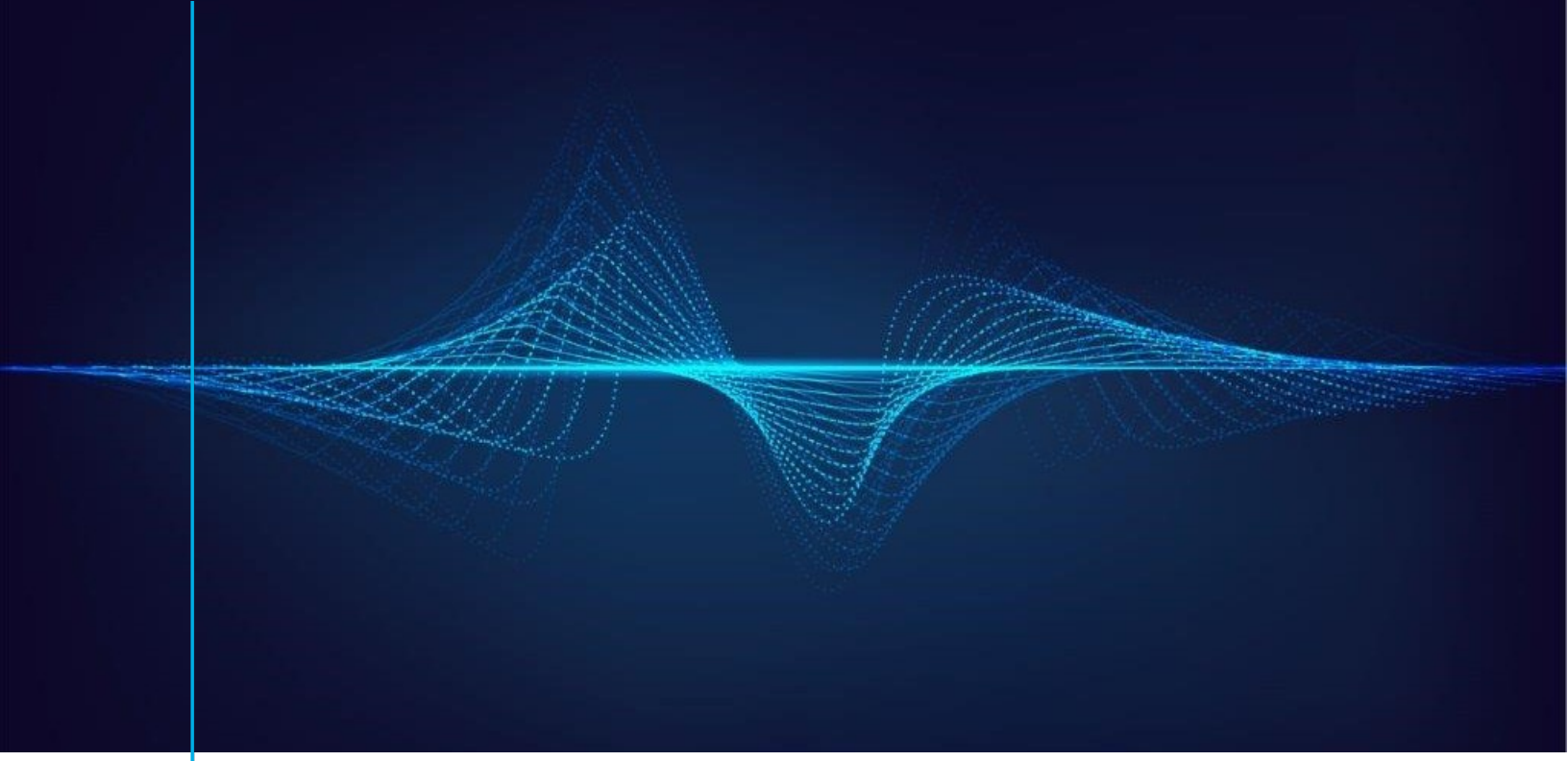

Digital Revolution: Transfer Pricing on the Global Tax Battlefield

Bloomberg Tax & Accounting

Baker McKenzie.

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Foreword

Dear Readers,

Last year when our global transfer pricing practice authored **Covid-19: Impact on (the Other) TP**, we identified the immediate transfer pricing challenges resulting from the pandemic. At that time, we could not have predicted that more than a year later we would still be waiting to return to the office, public venues, and normal routines.

Covid-19 has influenced the ways we interact personally and professionally and accelerated the digital changes required for businesses to adapt and survive. The digital transformation trend that had already swept through Silicon Valley and other high-tech industry segments is escalating into a digital revolution for all other segments of the global economy and impacting businesses of all sizes, and in every geography.

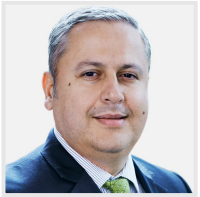
At the same time, governments around the world came together in remarkable and coordinated ways to address these sweeping digital changes. For the past decade, the Organisation for Economic Co-Operation and Development, the World Trade Organization, and every major economy of the world have weighed in on how to tax the digital economy. New local tax laws, international transfer pricing guidance, and customs rulings have already been issued, with even more game changing measures to be released within the next few months.

Our global transfer pricing team, comprised of lawyers and economists, prepared this Special Report in partnership with Bloomberg Tax & Accounting to help businesses manage the tax challenges ahead of their own digital transformations, and prepare themselves for the impending disputes in this new global tax battlefield. Please feel free to reach out to the authors with any questions.

You can also find further Baker McKenzie analysis and information at our **Digital Transformation Hub**.

Finally, a big thank you to all the Baker McKenzie attorneys, industry specialists and economists from around the world who authored this piece, and to Taylor Reid for his advice and insight. I would also like to acknowledge our professional staff who assisted with this effort: Michael Bennett and Elizabeth Boone.

Carlos Linares-Garcia
Carlos.Linares-Garcia@bakermckenzie.com
On behalf of *Baker McKenzie's Global Transfer Pricing Practice*



Digital Revolution: Transfer Pricing on the Global Tax Battlefield

By Martin Bell, Javier Blazquez, Armando Cabrera-Nolasco, Montse Campmajó, Bruno Dominguez, Ethan Kroll, Tamara Levin, Carlos Linares-Garcia, Amanda Kottke, Ning Liu, Michelle Martinez, Donna McComber, Andrew O'Brien-Penney, Hub Stolker, Gene Tien, Antonio Weffer, Vladimir Zivkovic*

Baker McKenzie

Amsterdam, Barcelona, Chicago, Guadalajara, Los Angeles, Luxembourg, Monterrey, Palo Alto, San Francisco, Shanghai, Singapore, Washington, D.C.

As the digital economy is becoming the global economy, historically non-digital companies are developing innovations and creating new commercial offerings never before seen. In the active area of digital taxation, companies unfamiliar with the digital tax trends of the past decade can get caught in its crossfire in the course of their digital transformation.

In this article, we discuss an overview of digital technology trends that all non-digital businesses are incorporating, which interact with the key tax trends companies must actively navigate.

We also present three case studies in a handful of different industries to describe how these digital taxation issues affect businesses in the regular economy, and how these issues will evolve more rapidly through 2021 and beyond. These case studies cover Healthcare, Consumer Goods & Retail, and the broad Industrials and Manufacturing sector, and they illustrate common fact patterns and pressure points that could be traps for the unwary in any industry.

We then discuss transfer pricing audits. Even though digital taxation is a broad umbrella of issues, as recent court cases have made clear, transfer pricing continues to be a hot button audit issue for every multinational — domestically or internationally.

Lastly, we provide an overview of digital-specific international tax and transfer pricing development trends and discuss the evolution of future tax disputes and, perhaps more importantly, how these disputes can be resolved most effectively.

