MODERNISATION OF BUSINESS PROCESSES OF ENTERPRISE, USE OF INNOVATIVE TECHNOLOGIES

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Abstract: Globalization is basic direction development of all spheres of life, including industrial. Open border, free exchange a commodity, an intellect, technologies and information, is by pre-condition of origin of high standards and strong market competition. It forces modern enterprises and organizations of the whole world to answer these criteria. Terms, functioning of modern economy, that characterized by a keen competition, require from guidance the companies of permanent modernisation of business processes of enterprise, use of innovative technologies.

In this article it was noticed that every big company has effective serious transfer pricing policy, different scenarios, methods and principles.

Key words: legal enterprises, analysis and processing of information, economic control, state standards and reporting requirements, effective, scientific principles, methods, statistical bodies.

One of the economic hope and aspirations to get out poverty and under development which had plagued the developing world from the time immemorial is to attract foreign direct investments (FDI) into their various economies. It therefore becomes a dream come true when Multinational Corporations (MNCs) decide to invest in developing countries.

Taxation is also a plus in the operations of the MNCs for the domestic economy. MNCs and domestic producers are required to pay taxes and therefore contribute to the public finances. Giving the highly profitable nature of many MNCs, the level of tax revenue raised from this source is mostly significant. The host country's balance of payment position is also likely to improve on a number of counts as a result of MNC investment. Firstly, the investment will represent a direct flow of capital into the country and secondly, in the long term, the MNC investment is likely to result in both import substitution and export promotion, for, goods previously purchased as imports could now be produced locally. Despite the gains, multinational investment may not always be beneficial either in the short or long term with particular reference to the developing world. It is possible that jobs created in one region of a host country by a new MNC with its superior technology and working practices may cause businesses to fold else where and thus increase in the level of unemployment in those region. Profits repatriation which constitutes capital flight might effectively undermine many or all of the potential gains from multinational investment. In addition to these concerns, there are also the following problems [1].

There is much uncertainties associated with the operations of MNC. They are highly dynamic and therefore can simply close down their businesses in the foreign countries and move. This is especially likely with older plants which would need upgrading if the MNC were

to remain or with plants that can be easily sold without much loss. If a country has a large foreign multinational sector within the economy, it will become very vulnerable and face great uncertainty in the long term. It may thus be force to offer the multinational perks in the form of grants, special tax relief and other concessions in order to persuade them to remain all of which are costly to the tax payers in the developing countries.

The fact that MNC can shift production locations not only gives them production advantages or economic flexibility, but it enables them to exert control over their host nations. This is particularly the case in many of the developing nations where MNCs are not only major employers but in many cases the principal wealth creators. Thus attempts by the host state, for example to improve workers safety and welfare or impose pollution controls may go against the interest of the MNCs. MNC might thus oppose such measures or even threaten to withdraw from the country if such measures are not modified or dropped, rendering those developing economies vulnerable to serious economic fluctuations and shocks.

Like domestic producers, MNCs are always finding ways to reduce their tax liabilities. One unique way that an MNC can do this is through the process know as transfer pricing. This enables the MNC to reduce its profits in countries with high rate of profit tax, and increase them in countries with low rates of profit tax. This can be achieved by simply manipulating its internal pricing structure. For example, take a MNC where subsidiary A in one country supplies materials to subsidiary B in another country. The price at which the materials are transferred between the two subsidiaries will ultimately determine the costs and hence the level of profit made in each country. Assume that in the country where subsidiary A is located, the level of corporate tax is half of that of the country where subsidiary B is located. If materials are transferred from A to B at very high prices, the B's costs will rise and its profitability will fall. On the other hand, A's profitability will rise. The MNC clearly benefits as more profits is taxed at a lower rather than higher rate. Had it been the other way around, with subsidiary B facing the lower rate of tax, then the materials would be transferred at a low price. This would increase subsidiary B's profits and reduce A's.

Transfer pricing is the setting of prices among divisions within an enterprise. Transfer prices are charges for goods and services between controlled (or related) legal entities, i.e., within an enterprise. Legal entities considered under the control of a single corporation include branches and companies that are wholly or majority owned ultimately by the parent corporation. Certain jurisdictions consider entities to be under common control if they share family members on their boards of directors.

