader tax bases have effectively reduced incentives for profit shifting. Despite the wealth of OECD normative work and empirical studies on profit shifting, debates persist over the adequacy of traditional methods in the face of the increasing complexity of multinational structures and transactions involving intangible assets that are difficult to value (Rogers & Oats, 2021).

The objective of this article is to provide an in-depth analysis of the conceptual and practical foundations of transfer pricing in the context of recent international reforms, by examining documentary requirements, valuation methods and tax securitization mechanisms. More specifically, this article aims to: (1) analyze the evolution of regulatory and methodological paradigms in the post-BEPS context, (2) assess the relevance of traditional valuation methods in the face of the increasing complexity of intragroup transactions, particularly those involving intangible assets, and (3) examine recent simplification and securitization instruments (Amount B, APAs) from a tax governance perspective. In this perspective, the analysis is based on the examination of theoretical concepts and essential criteria of transfer pricing, on the study of documentary obligations and international reporting, as well as on the critical evaluation of pricing methods, with an emphasis on the challenges posed by intangible assets and highly integrated entities.

2. LITERATURE REVIEW AND CONCEPTUAL FRAMEWORK

The transfer pricing literature lies at the intersection of several disciplines, including economics, tax law, and management accounting, and has evolved in response to the increasing complexity of international trade and the globalization of value chains. Early theoretical work, such as that of Hirshleifer (1956), laid the foundations for internal pricing by analyzing how firms could allocate resources and distribute profits among subsidiaries to optimize their overall performance. This work provided an analytical framework for understanding the impact of transfer pricing on subsidiary motivation, cost management, and the

overall economic efficiency of the group.

With the increasing internationalization of activities, contemporary debates have focused on identifying the true location of economic value and how to tax it fairly and efficiently. Recent empirical work has extensively documented transfer mispricing practices and their impact on tax revenues. Cristea and Nguyen (2016) demonstrated, using Danish data, that multinationals reduce the unit values of their exports to low-tax countries by 5.7 to 9.1%, corresponding to a loss of tax revenue of 3.24%. Similarly, analyses of developing economies reveal substantial tax losses related to profit shifting, particularly in contexts with limited institutional capacity (Kalra & Afzal, 2023; Agana *et al.*, 2018). Devereux and Vella (2018) point out that digitalization and intangible business models complicate the determination of the jurisdiction where profits should be taxed, while Eden (2019) highlights the practical challenges for tax administrations and businesses in applying the arm's length principle to complex and interconnected transactions.

Beyond empirical observations on profit shifting, a significant theoretical debate remains regarding the validity of the arm's length principle in the contemporary economic context. Rogers and Oats (2021), through a longitudinal qualitative study conducted with experienced transfer pricing practitioners, examined how professional perceptions and practices have evolved in a profoundly changing environment. By mobilizing a reading inspired by Bourdieu's theory (which highlights how social structures, positions of power, and habitus shape professional practices), their results show that, despite repeated criticism and calls for an overhaul of the existing framework, the arm's length principle retains a dominant position. This resistance to pressures for changing questions the real capacity of current reforms to transform institutionalized logics and routines.

The conceptual framework of transfer pricing is based on three fundamental elements. The first is the cross-border dimension: for a transaction to qualify as transfer pricing, it must involve entities located in different tax jurisdictions. This clearly distinguishes transfer pricing from local internal pricing, where international tax implications do not arise. The second element is the existence of a relationship of dependency between the parties, which may be legal or economic in nature. A legal relationship materialized by direct or indirect ownership of capital or voting rights, or by the effective control of one entity over another. An economic or contractual

relationship may exist even in the absence of formal control, when the decisions of one entity substantially influence the choices and results of the other, thus creating a situation of dependency that may affect pricing and the allocation of profits.

The third pillar of the conceptual framework is the application of the arm's length principle, which constitutes the international reference for the evaluation of intragroup transactions. According to this principle, the economic conditions of a transaction between related parties must be comparable to those that would have prevailed between independent companies in similar circumstances. However, the implementation of this principle faces significant conceptual and practical limitations. Roques (2018) show that within digital platforms, value creation comes primarily from the users themselves and the network effects they generate, rather than from the direct action of the platform. These dynamic challenges classic functional approaches, focused exclusively on the functions, assets, and risks attributed to the company. In the same spirit, Eden *et al.* (2019) highlights four major challenges associated with integrated IoT-type business models: data-driven transaction management, circularity of value flows, the speed of technological and organizational transformations, and the difficulty of clearly defining areas of control and cooperation between related entities. Eden *et al.* (2019) identify four important challenges for integrated IoT business models: data-driven transaction management, complex value interactions, rapid technological evolution, and blurred areas of control between entities.

