

OECD GLOBAL FORUM ON DEVELOPMENT

Paris 2010.01.28



Free definition

The transfer pricing rules seek to avoid that the multinational enterprises transfer their profits granted at one country to another country through manipulated prices at import and export operations. This irregular transfer may be encourage by fiscal, commercial or exchange reasons.



Procedure

Tax collectors will compare the price declared by the taxpayer with a calculated price through one of the methods preconized by the domestic legislation. In the import operation, the difference can't be consider as a deductible expense and must be added to the tax basis of the Income Tax and the Social Contribution. In the exportation, the difference must be added to the tax basis of the Income Tax and the Social Contribution as well.



Brazilian Transfer Prices Methods

There are two set of methods for goods, services and rights

For import transactions

- Comparable Uncontrolled Price Method (CUP)
- Resale Price Method (35% mark up margin)
- Cost Plus Method (20% mark up margin)



Brazilian Transfer Prices Methods

For export transactions

- **Comparable Uncontrolled Price Method (CUP)**
- **Wholesale Price in the Country of Destination**
- **Less Profit Method (15% margin)**



Brazilian Transfer Prices Methods

For export transactions

- Retail Price in the Country of Destination Less Profit Method (30% margin)
- Cost Plus Method (15% profit margin)

There is no preferable method, taxpayer may use the one that better fits (or works) to his/her operation.



Main Differences

OCDE Model:

- I) market prices and margins must be found in every operation
(arm's length operation)
- II) third person cases are transfer to the studied case, if the comparison is possible;
- III) Advance Price Agreements (APA) and Mutual Agreement Procedures (MAP) between taxpayers and tax administration.



Main Differences

Brazilian Model:

- I) market prices and margins must be found only in the CUP methods
- II) market margins are predicted in the law, for the others methods;
- III) APA and MPA are replaced for taxpayers request in each case. Tax administration can change the margins according to available data.



Recent changes

Brazilian legislation was recently changed:

- I) margin values were unified in the case of resale and of industrialization
- II) taxpayer option for each one method must be done through one declaration sent to the administration (law prevision).
- III) Ministry of Finance was authorized by law to adopt sectors margins.



Thank you very much.

