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Transfer Pricing and International Tax Year-End Considerations

by the Washington National Tax International and Transfer Pricing groups

This article covers some key year-end international tax and transfer pricing planning issues including:

- Planning in light of the One Big Beautiful Bill Act
- Reducing tariffs impact and managing 2025 duty refunds
- Pillar Two: Side-by-side treatment and transfer pricing adjustments
- Planning for upcoming OECD initiatives
- Public country-by-country (CbC) reporting
- Planning for evolving business models and new technology
- Transfer pricing controversy
- Foreign tax redeterminations
- Corporate alternative minimum tax
- Issues arising from year-end adjustments
- Key upcoming changes in the transfer pricing compliance landscape.

2025 has been another rollercoaster year in the world of international tax and transfer pricing. For the first half of the year, multinational entities (MNEs) focused on tariffs and identifying ways to mitigate the related costs. MNEs also closely monitored the potential impact of IRS workforce reductions. While MNEs are still waiting to understand the full impact of the June Pillar Two (minimum tax) agreement between U.S. Treasury and the G7, which aims to allow the U.S. and the Pillar Two regimes to operate side-by-side. Even if broader agreement is reached by the full Inclusive Framework, Pillar Two will remain an issue for U.S. MNEs, as the qualified domestic minimum top-up tax (QDMTT) applies to some foreign subsidiaries of U.S. MNEs from 2024. On July 4, 2025, the One Big Beautiful Bill Act (OB3) was signed, prompting MNEs to revisit their international tax structures and consider new tax planning opportunities.

2026 looks to be another dynamic year. Tariffs concerns will continue, and uncertainties remain regarding the impact of IRS workforce reductions. The OECD is working on new guidance for global mobility and intragroup services. Countries like Mexico are expected to adopt Pillar One Amount B (transfer pricing simplification measure for routine distributors), and many MNEs will publish their first public CbC reports.

All these developments have important implications for international tax and transfer pricing and should factor into how MNEs are thinking about the future. At the same time, existing planning opportunities will continue to play a crucial role in year-end considerations.

Planning in Light of OB3

On July 4, 2025, the U.S. president signed into law OB3, which generally makes permanent the key international tax provisions of the 2017 Tax Cuts and Jobs Act (TCJA) with the following key updates:

- **Foreign-Derived Intangible Income (FDII), Now Foreign-Derived Deduction Eligible Income (FDDEI)**

  While the effective tax rate will rise from 13.125% to 14% in 2026, changes to the definition of deduction eligible income and the elimination of the carveout for a deemed tangible asset return will generally result in a broader base (i.e., more eligible income), meaning that many MNEs will be able to claim larger FDDEI deductions starting in 2026 than they could under current law. Because research and development (R&D) and interest will not be allocated to FDDEI, MNEs that develop intangible property in the United States are expected to see the biggest benefits from the changes. MNEs could consider restructuring (e.g., moving intangible property) to the United States to increase FDDEI or increasing FDDEI-related intercompany charges. While the majority of the favorable FDDEI changes are effective starting in 2026, having foreign affiliates make prepayments in 2025 for FDDEI-eligible sales or services provided by the U.S. group may still create effective tax rate and cash benefit over the multi-year period in some cases, as income earned in 2025 will benefit from the current deduction rate and prepayments do not accelerate the offsetting expenses.

- **Limitation on Interest Deductibility**

  OB3 permanently restores the favorable treatment of depreciation, amortization, and depletion expense in determining a taxpayer's adjusted taxable income (ATI) for purposes of establishing the limitation on interest expense under section 163(j).[1] For tax years beginning after December 31, 2024, depreciation, amortization, and depletion will be added back to the calculation of ATI, allowing more interest to be deducted. OB3 also makes two unfavorable changes that take effect in 2026 and will generally have the effect of reducing the amount of interest expense that is deductible in 2026 as compared to 2025. First, global intangible low-taxed income, subpart F income, and the section 78 gross-up will not be includible in ATI, thereby potentially reducing ATI. Second, post-2026, OB3 treats electively capitalized interest expense as "interest" for purposes of determining the limitation, reducing the ability of companies to use voluntarily capitalization to reduce the impact of section 163(j). These changes may alter the tax impact of related party debt, and may also have knock-on effects on other tax provisions.