I. OVERVIEW

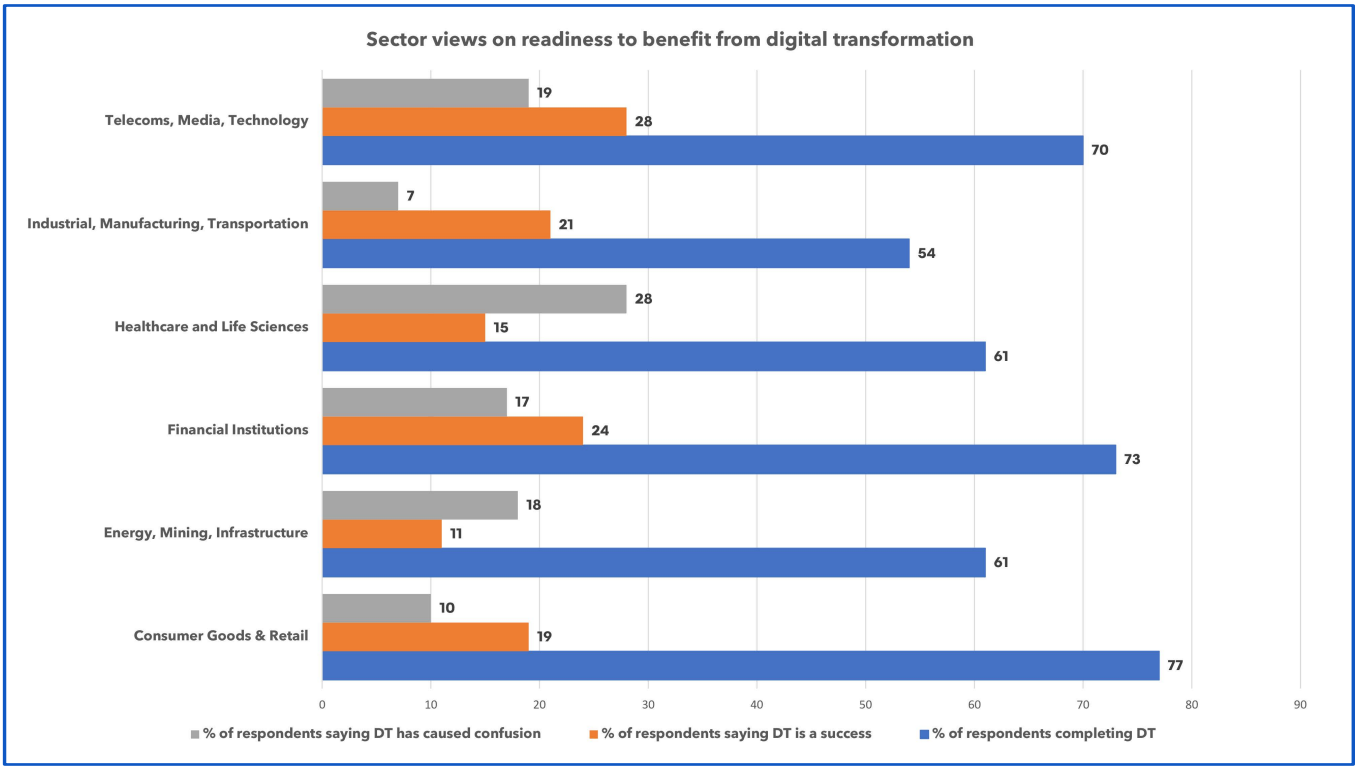
A. What Is This Digital Revolution?

Non-digital companies have been watching the digital revolution movement and weighing their options. While some have embraced change, others had been waiting on the sidelines, sceptical that it was necessary to disrupt their traditional business models. Many are now realizing that integrating data and technology into their businesses is the necessary pivot to be competitive in the future.

Digital transformation is a confluence of three trends: (1) cheaper computing power and ubiquitous digital infrastructures; (2) more company-specific information collected by machines, sensors, and data providers; and (3) easier access to service providers or the talent who can harness (1) and (2). These all factor into lower operational costs and potentially help monetize a company's existing assets, unveiling profit potential in ways never done before.

Many companies in non-digital sectors may have felt insulated from the impact of the digital economy – simply comfortable creating the occasional app or web-based service offering to meet customer expectations. However, competition is coming from multiple directions. Well-funded digital businesses are now beginning to make use of their pocketbooks to identify unexpected returns and enter markets historically not considered digital. Existing competitors are rethinking old playbooks and making modest digital investments that reap substantial rewards from increasingly savvy customers. Lastly, start-ups or adjacent incumbents in different regions or sectors are now able to access existing customers with new low-asset offerings that disrupt existing commercial contracts or long-standing practices. Ultimately, digital transformation is intertwined with business agility. Just as outsourcing was a critical trend in the 1980's in order to reduce costs and compete against foreign competitors, which led to the modern global supply chain and just-in-time delivery, the digital revolution is even more disruptive because digitalization facilitates companies entering into novel sectors and international markets to help them succeed in the new global economy.

Figure 1: Industry Sector Views on Digital Transformation (DT)



Bolstering existing, or creating more robust, supply chains came into sharp focus during 2020. After several years of a worsening geopolitical backdrop for trade, the moving epicenter of the pandemic made it clear that supply chains needed to become materially more resilient. The digitalization of supply chains has been identified as a solution to build resiliency via (1) streamlining the supplier selection process, (2) facilitating and managing supplier relationships, logistics, and shipping processes, and (3) automation. We noted in our flagship report, ***License to be Bold: Transforming Industrials***, however, that at the beginning of 2020, 72% of surveyed leaders agreed that the legacy footprint of their companies was leaving them exposed to trade volatility.[1]

Just as the trade war was a shock to most companies' supply chains, the Covid-19 pandemic was a shock exacerbating the need to be more digital. In the same survey,[2] 58% of respondents across all sectors, who had not yet begun a digital transformation program, reported that Covid-19 had accelerated their plans.

The companies most successful in the "K-shaped" recovery were those with a heavy commercial digital presence, who could operate remotely, and who were resilient and insulated from human or physical asset disruptions arising from the pandemic – namely, those who had already engaged in a digital transformation or were predominantly digital.

B. The Digital Tax Revolution

As companies transform themselves digitally to become more adaptable, they must be aware of the changing global tax environment that is rising up to meet them. With antecedents in the Great Recession, the Organisation of Economic Co-Operation and Development (OECD) began a series of research programs that culminated in their Base Erosion and Profit Shifting (BEPS) project that looked closely at taxing digital companies.[3] The Action Items the OECD developed are revolutionizing the international tax framework and have created material complexity for any large company going through a digital transformation, whether multinational or purely domestic.

How this digital tax revolution affects a given company depends on the type of digital transformation the company is engaged in, and in large part, the type of industry in which it competes. The OECD is at the end (or the beginning) of a lengthy program (through its Blueprints for Pillars One and Two) to rewrite the global tax landscape and pull in most countries, including the United States under the new Biden Administration, as well as the World Trade Organization, and the most other relevant global and regional organizations.

II. A BRAVE NEW WORLD: TRANSFER PRICING FOR DIGITAL TRANSFORMATION

A. "Let's Get Digital, Digital"

The move to digitalization, especially by companies that are not in the technology sector, raises universal transfer pricing questions, which companies must be prepared to answer. These questions include:

[1] Baker McKenzie, ***License to be Bold: Transforming Industrials*** (Mar. 9, 2021).

[2] Baker McKenzie, ***2020 Digital Transformation & Cloud Survey: The Future of Enterprise Data*** (Oct. 27, 2020).

[3] OECD, ***Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*** (Oct. 5, 2015).

- Who owns valuable intangibles that are created as a result of digitalization and operation of the business following digitalization?
- In what ways has "going digital" changed the value chain for the company and existing intercompany arrangements?
- Are the transfer pricing positions of the company still defensible and, if so, are they properly documented and supported?

In essence, all these queries are related to the essential question introduced by BEPS as to whether the evolving relocation of taxable income across the countries in which the company operates is aligned with where value is created through digitalization.

