



Transfer Pricing and Trade Compliance Survey

Transfer Pricing and Trade
and Customs Services
KPMG LLP

kpmg.com





Contents

1. To our readers	3
2. Background and respondent profile	5
3. Alignment of transfer pricing and customs valuation	6
4. Challenges are opportunities	9
a. Enhanced coordination among transfer pricing and trade groups	9
b. Automation	10
c. Tax and customs planning around license fees and royalty payments	13
d. Mitigating higher customs tariffs	14
e. Compliance	15
5. Industry snapshot	16
6. Outlook	20
About KPMG LLP	20
Contact us	22





1. To our readers

Tax and trade compliance departments are regularly juggling competing priorities. We have observed that some organizations are not actively managing and coordinating their transfer pricing (TP) and trade compliance functions. Better alignment and coordination among transfer pricing and trade compliance teams is possible to drive optimization and potentially savings. To benchmark current practices, KPMG LLP (KPMG) issued a survey in late 2019 to over 100 companies representing a range of industries and sizes, to gather information about trade implications caused by transfer pricing adjustments within their organization.

The survey results indicated that there is generally a lack of coordination between the tax and trade compliance functions, coupled with a failure to manage the customs compliance aspects of transfer pricing adjustments. Our survey indicated that only 54.5 percent of companies made customs valuation adjustments after they made a transfer pricing adjustment. Based upon survey results, it appears that many companies are not aware or do not fully appreciate that changes to pricing may impact the value reported for customs valuation purposes. Also, even when adjustments are made, they are generally not coordinated with the customs team. The survey also noted that only 20 percent of respondents reported that transfer pricing policies are coordinated to help reduce customs duty liability. This indicates that some companies may be overpaying customs duties resulting from a lack of visibility into tax planning.

It may be challenging to not only remain compliant but to also manage customs duty spend when there is limited technology. Only 18 percent of respondents use automation to manage transfer pricing adjustments and customs valuation. The vast majority of automated solutions were used by companies with 3,000 or more

employees. The limited use of technology suggests that not only may companies be missing savings opportunities, but also, more generally, customs compliance may not be optimized. In this era of heightened customs scrutiny, compliance is important especially for the 81 percent of the respondents who indicated that tariff increases have impacted their enterprises.

In sum, we found that tax and customs leaders may be making decisions without complete information. In the worst-case scenario, customs duties may be exceeding the tax burden. The lack of coordination between internal groups limits compliance and savings that can be easily achieved by better coordination and in many cases abiding by the law.

There are approaches to managing both transfer pricing adjustments and a company's duty spend. Companies are encouraged to proactively identify a price that complies with both transfer pricing and customs requirements while avoiding the overpayment of taxes and customs duties. Specifically, through enhanced coordination, a strategy may be set so that the price satisfies the Customs and Border Protection (CBP) five factor analysis and Transfer Pricing arm's-length analysis. CBP uses the five factor analysis to determine if a transfer price, and any related adjustments, is acceptable for customs purposes. Identifying an arm's-length price that satisfies both transfer pricing and customs requirements at the onset of the transaction can reduce the risk of subsequent adjustments by the local customs authorities and/or the tax authorities. Proactively managing transfer pricing adjustments with customs requirements will promote compliant transactions and allow companies to lawfully reduce their tax and customs spend.





2. Background and respondent profile

With 119 responses from companies in 10 general industries with varied supply chains, the KPMG Transfer Pricing and Trade Compliance Survey provides wide-ranging cross-industry insight into how companies align efforts on intercompany savings optimization with respect to customs duties and taxes.¹

Respondents were overwhelmingly global, with 85 percent operating in 11 or more countries. Tax and customs matters are generally handled by different teams within the respondents' organization. Seventy-three percent of companies responded that tax transfer pricing issues are

typically handled by the tax group while 70 percent of entities have a trade compliance group managing customs issues. Interestingly, over 7 percent of respondents indicated that transfer pricing is not handled by their tax, finance, or trade group.

Given our participants' level of global activity, companies engage in a substantial amount of related-party transactions, which creates potential exposure both from a transfer pricing and customs perspective. Ninety-one percent of participants responded that their company purchases globally from related parties.

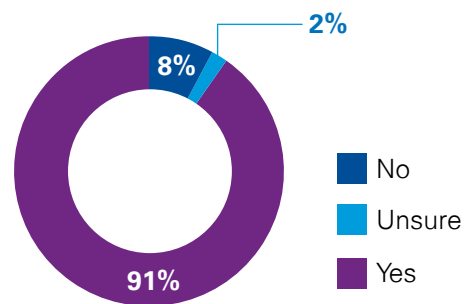
What industry does your company operate in?

Industries	Count	%
Industrial manufacturing/chemicals	41	34%
Retail/consumer goods	26	22%
Life sciences	19	16%
Technology	12	10%
Automotive	6	5%
Other (finance, education, multiple)	5	4%
Building/construction	4	3%
Transportation	3	3%
Aerospace defense	2	2%
Agricultural	1	1%
Grand total	119	100%

n=119

Does your company purchase from related-party suppliers anywhere globally?

Purchasing globally from related parties



¹ Survey responses were provided in October and November 2019.

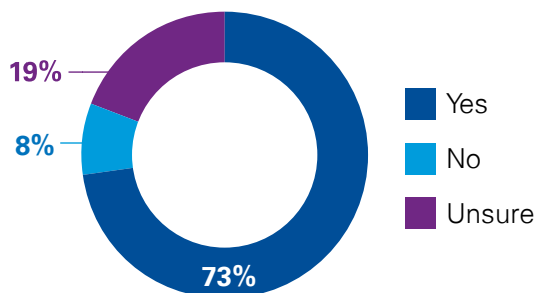


3. Alignment of transfer pricing and customs valuation

The trade environment is in a state of flux—U.S. tariffs have dramatically increased as a result of actions against China, the European Union, and other global trade partners. Importers whose products historically had no or low duty rates are now facing rates as high as 25 percent and duty burdens are significantly higher. Tariffs are a boardroom issue as companies assess how to adjust to the new trade framework. In some cases, tariff costs can be more material than tax costs. While taxes are paid on the profit a company realizes, duties are paid on the full value of imports.

The global COVID-19 situation broke out in January 2020, which severely disrupted supply chains due to its threat to public health and the quarantine measures adopted in many countries as a result. Simultaneously hit by multiple supply chain crises, companies are becoming increasingly vigilant about identifying opportunities to reduce trade costs. One approach is aligning transfer pricing and customs valuation to compliantly reduce total tax and duty spend. Transfer pricing decisions directly impact customs duties because the value stated on the invoice is typically used for customs declaration. When a company retroactively adjusts transfer pricing, the customs declaration may need to be amended pursuant to the local customs regulations, while some jurisdictions do not allow customs entries to be corrected. Related-party transactions are closely scrutinized by global customs authorities. The administrative burden of correcting inaccurate customs and value-added tax (VAT) declarations can be significant, creating potential risk exposure. Getting the transfer price right could save the importer time and expense while managing customs risk.