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[1] Unless otherwise indicated, section references are to the Internal Revenue Code of 1986, as amended (the "Code") or the applicable regulations promulgated pursuant to the Code (the "regulations").

- **Base Erosion and Anti-Abuse Tax (BEAT)**

The rate is scheduled to increase slightly from 10% to 10.5% in 2026. As under current law, certain general business credits (such as the research credit) will be usable without increasing the BEAT liability. MNEs should consider if the knock-on impact of other OB3 provisions (for example, the changes to immediately expense domestic research, bonus depreciation, and potentially increased interest deductions) on their BEAT position. Transfer pricing techniques will, therefore, continue to be important tools to help companies manage their BEAT exposure, including to establish eligibility for the BEAT services cost method (SCM) exception under section 59A(d)(5). In addition, companies may consider tax accounting methods that may reduce exposure or change the character of payments that would otherwise be base erosion payments, such as capitalizing payments to foreign related parties.

- **Global Intangible Low-Taxed Income (GILTI)**

The effective tax rate will increase to 12.6% (approximately 14% when taking into account the effect of foreign tax credits) in 2026 and the base will widen and now include the net deemed tangible income return (NDTIR), essentially including all net pro rata CFC tested income. Some MNEs may benefit from advancing post-2025 GILTI-related payments to 2025. MNEs are finding that because of the complexity of the U.S. tax system, the full effect of OB3 changes can only be determined through complete modelling as the impact of changes can be positive and negative; for example, beneficial FDDEI planning may expose taxpayers to BEAT or the corporate alternative minimum tax.

The full impact of OB3 is hard to determine without modeling all these changes to understand the interaction of all the provisions.

Reducing Tariff Impact and Managing 2025 Duty Refunds

As the U.S. administration's stance on tariffs continues to evolve, MNEs are assessing the impact of tariffs on their transfer pricing results and are continuing to explore tariff mitigation opportunities. This can include transfer pricing focused strategies like reducing the intercompany pricing of goods to reduce the customs value or more customs-focused strategies such as the use of "First Sale." First Sale is a powerful tool that may allow U.S. importers to reduce their duty costs. By declaring the price paid or payable in the "first or earlier" sale in the supply chain, MNEs may be able to achieve significant savings and mitigate the impact of rising tariffs. Successful First Sale application allows an importer to remove the middleman's margin and qualifying non-dutiable customs costs from the declared value, leading to reduced duties. Some MNEs are considering large scale restructuring plans that have international tax and transfer pricing implications.

As a result of increased tariff costs, many MNEs may need to make new or larger-than-usual year-end transfer pricing adjustments to raise U.S. profits to an arm's length range. As companies retroactively decrease the intercompany price of imported goods, they can claim duty refunds on these reductions but only when specific requirements are met. For example, importers who utilize the transaction value method for customs appraisement purposes may only retroactively reduce customs values if an "objective formula" is in place prior to importation, as indicated by the "five formulaic factors" established by U.S. Customs and Border Protection. Large downward adjustments to income as a result of tariffs' pressure on system-wide profits may also trigger transfer pricing controversy—MNEs should be prepared to present robust functional analysis and consideration of realistic alternatives to support their positions.

Pillar Two: Side-by-Side Treatment and Transfer Pricing Adjustments

There remains uncertainty around how Pillar Two, the coordinated minimum effective tax rate (ETR) rules agreed to in the OECD/G20 Inclusive Framework, will apply to U.S. MNEs.