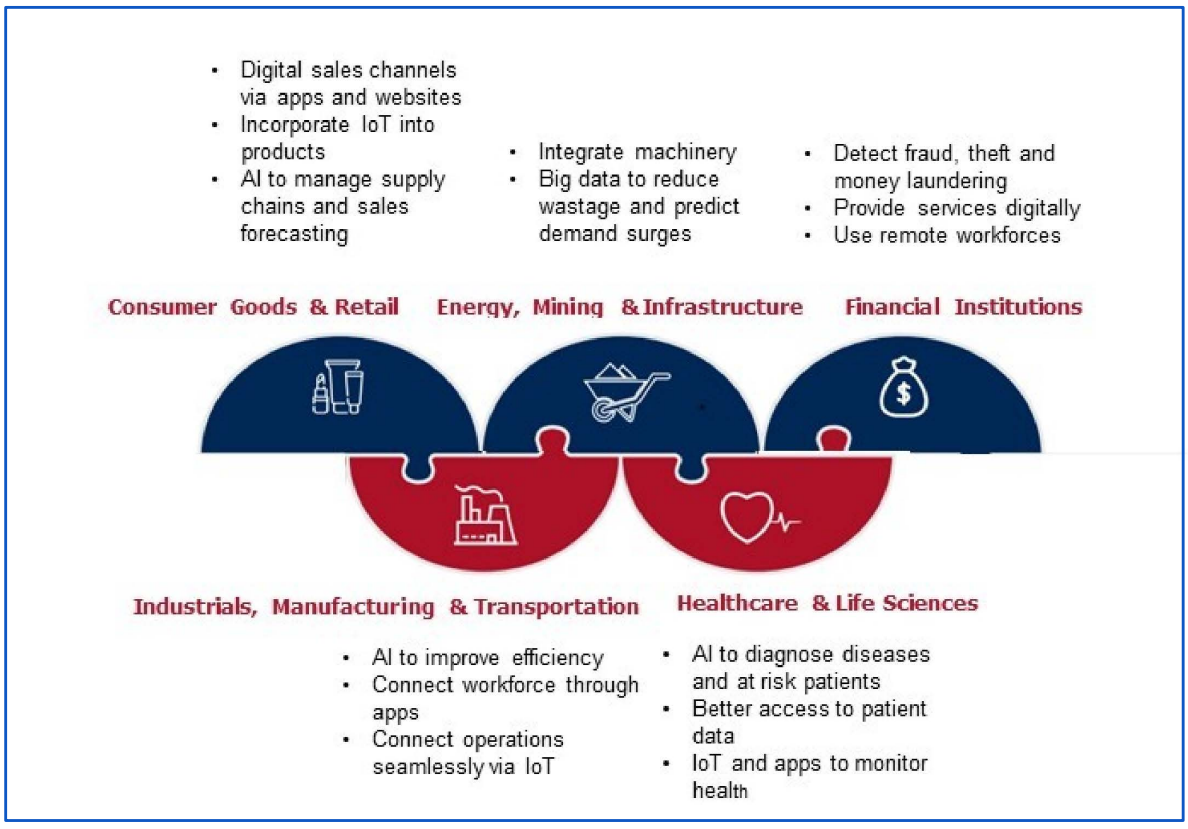
In this section, we discuss the many digital transformation forces, transfer pricing data control and analysis, and the potential creation of intangible property (IP) associated with non-digital companies "going digital." We also provide case studies of transfer pricing considerations for three historically non-digital industries.

B. Digital Transformation Forces

Digital transformation has been driven by a variety of technological forces which have fundamentally shifted the behavior of businesses and consumers.

Below we identify certain digital transformation forces that have impacted the global economy and consider their respective impact on businesses.

Figure 2: Digital Transformation Forces by Industry



1. Apps

Since the introduction of the first smart phones, apps have proliferated. The ubiquity of apps now allows the average person to wake up in the morning to access news and social media, order a ride to work, order lunch from their desk, request the delivery of groceries/shopping, arrange leisure activities, and so much more. Businesses have used apps to change how products and services are delivered to customers, as well as create entire new industries. With the rising usage of apps, the activities to develop and maintain these apps are expected to represent an increasing contribution

to the profitability of businesses, and the apps themselves can represent valuable IP of a multinational group. How intercompany transactions are redesigned to take these new sources of profits into account will be key in assuring compliance with the transfer pricing regulations.

2. Remote Working

Due to advances in their information technology (IT) capabilities, many businesses have shifted to more flexible working models that included remote working even before Covid-19, but the pandemic accelerated this trend and makes it imperative for businesses to continue to operate despite closed offices.

Remote work can give rise to cross-border tax issues, such as how to determine taxing rights relating to the profits generated by these employees. This issue has been exacerbated by the Covid-19 pandemic because in many cases there were long-standing travel restrictions that impacted where key workers could travel to or live. Closely monitoring and controlling cross-border remote work, especially of key employees, will be necessary to manage transfer pricing issues post-pandemic.

3. Digital Storefront/Presence

Retailers and other consumer-facing businesses increasingly engage with customers online, identifying new sales channels to complement or replace existing brick-and-mortar businesses and addressing consumers' demands for greater choice and flexibility in shopping/purchasing options. Establishing a digital presence can take the form of a homepage, app or a storefront on established digital platforms. Retail businesses use digital storefronts to serve customers beyond the methods traditionally employed within stores. For example, orders for goods collated through digital storefronts in multiple countries can be dispatched from a centralized warehouse with customer relationships managed from remote locations via social media. New sales channels can impact intercompany arrangements with respect to existing sales channels and therefore should be carefully considered.

4. Internet of Things (IoT)

The Internet of Things (IoT) describes the environment in which smart connected devices operate. This has been achieved through the integration of technologies, which allows hardware and software to interact. Examples of smart connected products are everywhere: consumers can control their refrigerators away from the house, connect their fitness watches with their smartphone, control their televisions through a smart speaker, and drive cars that advise them of potential malfunctions based on its communication with a central system.

In the context of manufacturing, equipment is able to coordinate with other equipment in the manufacturing process to improve production efficiency. The increasing use of connected industrial machines has led to the use of the term Industrial Internet of Things (IIoT) to describe the use of smart equipment in industrial applications. Industrial companies have benefited from greater interconnectivity by streamlining processes and improving the interaction between manufacturing and logistics.

As businesses promote the IoT within their product offerings, more resources are devoted to ensuring that their products provide such features expected by consumers/users. IoT can result in the creation of data that can be managed and used to create IP that can have significant value and therefore transfer pricing significance.

5. Data, Artificial Intelligence and Machine Learning

With the automation of processes and the move to online, data is being generated at an ever-increasing speed by both businesses and consumers. To gain more value and insights from such data, various techniques such as data analytics and artificial intelligence (AI)/machine learning (ML) are being utilized.

Access to large amounts of consumer data has allowed retail businesses to understand and forecast consumer behavior better, unleash improved targeting of products to customers, and manage their supply chain with more sophistication. Financial companies have

benefitted too through reducing fraud and theft and using ML to identify money laundering risks.

For industrial businesses, AI is used to diagnose emerging issues not spotted through existing quality management systems and to identify potential solutions to reduce waste. AI has also been employed in healthcare to improve diagnostics and identify patients with higher risk profiles.

With further advancements in big data, the processes to gather and analyze data will increasingly provide more value to businesses and therefore be important from a transfer pricing perspective.

6. Cloud Computing

Through a network of servers and data centers, data can be stored remotely and accessed on demand by users across the world as well as processed remotely to enhance consumer experiences associated with the provision of digital services.

For multinational businesses, the sharing and accessibility of data across an organization can speed up internal processes reliant on such data as well as improve decision-making processes. Cloud computing also enhances digital services provided to customers, as services can be scaled to meet user demand through the sharing of computing power.

The use of the cloud also enables other digital transformation forces, as use of the cloud can speed up the deployment of apps and digital storefronts, facilitate remote working, enhance interconnectivity for the IoT, and aid the application of data solutions to information stored on the cloud.

With data continually accessed, developed, enhanced and exploited by users, tracking the value generated and derived by users is becoming more complex, but no less important for transfer pricing purposes.

C. How Digitalization Forces Change the Mindset About IP Creation and Data Control

Digitalization has the potential to fundamentally change how traditionally non-digital businesses create value. As these businesses transform, they should re-evaluate their transfer pricing to (1) identify new ways in which the business is creating value, and (2) ensure intercompany transactions and pricing, and the resulting allocation of taxable income across jurisdictions, are structured to align with value creation.

For example, manufacturers and energy companies that rely increasingly on automated machinery monitored by IoT devices, with a remote workforce monitoring the process and remote engineers designing the machinery and monitoring software, will need to consider where value-add functions are performed and how much of the resulting profit should be left in the jurisdiction where the manufacturing or extraction happens.

As companies start to collect more and more data about customers, users, their supply chain, or manufacturing processes, they must consider a bevy of new questions. For example, how will they use this data? If someone analyzes the data, where do they sit? Who designed the algorithms or programs to analyze and use the data? If AI or ML is combined with data to create valuable insights, which jurisdiction should get credit?

Taxing authorities may claim that value is created within their borders due to local data collection. However, the real questions are: where is the data made into a usable data set, who (or what) finds insights in the data, and how are those insights exploited to create value? Also, certain jurisdictions may become centers of excellence in data mining and training AI, with China and the United States currently leading the pack. If the expertise developed in those jurisdictions is leveraged globally, should it be remunerated and how?

