

# Controversy

From planning a new transfer pricing structure, to expert witness testimony in United States or foreign courts, the team from Ballentine Barbera Group, a Charles River Associates company, provides comprehensive audit and litigation support services for transfer pricing controversy. While our approach to transfer pricing is to develop positions that make settlement without litigation possible, we have also been involved in assisting attorneys in developing economic analyses that assist in litigating these cases.

## Key questions

- Do my company's intercompany transactions reflect the economic substance underlying the transactions?
- Are my company's royalty rates defensible, and are there other analyses that can be prepared to support my company's intercompany licensing arrangements?
- Can an advanced pricing agreement be an effective tool to help mitigate audit risks associated with new or changing intercompany transactions?
- Do the economic analyses supporting my company's transfer prices meet local country requirements?
- Is a simple CPM analysis enough to defend my company's transfer prices under audit?

BBG/CRA has supported clients under audit by tax authorities in Australia, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, the Netherlands, Singapore, and the United Kingdom. We have also advised clients engaged in competent authority proceedings in Germany, Japan, Spain, and Switzerland.

## Case studies

BBG/CRA has successfully worked on a wide number of controversy cases, including:

- Advising a client responding to an Internal Revenue Service proposed adjustment involving eight countries and Puerto Rico with a defense including analyses utilizing the comparable profits method, profit splits, and comparable uncontrolled prices
- Defending the royalty rates charged by a major US consumer products company's subsidiaries in Germany, Spain, and Switzerland, which involved working in consultation with the client's foreign advisers to prepare competent authority protests
- Assisting a Swiss computer peripheral products manufacturer in a Japanese audit. BBG/CRA worked with the client's Japanese adviser to coordinate an approach to negotiating with Japan's National Tax Administration.
- Critiquing an IRS cost plus analysis of a medical device manufacturer. The analysis included identifying data and mechanical errors in the IRS analysis and introducing adjustments required to achieve a reliable result. The proposed income adjustment was reduced significantly with the case settling in appeals.

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## Case studies

- Assisting a metals company with a Canadian audit by preparing economic analyses and participating in settlement negotiations with the Canadian tax authorities
- Negotiating 35 separate rulings with the Mexican tax authorities on behalf of Maquiladoras
- Directing and coordinating multiple responses to transfer pricing inquiries from foreign tax authorities for a major European multinational transportation company, which involved advising the client on audit issues in Canada, France, Germany, Italy, the Netherlands, Singapore, and the United Kingdom
- Providing advice and analysis for an IRS audit of a foreign dairy products producer. The major income adjustment proposed by the IRS was reduced significantly.
- Representing a Mexican multinational steel manufacturer in a transfer pricing audit before the IRS and successfully negotiating a “no adjustment” outcome
- Providing an ex post defense of the strategy to transfer a US agribusiness company’s commodity trading operation to an offshore affiliate, which involved determining that the transaction involved the transfer of risk, not intangible assets, and, as such, did not require a buy-in
- Estimating the arm’s-length royalty rate for the name of a prominent financial services provider located in New York City
- Providing advice in the audit of a firm that distributes high technology products in the United States that are produced by its foreign parent
- Analyzing the goodwill value of a Japanese branch of a prominent US financial services provider located in New York City. The IRS claimed that in closing down the Japanese branch of the firm and moving operations to a subsidiary in Japan, the US provider transferred goodwill out of the United States for which they should have been paid a fee. Taxpayer argued that the branch had no goodwill value, and our analysis supported that conclusion. Ultimately the provider settled with no adjustment.
- Providing advice in the audit by the Malaysian tax authority of a US firm with assembly operations in Asia, and also in Hong Kong

## For more information

Contact us at +1-202-662-3800 or visit us online at [www.crai.com/transferpricing](http://www.crai.com/transferpricing).