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2018 Edition

Edited by

David B. Blair

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Practising Law Institute
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Legal Editor: Kelliann Kavanagh

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LCCN: 2012932281
ISBN: 978-1-4024-3145-6

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Foreword

Since 2012, when the Practising Law Institute first published the *Transfer Pricing Answer Book*, there have been many noteworthy developments in the area of transfer pricing. In 2013, leaders of the G-20 nations endorsed an Organisation for Economic Co-operation and Development (OECD) initiative to combat base erosion and profit shifting (BEPS), including, in particular, the use of transfer pricing strategies to shift profits. Developing nations are increasingly part of the dialogue around standard-setting in transfer pricing. Legislators in the United States and the United Kingdom conducted public hearings on the transfer pricing practices of multinationals. The European Union Commission began to investigate whether advance pricing agreements granted by Ireland, Luxembourg, and the Netherlands constitute “state aid” in violation of the Treaty on the Functioning of the European Union. In the United States, the Internal Revenue Service made substantial strides in developing its Transfer Pricing Practice. Several important transfer pricing cases are working their way through the courts. And perhaps most significantly, transfer pricing became a regular topic in the mainstream press around the globe.

These developments make clear that tax authorities and the public are increasingly aware of and concerned about the transfer pricing practices of multinational businesses. Tax officials are deploying more of their local tax enforcement resources on transfer pricing. Unfortunately, local tax officials from different countries do not always agree on the principles and analytical techniques to apply in evaluating particular transfer pricing fact patterns. Some are questioning whether the arms-length principle, long the pillar of transfer pricing analysis, is still viable. Many fear that erosion of accepted global norms may overwhelm administrative capacity, such as under the mutual agreement procedures (MAP), and increase dramatically the incidence of double taxation.

For international businesses, transfer pricing planning, compliance, and controversy can be a frustrating and expensive experience that is difficult to avoid or shortcut. Business has become global, and

companies often find that it is most efficient to organize around functional, rather than geographic, lines. Even relatively small businesses may have international operations. Tax law and compliance obligations cannot, and certainly should not, hinder the adaptation of business to our increasingly global economy.

In light of the rapid pace of change in the tax laws and business paradigms, it is critical that companies have access to up to date, practical guidance on the law and practice of transfer pricing. The *Transfer Pricing Answer Book* discusses all aspects of transfer pricing—the policy issues, the law and regulations, applicable procedures, the role of economic analysis, and planning a transfer pricing strategy. It provides an overview of the IRS’s approach to transfer pricing enforcement and the unique procedural options for defending an international transfer pricing case. It follows a question and answer format that is designed to provide practical, accessible, and up-to-date guidance on the myriad issues that fall under the very broad rubric of “transfer pricing law and practice.” As such, the *Transfer Pricing Answer Book* is an important resource for every practitioner grappling with the challenges of transfer pricing compliance.

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June, 2015

Acknowledgments

I thank my family, Bernice, David, Edie, and John, for encouraging me to undertake this project and giving up so many weekends with Dad. I am also indebted to my contributors, George Clarke, Jay Eizenstat, David Ernick, Rocco Femia, David Fischer, Kevin Kenworthy, Megan McLaughlin Kirmil, Kathryn Morrison Sneade and Howard Weinman for their extensive efforts in drafting and editing the many chapters in *Transfer Pricing Answer Book*. This book never would have come to be without their dedication to the project. I thank Crowell & Moring and Miller & Chevalier for endorsing the project and supporting us throughout the process. Finally, many thanks to Ms. Joan E. Porter for her tireless work in compiling the manuscript, rationalizing the various formats, and producing the final manuscript.

David B. Blair