These are some of the transfer pricing issues that must be considered as non-digital companies start to go digital.

III. INDUSTRY CASE STUDIES

In this section, we present three case studies, focusing on specific issues and considerations faced by a few non-digital industries moving headfirst into the digital space. While we focus on these industries, similar issues are faced by other non-digital industries.

A. Healthcare

In many countries, healthcare has historically been decentralized, relying on disparate, independent medical systems with records often kept on paper. In-person doctors' visits were the norm, and in-person visits were needed for various diagnostics. Even before Covid-19, some national health systems and hospital networks were already on the path of digital transformation. Some telemedicine platforms had gained traction, and healthcare providers were starting to embrace more remote diagnostics, powered by advances in medical devices.

These areas of the healthcare industry got a shot in the arm during the pandemic while hospitals focused their efforts on the care of Covid-19 patients. Shuttered doctors' offices pivoted to telemedicine to continue patient care. The digitization of patient records became mainstream, even in heavily analog countries like Japan which needed to pivot away from legacy paper records. Patients with chronic conditions embraced diagnostics they could do at home and healthcare providers increased remote monitoring.

1. Influences on the Healthcare Industry

The digitalization influences on the healthcare industry involve remote monitoring and service delivery, the development of apps and software, and the use of connected medical devices as part of the IoT. Further, the use of digitized patient records, whether on proprietary networks or on the cloud, has unleashed the ability to use that data to create insights and better patient outcomes.

Platform companies have introduced or expanded the use of apps and other platforms to provide telemedicine. Medical device companies have continued their move toward increased diagnostics and remote monitoring. Cloud and software companies have enabled the digital transformation of patient records.

2. Transfer Pricing of Telemedicine

Some telemedicine companies supply only the platform, and they provide value from their technology that enables healthcare providers to reach patients more easily. Other telemedicine companies provide a platform with integrated services, employing or subcontracting services to healthcare providers. Some platforms provide easier access to certain pharmaceuticals, e.g., birth control, and others sell test-at-home diagnostics.

The transfer pricing assessment for telemedicine involves determining the relative value-add of technology, services, and product sales in the overall offering to patients. Taxpayers involved in telemedicine will need to assess the use of internal or external comparables which will provide insights regarding the relative value of these parts of the value chain.

Further, some telemedicine providers charge per-use fees or subscription fees to patients; others charge a license fee to healthcare practitioners using their platform or pay healthcare practitioners for their services. Ensuring the telemedicine revenue model is consistent with the comparables and the value chain is critical.

Also, some companies may just be venturing into the telemedicine space as part of their overall product or service offerings. Companies should determine whether their telemedicine offering should be assessed together with their legacy product lines or whether a separate analysis would be more appropriate.

3. Transfer Pricing of Connected Medical Devices

While medical device companies have dealt with tangible goods transfer pricing for years, the new question is how to deal with transfer pricing for patient data and value derived from patient data. Many device companies need to deal with the privacy around patient-specific data and also have the ability to use anonymized patient data to create

additional value, in terms of better patient outcomes, better monitoring, and new products.

Patient-specific data help physicians monitor patient progress and outcomes and help provide a better level of service. Depending on the revenue model, this may be priced as part of the overall device price or priced separately as an ongoing service fee. If it is part of the overall device price, the question arises whether companies can or should price this service separately.

Once patient data is collected and anonymized, does the collected data become part of the development of new products or tweaks to algorithms or software? If so, such data analysis is integral to the R&D process. If a company is already in a cost sharing arrangement (i.e., sharing development costs with another related party under an arrangement that satisfies the requirements of the OECD Transfer Pricing Guidelines and U.S. transfer pricing regulations), it is possible that these further developments be included in the legacy cost sharing arrangement or could be carved out as a separate area of intangible development.

Finally, another area to evaluate is which entity in the company group takes patient data and turns it into something usable for patients, physicians, other health care practitioners and product development teams. Additionally, are there algorithms developed, or is artificial intelligence used to make sense of some patient data? Where are the personnel who work on this development? Answering these questions is key to ensuring the value add is attributed to the correct jurisdiction.

4. Transfer Pricing of Patient Data Analysis

Similar to other industries, the healthcare industry is collecting more and more data, in particular about patients and health outcomes. Companies must grapple with the mass collection and anonymization of patient data, which is then analyzed. Important questions arise. Who analyzes the data and what kind of insights are derived from the data? Is the data used to reduce false positives or negatives in the future? Are new diagnostics developed based on the data and insights? Are new software or hardware features derived from the collected data? The answers to these questions will determine whether the data analysis is part of the overall service offering, whether it has led to additional offerings that may be carved out, or whether it is integral to overall product development.

Further, digitized patient records have significant value for further research. Harnessing the value of this data will help all participants in the healthcare industry discover insights that will provide better patient outcomes and also create valuable opportunities for cutting-edge research that may lead to new, profitable businesses subject to transfer pricing analysis.

B. Consumer Goods & Retail

Consumer Goods and Retail (CG&R) companies are undergoing a transformation towards a more digital operating model, which is part of a strategy to improve the transition between online and offline dimensions into a more seamless consumer experience (a so called "omnichannel operating model"). From both a consumer and industry perspective, a number of themes are emerging. Consumers now have the ability to compare choices more easily, accelerated by the growth of e-commerce in connection with the Covid-19 pandemic, which puts a more focused demand on suppliers. For example, there is a contingent of consumers that wants sustainable choices and wants to understand who makes the products they consume. Consumers also want their personal preferences taken into consideration in their shopping experiences. In this context, the collection and processing of data on consumer preferences becomes more important. This can raise data privacy and data collection issues. There are also legal and transfer pricing questions about the ownership of data and when data becomes a valuable intangible.

1. Data Collection and IP Creation

There are differences in terms of data flows between retail, electronic retail (e-tail), and direct contact with a customer through an app or a website. The data available to the manufacturer who does not control the retail channel is limited by the transaction interface, which is typically either with the retailer or a wholesaler. Transactions consist of a limited number of batches containing a large number of products. If access to the

consumer is through an e-tail channel owned by the manufacturer, the data is collected based on an almost unlimited number of smaller transactions. There is limited control on data volumes in the latter scenario, but potentially access to a more informative database. The use of an app, website, or any other way of interacting with the consumer or client could offer a more tailored customer touchpoint, allowing for more specific data collection.

Once data is collected, CG&R companies need to evaluate what should be done with the data and who owns the data. There is a distinction between owning the raw data, owning data that has been organized and analyzed into meaningful data sets, and owning any potential IP that has been created through refining the data and/or combining it with algorithms capable of using the data in a specific manner.

In its simplest form, the data gathered from consumers through a website results in a list of consumer behaviors. However, once this is analyzed and arranged (e.g., based on geography or demographics) it may be possible to determine things such as consumer product preferences. Therefore, when consumers meeting certain criteria enter the website, they can be offered particular tailored products. When data starts to allow businesses to understand markets and consumer behavior better, and often in real time, data starts to move towards generating value and becoming IP. The data resulting from interactions with customers must be analyzed and interpreted in order to understand how it can be used to drive value in the business.

There are generally three phases of data processing. The first relates to sourcing the data from users or consumers. The second phase relates to the so called "data lake," which aggregates raw data in multiple formats. An added distinction may be made to the extent the data collector is two tiered, i.e., there is a data collector in each particular region and another data aggregator which gathers the data from all the regions. The third and final phase is the data analytics, which processes the data gathered into accessible information, which can be shared with the rest of the business in order to drive further insights into, among other things, consumer behavior. For example, if it is determined from a data processing analysis that European consumers prefer a certain type of packaging, the product can be tailored accordingly in order to have a greater impact on that market. Consequently, there may be an impact on the supply chain.

2. Transfer Pricing Considerations Related to Data Collection and IP Creation

One of the key questions from a tax and transfer pricing perspective is whether a new category of IP is created from the data-related activities and, if so, how the value of this new IP can be determined. The answer will generally depend on what information will be gathered, and secondly, how that information will create value for the multinational. Also, will there be a lag between gathering and analyzing data, implementing processes designed based on data insights, and generating value based on the new processes?