Does your company prepare a transfer pricing study for tax purposes?

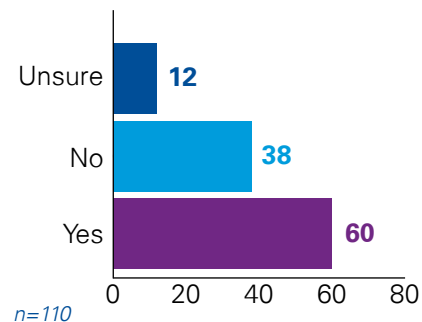


The proactive alignment and predictive coordination of customs values and transfer pricing may be the most significant opportunity that companies have, in their own hands, to increase organizational value with trade.

—Luis Abad,
Principal, Trade and Customs Practice,
Washington National Tax
KPMG in the U.S.



Does your company make any “customs value adjustments” between related entities for products imported globally?



The failure to strategically coordinate transfer pricing and customs may be one of the greatest missed opportunities. About 73 percent of respondents stated they currently have a transfer pricing study or policy to report the results of intercompany transactions to tax authorities while only 54 percent make customs valuation adjustments. Transfer pricing adjustments create compliance exposure as values previously declared for customs purposes may need to be amended. In addition, money might be left on the table if importers overpaid duties.



Customs valuation policy and disputes are led by the Transfer Pricing team. Product transfer prices are set to meet customs rules as the priority with other arrangements/methodologies relied upon for corporate tax.

—2019 KPMG Transfer Pricing and Trade Compliance Survey Respondent
(2019 Survey Respondent)



The company is now aware that retroactive downward payments from the corporate office overseas can be deducted from entered value for the recovery of import duties.

—2019 Survey Respondent



Fifty-five percent of respondents indicated that their company understands the implications of transfer pricing on customs valuation and vice versa. This is a significant finding as, historically, trade and transfer pricing teams have operated independently, without systematically involving the other side in providing advice.

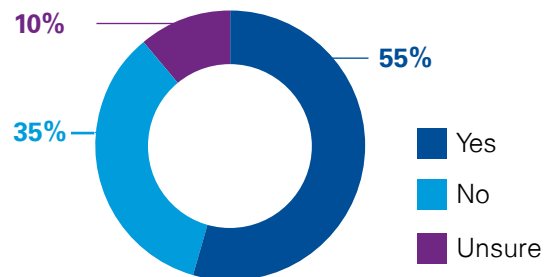


One of the challenges that organizations face when managing transfer pricing lies in operational transfer pricing. That is, monitoring transaction results throughout the year and achieving compliance and savings with coordinated transfer pricing and custom policies.

—**John L. McLoughlin**,
Principal, Trade and Customs Practice
KPMG in the U.S.



In your opinion, does your company adequately understand the implications of transfer pricing strategies on customs valuation topics, and vice versa?



Frequent and open communication helps align customs and tax interests on topics that, at first glance, may appear to conflict. For instance, restructuring supply chains, discontinuing transactions made unprofitable by tariffs, and reclassifying products to a different customs code could result in changes in functions, risks, and assets, which could require a reevaluation of the transfer pricing methodology. Such changes can also impact the conclusions of the transfer pricing documentation or an Advance Pricing Agreement (APA) if already in place or in negotiations with the tax authorities. On the flip side, changing the transfer pricing policy or making price adjustments influences supply chain decisions and may give rise to trade compliance issues and customs duty costs.

Additionally, ongoing monitoring is key to maintaining an optimal transfer pricing and customs position. It is important to take a holistic approach when reviewing related-party transactions from both an income tax and a customs perspective.

In light of this, companies may want to consider the following checklist of transfer pricing and customs best practices for year-end closing:



Considerations

- ✓ Have all transactions with related parties been identified (e.g., tangible and intangible property, services, loans, etc.)?
- ✓ Are there additional costs that should be included in the cost base when determining the transaction value of imported merchandise (i.e., royalties, proceeds, shared services relating to production, machinery, tools, dies, molds, research and development)?
- ✓ Are related-party import transactions being properly flagged as “related” on the customs entry?
- ✓ Were retroactive transfer price adjustments made with respect to imported goods?
- ✓ Does the company understand the differences in law between transfer pricing and customs?
- ✓ Has the company made any transfer price adjustments? If so, has the company filed a corresponding adjustment for customs?
- ✓ Has the company entered into the Reconciliation Program (U.S. only) to facilitate the adjustment of intercompany prices, potential refunds, or additional duties and administrative costs?



Confirm financial results are consistent with applicable policies

- ✓ Confirm whether the company has a related-party pricing policy for transfer pricing and customs in place.
- ✓ Confirm whether transfer pricing outcomes (e.g., entity operating profit) realized by each entity in the group are aligned with the entity’s or group’s transfer pricing policy.
- ✓ Consider whether each entity’s accounting records clearly demonstrate the correct application of the customs and transfer pricing policy.
- ✓ Ask whether profitable companies are being remunerated commensurately with the value they generate.
- ✓ Confirm whether profits are sufficient from a customs perspective to satisfy applicable laws (i.e., products sold at or below their cost).
- ✓ Determine whether the relevant documentation (e.g., benchmarking analyses, external comparable, etc.) supports the arm’s-length price for applicable government agencies.



Legal documentation

- ✓ Determine whether legal documentation is in place to substantiate any related-party transactions or whether such agreements impact the reportable value.
- ✓ Determine whether legal agreements have been properly executed and reflect the current state of transactions and interactions between the parties involved.
- ✓ Identify whether there are any agreements in place that may affect the value used for customs purposes (e.g., royalty, supplier, shared service, R&D, technical, etc.).



4. Challenges are opportunities

Companies should remain vigilant for fault lines between customs and tax requirements while also targeting potential savings opportunities. Failure to prepare for the tax challenges could have significant financial consequences beyond additional duty or corporate tax costs.

Strategic transfer pricing decisions in the face of tax reform or changes in customs policies due to the global supply chain crisis and/or higher tariffs can impact the entire organization. However, the changing tax and trade environment can also be an opportunity to achieve greater savings and enhance collaboration.

