

# Transfer Pricing in the Insurance Industry

TAX

In an increasingly globalized economy, insurance companies cannot afford to ignore tax issues arising in respect of their cross-border intra-group dealings.

### **Closer scrutiny from tax authorities**

Over the past decade, tax authorities worldwide have become more focused on transfer pricing matters, using new and often stringent transfer pricing legislation.

While the initial focus of transfer pricing audits was directed at manufacturing industries, the financial services sector, and insurance in particular, are becoming the object of scrutiny. This scrutiny is likely to increase even further with the publication of the OECD's work on the taxation of insurance permanent establishments, which draws attention to how capital is deployed within insurance undertakings and how it should be allocated for tax purposes.

Insurance companies face a number of transfer pricing issues that affect almost all of their activities and businesses. Some of the most important transfer pricing issues that can arise are outlined in the table overleaf:



Nature of intra-group transaction	Key questions for management
Intra-group reinsurance	<ul style="list-style-type: none"> <li>• For quota share reinsurances, how should the rate of ceding commission be calculated?</li> <li>• For stop loss policies, how is the arm's length premium arrived at?</li> </ul>
Investment management	<ul style="list-style-type: none"> <li>• Is the commission received by the asset manager an arm's length rate?</li> <li>• How should investment advisory services be remunerated?</li> </ul>
Head Office (HO) and Management Services	<ul style="list-style-type: none"> <li>• Which HO services need to be remunerated by the subsidiary?</li> <li>• What is the full cost of these services?</li> <li>• What is the right rate to mark up cost?</li> </ul>
Use of Intangibles	<ul style="list-style-type: none"> <li>• What is the value of the brand name, who is the legal and economic owner of the brand and what is the arm's length royalty for exploiting it?</li> <li>• Where software is developed and maintained by a related party, how should the owner be remunerated?</li> </ul>
Financial transactions	<ul style="list-style-type: none"> <li>• Where parental guarantees are given to support / improve the credit rating of an insurance subsidiary, what is an arm's length guarantee fee?</li> <li>• In the case of intra-group lending, what is the thin capitalization analysis and what rate of interest should be imputed to such loans?</li> </ul>



### How KPMG firms can help

#### Our people

With multidisciplinary teams of tax professionals experienced in the insurance industry and fiscal authorities, transfer pricing economists and actuaries, we can help you determine arm's length pricing with a view to improving your tax position and to complying with transfer pricing documentation requirements.



### Our processes

KPMG teams can help secure and improve intra-group transactions from a tax standpoint, in order to avoid the risks of double taxation and to assist in reducing the group's overall tax burden.

We are able to help you achieve this by:

- Developing and implementing economically relevant and tax-efficient transfer pricing policies.
- Harmonizing the various transfer pricing policies that may exist within a single group, especially in a 'post-acquisition' phase.
- Documenting the transfer pricing policies and procedures.
- Analyzing the functions performed and risks assumed by the various parties to a transaction.
- Supporting the "arm's length" nature of intra-group transactions.
- Adapting available documentation to local tax standards.
- Drawing up the group's transfer pricing policy guidelines, as well as bilateral or multilateral contracts.
- Documenting the valuation of intangible assets.

In the case of disagreement with the Tax Authorities, our processes can help to avoid an unjustified tax reassessment or double taxation; or to help secure future transactions in the framework of an Advance Pricing Arrangement ("APA") with the tax authorities. They can be used to provide:

- Assistance in tax audits, including the development of an appropriate defense strategy.
- Defense in the course of tax litigation.
- Assistance in connection with Mutual Agreement Procedures under OECD tax treaties or the European Arbitration Convention.
- Assistance in negotiating Advance Pricing Arrangements (APAs).

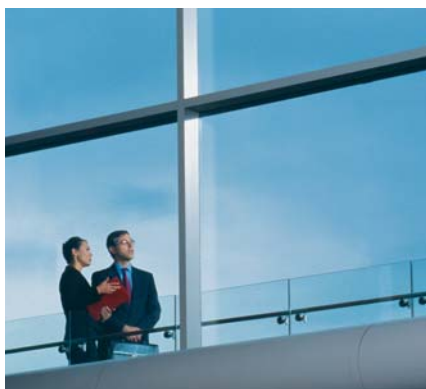
### Our technologies

Our access to financial and economic databases and our knowledge of tax administrations recent positions help us to conduct effective searches for comparable companies. These searches make it possible, for example, to determine whether transfer prices, commissions, royalty fees or, interest rates in a given transaction are in line with the arm's length standard.

Moreover they also constitute an important part of the economic analysis and of the transfer pricing documentation.

- Interpreter™ is a software program that facilitates transfer pricing analyses and documentation. Our team can assist you in installing the software and in training your personnel.
- Transfer Pricing diagnostic is a tool that makes it possible to visualize intra-group transactions within the value creation chain and to help identify risks or opportunities for tax planning.
- To deal with intra-group reinsurance transactions, we have a proprietary actuarial model which can be used to price ceding commission under quota share agreements and stop loss premiums.
- KPMG has developed methodologies for assessing borrower risks by the use of independent credit-rating software (when credit rating of the borrower is already available) or third-party data (e.g., Bloomberg) to obtain arm's length interest rates in light of the borrower's financial strength and characteristics.
- KPMG has developed methodologies for assessing the value of marketing and branding intangibles (advertising and marketing). In addition, our databases of comparable agreements can be searched to identify suitable comparables.





### Why choose us?

- A global network of experienced professionals: our member firms offer clients real global connectivity. Our transfer pricing professionals have worked together on global transfer pricing projects with high profile organizations
- APA know-how: our team has the experience and tools needed to evaluate intangible (patent, trademark, trade name, brand name and know-how) assets that generate value within a group. KPMG member firms have been involved in negotiating and completing a number of APAs in the financial services industry in key jurisdictions
- Broad-ranging and tailored tax methodologies: our transfer pricing teams bring together people with diverse, yet complementary backgrounds, including economists, accountants, lawyers, actuaries and tax professionals. This helps us to provide more focused, relevant and commercial advice and services, aligned to your broader business needs. KPMG teams also include a number of former competent authority counsels
- Sound, independent advice: we aim to help underpin and add value to your final report. We achieve this through clear advice based on in-depth knowledge of economic principles and the arm's length standard
- At the forefront of industry developments: our team is made up of recognized thought leaders in the field of insurance-related transfer pricing issues. This helps us to bring methodologies to emerging issues and industry developments, customized for your business
- Flexible and dynamic process: we are proud of our reputation for focusing on 'workability' when making recommendations. We use our experience of designing, implementing and troubleshooting transfer pricing policies for your benefit
- Empowering you through knowledge transfer: we communicate regularly and openly with you to help ensure that everyone working on a project benefits from the information and experience available
- Intelligent use of technology: our transfer pricing software can prepare your transfer pricing analysis across your global network. Going forward, it gives you the ability to take ownership of this work internally, helping to achieve cost efficiencies and increase flexibility in dealing with transfer pricing issues

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