

15 September 2010

Mr Jeffrey Owens
Director
OECD Centre for Tax Policy and Administration
2, rue Andre'-Pascal
75775 Paris Cedex 16, FRANCE

Dear Mr Owens,

Transfer pricing and intangibles

The CBI welcomes the OECD's decision to seek business input at this early stage of consideration of a new project on transfer pricing and intangibles.

We are in full agreement with the comments made by BIAC in their letter of today's date to Michelle Levac on the scoping of this proposed project.

However, I would just like to highlight the following two points our members have identified where they believe that the guidance could be improved:

- In relation to your second question on what shortfalls can be identified in existing OECD guidance, we believe the existing OECD guidance lacks a consistent practical framework for determining both whether intangibles could have an economic value and, if so, what that value would be;
- In relation to your third question on what areas can OECD usefully do further work, we think it would be helpful to clarify the interaction of legal and economic ownership of intangibles, and in particular the extent to which the scope to enforce legal rights over the use of a potential intangible asset can be used to determine whether it is an asset, and also as a factor in determining the economic value of that asset.

We look forward to contributing further to this project as it proceeds.

Yours sincerely

Sebastian Hordern
Senior Policy Adviser



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