“ This cannot be described in short since we are an MNE that has to manage multi jurisdictions’ tax requirements by country in which we have a permanent establishment, in addition to dealing with OECD BEPS and evolving tax regulations. —2019 Survey Respondent ”

a. Enhanced coordination among transfer pricing and trade groups

Approximately 52 percent of respondents indicated that there is no regular interaction between the transfer pricing and customs functions/groups. Lack of regular interaction could mean insufficient coordination to achieve compliance with transfer pricing and customs regulations and potential cost savings. It is only by understanding each group’s goals that a compliant and appropriate price can be determined to help mitigate transfer pricing and customs exposure. Based on the limited interaction between the groups, it was not surprising that 72 percent of respondents had not coordinated on transfer pricing policies to enhance customs duty.

However, groups working collaboratively are generally better positioned to address or mitigate the more common challenges multinational enterprises face, such as:

- The “tug of war” between transfer pricing and customs authorities

- The development of pricing methodologies that can be used for both transfer pricing and customs purposes
- The reduction or elimination of tax and customs price adjustments, penalties, or interest charges
- The development of policies and procedures in a coordinated fashion between the tax and customs functions
- The reduction of the costs, time, and resources needed to respond in transfer pricing and customs controversies.

“ This is a balance—duty optimization versus tax optimization. —2019 Survey Respondent ”

To what degree would you estimate the Customs team interacts with those responsible for setting and maintaining the company’s transfer price?

Response	Count	%
Regular interaction	42	35%
Aware of TP activity but not regularly involved	40	34%
Does not interact regularly	21	18%
Unsure	13	10%
Regular interaction but not always involved in TP projects	1	1%
Interaction might grow as a result of United States–Mexico–Canada Agreement (USMCA) ³	1	1%
In transition to be more involved	1	1%

n=119

³The Agreement between the United States of America, the United Mexican States, and Canada is a free trade agreement that has been ratified by each country.

Has your company coordinated on optimizing your transfer pricing policies to optimize customs duty liability?

Response	Count	%
No	60	50%
Unsure	35	30%
Yes	24	20%

n=119

Collaboration and cross-teaming

The 20 percent of companies that coordinate transfer pricing and customs appear to have incorporated leading industry standards to increase organizational value.

Companies that succeed in capturing intercompany savings opportunities typically employ processes of formally “wiring” together customs compliance with accounting/finance and tax to realize benefits. Such efforts include:

- Communication protocols for any changes related to transfer pricing policy and adjustments
- Review of the TP policy arm’s-length benchmarks and the TP adjustments against CBP’s “five factor” test
- Documented reviews; communication of the results between the two functions
- Determination of whether the adjustments pertain to the imported merchandise and should be part of the price actually paid or payable.

“ Transfer Pricing Team and Trade Compliance Team are part of Tax, and they report into Finance. We have regular meetings to understand each other’s needs, and we communicate before Tax adjustments are made. Trainings are shared between the teams to cross-educate.

—2019 Survey Respondent

“

- We review and perform a yearly reconciliation.
- We’ve targeted different points in the interquartile range to reduce unnecessary tariff payments.
- The teams get together often and copy each other on relevant communications.

—2019 Survey Respondents

”

b. Automation

Technology can help a company reduce manual processes and concentrate resources on high-value, strategic decision-making, on issues including intercompany transaction-related tax and duty-saving opportunities. However, our findings indicate that only 17 percent of companies currently use a global trade technology system to manage TP adjustments and customs value. Automation is almost exclusively the domain of large companies as 89 percent of companies using technology have more than 3,000 employees.

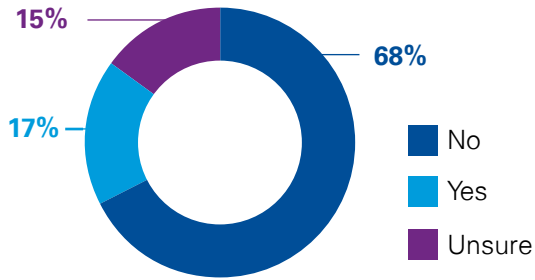
Many companies do not fully appreciate the potential value a global trade management system can bring, causing them to miss opportunities.

“ Automation can cut through complexity. It can improve accuracy and increase operational savings.

—John L. McLoughlin,
Principal, Trade and Customs Practice
KPMG in the U.S.

”

Does your company implement any global trade technology systems or other technology to manage TP adjustments and customs valuation?



Breakdown of companies that implement trade technology systems	Count	%
3,000 or more employees	17	89%
1,001 to 3,000 employees	2	11%