The Trump Administration has been a vocal critic of Pillar Two and has vowed to oppose its application to U.S. MNEs. In June, the G7 reached agreement on a side-by-side system, where the domestic and foreign profits of U.S. parented groups would be excluded from the Income Inclusion Rule (IIR) and Undertaxed Profit Rule (UTPR). This was widely viewed as a positive step forward by U.S. MNEs but has not yet led to changes in how Pillar Two actually applies.

For U.S. MNEs considering their approach to Pillar Two for financial reporting and compliance, three key questions are:

- When will a deal with the OECD/G20 Inclusive Framework be reached?
- How long will any deal take to enact into domestic law?
- Will any deal apply retroactively to 2024 and 2025?

Importantly, the side-by-side system is not expected to exclude U.S. MNEs from QDMTTs and other minimum top-up taxes introduced in response to Pillar Two (already enacted in more than 40 countries). Unless there is a complete reversal in international support for Pillar Two, U.S. MNEs will need to continue to grapple with these complicated rules for the foreseeable future.

One area of Pillar Two that continues to create problems is transfer pricing adjustments and their associated tax effects. The rules that deal with transfer pricing adjustments are far from clear, but in some circumstances appear to create mismatches in the timing of income and tax recognition, which can artificially reduce a country's Pillar Two ETR. Further guidance on this issue has been promised, but not yet released or legislated, leaving some groups potentially exposed to unjustified top-up tax. This is something that MNEs should continue to review when assessing the impact of any transfer pricing adjustments.

Planning for Upcoming OECD Initiatives

To date, the OECD's work on global mobility has been limited to revisiting when a home office should constitute a permanent establishment, but there are promises for a more comprehensive work program to come in 2026. In the transfer pricing space, the issue of geographically dispersed and mobile senior executives has been flagged as a potential focus area. This is something that MNEs with these facts should continue to monitor.

The OECD is also revisiting Chapter VII of the Transfer Pricing Guidelines on intragroup services, with high-value services as a focus area. There is an obvious connection between this initiative and the questions that some tax authorities are raising about globally dispersed senior executives.

The simplification and streamlining of transfer pricing rules for baseline marketing and distribution activities, under Amount B, has still only been adopted by the United States. However, there are ongoing rumors that other countries, such as Mexico and South Africa, intend to adopt this framework, so it remains something to monitor.

Finally, the OECD is kicking off a review of the Transfer Pricing Guidelines to identify areas where the rules are unclear or inconsistent. What this project looks like and what impact it may have remains to be seen.

Public Country-by-Country Reporting

For 2025, almost every U.S. MNE will need to disclose country-level data in some form. The pressure is coming from around the world:

- The EU's public CbC reporting directive was approved in 2021 and generally comes into effect for calendar year companies in 2025. MNEs with a presence in Croatia and/or Romania, however, may be subject to it earlier.
- Australia's public CbC reporting rules apply to periods beginning on or after July 1, 2024.
- The Financial Accounting Standards Board (FASB) issued new income tax disclosure rules, applicable to public business entities for annual periods beginning after December 15, 2025. The new rules generally require more detailed disclosures about income taxes paid, the rate reconciliation, and other qualitative and quantitative information.

The new public CbC reporting requirements represent a major shift for MNEs. For the first time, companies will be required to publicly disclose certain tax data that, until now, was shared only with tax authorities through their non-public tax returns. This means MNEs will need to carefully consider how they present their tax profile to a broader audience. Some organizations may decide that publishing only the required information is not enough, and will supplement with disclosures to ensure their story is told in their own words. Others may choose to go beyond compliance by providing additional narrative or context to explain their data. Still others may expand further, reporting on other categories of taxes paid—such as employment taxes, indirect taxes, or tariffs—to help frame a more comprehensive picture of their overall tax contribution. Regardless of which approach a MNE adopts, it will take careful consideration and time to conclude on the best approach.