In principle a transfer price should match what the seller would charge an independent, arms-length customer. While unrealistic transfer prices do not affect the overall enterprise directly, they become a concern when they are misused to lower profits in a division of an enterprise that is located in a country that levies high taxes, and raise profits in a country that levies no or low taxes, as a tax haven. [1] Transfer pricing is the major tool for corporate tax avoidance.

The term "transfer pricing" covers the setting, analysis, documentation, and adjustment of charges made between related parties for goods, services, or use of property (including intangible property). Transfer prices among divisions of an enterprise should to reflect allocation of resources among such components.

Setting Transfer Prices enables multinational corporation's to attribute net profit (or loss) before tax among the countries where it does business. An alternative approach is

formulary apportionment, where corporate profits are allocated according the metrics of activity in the countries.

Because countries impose different corporation tax rates, a corporation that has a goal of minimizing the overall taxes to be paid will set transfer prices to allocate more of the worldwide profit to lower tax countries. Many countries attempt to impose penalties on corporations if the countries consider that they are being deprived of taxes on otherwise taxable profit. However, since the participating countries are sovereign entities, obtaining data and initiating meaningful actions to limit tax avoidance is hard. A publication of the Organisation for Economic Co-operation and Development (OECD) states, "Transfer prices are significant for both taxpayers and tax administrations because they determine in large part the income and expenses, and therefore taxable profits, of associated enterprises in different tax jurisdictions."

The rules of nearly all countries permit related parties to set prices in any manner, but permit the tax authorities to adjust those prices (for purposes of computing tax liability) where the prices charged are outside an arm's length range. Rules are generally provided for determining what constitutes such arm's length prices, and how any analysis should proceed. Prices actually charged are compared to prices or measures of profitability for unrelated transactions and parties. The rules generally require that market level, functions, risks, and terms of sale of unrelated party transactions or activities be reasonably comparable to such items with respect to the related party transactions or profitability being tested.

Most systems allow use of multiple methods, where such methods are appropriate and are supported by reliable data, to test related party prices. Among the commonly used methods are comparable uncontrolled prices, cost-plus, resale price or markup, and profitability based methods. Many systems differentiate methods of testing goods from those for services or use of property due to inherent differences in business aspects of such broad types of transactions. Some systems provide mechanisms for sharing or allocation of costs of acquiring assets (including intangible assets) among related parties in a manner designed to reduce tax controversy.

Double taxation can occur if one country does not accept the taxation imposed by another country, perhaps because it considers the that country a Tax haven, where unrealistically low taxes are collected. Most tax treaties and many tax systems provide mechanisms for resolving disputes among taxpayers and governments to reduce the potential for double taxation. Many systems also permit advance agreement between taxpayers and one or more governments regarding mechanisms for setting related party prices.

Many systems impose penalties where the tax authority has adjusted related party prices. Some tax systems provide that taxpayers may avoid such penalties by preparing documentation in advance regarding prices charged between the taxpayer and related parties. Some systems require that such documentation be prepared in advance in all cases.

The discussion in this section explains an economic theory behind optimal transfer pricing with optimal defined as transfer pricing that maximizes overall firm profits in a non-realistic world with no taxes, nocapital risk, no development risk, no externalities or any other frictions which exist in the real world. In practice a great many factors influence the transfer prices that are used by multinational corporations, including performance measurement, capabilities of accounting systems, import quotas, customs duties, VAT, taxes on profits, and (in many cases) simple lack of attention to the pricing.

From marginal price determination theory, the optimum level of output is that where marginal cost equals marginal revenue. That is to say, a firm should expand its output as long as the marginal revenue from additional sales is greater than their marginal costs. In the diagram that follows, this intersection is represented by point A, which will yield a price of P, given the demand at point B.

When a firm is selling some of its product to itself, and only to itself (i.e. there is no external market for that particular transfer good), then the picture gets more complicated, but the outcome remains the same. The demand curve remains the same. The optimum price and quantity remain the same. But marginal cost of production can be separated from the firm's total marginal costs. Likewise, the marginal revenue associated with the production division can be separated from the marginal revenue for the total firm. This is referred to as the Net Marginal Revenue in production (NMR) and is calculated as the marginal revenue from the firm minus the marginal costs of distribution.