Transfer pricing issues arise depending on which entities in the group need access to the data (legal title versus the ability to grant or withhold access) and are involved in the development and improvement of the data. The operating model, design and governance of decision-making processes and location of key decision makers should be clearly defined, followed by a detailed examination of these tax and transfer pricing considerations.

3. Transfer Pricing Considerations Associated with Organizational Structure Changes

One of the outcomes of the digitalization of traditional operating models in the CG&R industry is the emergence of new roles, such as Chief Data Officer, Global Head of Data & Analytics, Chief e-Commerce Officer, Chief Technology Officer, and Data Scientist.

New roles raise many questions about how these new functions will interact with well-established functional departments and whether the new functions will provide benefits to other entities within the group. To the extent there are new intercompany transactions (e.g., services fees, licenses), then appropriate arm's length remuneration should be determined. As with any other transfer pricing exercise, it will be critical to understand the facts and circumstances through an

enhanced functional analysis, focusing on the activities performed, risks managed, and proprietary assets employed by the new digital roles. In order to validate whether the current transfer pricing system is "future proof," it will be important to accurately delineate any new intercompany transactions and appropriately characterize these activities from a functional profile perspective.

C. Industrial and Manufacturing

Increasing use of digital capabilities is fundamentally reshaping the supply chains of industrial and manufacturing companies. Companies are relying on automation processes throughout their supply chains, and increasingly operate with the use of smart connected machines or robotics. This provides for more real time tracking of manufacturing processes, enhances the ability of the supply chain team to spot issues and troubleshoot with quicker response times thereby creating efficiencies and cost synergies. The collection of new data is opening up opportunities for companies to better manage resources in the manufacturing process and even unlock new product or service lines.

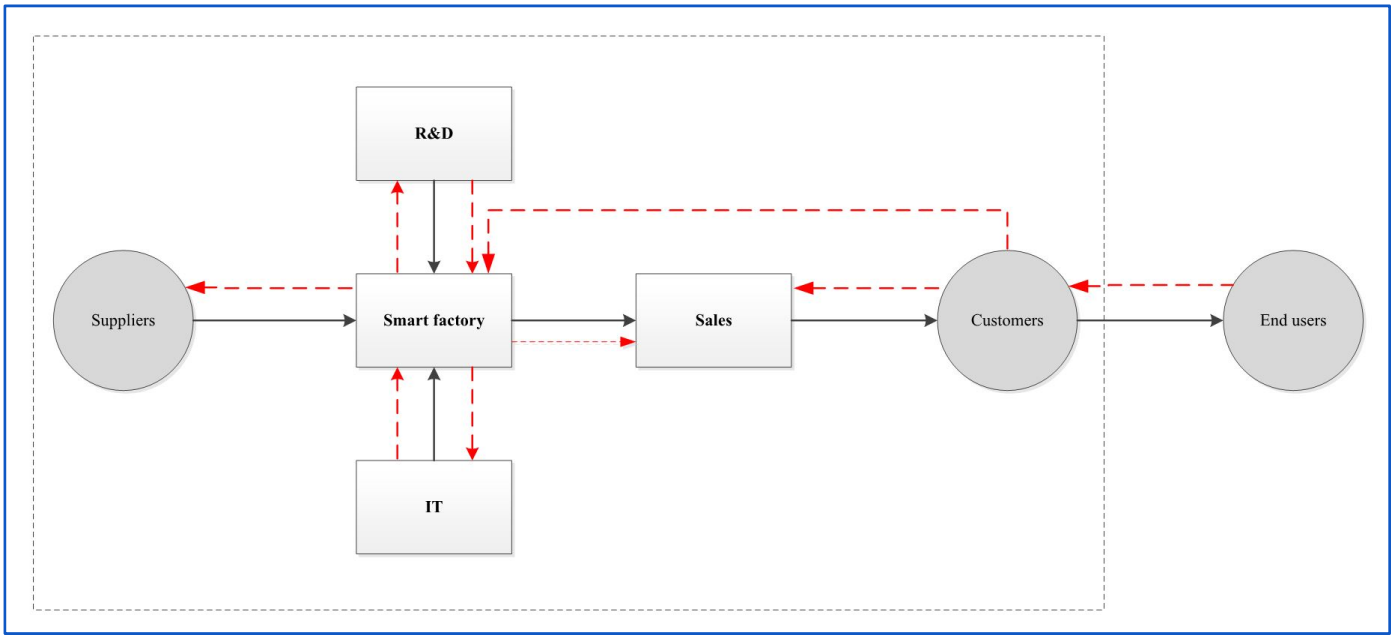
1. Comparability Factors and Choice of Most Appropriate Transfer Pricing Method

One of the characteristics of so-called "smart manufacturing" is the interconnectedness of functionalities and processes within the value chain through the use of digital capabilities. This could impact the choice of the most appropriate method as part of a transfer pricing analysis. Consider the following example. The manufacturing activity within a multinational organization was historically regarded as a routine process and was remunerated with a cost-plus mark-up on its value-added costs. In a fully digitalized manufacturing environment, the manufacturing process has become more complex and involves the use of smart connected machines and adaptive software. The traditional manufacturing process has evolved into a smart process, where manufacturing equipment is connected to other activities in the supply chain including third party suppliers, company R&D, IT, and sales departments, as well as third party customers.

2. Example

Figure 3, below provides an illustrative example of this new manufacturing process. The solid arrow lines represent transactions involving physical goods or services while the dashed red lines represent transmission of data.

Figure 3: Smart and Fully Digitalized Manufacturing Process



From a transfer pricing perspective, a number of relevant questions emerge from this example:

- Who is responsible for the newly established data process in the digital manufacturing environment? Does the data process lead to the generation of new intangible(s) in the operating model?
- Is a one-sided analysis assigning routine profits to specific parties, such as under the TNMM, still the most appropriate transfer pricing method to remunerate the more integrated and relatively more complex manufacturing activities in the value chain?
- Can the more complex manufacturing activities be benchmarked?
- Is it more appropriate to apply a transactional profit split method to determine an arm's length remuneration for the activities being performed in the digitalized manufacturing environment?
- Is existing OECD guidance sufficient to perform a transfer pricing analysis under these evolving conditions?

D. Key Takeaways

Going digital involves changing what drives value within a company group, creating new IP, and the emergence of new functions and interactions between related parties in a company group. All this will undoubtedly result in an evolving relocation of functions, assets, and risks across jurisdictions with the corresponding shift of taxable income under the arm's length principle. Transfer pricing thus becomes a critical consideration to ensure transactions are appropriately designed, documented, and supported.

When assessing the potential impact of digitalization on operating models from a transfer pricing perspective, the following may be a useful list of actions:

- **Assess the impact on key value drivers within the organization;**
- **Assess the impact of digitalization on the organizational structure of the company, including functional departments, roles and responsibilities, and reporting lines;**
- **Reassess the transfer pricing method selection and comparability factors with respect to those transactions which may be impacted by the use of digital capabilities;**
- **Review contractual arrangements in the context of risk attribution in the value chain; and**
- **Consider the impact of data ownership and privacy regulations on existing contractual arrangements.**

IV. DEVELOPMENTS ON MANY FRONTS

Companies that embrace digitalization must also contend with a large number of proposed and effective multilateral and unilateral tax and transfer pricing measures with a focus on digital enterprises. Awareness is the first step towards potentially mitigating the impact of these measures.

Multilateral and Unilateral Measures	
Multilateral Initiatives	• The OECD has been spearheading a project, commonly referred to as "Pillar One," which would enable market countries to impose income tax on a portion of the profits of certain large and highly profitable companies.[4] The political debate over whether to adopt Pillar One is at an advanced stage, but companies must still wait for clarity on what activities are in/out of scope, how to determine the pool of allocable profit, what portion of the profit will be attributed to market countries, the mechanisms whereby the countries of production will surrender their taxation rights over that profit, and the global and local revenue thresholds at which the regime applies. • The United Nations Committee of Experts on International Cooperation in Tax Matters (CoE) recently approved adding a new Article 12B to the United Nations Model Double Taxation Convention (UN Model), which would allow countries to impose gross basis tax on payments for certain digital services – e.g., online advertising, digital content, cloud computing services, supplies of user data. In a separate project, the CoE declined to amend Article 12 of the UN Model to include payments for computer software in the definition of "royalties" despite a minority of countries favoring this change. A new CoE may discuss this issue again. • Pillar One is focused on those enterprises which have benefited the most from globalization. The introduction of Article 12B is more narrowly focused on the policy objective of enabling countries to collect income tax from nonresident companies that provide digital services to local residents without regard to the size or profitability of the enterprise. Policymakers have voiced their hope that a multilateral agreement on Pillar One and related OECD initiatives will result in the elimination of unilateral digital services taxes (noted above and discussed below) and restore stability to the international tax system so that income from providing digital offerings will be subject to income tax on a net, rather than a gross, basis.