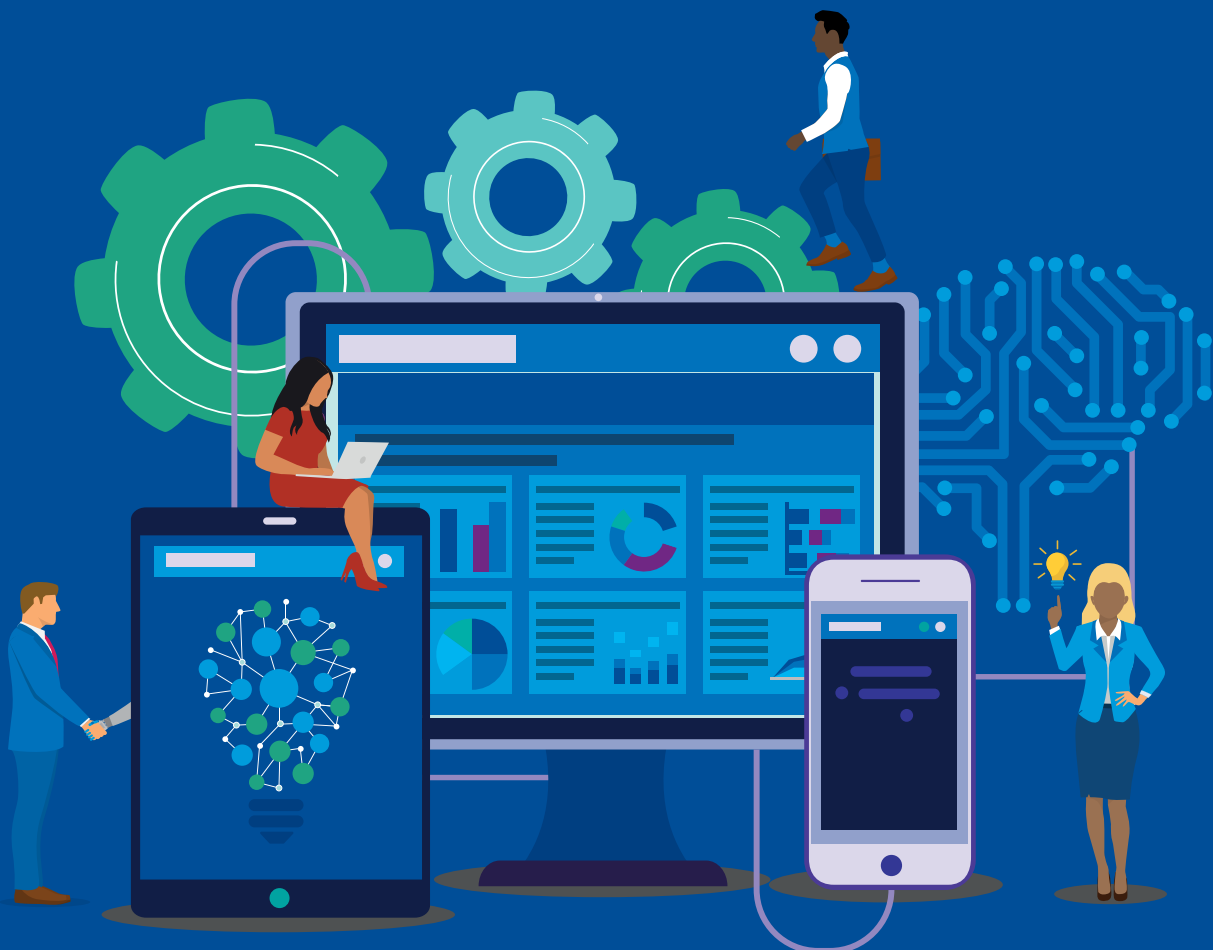


Potential benefits of technology

According to the survey, more than half of the companies that use technology to manage transfer pricing adjustments and customs valuation obtained either a tax or duty refund.

Larger companies may have better internal support or resources; however, generally speaking, all companies regardless of size require a business case for technological needs. Here are some tips that can help make a strong business case:

- ✔ Identify specific gaps and needs that would be better addressed with technology. Consider medium- and long-term goals and objectives. Align with corporate initiatives around areas such as growth, cost and savings management, compliance, and organizational structure.
- ✔ Conduct a return on investment (ROI) exercise that captures benefits such as reduced duty and tax payments.
- ✔ Understand which groups within the organization will have a role in approving the project and start preliminary discussions early in the process.
- ✔ Understand tangential benefits for other departments such as logistics, procurement, finance, indirect taxes, and others. Obtaining their support can be critical.
- ✔ Develop a business case summary for management.



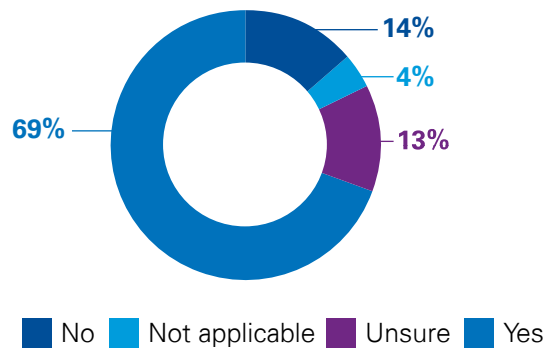
c. Tax and customs planning around license fees and royalty payments

Base Erosion and Anti-Abuse Tax (BEAT) rules, introduced by the U.S. Internal Revenue Service (IRS) in 2018, may prompt a U.S. importer to reconsider expense classification and analyze from a tax accounting perspective whether certain intercompany fees that had been treated as a deductible expense should instead be included in the company’s Cost of Goods Sold (COGS), thereby potentially reducing its BEAT liability. Prior to BEAT, an importer may not have included royalties and services in the value declared to customs for imported goods. Introduction of BEAT may prompt the U.S. importers to consider bundling these intercompany payments in COGS to reduce BEAT liability, which may in turn increase dutiable costs from a customs valuation perspective. Therefore, when assessing BEAT strategies, it is critical to consider the U.S. importer’s compliance requirements, trade risks, and/or duty costs.

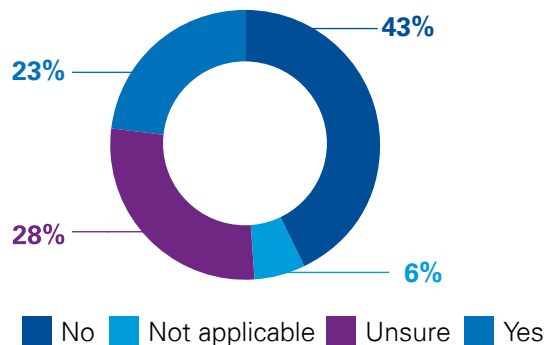
Our survey results indicate that this may be an area where companies would benefit from enhanced coordination between the transfer pricing and customs groups. Although 70 percent of respondents stated that they pay royalties or service fees to related parties, 28 percent of respondents were unsure if these costs were included in the customs declaration value.

While a majority of the survey participants indicated that license and service fees are not included in the invoice value of traded goods, a closer look may be needed to assess dutiability. Under certain circumstances, these intercompany payments may be subject to customs duties and additional administrative charges owed to local customs authorities. Assessment of dutiable and nondutiable intercompany payments may require the involvement of a trade professional with experience in customs valuation of related-party transactions.

Does your U.S. company or foreign affiliates’ intercompany purchase/sales agreements involve any payments for license fees or service fees (including royalties and support service fees)?



Does your company bundle license or service payments as part of imported goods costs?



One of the incentives of the 2017 Tax Cuts and Jobs Act is a reduced rate for Foreign-Derived Intangible Income (FDII) of U.S. corporations. The new FDII rules provide an increased deduction that can be taken against certain income arising from specified export activities, effectively reducing the tax rate on said income to approximately 13.125 percent through 2025, and 16.406 percent from 2026 onward. This would apply to a U.S. taxpayer's income from certain sales of goods, leases, and intellectual property (IP) licenses or provision of services to non-U.S. entities/persons for foreign use outside the U.S.

As a result of the new FDII rules, taxpayers are giving serious consideration to setting up manufacturing or establishing an IP or services hub in the U.S. and transitioning functions into the U.S. (e.g., limited risk distributors become full-fledged distributors) to utilize the benefits of FDII, in addition to other benefits brought by the 2017 Tax Cuts and Jobs Act including the drop in U.S. corporate tax rate and elimination of alternative minimum tax.

Where new outbound manufacturing hubs are established, importers can explore duty savings programs such as duty drawback, which allows the U.S. manufacturer to reclaim up to 99 percent of duties it paid on imported goods that are subsequently exported. The new U.S. duty drawback regulations that came into effect in December 2018 make filing claims and obtaining a refund significantly easier. U.S. manufacturers may also investigate the benefits of a Foreign Trade Zone (FTZ), which allows companies to manufacture goods in the U.S. and export them without paying the customs duty on imported raw materials or work-in-progress products. Keep in mind the transfer pricing group should be involved to establish arm's-length pricing for these new supply chain structures.

