

Group Discussion Session

CASE STUDY 4 - FRANCE

Group Discussion Session **(GROUP 1)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Proper use of benchmarking studies, and the correct range to choose*
 - *The benchmark studies would need to be checked out*
 - *We could accept that there could be some differences between different market/goods....for MEs*
 - *In transaction 1 we would remunerate FR entity for routine manufacturing and compensate US entity for routine LSE and split the residual profit between RHQ and BH*

Group Discussion Session **(GROUP 2)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Proper use of benchmarking studies, and the correct range to choose*

- Why 3 benchmarking analyses?
- 3,2-13 too wide?
- I and IV transactions EU region transactions
- II and III transactions American transactions
- NCP for routine transactions
- III-IV – no remuneration to HQ.

Group Discussion Session **(GROUP 3)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Proper use of benchmarking studies, and the correct range to choose*
 - For transactions 3 and 4 the arm's length range is too wide, and seems high for a limited risk manufacturer
 - Benchmark results need to be further evaluated

Group Discussion Session **(GROUP 4)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Proper use of benchmarking studies, and the correct range to choose*
 - We would review the benchmark analysis and the comparables, if they would be reasonable than we would negotiate point within the range.
 - Proper use of benchmark would be for contract manufacturing and LSE.

Group Discussion Session **(GROUP 1)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *Dealing with some routine remuneration that will impact an RPSM, with potentially some side effects, up to sharing losses.*
- *Routine manufacturing and selling entities should not bare losses.....*
 - *We do not see any problems with sharing profits and losses of companies with entrepreneur functions*

Group Discussion Session **(GROUP 2)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *Dealing with some routine remuneration that will impact an RPSM, with potentially some side effects, up to sharing losses.*
- Check, analyse, calculate ALM for routine functions

Group Discussion Session **(GROUP 3)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *Dealing with some routine remuneration that will impact an RPSM, with potentially some side effects, up to sharing losses.*
- Routine entities should not incur losses
 - In this transactions it should be possible to identify routine entities
 - Allocation should depend on the cause of the losses.

Group Discussion Session **(GROUP 4)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *Dealing with some routine remuneration that will impact an RPSM, with potentially some side effects, up to sharing losses.*
- We might agree on lower quartile if transaction (product category) would be loss making.

Group Discussion Session **(GROUP 1)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *The correct remuneration of each entity holding IP and/or value creation, while also performing some routine functions.*
- It is very important to know what are the functions, assets and risks of BH and RHQ and how do they add value to the IP*
 - Maybe it would be appropriate to perform a database search for royalty fee for BH function*
 -*

Group Discussion Session **(GROUP 2)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *The correct remuneration of each entity holding IP and/or value creation, while also performing some routine functions.*
- Remunerate routine functions
 - BH/RHQ – RPSM (cost method or personnel and their functions)

Group Discussion Session **(GROUP 3)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *The correct remuneration of each entity holding IP and/or value creation, while also performing some routine functions.*
- FAR analysis needs to be performed
 - Segmentation per transaction type (functionality),
 - Example: In T2 France acts as Main Entrepreneur in Glue, so US will be the tested party, and be remunerated for the LRD functions with TNMM, close to the upper quartile for the RHQ functions
 - Once they told us that the RHQ did real entrepreneur functions, yes, the PSM could be possible.
 - Questionable way to split it. We do not generally accept splits made on costs.

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *The correct remuneration of each entity holding IP and/or value creation, while also performing some routine functions.*
- Segmentation of the P/L for routine functions and rest is going to be divide by RPSM, based on value contribution analysis instead of cost driven RPSM.
 - Its very important to do proper P/L segmentation because we don't want to have cost leaking.

Group Discussion Session **(GROUP 1)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

4. *The taxpayer came again with the idea of adding more transactions, regarding some restructurings.*
- If the Change of business model would influence the existing APA, we would think to end the existing APA without the agreement, with the consultation with other CA*
 - If the restructurings would not influence the existing APA, we would continue with concluding APA.....*

Group Discussion Session **(GROUP 2)**
CASE STUDY 4 - FRANCE

QUESTIONS/ISSUES FOR GROUP DISCUSSION

4. *The taxpayer came again with the idea of adding more transactions, regarding some restructurings.*
- It depends on the influence to profit, functions etc?
 - Different BAPA periods
 - New appeal (roll back BAPA)?

Group Discussion Session **(GROUP 3)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

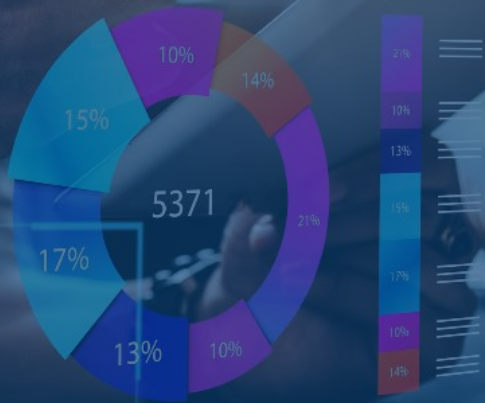
4. *The taxpayer came again with the idea of adding more transactions, regarding some restructurings.*
- It depends on the transaction (amount, new issues).
 - But we are not happy.
 - It depends on the country.

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

4. *The taxpayer came again with the idea of adding more transactions, regarding some restructurings.*
- If its already negotiated, we will not accept
 - If it does not effect the other transactions and we are not ready with our negotiations: OK

Group Discussion Session **(GROUP 1)**
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IOTA Case Study Workshop on
Transfer Pricing Challenges in Advance Pricing Agreements
3 -5 December 2024

QUESTIONS/ISSUES FOR GROUP DISCUSSION

5. *Z group has filed a similar BAPA with FR and another country, but this time with a different TP methodology proposed.*
 - *If it is the BAPA for similar transactions and TP model, than we would ask them why did they change the approach*
 - *We would suggest multilateral APA*

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

5. *Z group has filed a similar BAPA with FR and another country, but this time with a different TP methodology proposed.*
- Could be a problem, need explanation
 - Check or compare both BAPA
 - If transactions are the same or similar – no logic to apply 2 different methodologies

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

5. *Z group has filed a similar BAPA with FR and another country, but this time with a different TP methodology proposed.*
- Make sure that the facts are exactly the same, maybe any circumstance can justify the change in methodology.

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

5. *Z group has filed a similar BAPA with FR and another country, but this time with a different TP methodology proposed.*
- We would like to have more information on that particular BAPA
 - Do they apply licence fee?
 - And why did they use different TP methodology?