Most governments have granted authorization to their tax authorities to adjust prices charged between related parties. Many such authorizations, including those of the United States, United Kingdom, Canada, and Germany, allow domestic as well as international adjustments. Some authorizations apply only internationally. [citation needed] Most, if not all, governments permit adjustments by the tax authority even where there is no intent to avoid or evade tax.

Most rules require that the tax authorities consider actual transactions between parties, and permit adjustment only to actual transactions. [1] Multiple transactions may be aggregated or tested separately, and testing may use multiple year data. In addition, transactions whose economic substance differs materially from their form may be recharacterized under the laws of many systems to follow the economic substance.

Under this approach, a price is considered appropriate if it is within a range of prices that would be charged by independent parties dealing at arm's length. This is generally defined as a price that an independent buyer would pay an independent seller for an identical item under identical terms and conditions, where neither is under any compulsion to act.

There are clear practical difficulties in implementing the arm's length standard. For items other than goods, there are rarely identical items. Terms of sale may vary from transaction to transaction. Market and other conditions vary geographically or over time. Some systems give a preference to certain transactional methods over other methods for testing prices.[9]

In addition, most systems recognize that an arm's length price may not be a particular price point but rather a range of prices. Some systems provide measures for evaluating whether a price within such range is considered arm's length, such as theinterquartile range used in U.S. regulations. Significant deviation among points in the range may indicate lack of reliability of data. [1] Reliability is generally considered to be improved by use of multiple year data.

Tax authorities generally examine prices actually charged between related parties to determine whether adjustments are appropriate. Such examination is by comparison (testing) of such prices to comparable prices charged among unrelated parties. Such testing may occur only on examination of tax returns by the tax authority, or taxpayers may be required to conduct such testing themselves in advance or filing tax returns. Such testing requires a determination of how the testing must be conducted, referred to as a transfer pricing method.

Valuable intangible property tends to be unique. Often there are no comparable items. The value added by use of intangibles may be represented in prices of goods or services, or by payment of fees (royalties) for use of the intangible property. Licensing of intangibles thus presents difficulties in identifying comparable items for testing. However, where the same property is licensed to independent parties, such license may provide comparable transactional prices. The profit split method specifically attempts to take value of intangibles into account.[2]

Enterprises may engage related or unrelated parties to provide services they need. Where the required services are available within a multinational group, there may be significant advantages to the enterprise as a whole for components of the group to perform those services. Two issues exist with respect to charges between related parties for services: whether services were actually performed which warrant payment, and the price charged for such services. Tax authorities in most major countries have, either formally or in practice, incorporated these queries into their examination of related party services transactions.

There may be tax advantages obtained for the group if one member charges another member for services, even where the member bearing the charge derives no benefit. To combat this, the rules of most systems allow the tax authorities to challenge whether the services allegedly performed actually benefit the member charged. The inquiry may focus on whether services were indeed performed as well as who benefited from the services. For this purpose, some rules differentiate stewardship services from other services. Stewardship services are generally those that an investor would incur for its own benefit in managing its investments. Charges to the investee for such services are generally inappropriate. Where services were not performed or where the related party bearing the charge derived no direct benefit, tax authorities may disallow the charge altogether.

Where the services were performed and provided benefit for the related party bearing a charge for such services, tax rules also permit adjustment to the price charged. Rules for testing prices of services may differ somewhat from rules for testing prices charged for goods due to the inherent differences between provision of services and sale of goods.

It is common for enterprises to perform services for themselves (or for their components) that support their primary business. Examples include accounting, legal, and computer services for those enterprises not engaged in the business of providing such services. Transfer pricing rules recognize that it may be inappropriate for a component of an enterprise performing such services for another component to earn a profit on such services. Testing of prices charged in such case may be referred to a cost of services or services cost method.

So effective transfer pricing is one of the reasons of multinational corporations` effective competition on the market.

Transfer pricing is the set of mechanisms which is used to attach prices to goods or services which are traded between two divisions of the same company. The classic example involves one division (the “selling division”, or “SD”) which produces a component which is required by another division (the “buying division”, or “BD”). The component is used by the BD in the manufacture of a product which it sells on the open market.

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