Implementing this principle requires a thorough functional analysis, aimed at identifying and evaluating the functions performed by each entity, the assets used (tangible and intangible) and the risks assumed. This analysis makes it possible to determine which entity assumes the main risks and holds the strategic assets, and which entity performs routine functions, thus influencing the allocation of profits. Furthermore, selecting and adjusting relevant comparable is a crucial step in ensuring the reliability of the valuation. This involves finding comparable independent transactions, identifying significant differences, and rigorously adjusting them to establish a price range consistent with the arm's length principle. This task becomes particularly complex when dealing with transactions with high interdependence or involving multiple jurisdictions. Choi *et al.* (2020) used theoretical modeling to analyze the interactions between transfer pricing regulation and tax competition. Their

results show that overly strict rules can paradoxically push the countries of origin of foreign direct investment to tolerate certain profit shifting to jurisdictions with favorable tax regimes. When transactions involve intangible assets or highly integrated activities, traditional transaction-based methods may be insufficient. In these cases, transactional profit approaches, such as profit split or the transactional net margin method (TNMM), allow profits to be allocated based on the actual economic contribution of each entity.

Finally, the functional analysis and the selection of valuation methods must be accurately documented to meet the requirements of international tax authorities and OECD recommendations. This documentation plays a central role in tax risk management, dispute prevention, and strategic planning within multinationals. By combining a rigorous analytical approach with international guidelines, companies can reconcile regulatory compliance, economic optimization, and tax transparency, thus strengthening the credibility of their transfer pricing policy.

3. OECD AND BEPS FRAMEWORK AS INTERNATIONAL STANDARDS

The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations are the international standard for applying the arm's length principle. First adopted in 1995 and regularly updated, these guidelines provide a common framework for tax administrations and multinational enterprises to ensure intragroup transactions comply with market conditions. The 2022 consolidated version represents a major milestone, incorporating revisions resulting from the Base Erosion and Profit Shifting (BEPS) project, which aims to limit base erosion and the artificial shifting of profits to low-tax jurisdictions.

This update provides important clarifications on several key aspects. First, it clarifies the comparison methods, emphasizing the importance of choosing the most appropriate method for the transaction under consideration and strengthening the use of transactional profit methods when directly comparable are insufficient or non-existent. The adjustments necessary to improve comparability between controlled transactions and transactions between independent parties are also detailed, thus ensuring a better application of the arm's length principle. Second, the 2022 version provides specific guidance on intragroup financial transactions, covering loans, guarantees, hybrid instruments, and cash pooling mechanisms, and emphasizes the

alignment of these transactions with market practices to avoid any tax distortion. Finally, the guidelines address the treatment of hard-to-value intangible assets, known as HTVI (Hard-to-Value Intangibles), by strengthening existing documentation requirements and specifying the conditions for using data provided by tax authorities, while allowing taxpayers to demonstrate that their assumptions were reasonable and consistent.

However, the effectiveness of these guidelines in preventing profit shifting remains a matter of debate. Despite the strengthening of regulations resulting from the BEPS plan, empirical studies show that manipulative practices persist in various forms. Kalra and Afzal (2023) conducted a review of 29 studies published between 2014 and 2022. They identified five main research themes, including the impact of regulations on different types of multinationals and the effectiveness of anti-tax evasion measures. Their work shows that transfer pricing should be studied not only as a tax compliance tool, but also as a strategic management tool for companies. This approach is consistent with the findings of Choi et al. (2020), who show that excessively strict regulations can paradoxically encourage certain tax-motivated foreign direct investment flows. In some cases, limited tolerance for profit shifting could thus, counterintuitively, contribute to a certain economic and social balance.

At the same time, the BEPS 2.0 framework, introduced in 2021, has transformed the international tax landscape with the establishment of two complementary pillars. Pillar One aims to reallocate a portion of taxing rights to market countries, i.e., where consumers are located, even in the absence of physical presence. This measure primarily concerns large multinationals with consolidated revenues exceeding €20 billion and profitability exceeding 10%. In concrete terms, a fraction of residual profits is redistributed proportionally to local sales, thus strengthening taxation in jurisdictions where real activity generates economic value. Pillar Two, for its part, establishes a global minimum effective tax of 15% applicable to groups with consolidated revenues exceeding €750 million. Where a subsidiary is subject to a lower effective rate, an additional tax is payable by the parent company or another entity in the group, thus limiting the benefit of locating profits in jurisdictions with very low taxes.

These developments have significant impacts for both tax administration and multinationals. For governments, they broaden the tax base and better tax profits where real economic activity occurs. The actual impact of these measures is still debated.

According to Kalra and Afzal (2023), Pillar Two could bring in additional tax revenues, while Pillar One risks redistributing taxation among developed countries, rather than toward developing economies. For businesses, these reforms require adapting transfer pricing, strengthening documentation and transparency. Rogers and Oats (2021) note that, despite these changes, the arm's length principle remains largely dominant, reflecting a certain uniformity of practices in international taxation.

The OECD Guidelines, together with the HTVI rules and the BEPS 2.0 pillars, currently represent the most comprehensive international reference for regulating transfer pricing and the taxation of multinationals. However, their increasing complexity poses practical challenges, especially for countries with limited administrative capacity, and results in significant compliance costs for companies (Brychta *et al.*, 2020).