Planning for Evolving Business Models

New technologies, such as artificial intelligence (AI), are leading to transformations of business models across industries. The evolution of business models is creating both opportunities and risks for companies. These changes present opportunities to rethink transfer pricing structures to better align with new value chains while achieving greater tax efficiency. Conversely, applying legacy transfer pricing models without considering fundamentally different value chains risks misalignment between value creation and transfer pricing outcomes, increasing the potential for tax authority challenges. MNEs should consider undertaking an analysis to understand changes in their value chains and determine appropriate changes to their transfer pricing structures going forward.

Transfer Pricing Controversy

While the full impact of IRS staff reduction remains unclear, many MNEs are facing increasing transfer pricing controversy around the world, as well as increasingly aggressive positions from the IRS. Recent court decisions and ongoing litigation serve as a reminder that companies should not rely on prior settlements, expired IRS agreements, or favorable audit history to protect against future adjustments.

Following the Supreme Court's departure from the long-standing *Chevron* doctrine in *Loper Bright Enterprises v. Raimondo*, regulatory challenges remain a staple of transfer pricing litigation, with ongoing cases challenging the validity of regulations concerning, for example, stock-based compensation (in both the cost sharing and services contexts. Other ongoing cases involve the application of the acquisition price method for valuing platform contributions, the interaction of section 482 and the economic substance doctrine, continuing transfer pricing method disputes, and pricing for procurement services. One can expect that the recent IRS win on the CUT/CPM method debate will embolden them in continuing to adopt their CPM position; however additional debate may arise regarding how to make reliable adjustments to the CPM.

We are also observing continuing controversy outside the United States about transfer pricing issues. Now is a good time to consider advanced pricing agreements (APAs) to obtain certainty—especially if the intercompany transaction may be considered high risk, the volume of the transaction is significant, or if MNEs want to obtain certainty on newly pressing issues such as which entities bear the costs of tariffs.

2025 was an active year for audits surrounding transfer pricing issues for financial transactions around the world. Simply ensuring an arm's length interest rate is not enough: the current environment requires a more holistic approach towards intercompany financing transactions including taxing authorities raising questions regarding an entity's ability to obtain and service debt based on their own financial strength, and in several cases, how the leverage structure of an entity aligns or deviates from the group's capital structure (and therefore group credit rating). Intragroup cash pooling arrangements have seen a surge of audits from various tax jurisdictions as well. Several tax authorities are challenging the interest earned by cash positive entities. In the midst of these audits, some taxpayers have successfully negotiated APAs and transaction-specific rulings in the financial transactions space.

The OECD's International Compliance Assurance Program (ICAP) may be another avenue for companies to engage with tax authorities to obtain assurance about their transfer prices and practically reduce audit risks. The ICAP program, enables companies to potentially obtain assurance across multiple jurisdictions that their transfer prices are considered "low risk." Although the risk assessments resulting from ICAP are not binding on tax authorities, ICAP participants have reported experiencing a "halo effect" for jurisdictions and years not covered by the ICAP process.

Foreign Tax Redeterminations

Taxpayers continue to see audit activity focused on transfer pricing, which often results in transfer pricing settlements that cause significant changes to the amount of foreign income taxes paid with respect to prior tax years. Such changes are very likely to result in foreign tax redeterminations and the attendant section 905(c) "notification" of the IRS via amended U.S. tax returns and reporting via Form 1118, Schedule L. While compliance with the notification requirements can be administratively costly, failure to properly notify the IRS of foreign tax redeterminations could result in missed U.S. federal income tax refunds, assessments of additional U.S. federal income tax, and penalties. KPMG is well positioned to help taxpayers with transfer pricing controversy, and the mitigation of the administrative burden and risks related to the section 905(c) notification requirements. In addition, taxpayers should be aware that in many cases, the IRS may expect them to pursue mutual agreement procedure (MAP) relief with respect to foreign transfer pricing adjustments in order to obtain U.S. foreign tax credits. Taxpayers will also have to consider how adjustments will affect calculations for Pillar Two purposes.