[4] For an in-depth review of Pillar One, see Brendan Kelly, Clarissa Machado, Marnin Michaels, Salim Rahim, Antonio Russo, Caroline Silberztein, and Gary Sprague, ***Pillar One - Overview of 'the Blueprint'*** (Oct. 16, 2020).

Multilateral and Unilateral Measures	
Digital Services Taxes	• In recent years, countries around the world, and some U.S. states, have been considering, proposing, and, in some cases, enacting gross basis taxes on payments relating to digital business models. France,[5] Italy, Spain,[6] and the UK represent examples of countries in which digital services taxes (DSTs) are currently in force. While the scope of each DST regime varies, the measures typically target online advertising, search engines, intermediary platforms, and payments for the sale or transfer of activities involving user/customer data. Many countries take the position that bilateral income tax treaties do not apply to reduce or eliminate DSTs. • Companies with digital business lines and/or offerings that incorporate digitalization must carefully evaluate whether their products/services fall within each DST. Because countries impose DSTs on gross, and not net, amounts, the impact of DSTs on margins and profitability can be significant, particularly for companies in the ramp up phase.
EU	• In parallel with, and independent of, the OECD initiatives, the European Union (EU) is discussing a digital levy to be introduced by the end of 2021. It is unclear how this proposal will interact with the EU's potential implementation of OECD initiatives like Pillar One.
USA	• Treasury recently issued proposed regulations, which would deny foreign tax credits for digital services taxes on the grounds that the taxes do not correspond to a "foreign income tax," as the U.S. foreign tax credit rules require. If finalized, the effect of this rule will be to make digital services taxes a potentially nonrecoverable cash tax cost for U.S. multinationals. • In 2019, in the first instance of guidance on characterizing software/digital transactions since 1998, Treasury proposed regulations that would (1) generally treat software-as-a-service and cloud computing transactions as services and not leases; and (2) extend the application of the existing rules with respect to the classification of transactions involving computer programs to transactions involving digital content.[7] The proposed regulations did not address other areas of uncertainty, such as the source of income from cloud services transactions, leaving companies to continue to wrestle with these issues on their own.[8]

[5] Ariane Calloud, Guillaume Le Camus, Eric Meier, Veronique Millischer, Caroline Silberztein, Thierry Vialaneix, ***The French DST Finally Released!*** (Mar. 8, 2019).

[6] María Antonia Azpeitia, Javier Blázquez, Bruno Domínguez, Isabel de Otaola, ***The Tax on Certain Digital Services will be applicable as of Q1 2021*** (Oct. 16, 2020).

[7] Gary Sprague, ***Proposed Cloud Transactions Regulations: Analysis of the Classification Factors Derived From §7701(e)***, 48 Tax Mgmt. Int'l J. 572 (Nov. 8, 2019); Gary Sprague, ***Proposed Regulations Rationalize Source of Income Rules for Digital Deliveries of Software and Content***, 48 Tax Mgmt. Int'l J. 442 (Sept. 13, 2019).

[8] Gary Sprague, ***Crowdsourced Guidance for Source of Income Rules for Cloud Transactions***, 49 Tax Mgmt. Int'l J. 43 (Jan. 10, 2020).

Multilateral and Unilateral Measures	
Indirect Tax	• EU member states generally require suppliers of digital goods and services to consumers to charge and collect indirect tax and to remit that tax to the tax authorities in the consumer's country. Over the past several years, numerous countries outside the EU, including Australia, Japan, Korea, New Zealand, South Africa, and Taiwan, have followed the EU's lead and have adopted a similar approach. Companies that begin to offer digital goods and services should make indirect tax compliance a priority at the earliest stage of commercialization, if not before.

V. TRANSFER PRICING AND DISPUTE RESOLUTION IN THE DIGITAL ERA

A. The Global Tax Landscape

The influence of BEPS on the global tax landscape is undoubtedly a great advance in administrative cooperation between countries. It can also be seen as a benefit for taxpayers because one of the fundamental purposes of BEPS is to try to avoid double taxation. Despite the effort of the OECD to create consistency and certainty, the global tax landscape has shifted dramatically in recent years — driving greater uncertainty for taxpayers and increased risk when it comes to global tax controversy matters.

Nowadays, we are encountering tax authorities that are better prepared with specific transfer pricing teams that are more specialized and with more information at their disposal. Requests to taxpayers now often emanate from multiple tax authorities simultaneously, as we will explain below. This results in more requests for information, the involvement of more specialists, and a tendency to further complicate and lengthen disputes.

An interesting development is also the use of data analytics. The combination of information exchange, DAC6, country-by-country reporting (CbCR), other types of public reporting, in combination with an increased IT capacity of tax authorities and bundling of information sources (i.e., VAT, customs, corporate tax, transfer pricing reporting) has changed the dynamic in audits. Answering an apparently simple audit question – without having an eye for the bigger picture and interaction with other data sources – could have significant negative consequences.

While there are more means to combat tax base erosion, and it is true that the number of audits has increased, it is also true that more agreements are being attempted and reached between tax administrations. Proof of this is the data provided by the OECD on Mutual Agreement Procedures (MAPs) statistics with respect to the increase in open MAPs: in 2019 there were a total of 2,690 new MAPs. Out of those, at least 1,156 correspond to transfer pricing procedures. According to the OECD, 52% of the MAPs closed in 2019 consisted of agreements that fully eliminated double taxation and fully resolved problems with any taxation that was not in accordance with tax treaties.

For those MAPs related to transfer pricing cases, the OECD classifies these as "allocation or attribution cases," depending on whether they deal with the determination of the profit of the associated companies, or with the attribution of profits to a permanent establishment. The time needed to close these cases is long. It is quite common for the average time needed to close MAPs related to transfer pricing issues (30.5 months) to take longer than the rest of the cases (22 months).

In practice, we have seen an increasing tendency, especially in Europe, for tax authorities to approach what would have historically been permanent establishment audits from a transfer pricing perspective. In other words, the authorities are increasingly focusing on establishing arm's length remuneration for the entity in accordance with the functions performed, risks borne, and assets used, rather than the existence of a

permanent establishment and the corresponding attribution of profit. For example, service providers and limited-risk distributors that are remunerated through cost plus structures are under the spotlight of the tax authorities.

The situation in Latin America is not very different from the rest of the world. In recent years, Latin America has seen significant growth in the number and size of transfer pricing disputes, with greater emphasis in Mexico, Argentina, and Colombia. The common denominator for tax authorities has been the recurrent questioning of traditional transfer pricing models. They argue that local companies are not being properly remunerated for local contributions, particularly regarding marketing intangibles. For example, the audit strategy in Mexico has focused on (1) companies with recurring losses or low profitability levels, or (2) companies — particularly in the consumer and retail sector — that pay royalties for the use of brands and also invest in advertising and promotion. In all audits, the general criterion of the Mexican authorities has been to reject 100% of these types of expenses by arguing that they only benefit the owner of the trademarks (i.e., the foreign related party) and consequently, that they are not an indispensable expense for the local company.

Recently, there is a trend toward the use of bilateral methods such as residual profit split to determine the compensation that corresponds to local companies. In these cases, tax authorities are resorting to newer concepts such as market or local consumer characteristics — as drivers of demand, sales and profits — to justify a higher share in the overall profits of multinational groups to local companies. These concepts are similar to those developed in OECD/G-20 Pillars I and II. We believe this trend will continue in the coming years, given:

- The increasing digitization of traditional (non-technology) business models;
- The reduced reliance on physical presence for local sales of products or services; and
- The increasing pressure governments face to raise tax revenues, which has been exacerbated by the Covid-19 pandemic.

Correspondingly, we also anticipate a significant increase in MAP applications in the coming years.

In the near future, the impact of the Covid-19 pandemic may continue to push the trend toward increased audits, particularly as governments are under pressure to raise revenue in the face of increasing government expenditures. Fiscal policy is often the most straightforward way to do so. The changes brought by the pandemic are also resulting in a re-imagining of business models in order to satisfy new consumer expectations and fulfil employee needs. It is fair to say that new controversies often arise as a result of such changes.