4. INTERNATIONAL DOCUMENTARY OBLIGATIONS

The standard agreed upon as part of the BEPS project introduced a three-tiered reporting architecture designed to enhance tax transparency and standardize reporting practices across jurisdictions. This approach is based on the master file, the local file, and the Country-by-Country Report (CbCR). The master file provides an overview of the multinational group, including aggregate information on its organizational structure, main sources of revenue, strategic intangible assets, and financial policies. Such documentation serves not merely as a compliance exercise but as a comprehensive framework for identifying and managing intangible assets (O'Connell, 2024). The local file, on the other hand, contains detailed and specific information on transactions carried out by a local entity with other members of the group, including comparability analyses and justifications for the transfer pricing methods used. Finally, the Country-by-Country Report is an aggregated reporting tool that presents, for each jurisdiction where the group operates, key data such as revenue, profit before tax, taxes paid, number of employees, and the location of tangible assets.

The central objective of this documentary framework is to provide tax authorities with a clear and consistent view of the global distribution of profits within a group and their alignment with the economic reality of the activities. In other words, it is a matter of verifying that taxable profits are not artificially shifted to low- or no-tax jurisdictions, but that they correspond to the functions performed, the

assets held, and the risks assumed by each entity. This logic reflects the fundamental principle of arm's length, according to which related companies must be treated as if they were operating in free market conditions between independent parties.

In practical terms, the required documentation must be sufficiently robust to demonstrate consistency between profit location and actual value creation. This includes, in particular, a detailed description of the group's business model and its entities, a functional analysis of the functions performed, assets operated, and risks assumed, relevant intragroup contracts governing transactions, valuation methods applied, and comparability studies or benchmarks used to support the prices selected. All these elements constitute a supporting file that should enable tax authorities to assess the compliance of the transfer pricing policy with international standards. The effectiveness of these requirements remains debated. Cristea and Nguyen (2016) show that Danish multinationals continue to reduce the unit values of their exports to low-tax countries, even after strengthening documentation. This shows that transparency alone is not enough to eliminate manipulative practices. Brychta *et al.* (2020) add that the application of these rules varies by country. In the V4 group countries (Czech Republic, Slovakia, Poland, Hungary), national differences create inequalities in compliance and enforcement.

Failure to comply with these obligations, whether due to a lack of documentation, a delay in filing, or insufficient content, significantly increases the risk of tax adjustments and exposes the company to substantial penalties. These penalties, which vary by jurisdiction, are intended to encourage multinational groups to adopt a proactive approach to transparency and compliance. In practice, well-prepared and regularly updated documentation is not only a defensive instrument in the event of an audit, but also an internal governance tool, allowing companies to better manage their intra-group flows, ensure the consistency of their tax policies, and limit reputational risks linked to accusations of aggressive optimization.

5. ASSESSMENT METHODS FOR TRANSFER PRICING

The choice of transfer pricing method is based on the arm's length principle, in accordance with OECD guidelines. According to this principle, transactions between associated enterprises should be valued as if they were concluded between independent enterprises under comparable market conditions.

The selection of the most appropriate method depends on the nature of the transaction, the availability of reliable comparable, and the functional profile of the entities involved. However, studies show that actual practices often differ from theoretical rules. Rogers and Oats (2021) find that practitioners adjust the application of the arm's length principle according to operational constraints. This creates a diversity of practices that sometimes deviate significantly from theoretical frameworks.

Emerging technologies, such as AI-based benchmarking and automated comparability analyses, are increasingly being used to improve the reliability and transparency of transfer pricing assessments, offering interesting and promising avenues for future research.

5.1. Traditional Transaction-Based Methods

Traditional transaction-based methods are preferred when reliable comparable data are available. Comparable uncontrolled pricing (CUP) is the most straightforward method for applying the arm's length principle and is particularly suitable for transactions involving commodities with market-accessible prices. However, its application remains limited in practice. Eden et al. (2019) point out that for transactions involving data or embedded services, there is often no observable market price. Practitioners must then use alternative methods, which are less accurate.

The Cost-Plus method is applied to intra-group services, consisting of adding a profit margin to the cost of production or service, which is particularly relevant for routine services performed by entities that do not assume significant risks. The Resale Minus method allows the transfer price to be determined by subtracting an appropriate profit margin from the resale price, a method suitable when the product is purchased for resale without substantial transformation.

5.2. Profit-based Transaction Methods

When external comparable are insufficient or operations are highly integrated, transactional profit-based methods offer a suitable alternative. The transactional net margin method (TNMM) compares the net margin earned by a test entity to that observed in comparable transactions, making it useful in contexts where market information is limited. Choi et al. (2020) show that using the TNMM in a tax competition context can cause inefficiencies. Firms adjust their internal production not to maximize economic efficiency, but to improve their overall tax position.