Has your company reorganized its intellectual property or research and development to be located in the United States, potentially triggering U.S. export requirements to the extent the IP is shared outside the United States?

Response	Count	%
No	59	55%
Unsure	28	26%
Yes	21	19%

Companies could inadvertently trigger U.S. export requirements, if the IP used in the development of the finished good is U.S.-origin, even if the product is wholly

manufactured overseas. Strict and extraterritorial U.S. export laws regulate the reexport of U.S. originating items from a foreign country to foreign country, including foreign-made goods that include more than a de minimis amount of U.S. content.

In these cases, multinational groups considering restructuring where IP is held or where manufacturing will occur may consider:

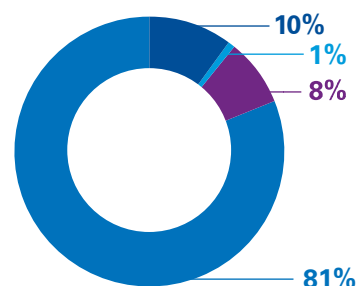
- Evaluating compliance risks (e.g., exports, reexports, deemed exports, routed transactions, sanctions, etc.) in light of planned changes
- Understanding their entire supply chain and being vigilant about foreign customers reexporting goods in violation of U.S. export laws and sanctions (note that facilitating services or transmitting certain technical information, technology, or software abroad in various forms can also be considered as export).

d. Mitigating higher customs tariffs

Global higher tariffs are having an immediate, material impact on the operations of multinational companies as indicated by 81 percent of survey respondents. Traditionally, customs duties were generally much lower than income taxes. However, the higher tariffs are disrupting supply chains by dramatically increasing costs. These additional costs may negatively impact profit margins, requiring transfer pricing adjustments that were previously unnecessary.

However, while higher tariffs pose a renewed compliance challenge from both transfer pricing and trade perspectives, such market disruption creates competitive opportunities for multinational companies that can navigate the interfunction complexity between tax, customs, and procurement.

Has the imposition of the recent tariff increases impacted operations for you or any of your related-party distributor companies?



Collaboration and cross-teaming

Transfer pricing and customs compliance are tied together for importers—an upward or downward transfer pricing adjustment can change the customs valuation for the imported goods. Here are the best practices that help companies comply with both transfer pricing and customs requirements when there is a price adjustment:

- Ensure that transfer pricing and customs compliance teams have open and frequent communications
- Correct customs declarations with local customs authorities following retroactive transfer pricing adjustments and validate that the adjusted price is at arm’s length from a customs perspective
- Identify jurisdictions that permit customs duty refunds following downward price adjustments
- Address potential valuation/arm’s-length issues when the seller/exporter’s adjusted price is close to or below actual cost
- Assess potential transfer pricing implications of tariff mitigation planning including transfer pricing documentation, tax returns, financial statement provisions, and Advance Pricing Agreements
- Monitor the prices are within the arm’s-length range and optimize customs duty payments in order to help avoid retroactive adjustments.



We do not manipulate TPs to avoid duties, because that would be a noncompliant act. We do, however, have a target profit range for each commercial entity, so there is some small amount of wiggle room within that range. The biggest liability, of course, would be having TPs that are not defensible as arm’s length, so we do establish specific parameters to ensure the prices are defensible.

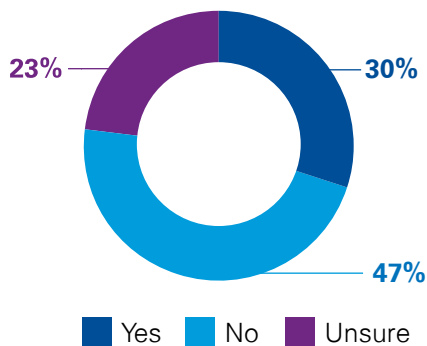
—2019 Survey Respondent



e. Compliance

Approximately 73 percent of respondents prepared a transfer pricing study, but only 30 percent stated that the company performed a customs valuation review of intercompany prices, despite 51 percent of respondents anticipating an increase in customs scrutiny. This indicates that although tax professionals understand the risk in failing to set a compliant transfer price, many companies may not be addressing customs compliance issues arising from related-party transactions. Further, these results may also indicate that transfer pricing is determined without assessing how to optimize associated duty costs.

Has your company conducted a related-party study?



Do you expect more customs scrutiny in the area of related-party pricing?

Response	Count	%
Yes	61	51%
No	29	24%
Unsure	29	25%

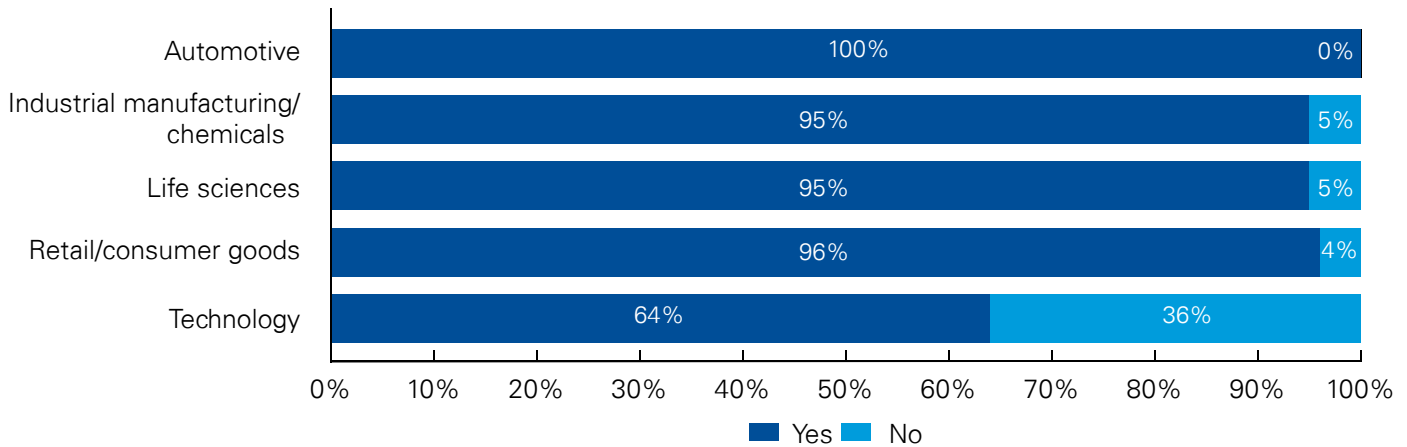
n=119

5. Industry snapshot

The survey results indicate that the level of tax and customs maturity varies across industries. In this section, we compared industries to understand their unique profiles. We also looked at each industry individually to assess their activity.⁴