Corporate Alternative Minimum Tax

The corporate alternative minimum tax ("CAMT") is effective for tax years beginning in 2023. CAMT generally applies to certain large corporate taxpayers (i.e., those with over $1 billion in adjusted book income) to the extent that 15% of a taxpayer's adjusted book income (less CAMT foreign tax credits) is greater than the taxpayer's regular tax (less regular tax foreign tax credits) plus BEAT. To the extent a taxpayer owes a CAMT liability, the taxpayer generates a credit that can generally be used to offset regular tax in a future year, to the extent the regular tax exceeds the taxpayer's tentative CAMT liability.

Although the tax base for CAMT is book income, many of the adjustments require applying tax concepts and unpacking consolidated financial statements to disaggregate transactions between taxpayers that are consolidated for book but not for tax. The proposed regulations, issued in September 2024, also contain anti-abuse rules that require making section 482 adjustments to book income when controlled transactions do not clearly reflect income. While these regulations have not yet been finalized, many taxpayers choosing to early adopt the proposed regulations will need to carefully consider whether their intercompany transactions are in line with section 482 principles. Moreover, CAMT liability is triggered by differences between adjusted book income and tax, which suggests that transfer pricing choices may be important for some clients.

In 2024, for most MNEs, the largest CAMT issue was filing the Form 4626 for 2023, as even corporations that had no CAMT liability were required to do so. However, after modelling the impact of the various OB3 provisions (e.g., increased FDDEI deductions, bonus depreciation, immediate expensing of domestic research, and increased interest deductions), MNEs are discovering that for 2025 and onward, absent planning, they will be CAMT taxpayers, and perhaps even permanent CAMT taxpayers. Companies may consider restructuring opportunities (e.g., to maximize the CAMT foreign tax credits) and accounting methods and elections (e.g., electing to capitalize domestic research expenditures) to reduce their CAMT liability or, just as importantly, to ensure that they can utilize the credit for any CAMT liability they do pay.

Year-End Adjustments

If companies are struggling to perform their year-end adjustments correctly or need to make large adjustments at year-end, they should be exploring operational transfer pricing (OTP) solutions. OTP focuses on ensuring that intercompany transactions are priced, executed, monitored, and reported consistently with transfer pricing policies throughout the year. It includes gathering and wrangling data to apply the policies, setting transfer prices, and monitoring and calculating adjustments. As highlighted above, such adjustments may affect the customs value of imported goods and create an opportunity for duty refunds (in case of a decrease in the transfer price). The increased scrutiny on transfer pricing results and the ever-changing tax regulatory landscape highlight the importance of strong OTP.

Companies that are able to reflect year-end adjustments on their books for the year will avoid the necessity of making Schedule M book-tax adjustments after the books are closed, and will likewise avoid the secondary adjustment consequences associated with such adjustments. Making adjustments before year-end has become even more important given the treatment of transfer pricing adjustments under the Pillar Two Transitional CbC Safe Harbor. Transfer pricing adjustments made after the close of the year may not be taken into account in applying the Transitional CbC Safe Harbor, even if those adjustments are taken into account in determining the tax owed in a jurisdiction for the year, potentially leading to problematic mismatches.

Changing Transfer Pricing Compliance Requirements

Transfer pricing documentation requirements continued to evolve this year and it is important to assess the impact on compliance for 2026 and future years.

Germany introduced changes to transfer pricing documentation requirements effective January 1, 2025. Changes included a shortened submission deadline of 30 days for transfer pricing documentation and a mandatory submission requirement during tax audits for all open fiscal years before January 1, 2025. The transfer pricing documentation should include a new transaction matrix containing, for each related-party transaction, the nature, parties, and jurisdictions involved; the volume and remuneration thereof; and the transfer pricing method applied, among other pieces of information. In addition, effective January 1, 2025, Germany implemented stricter documentation requirements for extraordinary business transactions for which documentation must now be proactively documented within six months following the fiscal year. Germany also introduced a new obligation for taxpayers to proactively correct tax returns when transfer pricing errors are identified.