The profit split method allocates profits or losses between parties based on their respective economic contribution and is particularly relevant for complex transactions involving intangible assets or significant synergies. Eden et al. (2019) consider this method most suitable for IoT ecosystems, where value is shared between multiple entities and no party can be clearly defined as "tested." However, they point out that its practical implementation poses significant challenges. Choosing allocation keys and identifying individual contributions is complicated, especially when functions change rapidly during the fiscal year.

5.3. Valuation of Difficult-to-value Intangible Assets

For intangible assets that are difficult to value, the OECD recommends an approach based on existing documentation of assumptions and on the assessment of the actual economic value generated by the asset. Methods based on future income, such as the discounted cash flow (DCF) method, can be relevant but require robust assumptions and a precise justification for the forecasts used. The OECD's Hard-to-Value Intangibles (HTVI) guidance (2018) allows tax administrations to reassess initial valuations if actual results differ from projections, in order to limit undervaluation when transferring intangible assets to low-tax countries. However, this raises questions of legal predictability for taxpayers (Brychta et al., 2020) with domestic implementation of HTVI principles varying significantly across jurisdictions (Massimiano et al., 2025).

Another challenge concerns circularity in valuation. Roques (2018) notes that in digital platforms, value comes mainly from users and network effects, not from the platform itself. Traditional methods focused on the company's assets and functions must therefore be adapted to account for this external value.

Generally speaking, companies must document and justify the chosen method based on the functions performed, risks assumed, and assets employed to ensure compliance with the arm's length principle and international good transfer pricing practices. The main methodological challenge is to find a balance between reliable comparable and the economic reality of increasingly complex transactions. In these cases, market references are often limited or non-existent (Rogers & Oats, 2021). The main challenge lies in striking a balance between reliable comparisons and the economic realities of complex transactions, which often lack clear market benchmarks (Rogers & Oats, 2021). This is particularly relevant in the valuation of hard-to-

value intangible assets, where traditional methods must be adapted to account for external value generated by users and network effects.

6. CONTEMPORARY CHALLENGES RELATED TO THE DIGITAL ECONOMY AND RECENT APPROACHES

The digital economy has profoundly transformed traditional business models and raised new challenges for the application of transfer pricing rules. In this context, value creation no longer necessarily depends on physical presence in a country. Intangible assets such as data, algorithms, and network effects can generate substantial revenues, even in the absence of a physical establishment. Roques (2018) shows that in digital platforms, value comes mainly from network effects created by users, and not from the platform itself. This challenges the classic functional approach and raises the question of the tax attribution of value generated by actors external to the multinational group. Digital platforms, combining distribution, marketing, and intangible services, complicate the search for reliable comparable and limit the effectiveness of traditional transfer pricing methods based on comparable transactions.

Eden et al. (2019), based on a case study of IoT ecosystems, identify four major challenges for the application of traditional transfer pricing frameworks: (1) the absence of market prices for data-driven exchanges, making the CUP method inapplicable; (2) the circularity of value flows, where customer data is transformed and then returned as insights; (3) the rapid evolution of functions, where an entity can move from collection to strategic analysis within a single year; and (4) the difficulty of defining control in collaborative structures without a clear hierarchical relationship. These findings illustrate the conceptual limitations of current frameworks, which cannot be corrected by simple technical adjustments.

To address these challenges, the OECD developed Pillar One of its international tax reform, aimed at redistributing taxing rights and adapting transfer pricing rules to the digital economy. Within this framework, the Amount B initiative was designed to standardize and simplify the remuneration of core marketing and distribution functions performed locally. Instead of resorting to complex comparisons and multiple adjustments, Amount B proposes a standardized margin to be applied to qualifying activities, determined according to the sector and the risk level of the functions performed. This approach provides greater tax certainty, reduces

documentation and litigation costs, and facilitates audits by tax administrations.

To better understand the application of Amount B, it is helpful to imagine the situation of a local subsidiary performing distribution and marketing functions. In traditional methods, the remuneration of this subsidiary depends on a complex analysis including the search for comparable, margin adjustments, and detailed documentation. With Amount B, the subsidiary applies a predetermined standard margin, known in advance, for its current activities. This margin is considered compliant with the arm's length principle, reducing tax uncertainty and the risk of disputes. Tax administrations also benefit from a harmonized and predictable framework, which facilitates the supervision and control of transactions between related entities.

The effectiveness and limitations of Amount B are still debated. According to Rogers & Oats (2021), standardization can reduce compliance costs and litigation for routine functions, marking a pragmatic evolution in the face of increasing complexity. However, several gray areas remain: (1) the definition of eligible activities remains ambiguous; (2) voluntary application by jurisdiction may create asymmetries between adopting and non-adopting countries; and (3) the standard margin risks neglecting sectoral and geographical specificities (Kalra & Afzal, 2023). Finally, Amount B does not address the conceptual challenges related to value creation from network effects or circular data flows (Roques, 2018; Eden et al., 2019), being limited to classic distribution functions.