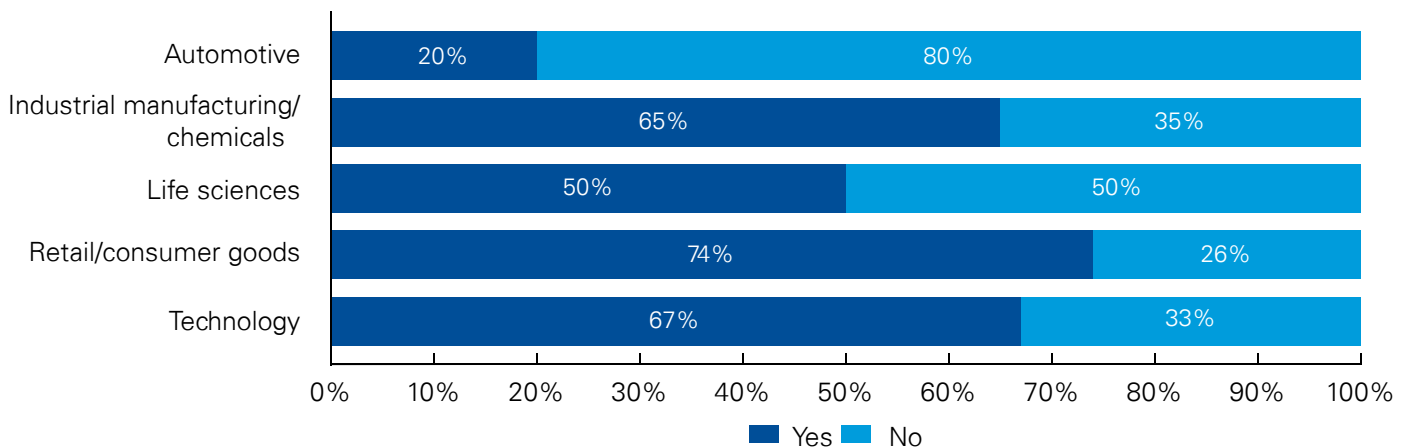
The bar graphs indicate how each industry compares with all the responding industries, while the circular graphs demonstrate the answers only for that specific industry.

Does your company purchase from related-party suppliers anywhere globally?



The vast majority of respondents have related-party transactions globally. In the automotive sector, 100 percent of respondents indicated they have related-party transactions.

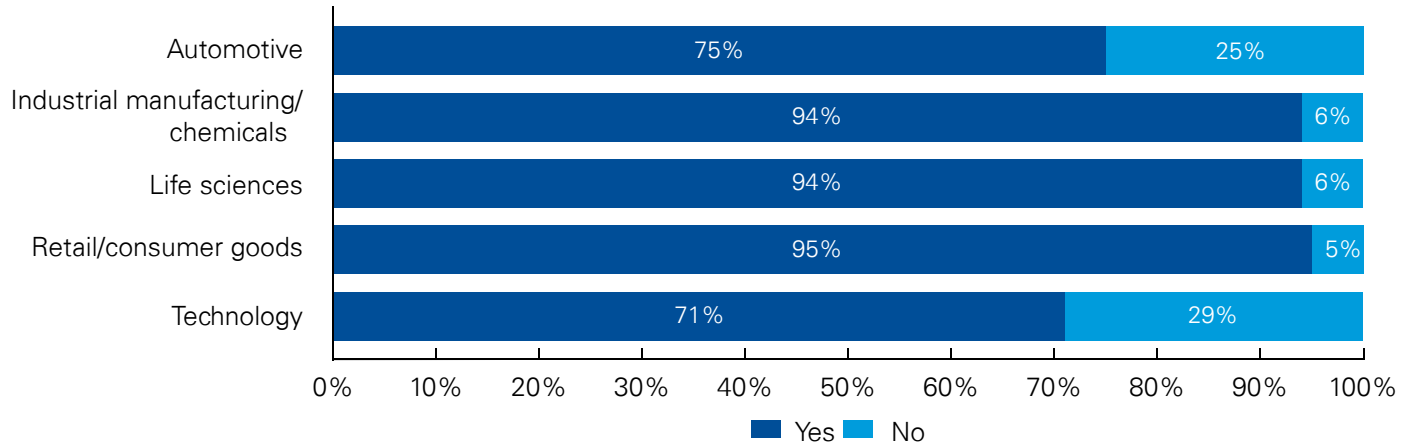
In your opinion, does your company adequately understand the implications of transfer pricing strategies on customs valuation topics, and vice versa?



Approximately 55 percent of respondents believe their company adequately understands the implications of transfer pricing strategies on customs valuation topics, and vice versa; however, the responses varied by sector. While over 70 percent of retail/consumer goods respondents indicated their company adequately understands the implications of transfer pricing strategies on customs valuation topics, only 20 percent of automotive sector respondents indicated their company does.

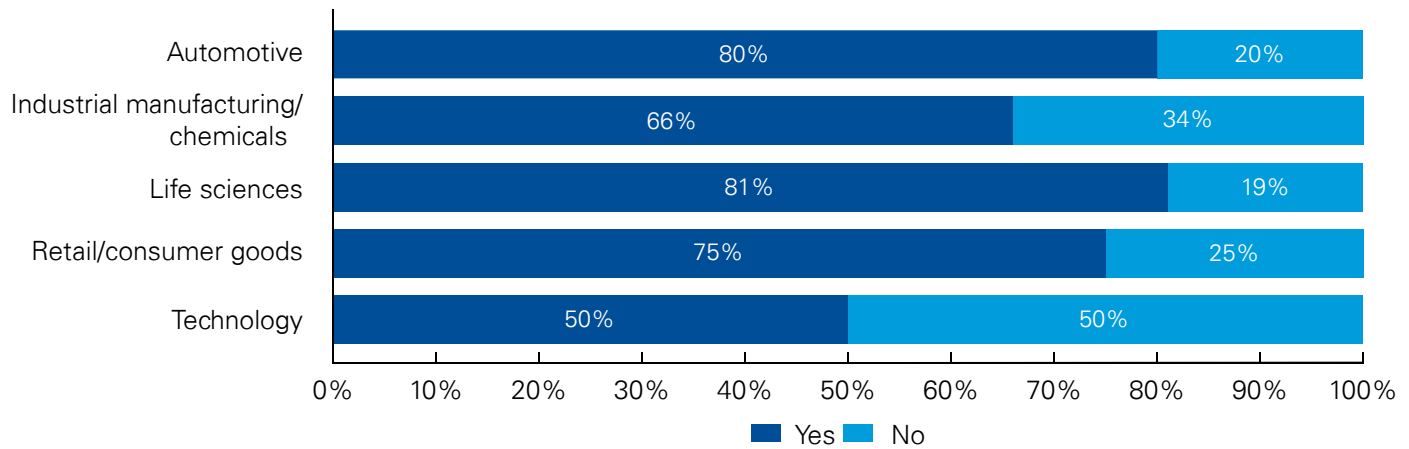
⁴ Only respondents who replied “yes” or “no” to each question are considered. “Unsure” or answers left blank were excluded.