Chile published Law 21.713, which introduced amendments related to transfer pricing from November 1, 2024. These amendments include the concept of the arm’s length principle in line with OECD guidelines and reinforcement of the concepts of functions, assets, and risks assumed by the parties. Further, the amendments explicitly state to taxpayers the need to maintain supporting information when an analyzed party is foreign.

New Zealand's Inland Revenue published its 2024 compliance focus guide for multinational enterprises, which includes a transfer pricing governance checklist. This checklist stresses the importance of comprehensive documentation that covers all cross-border, related-party transactions. The documentation should be developed with input from local management or the finance team and kept current to reflect changes in business functions, assets, and risks.

The **UAE** Federal Tax Authority (FTA) released a tax guide that includes transfer pricing thresholds for related-party disclosures for financial years starting on or after June 1, 2023, and onward. For instance, a disclosure is required only when the market value or financial statement value of related party transactions exceeds AED40 million plus individual transaction thresholds. Further, any transfer pricing adjustments that reduce taxable income will require preapproval from the FTA. In addition, the Ministerial Decision No. 301 of 2024 on tax groups for tax periods beginning on or after January 1, 2025, requires a tax group, in certain scenarios, to calculate the taxable income attributable to one or more of its members on an arm's length basis and to disclose this information in transfer pricing schedule.

Costa Rica's tax authority issued final guidance in July 2025, effective August 4, 2025, requiring specific taxpayers to submit an annual transfer pricing information return beginning with the 2024 fiscal year. In the final guidance, the submission deadline of the return for the 2024 fiscal year was extended on a one time basis to November 30, 2025, while returns for subsequent years must be filed within six months following the end of the taxpayer's authorized fiscal period.

Malaysia issued transfer pricing guidelines effective for assessment years 2023 and onward. The guidelines include revised thresholds for the preparation of full or minimum contemporaneous transfer pricing documentation, exemptions to such preparation, and availability of a simplified approach for low value-adding intragroup services. Taxpayers should prepare full contemporaneous transfer pricing documentation if they generated gross business income of more than RM30 million in total and engaged in cross-border controlled transactions totaling RMA10 million or more annually; or if they received or provided controlled financial assistance of more than RM50 million annually.

Denmark introduced new transfer pricing rules that significantly reduce documentation burdens for qualifying taxpayers. Effective for the income year 2025, the amendments raise thresholds for limited documentation eligibility and exempt certain controlled transactions from reporting requirements. Additionally, companies with controlled transactions below DKK5 million and intra-group receivables or debts below DKK50 million are exempt from documentation obligations. The new rules also remove the Danish tax agency's authority to request auditor statements and introduces an automatic extension for transfer pricing documentation deadlines when a corporate tax return extension is granted.

Belgium issued three new Royal Decrees effective from January 1, 2025, to introduce an updated Local file form (275 LF), Master file form (275 MF), and a country-by-country reporting notification form (275 CBC NOT). A key update is that taxpayers are now required to attach transfer pricing methodologies, agreements, or studies in PDF format to 275 LF. Compliance with these new Belgian documentation requirements (most importantly 275L and 275 MF is increasingly critical given the evolving TP audit landscape in Belgium.

Taiwan's Ministry of Finance clarified that profit-seeking enterprises engaged in controlled transactions during the 2024 fiscal year should prepare a transfer pricing report when filing their 2024 income tax return. However, enterprises that meet certain specified conditions may opt to submit substitute documentation instead.

Conclusion

There is a lot to consider in terms of international tax and transfer pricing as 2025 comes to a close and the 2025 year starts. While we expect to see more changes in 2025, many of the key tax initiatives have progressed such that now is a good time for MNEs to consider tax planning opportunities going forward.

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