However, implementing Amount B presents operational challenges. It is necessary to clearly identify eligible activities, determine the exact scope of covered entities, and coordinate this approach with local transfer pricing rules. Its voluntary nature for non-adopting jurisdictions can also create disparities and uncertainty for multinational companies operating in multiple countries. Despite these challenges, Amount B represents a strategic tool for businesses, encouraging them to analyze their value chain, identify standard functions that could benefit from a simplified scale, and measure the impact on the overall distribution of profits. It is part of a broader approach to adapting international tax rules to the digital economy, aimed at strengthening tax fairness, reducing disputes, and providing a more predictable environment for global economic players.

In summary, recent developments demonstrate a tension between two logics: the standardized simplification of Amount B, which prioritizes

predictability over precision, and the search for new frameworks capable of capturing external sources of value and circular flows specific to the digital economy. This tension remains, for the moment, unresolved within the current regulatory framework.

7. MANAGERIAL IMPLICATIONS, STRATEGY AND TAX GOVERNANCE

Effective transfer pricing management is not only a matter of tax compliance, but also a strategic issue for multinationals. Profit shifting practices (Cristea & Nguyen, 2016; Kalra & Afzal, 2023) and debates around the arm's length principle (Rogers & Oats, 2021) highlight the need for stronger governance, capable of balancing tax optimization, regulatory compliance, and reputational protection. On the other hand, studies by d'Ogosi et al. (2023) confirm that transfer pricing practices significantly influence economic development, thus highlighting the need for transparent governance frameworks in emerging economies. Indeed, robust transfer pricing governance requires cross-functional coordination between tax, finance, legal, and operational departments. Successful companies generally adopt a centralized approach, establishing uniform, documented, and regularly updated transfer pricing policies to reflect changes in business and risks. The DEMPE concept has become central to this governance model, particularly within the European context where regulatory frameworks have been progressively harmonized (Hortalà et al., 2025). This centralization facilitates consistent decision-making and ensures full traceability of intragroup flows.

Documentation processes should be automated as much as possible to ensure efficiency and reduce errors. The rise of artificial intelligence tools dedicated to extracting, processing, and documenting transfer pricing opens new avenues for strengthening compliance and reducing administrative costs (Makke, 2023). Periodic risk reviews by geographic area make it possible to identify transactions with high tax stakes, adjust policies accordingly, and prioritize control resources. In this context, companies use analytical tools to conduct benchmarks, compare margins and prices applied to market standards, and assess alignment with the arm's length principle.

Establishing clear transfer pricing policies that are validated by management is an essential best practice. These policies define applicable methods, comparable selection criteria, and target margins, and serve as a benchmark for all intragroup transactions. Strong internal controls in place allow for transaction compliance verification, policy

deviations detection, and prompt correction of anomalies. These controls strengthen the credibility of practices with tax authorities and limit the risk of adjustments.

Businesses should also use advance payment agreements (APAs) when tax risk is high or transactions are complex. APAs provide legal certainty by pre-validating the transfer pricing method and margins applied, thereby reducing uncertainty and the risk of double taxation. At the same time, dispute resolution mechanisms (MAPs) represent a complementary tool for managing cross-border disputes and ensuring that profits are not taxed twice. The combined use of APAs and MAPs is now a strategic lever for businesses, allowing them to optimize tax governance while ensuring a proactive approach to risk management.

For routine distribution activities, the adoption of Amount B can simplify documentation and reduce disputes, but its voluntary application creates disparities between jurisdictions (Kalra & Afzal, 2023). The main risks concern intangible assets, intra-group services and countries with limited administrative capacity (Brychta et al., 2020). For complex data-driven models, profit split methods remain the most suitable despite their implementation difficulties (Eden et al., 2019).

Finally, transfer pricing governance must be integrated into the company's overall strategy, as it influences profit distribution, investment decisions, and international competitiveness. A proactive approach, based on clear policies, rigorous processes, and coordination between key functions, not only ensures compliance with regulatory requirements but also strengthens the company's credibility with stakeholders and tax authorities in an increasingly complex global tax environment. The tension between compliance and optimization, noted by Rogers and Oats (2021), calls for a balanced approach that reconciles practical requirements with compliance with international standards.

8. CASE STUDIES

To illustrate how transfer pricing principles work in practice, we examine three real-life examples representing different types of transactions: (1) the transfer of valuable intangible assets, (2) profit sharing in digital business ecosystems, and (3) compensation for standard distribution activities under Amount B. These examples explain how companies tailor their analysis and documentation depending on the type of transaction and its risk level.

8.1. Case 1-Intangible R&D Asset

A multinational pharmaceutical group decides to transfer ownership of a patent for a new drug to a subsidiary located in a different jurisdiction. In this type of transaction, it is essential to identify the real economic owner of the asset, i.e., the entity that assumes the risks associated with the development and commercial exploitation of the patent, as well as the entities that make a significant contribution to the DEMPE (Development, Operation, Maintenance, Protection and Commercial Exploitation) functions.