B. Transfer Pricing Audits, Disputes and MAP

1. Multilateral Audit Activity

One of the key developments within Europe in the past few years is a proliferation of multi-country audits. These multi country audits can take the form of bilateral tax audits or multilateral tax audits (also commonly referred to as Multilateral Controls, Joint Audits, or Simultaneous Audits). These bilateral tax audits or multilateral tax audits consist of a coordinated tax audit of one or more related taxable persons. The audits are carried out by at least two tax authorities, with common or complementary interests. The cooperation between the tax authorities is aimed to share information on the subject(s) of the audit, strategize on the findings and audit techniques, and come to joint findings. However, whereas it is often an intention of tax authorities to come to joint findings, there is typically no obligation or commitment to do so. In practical terms, the multi-country audit framework can best be illustrated by a series of unilateral audits in various jurisdictions and on top of that a collaboration platform for the tax authorities to share information. Audit defense for these multi country audits requires a closely coordinated approach for the group involved.

For example, the European Commission supports cross-border audit activity, and under the Fiscalis 2020 Programme, provided funding to facilitate trainings, IT systems and joint activities (e.g., seminars and workshops, project groups, working visits, expert teams, multilateral controls), all

specifically aimed at cross-border audit activity. More specifically, transfer pricing working groups have covered topics such as data analytics, new audit techniques, behavioral insights, and transfer pricing methods. While most multilateral controls focus on indirect tax matters, the number of transfer pricing multilateral controls is increasing.

In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multi-annual financial framework for 2021-2027, a new EU Regulation has been proposed, with retroactive effect from 1 January 2021. The EU Regulation is awaiting the EU Council's 1st Reading Position. When in effect, it will facilitate a new Fiscalis Programme. In terms of the funding, the Regulation states that the budget for the implementation of the Programme for the period 2021–2027 shall be EUR 269 million. Aims and objectives of the new Fiscalis Programme are as follows:

- Supporting tax policy and the implementation of EU law relating to the field of taxation;
- Preventing and fighting tax fraud, tax evasion, aggressive tax planning, and double non-taxation;
- Preventing and reducing unnecessary administrative burdens for citizens and businesses in cross-border transactions;
- Supporting fairer and more efficient tax systems;
- Achieving the full potential of a single market and fostering fair competition in the EU;
- Supporting a joint EU approach in international fora and supporting the building of tax authorities' administrative capacity, including by modernizing reporting and auditing techniques; and
- Supporting training staff in this regard.

Considering the benefits to tax authorities and the overall increased transparency within the tax landscape, more cross-border audit activity is expected. Some multi-national enterprises (MNEs) also consider the combined approach more effective because it coordinates the burden of the work involved. In some cases, the audit settlement with the participants in the multilateral tax audit can become the starting point of advance pricing agreements (APAs). Reaching a joint settlement position has proven to be complicated, however, due to the differing interests of the participating tax authorities.

There are a variety of factors that have made negotiating settlements of multilateral audits challenging. These factors typically include fear of creating precedent and potential information exchanges, both of which can complicate and frustrate discussions and negotiations with national authorities. These developments, in combination with overall high audit activity, have resulted in more transfer pricing court cases and transfer pricing related MAPs.

2. Dispute Resolution Mechanisms

Improving dispute resolution mechanisms is an integral component of the work on BEPS. The measures, developed under BEPS Action 14 *Mutual Agreement Procedures*, aim to implement a minimum standard to ensure that countries resolve treaty-related disputes in a timely, effective, and efficient manner. While practical experiences with MAPs are not always positive, and sometimes simply disappointing for taxpayers, we welcome the ambition and objectives under BEPS Action 14.

a. European Union

Within Europe, there is another dispute resolution development that has not gotten the attention it deserves. The EU Council adopted a directive on tax dispute resolution mechanisms in the EU on October 10, 2017. This new directive is aimed at building on existing systems, including the EU Arbitration Convention. The scope of this directive is broader, however, than the one in place for the Arbitration Convention because it encompasses disputes that arise "from the interpretation and application of agreements and conventions that provide for the elimination of double taxation of income and, where applicable, capital" and also provides for "rights and obligations of the affected persons when such disputes arise." Thus, it covers disputes concerning the interpretation and application of bilateral tax treaties among Member States and is not restricted to transfer pricing

disputes and adjustments in connection with the allocation of profits to a permanent establishment (PE). The legal nature of the European Directive makes it a more powerful legal instrument than the Arbitration Convention. Improvements to the current rules are intended to give taxpayers greater certainty when it comes to seeking resolution to their interpretation of tax treaties or the elimination of double taxation. The European Directive sets clearer deadlines for Member States to agree on a binding solution thereby giving citizens and companies more timely decisions. Furthermore, Member States have a legal duty to make conclusive and enforceable decisions under the improved dispute resolution mechanisms. If not, the national courts will do this for them. The rules apply to any complaint, submitted from July 1, 2019 onward, regarding questions of dispute relating to income or capital earned in a tax year commencing on or after January 1, 2018. Competent authorities of Member States may, however, agree to apply the European Directive with regard to any complaint that was submitted prior to that day or to earlier tax years.

Before submitting a MAP request in the EU, businesses should consider the procedural requirements, timelines (e.g., whether the process begins before or after exhausting domestic remedies) and degree of certainty offered through the available dispute resolution options. Taxpayers should carefully weigh the pros and cons of each option to determine whether the tax treaty, the arbitration convention, or the local implementation of the directive on tax dispute resolution mechanisms would be more beneficial.

In addition to the expansion of joint audits, the OECD has developed the International Compliance Assurance Programme (ICAP), which is a voluntary risk assessment and assurance program meant to facilitate cooperation of tax administrations and MNE groups. The first ICAP pilot was launched in 2018 with the participation of eight FTA member jurisdictions: Australia, Canada, Italy, Japan, the Netherlands, Spain, the United Kingdom, and the United States. The second ICAP pilot program (ICAP 2.0) commenced in 2019 and included an additional 11 participating tax administrations: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Norway, Poland, and Russia.

ICAP utilizes an MNE group's CbCRs, transfer pricing master and local files, and other information to perform a risk assessment designed to facilitate open and cooperative multilateral engagement between large MNE groups and tax administrations. Because ICAP's goal is to alleviate risk rather than eliminate it, ICAP differs from existing cross-border dispute resolution processes such as APAs, MAPs, and arbitration. One benefit of ICAP is that when the risk assessment is completed, outcome letters are generally issued within 24 to 28 weeks after a complete documentation package is received by the ICAP team. Also, the process involves a single round of risk assessment/issue resolution, which is often significantly less information than required during an APA, tax audit, or MAP. When an issue is identified as "risky," the work performed in ICAP can be leveraged into audits, APAs, or MAPs to improve the efficiency of those processes. In the United States, the IRS ICAP risk assessment efforts are led by the Transfer Pricing Risk Assessment team.

b. United States

In terms of U.S. domestic audits, the IRS has been working to improve the selection of taxpayers for audit based on the use of data analytics that identify returns based on objective measures of compliance risk. In 2017, the IRS shifted to issue-based audits, with a focus on issues that have been selected based on the determination that there is a significant risk of noncompliance. Currently, the IRS is actively working roughly 60 compliance campaigns. These campaigns include a campaign focused on recent U.S. tax reform via the Tax Cuts and Jobs Act (TCJA) campaign.

The IRS has also continued its efforts to improve the Compliance Assurance Process (CAP) program and the use of alternative methods to resolve transfer pricing issues. The CAP program is a real-time audit program developed by the IRS's Large Business & International (LB&I) Division for large corporate taxpayers that want increased tax certainty. The CAP program is voluntary and requires an application within the application period to enter the program. To resolve complex transfer pricing issues, the IRS may require participants in CAP to seek APAs for such issues and effectively removes these issues from the CAP

program. Currently, audit teams are required to consult with the Advance Pricing Mutual Agreement (APMA) program if they are auditing a taxpayer's intercompany transactions that involve a treaty partner, regardless of whether the taxpayer currently has a MAP or APA case with APMA. Requiring CAP taxpayers to enter the APA program would take potential future disputes off the table.

