

Group Discussion Session

CASE STUDY 4 - SWITZERLAND



Group Discussion Session **(GROUP 1)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *What is the set-up regarding the burden of proof in your country?*

The company has the burden of proof to present TP documentation and then the TA do the adjustments if do not agree with the taxpayer

Group Discussion Session (GROUP 2)

CASE STUDY 4 - SWITZERLAND

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *What is the set-up regarding the burden of proof in your country?*

In all countries, the burden of proof is first on the administration.

Some countries receive the TP documentation with the tax return /Denmark/.

In other countries, the companies must deliver the TP documentation within a certain period of time ex. Poland, 7 days / Georgia, Ukraine, Romania and Armenia France, 30 days.

If not sufficient documentation, the company has the burden of proof
Ex. Georgia, Romania and Armenia.

The fines for not providing the documentation differs in each country.

The threshold of turnover to produce the TP documentation differs in each country. Ex. Ukraine is 200k euros, Armenia is 500k euros...

Group Discussion Session **(GROUP 3)**

CASE STUDY 4 - SWITZERLAND

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *What is the set-up regarding the burden of proof in your country?*

TP documentation obligation by law in most of countries

In some countries the burden of proof lies with tax administration if the company has shown the transaction and provided information

In some countries the burden of proof lies with the party which has better possibilities to prove the arm's length nature of the transaction

Group Discussion Session (GROUP 1)

CASE STUDY 4 - SWITZERLAND

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *How would you analyze the transfer pricing set-up?*
 - a) *What additional data would you ask for, if any?*

- Identify the tested-party and the Principal
- Ask more details to apply the CUP method
- Marketing expenses
- Ask more details about the volumes sold and the prices by category

Group Discussion Session (**GROUP 2**)

CASE STUDY 4 - SWITZERLAND

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *How would you analyze the transfer pricing set-up?*
 - a) *What additional data would you ask for, if any?*

Functional analysis of the company

Try to find out which is the tested company.

If CH entity is the only one doing the deal packaging, maybe it has a value-added function?

Which entity does the marketing?

Which markets do the IC operate in?

Compare margins between each company Colours 1, 2 and 3?

What type of IP do all the entities have?

Do colour 1 and 2 need Colours 3 for their product? In other words, does Colour 3s product have more value?

Group Discussion Session (GROUP 3)

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *How would you analyze the transfer pricing set-up?*
 - a) *What additional data would you ask for, if any?*

Intra group agreements and third-party agreements
Quantities sold to different customers, third party and IC sales
Detailed information about differences between products
Profitability of the group
financial statements for all the related parties involved
Information about costs for different products

Group Discussion Session (**GROUP 1**)

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

b) *What transfer pricing method would you choose to test the pricing?*

CUP method

Group Discussion Session (GROUP 2)

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

b) *What transfer pricing method would you chose to test the pricing?*

Segmentation between production and distribution and differentiation between third parties and IC, with a Cost plus.

Cost plus with internal comparables instead of benchmarking

Comparables would be resellers and distributors because no marketing costs

Cost base would be production costs.

Or TNMM if IP is not important

Group Discussion Session **(GROUP 3)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

b) *What transfer pricing method would you chose to test the pricing?*

**Internal “CUP” and
Comparing gross margins**

Group Discussion Session **(GROUP 1)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

- c) *Which comparability issues would you consider within your method?
How would you take them into account?*

Volumes and the negotiated prices and final customer B2B or B2C

Group Discussion Session **(GROUP 2)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

- c) *Which comparability issues would you consider within your method?
How would you take them into account?*

Volume, Transport options, Payment

Group Discussion Session **(GROUP 3)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

- c) *Which comparability issues would you consider within your method?
How would you take them into account?*

Varying gross margins is a comparability issue for different products
And a comparability issue with customer groups
Net margins for IC transactions should exclude marketing costs
Comparable gross margins should also exclude transactions with end customers

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

d) *In case you end up with a range of comparable values: Would you apply statistical tools to narrow the range? How would you narrow the range?*

It depends on the comparables quality, it could be necessary fix an IQ range

Group Discussion Session **(GROUP 2)**

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

d) *In case you end up with a range of comparable values: Would you apply statistical tools to narrow the range? How would you narrow the range?*

Yes, interquartile range

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QUESTIONS/ISSUES FOR GROUP DISCUSSION

d) *In case you end up with a range of comparable values: Would you apply statistical tools to narrow the range? How would you narrow the range?*

Yes we would use lower quartile for gross margins for each product group