The valuation of this transfer must be based on a rigorous analysis, on the availability of external or internal comparable. In most cases, since pharmaceutical patents do not have perfect comparable, the discounted cash flow (DCF) method is preferred. This method makes it possible to estimate the future economic value created by the patent by considering the forecast revenues generated by the drug, the risks associated with its marketing and the R&D costs already incurred.

The OECD HTVI guidance (2018) allows tax authorities to reassess the initial valuation if actual results deviate significantly from forecasts. This mechanism aims to limit transfers of undervalued assets to low-tax jurisdictions, but it raises legal uncertainties for companies (Brychta *et al.*, 2020). In this context, it is essential to properly document financial assumptions and projections from the outset, in order to justify the estimates and plan for possible subsequent adjustments.

Existing documentation of financial assumptions and projections is crucial for defending the valuation to tax authorities. This includes justifying sales assumptions, growth rates, expected margins, and market risks. This type of documentation not only ensures compliance with the arm's length principle but also limits the risk of tax adjustments or litigation in the event of an audit. For this type of high-risk transaction, it is strongly recommended to use a multilateral APA, which helps secure the tax position in all relevant jurisdictions before the transfer.

8.2. Case 2-Digital Society

A digital platform centralizes all strategic functions and data management at headquarters, while local marketing is handled by subsidiaries without significant intangible assets. The main challenge lies in the distribution of profits generated by data, algorithms, and network effects, which represent a significant portion of the value created.

This case illustrates the challenges identified by Roques (2018): value is mainly created by the network effects of users, not by the platform itself. Traditional methods, focused on the company's

functions and assets, struggle to attribute this value produced by external actors to the multinational group. Furthermore, Eden *et al.* (2019) point out that in these integrated ecosystems, the lack of a clear principal-agent relationship and the speed of functional changes make the application of unilateral methods even more difficult.

In this context, it becomes necessary to analyze the role of each entity and the real economic contribution to key functions. Local subsidiaries may be allocated compensation based on their marketing and support functions, while the central headquarters capture most profits related to strategic assets. However, whether this distribution truly reflects value creation. The profit split method seems more suited to these situations, but its practical implementation remains difficult, particularly in choosing the distribution keys and identifying the contributions of each party (Eden *et al.*, 2019).

To secure this allocation, companies can use multilateral advance agreements under Pillar One, or bilateral APAs for specific jurisdictions. This approach helps reduce the risk of double taxation, ensure international consistency of transfer pricing policy, and clarify the tax responsibilities of each entity.

A concrete example could be an e-commerce platform that develops the recommendation algorithm centrally, while local subsidiaries simply manage promotion and logistics. The value of the recommendations generated by the algorithm is attributed to the headquarters, while the subsidiaries receive a standard margin on product sales, in accordance with the functions actually performed.

8.3. Case 3-Routine Distributor and Amount B

A standardized distribution company sells consumer goods in multiple countries through local subsidiaries. Traditionally, the subsidiaries' remuneration would be determined through complex benchmarks, requiring the search for local comparable and the adjustment of margins to comply with the arm's length principle.

With the adoption of Amount B, the remuneration for these basic distribution and marketing activities can be standardized according to a predefined scale, applicable to all eligible subsidiaries. This simplification reduces the complexity of comparative analyses, limits the risk of disputes with tax authorities, and ensures greater tax certainty for the company.

However, the application of Amount B requires prior analysis: verifying the eligibility of functions, identifying adopting jurisdictions and assessing

whether the standard margin adequately reflects sectoral specificities or whether a more precise method is needed (Kalra & Afzal, 2023). Its voluntary nature complicates the situation for groups present in adopting and non-adopting countries.

A practical example might be a multinational electronics company whose local subsidiaries simply distribute and promote products in their own countries. Rather than making complex marginal adjustments, Amount B allows a fixed margin to be allocated on local revenue to compensate for these standard functions, thus simplifying documentation and reducing administrative costs.

These three case studies illustrate how multinational companies can pragmatically apply transfer pricing principles depending on the nature of the asset and the functions performed. They highlight the need for rigorous documentation, choosing the appropriate method, and using tax safeguard mechanisms (APAs, MAP, or Amount B) to reduce litigation risks and ensure compliance with international standards.

These three case studies demonstrate the tensions identified in the literature: between theoretical rules and real practice (Rogers & Oats, 2021), between standardization and economic precision, and between old frameworks and current realities (Eden et al., 2019; Roques, 2018). They highlight that companies must combine methodological rigor, solid documentation, and strategic use of tax mechanisms (APAs, MAP, Amount B) to manage risks in a changing environment.