The digital transformation mentioned above has led to an increased focus on the current variability in approaches to digital taxation among countries. This variability potentially exposes taxpayers to double taxation, which may result in an even further increase in MAP cases. In the United States, we have seen a shift in how the Biden administration views corporate taxation versus the prior administration with the United States agreeing to engage more proactively in discussions regarding both Pillars One and Two. In a departure from the previous administration's position, which would have allowed U.S. companies to opt out of Pillar One under a safe harbor approach, the United States offered a proposal that would limit Pillar One to the 100 largest and most profitable MNEs, regardless of industry or business model. Focusing on the top 100 global companies aims to shift the focus away from targeting only large U.S. digital platform companies. The United States has also expressed support for Pillar Two regarding a global minimum tax and making implementation more manageable for tax administrations. The United States' recent announcement that it will engage more proactively in discussions to address both Pillars of the OECD project may help eliminate the unilateral measures taken by certain countries.

When presented with a U.S. initiated adjustment after audit that creates double taxation, U.S. taxpayers have several avenues open to them including a traditional MAP process, which requires that the issue be severed from any others that are proceeding through the IRS administrative appeals process (IRS Appeals). Alternatively, the taxpayer may also choose to present the issue to both IRS Appeals and APMA under the Simultaneous Appeals Procedure (SAP). Finally, taking the issue to IRS Appeals without the involvement of competent authority remains a viable option for taxpayers when faced with an adjustment involving a non-treaty partner or where other factors play a role. Under this last option, pursuant to Rev. Proc. 2015-40, taxpayers are foreclosed from seeking competent authority relief, but may have success seeking unilateral relief from the local treaty country partner on the basis of any double tax imposed.

It is clear that U.S. taxpayers are facing increased audits around the globe and are investing resources in the MAP process, as shown by the spike in the number of new cases in 2020. This upward trend seems likely to continue as no significant reduction in MAP activity is expected despite the pandemic. In 2020, the APMA program added 3 teams of professionals to work on MAP and APA cases, which could help to decrease processing times and to alleviate some of the accumulated inventory. Further, the United States is committed to achieving the minimum standards of BEPs Action 14, including the 24-month target for resolving MAP cases. However, the United States currently has binding arbitration only in tax treaties with Belgium, Canada, France, Germany, Japan, Spain and Switzerland, and it should pursue additional arbitration agreements with other countries in order to make the MAP and APA processes more efficient.

3. Dispute Preparedness

As digitalization makes the world smaller, and tax authorities become more adept at leveraging information, the importance of knowing what has been said, to whom, and when will continue to be paramount. As Baker McKenzie Partner Antonia Azpeitia (Madrid) noted recently in our report ***Litigation Intelligence: Ready for Anything?***:

> **Companies would be wise to start working on their defense file as soon as possible – gathering contemporaneous information and considering potential dissemination to other jurisdictions. It is also useful to educate local people in charge of the regular relationship with in-market tax authorities regarding company policies and protocols in relation to litigation. A wrong initial approach can make the subsequent defense much more difficult.[9]**

Taxpayers are well-served to evaluate the internal controls and processes in place, as well as the effectiveness and extent of coordination across the company as they defend global audits and pursue multilateral strategies. Tax authorities are getting more aggressive, and, more than ever, taxpayers need to be prepared.

VI. CONCLUSION

Digital transformation of non-digital companies is driven by the proliferation of apps, the Internet of Things, remote working, data analytics, AI/ML, and cloud computing. While many companies in traditionally non-digital industries may have been slow to embrace digital transformation, Covid-19 has added some urgency, particularly as they re-imagine operating models to grapple with the extended impact of supply chain interruptions, remote working, and other pandemic-related disruptions. These changes in business models as well as the introduction of new digitally-enabled product and service offerings present transfer pricing challenges.

At the core of the transfer pricing challenges underlying digital transformation is the thorny issue of where value is created. For example, where is value created in data? Is value created at the ownership stage (and what if digital data is acquired for free) and how does privacy regulation impact the front end? Is value created in its analysis, often in combination with AI/ML, or in other aspects of its processing? Is value created in the initial design or monetization execution and implementation? The transfer pricing for these hard-to-value intangibles involving data and data analytics depends on the facts and circumstances of each transaction and raises complex issues around how to determine arm's length pricing that takes into account where and at what point value is created, thus assuring a defensible allocation of taxable base across relevant jurisdictions. Finally, companies must deal with a lack of benchmarks, given the unique nature of the intangibles. We expect new econometric models and comparables to emerge in the future to close this gap.

Tax authorities are also going through a digital transformation, as evidenced by their own use of data analytics and a growing body of data to analyze with the expansion of various transparency-driven reporting measures, e.g., DAC6, CbCR, information exchange.

The changing global tax and transfer pricing environment, which has been focused for several years on how to tax the digital economy, is accelerating with the proliferation of multilateral and unilateral digital tax measures, e.g., DSTs, that are expected to impact digital and non-digital companies alike. Multilateral measures include the OECD's work on BEPS and particularly the current push to finalize the Blueprint for Pillar One, which would enable market countries to impose income tax on a portion of the profits of certain digital enterprises and consumer-facing companies, and

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[9] Baker McKenzie, ***Litigation Intelligence: Ready for Anything?*** (Apr. 26, 2021).

Pillar Two, which would establish a global minimum tax.

Considering the overall increased transparency within the tax landscape and the expanding availability of data to tax authorities, recent trends of increased cross-border audit activity are expected to continue with a particular focus on the digital economy. Adding fuel to this fire is the impact of Covid-19, as governments are under increasing pressure to raise revenue to finance pandemic government assistance programs.

Transfer pricing challenges arising from digital transformation may seem daunting, particularly given the uncertain tax landscape; however, there are concrete steps companies can take to deal with the challenges. In particular, companies should consider the impact of their own digital transformation on:

- Key value drivers and creation of new intangible assets;
- Where people and AI/ML functions are performed, considering (temporary?) migration of the workforce; and contractual arrangements to check for consistency with new business models as well as the impact of data ownership and privacy regulations; and
- The transfer pricing method selection and comparability factors with respect to those transactions, which may be impacted by the use of digital capabilities. Review contractual arrangements in the context of changes in functions, assets and risks across the value chain.

As digital forces change business models, taxation will take a byte out of the value created in the digitizing economy. Thinking about how transfer pricing applies to your changing business model will help you stay a step ahead and navigate the worldwide web of regulations.

Authors

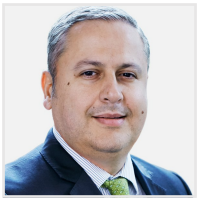
Martin Bell
Transfer Pricing Manager
Singapore
Martin.Bell@bakermckenzie.com

Ethan Kroll
Partner
Los Angeles
Ethan.Kroll@bakermckenzie.com

Javier Blazquez
Team Leader
Barcélona
Javier.Blazquez@bakermckenzie.com

Tamara Levin
Partner
San Francisco
Tamara.Levin@bakermckenzie.com

Armando Cabrera-Nolasco
Partner
Guadalajara
Armando.Cabrera-Nolasco@bakermckenzie.com



Carlos Linares-Garcia
Principal Economist
Monterrey
Carlos.Linares-Garcia@bakermckenzie.com

Montse Campmajó
Associate
Barcélona
Montse.Campmajo@bakermckenzie.com

Ning Liu
Senior Economist
Shanghai
Ning.Liu@bakermckenziefenxun.com

Bruno Dominguez
Partner
Barcélona
Bruno.Dominguez@bakermckenzie.com

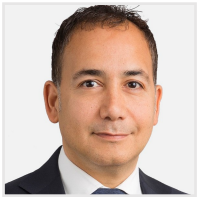
Michelle Martinez
Principal Economist
Chicago
Michelle.Martinez@bakermckenzie.com

Amanda Kottke
Partner
Palo Alto
Amanda.Kottke@bakermckenzie.com

Donna McComber
Director of Economics
Washington, DC
Donna.Mccomber@bakermckenzie.com

Authors

Andrew O'Brien-Penney
Director of Economics
Chicago
Andrew.Obrien-Penney
@bakermckenzie.com



Antonio Weffer
Partner
Luxembourg
Antonio.Weffer@bakermckenzie.com

Hub Stolker
Partner
Amsterdam
Hub.Stolker@bakermckenzie.com

Vladimir Zivkovic
Director Transfer Pricing
Amsterdam
Vladimir.Zivkovic@bakermckenzie.com

Gene Tien
Director of Economics
Palo Alto
Gene.Tien@bakermckenzie.com

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