Does your company prepare a transfer pricing study for tax purposes?



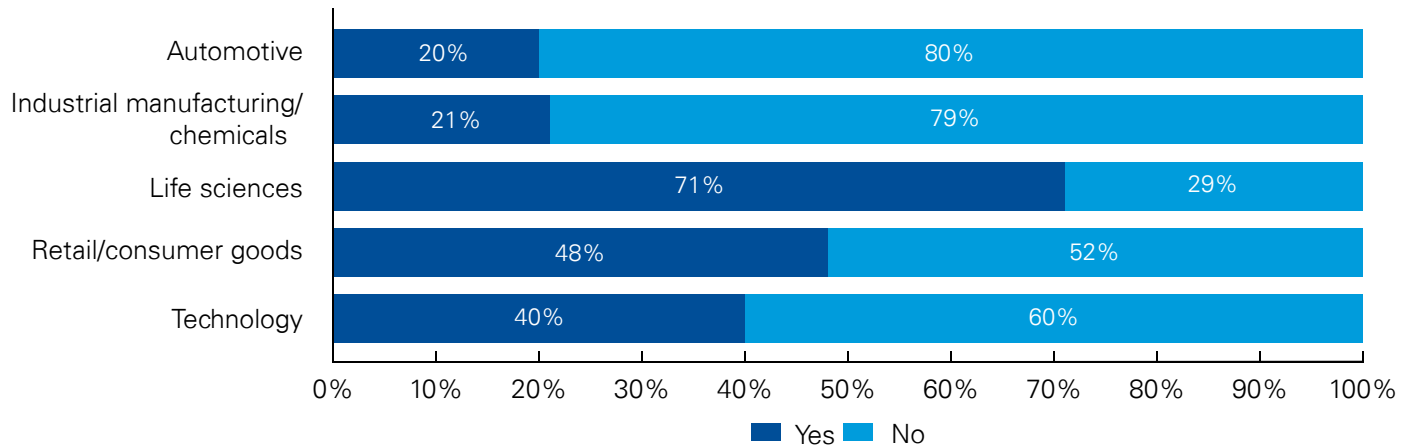
Over 90 percent of respondents in the industrial manufacturing/chemicals, life sciences, and retail/consumer goods sectors prepare a transfer pricing study for tax purposes. While 100 percent of automotive companies responded their company engages in related-party purchase transactions, 25 percent of them do not prepare transfer pricing documentation, potentially because they have APAs.

Does your company make any customs value adjustments between related entities for products imported globally?



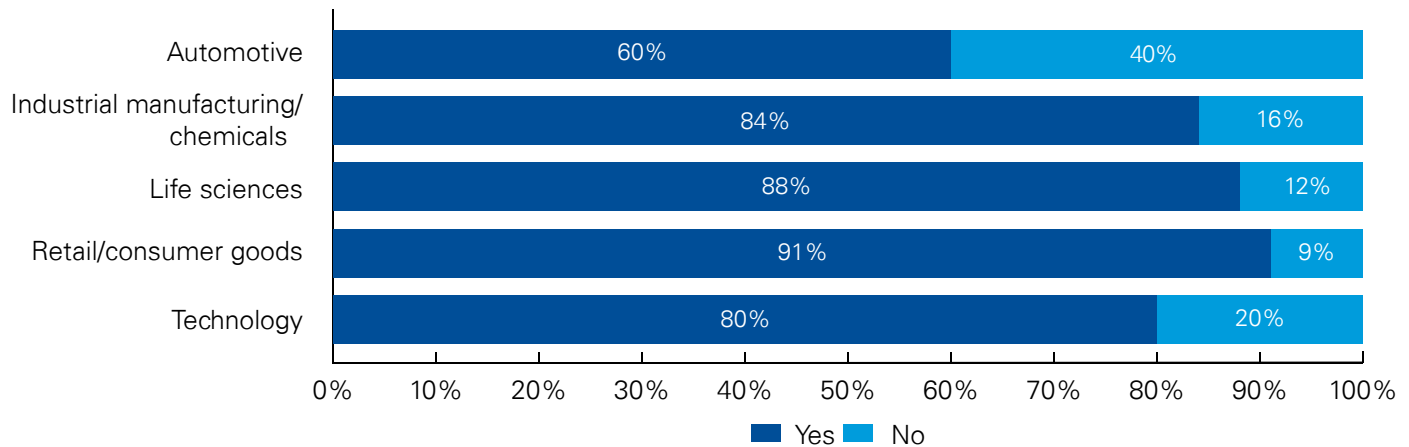
The majority of respondents indicated their company performs customs value adjustments between related entities. However, as high as 34 percent of the industrial manufacturing/chemicals companies do not perform customs valuation adjustments, while the vast majority of them have related-party purchases and prepare transfer pricing documentation.

Has your company conducted a related-party pricing study for customs purposes?