9. CRITICAL SYNTHESIS AND RECOMMENDATIONS FOR BUSINESSES

Transfer pricing management is now a major strategic issue for multinational companies, particularly in the context of increased international regulation and complex business models. Profit shifting practices remain significant despite BEPS reforms, resulting in tax losses of up to 3.24% of taxable income in certain jurisdictions (Cristea & Nguyen, 2016). Critically, this problem has not abated since the BEPS reforms were introduced; the fraction of multinational profits shifted to tax havens increased from less than 2% in the 1970s to 37% in 2019 (Wier & Zucman, 2022; Tørsløv et al., 2023). At the same time, debates on the relevance of the arm's length principle persist in the literature and professional practice (Rogers & Oats, 2021).

Integrated business models, with circular data flows or contributions distributed across multiple entities, pose significant methodological challenges that current frameworks do not address (Eden et al.,

2019; Roques, 2018). To secure their positions and reduce the risk of disputes, companies must develop robust documentation, including the master file, the local file, and Country-by-Country Reporting (CbCR). This documentation should include existing evidence, strategic decisions, and methodological choices, transparently demonstrating how transfer prices were determined and justified in accordance with the arm's length principle. However, investing in artificial intelligence solutions to extract, process, and document data can strengthen compliance and reduce administrative costs (Makke, 2023).

Detailed functional analysis is a central element of the governance strategy. This analysis makes it possible to precisely identify which entities assume significant economic risks and which entities capture the residual value of transactions. For complex configurations, with network effects or collaborative ecosystems, traditional functional analyses show their limitations and require adapted methods that are still under development (Roques, 2018).

In situations involving high tax risk, businesses should consider using Advance Arrangements (APAs) and Dispute Resolution Mechanisms (DRMs). These instruments help secure tax positions before or after transactions are implemented, reduce the risk of double taxation, and provide greater predictability in a complex international environment. Risk management strategies must be tailored to the specific characteristics of each supply chain configuration and the regulatory environments of the jurisdictions involved (Li & Cheng, 2024).

For routine distribution activities, it is recommended to evaluate the appropriateness of adopting Amount B, when this scheme is implemented in the relevant jurisdictions. This assessment must balance standardized simplicity and economic precision, considering the voluntary nature that creates differences between adopting and non-adopting jurisdictions (Kalra & Afzal, 2023). The use of Amount B allows for standardization of remuneration for these functions and simplifies documentation, thus reducing the administrative burden and the risk of litigation. However, companies should carefully monitor the progress of the adoption of this scheme by different jurisdictions to optimally integrate it into their overall strategy.

Finally, investment in information systems and automated processes appears essential to collect, process, and document the data needed for benchmarks and functional analyses. Furthermore, research by Moro-Visconti et al. (2020) highlights the importance of integrating sustainability and financial innovation. They suggest that digital transformation

and FinTech models can enhance transparency and scalability in transfer pricing governance. These tools improve the accuracy of assessments, facilitate periodic updates, and ensure the traceability of decisions. By adopting an integrated approach combining rigorous documentation, functional analysis, strategic use of APAs and Amount B, as well as the use of advanced technological tools, companies can not only reduce tax risks but also strengthen the credibility of their transfer pricing policy with international administrations and stakeholders.

However, the tension between regulatory compliance and operational realities, highlighted by Rogers and Oats (2021), requires constant vigilance and a pragmatic adaptation of theoretical frameworks to practical constraints.

10. CONCLUSION

Transfer pricing management has become both a strategic level and a regulatory obligation for multinational groups. Recent developments in the international framework, including the OECD 2022 Guidelines, the recommendations on difficult-to-value assets (HTVI), and initiatives such as Amount B and Pillar Two of the BEPS project, increase

complexity but also offer tools to ensure that profits are allocated in line with their true economic value.

The literature review reveals unresolved tensions: profit shifting practices persist despite reforms, the arm's length principle remains dominant despite criticism, and current methods struggle to manage complex configurations with circular value flows or network effects. In this context, companies must go beyond simple compliance to develop transfer pricing policies integrated into their overall strategy, reconciling tax optimization, risk management, and operational efficiency. Detailed documentation, rigorous functional analysis, the judicious use of APAs and dispute resolution mechanisms, and the adoption of standardized solutions such as Amount B for routine distribution functions are essential levers for securing tax positions and improving predictability.

Investing in advanced analytical tools is essential to meet document requirements and track decisions. With business models evolving rapidly, methods must continually adapt. Effective transfer pricing management is becoming a key lever for governance, strategy, and value creation, while recognizing the limitations of current frameworks in the face of global economic transformations.

Acknowledgements: This work was supported by the Deanship of Scientific Research, Vice Presidency for Graduate Studies and Scientific Research, King Faisal University, Saudi Arabia [Project No. KFU254179].
Funding: This research was funded by the General Directorate of Scientific Research & Innovation, Dar Al Uloom University, through the Scientific Publishing Funding Program.

REFERENCES

Agana, J. A., Mohammed, A.-K., & Zamore, S. (2018). International transfer pricing and income shifting in developing countries: Evidence from Ghana. *International Journal of Emerging Markets*, 13(5), 1132–1153. <https://doi.org/10.1108/IJoEM-05-2017-0181>

Alexander, A., De Vito, A., & Jacob, M. (2020). Corporate tax reforms and tax-motivated profit shifting: Evidence from the EU. *Accounting and Business Research*, 50(7), 1–34.