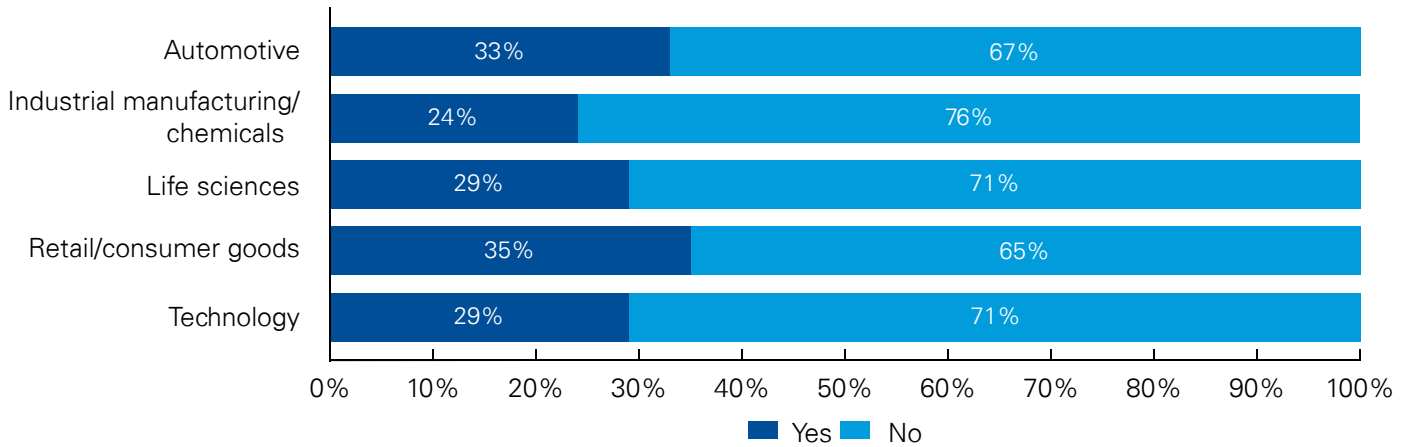
Approximately 30 percent of respondents indicated their company conducted a related-party pricing study for customs purposes. Over 70 percent of life sciences respondents indicated they do prepare a study. More than 80 percent of the life sciences sector had earlier responded that they also conduct customs valuation adjustments.

Does your U.S. company or foreign affiliates' intercompany purchase/sales agreements involve any license fees or service fees (including royalties and support service fees)?



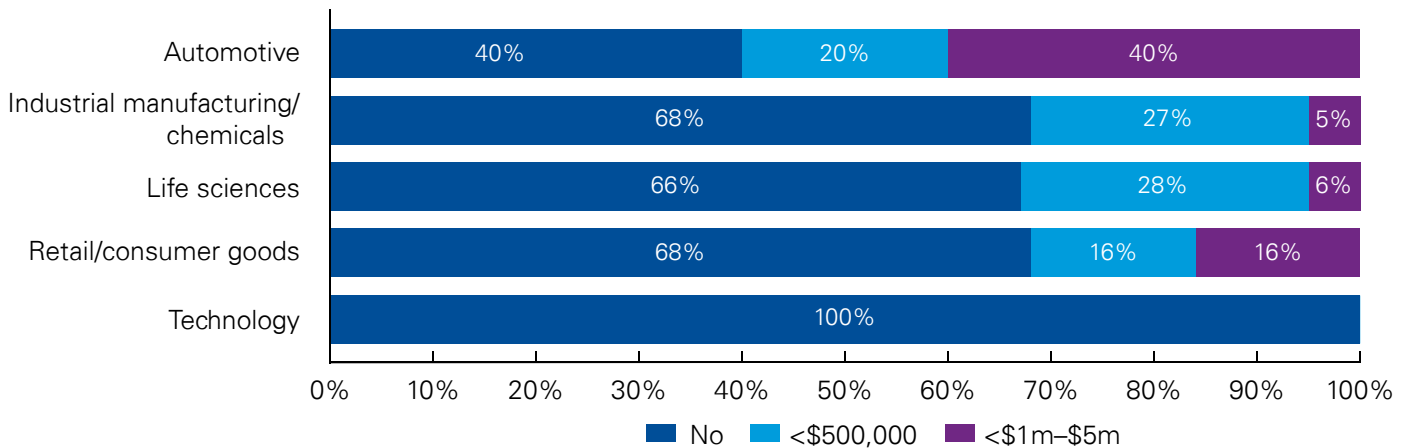
Approximately 70 percent of respondents indicated their U.S. company or foreign affiliates' intercompany purchase/sales agreements involve license fees or service fees, including royalties and support service fees. Forty percent of automotive respondents indicated their intercompany agreements do not involve royalties or support service fees, potentially because the value of such related-party transactions is embedded in goods prices.

Has your company coordinated on optimizing your transfer pricing policies to optimize customs duty liability?



Approximately 25 percent of respondents indicated their company has taken steps to coordinate its transfer pricing policies in order to help manage its customs duty liability. Across all industries, the majority of respondents indicated there is no such coordination effort.

Have you ever received a refund of duty as a result of a downward adjustment to the price of imported goods?



Approximately 30 percent of respondents indicated they have received a refund of at least \$500,000 as a result of a downward adjustment to the price of imported goods; however, the responses varied by industry. Sixty percent of the automotive sector responded they have received customs refunds while none of the respondents in the technology sector responded they have.



6. Outlook

The results of the survey indicate that while a significant majority of companies engage in related-party transactions and conduct transfer pricing adjustments, they may overlook the consequential customs compliance actions, such as amending customs declarations or validating the arm's-length nature of the declared prices from a customs perspective. In this era of enforced compliance, we anticipate heightened scrutiny from customs authorities regarding related-party prices. When the teams responsible for transfer pricing decisions and customs compliance are not aligned, it is possible that the customs team is a step behind, creating potential penalty exposure and/or audit risk. Further, it is also possible that money is left on the table if importers do not claim customs duty refund after making a downward transfer price adjustment or if the local customs regulations do not allow retroactive correction of customs import value.

Global trade management systems facilitate the effective management of transfer pricing and customs issues by providing visibility into all transactions and providing features for exception management. This level of control reduces manual intervention allowing personnel to focus on high-priority issues. Trade management systems may be effective in streamlining the transfer pricing adjustment process. Even with these benefits, automation to some extent remains the domain of large companies that may have more resources to deploy a trade management system on a global scale.

As a long-term solution, establishing an arm's-length price from both transfer pricing and customs perspectives at the onset of the transaction and monitoring it throughout the year can reduce the need for price adjustments at the end of the year. This can't be achieved, however, without aligning transfer pricing and the trade compliance group.

Through a collaborative approach, the transfer pricing and customs functions can:

- Develop pricing methodologies that can be used for both transfer pricing and customs purposes
- Mitigate tax and customs price adjustments, penalties, or interest charges
- Develop policies and procedures in a coordinated fashion between the tax and customs functions
- Reduce the costs, time, and resources needed to respond in transfer pricing and customs controversies.

About KPMG LLP

KPMG LLP is the U.S. member firm of KPMG International Cooperative ("KPMG International"). KPMG is a global network of professional services firms providing Audit, Tax and Advisory services. We operate in 147 countries and territories and have more than 219,000 people working in member firms around the world.



Contact us

To further discuss this report's findings or to learn more about KPMG services, please contact your local tax adviser or either of the professionals listed below.

John L. McLoughlin
**Principal, Trade
and Customs Services**
T: 267-256-2614
E: jlmccloughlin@kpmg.com

Luca Bonardi
**Principal, Transfer
Pricing Services**
T: 973-912-6306
E: lbonardi@kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

kpmg.com/socialmedia



The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International. NDP082155-1A