Brychta, K., Ištak, M., Sulik-Górecka, A., & Poreisz, V. (2020). Transfer pricing in V4 countries. VUTIUM Press, Brno University of Technology. <https://doi.org/10.13164/9788021458734>

Choi, J. P., Furusawa, T., & Ishikawa, J. (2020). Transfer pricing regulation and tax competition. *Journal of International Economics*, 125, 103367. <https://doi.org/10.1016/j.jinteco.2020.103367>

Cristea, A., & Nguyen, D. (2016). Transfer pricing by multinational firms: New evidence from foreign firm ownerships. *American Economic Journal: Economic Policy*, 8(3), 170–202. <https://doi.org/10.1257/pol.20130407>

Devereux, M. P., & Vella, J. (2018). Implications of digitalization for international corporate tax reform. *Oxford Review of Economic Policy*, 34(3), 548–575.

Eden, L. (2019). The arm's length standard: Making it work in a 21st-century world of multinationals and nation states. *Transfer Pricing International Journal*, 26(9), 620–635.

Eden, L., Srinivasan, N., & Lalapet, S. (2019). Transfer pricing challenges in the digital economy: A case study of the Internet of Things (Part II of II). *Tax Management International Journal*, 48(12). Mays Business School Research Paper No. 3412555. <https://ssrn.com/abstract=3412555>

Hirshleifer, J. (1956). On the economics of transfer pricing. *Journal of Business*, 29(3), 172–184.

Hortalà, J., Bargalló, C., & Collado, J. (2025). The DEMPE concept and its role in domestic transfer pricing practice – Report on Spain. *International Transfer Pricing Journal*, 32(5a).
<https://doi.org/10.59403/2nsjb6j>

Kalra, A., & Afzal, MNI (2023). Transfer pricing practices in multinational corporations and their effects on developing countries' tax revenue: A systematic literature review. *International Trade Politics and Development*, 7(1). <https://doi.org/10.1108/ITPD-04-2023-0011>

Li, Y., & Cheng, Y. (2024). A risk management strategy under transfer pricing for multi-national supply chain along the Belt and Road Initiative. *Sustainability*, 16(17), 7656. <https://doi.org/10.3390/su16177656>

Makke, R. (2023). Artificial intelligence and transfer pricing: Promising changes towards compliance, evidence from European MNEs [Master's thesis, Université Grenoble Alpes].
<https://dumas.ccsd.cnrs.fr/dumas-03002981/document>

Massimiano, A., Cappelleri, G., & Cataldi, M. (2025). The DEMPE concept and its role in domestic transfer pricing practice – Report on Italy. *International Transfer Pricing Journal*, 32(5a).
<https://doi.org/10.59403/3svxyba>

Moro-Visconti, R., Cruz Rambaud, S., & López Pascual, J. (2020). Sustainability in FinTechs: An explanation through business model scalability and market valuation. *Sustainability*, 12(24), 10316.
<https://doi.org/10.3390/su122410316>

O'Connell, D. (2024). OECD BEPS from an IP management perspective. *Journal of Intellectual Property Provisions*, 1(1). <https://doi.org/10.5750/jipp.v1i1.2329>

OECD. (2018). *Guidance for tax administrations on the application of the approach to hard-to-value intangibles (BEPS Action 8)*. Paris: OECD Publishing.

OECD. (2021–2025). *Global Anti-Base Erosion (GloBE) Model Rules – Pillar Two: Consolidated Commentary and Administrative Guidance*. Paris: OECD Publishing.

OECD. (2022). *OECD transfer pricing guidelines for multinational enterprises and tax administrations*. Paris: OECD Publishing.

OECD. (2024). *Pillar One – Amount B: Consolidated Report and Fact Sheets*. Paris: OECD Publishing.

Ogosi, F., Umoren, M. A., Andem, F., & Inwang, A. R. (2023). Strategic effect of transfer pricing on economic development: Case study of Nigeria. University of Uyo.

Rogers, H., & Oats, L. (2021). Transfer pricing: Changing views in changing times. *Accounting Forum*, 46(8), 1–25. <https://doi.org/10.1080/01559982.2021.1926778>

Roques, T. (2018). Transfer pricing for digital platforms. *SSRN Electronic Journal*.
<https://doi.org/10.2139/ssrn.3103960>

Tørsløv, T., Wier, L., & Zucman, G. (2023). The missing profits of nations. *Review of Economic Studies*, 90(3), 1499–1534. <https://doi.org/10.1093/restud/rdac049>

Wier, L., & Zucman, G. (2022). Global profit shifting, 1975–2019 (WIDER Working Paper No. 121/2022). UNU-WIDER. <https://doi.org/10.35188/UNU-WIDER/2022/254-6>