

# Index

- Actual costs, budget costs *versus*, 122–123
- Actual profits, projected profits *versus*, 80–81
- Additive approach, to comparability analysis, 193–194, 195–196
- Adjustments, comparability, 196–199
- Administrative approaches, 213–238
  - arm's length principle, 15–16
  - flexible administrative practices and safe harbors, 43–44
  - monitoring *Guidelines*, 227–238
  - safe harbors and flexible administrative practices, 43–44
  - safe harbor simplification and, 28–29, 33
  - transfer pricing audits, 215–225
- Advanced OECD analysis, 239–326
  - business restructuring, 315–336
  - cost contribution arrangements, 289–313
  - documentation requirements, 241–246
  - intangible property, 247–261
  - service arrangements, 263–287
- Advance Pricing Agreement (APA) process, 355–356
- Agency relationships, as permanent establishment, 392–393
- Allocation keys
  - asset-based, 84–85, 336–337, 339–340
  - China-Taiwan trade, 353–355
  - cost-based, 85, 336–337, 339–340
  - cost contribution arrangements, 300–302
  - generally, 83–84
  - importance of, 329–330
  - Malaysia-Singapore allocation keys example, 329–344
  - revenue-based, 336
  - service arrangements, 275
  - timing issues, 85–86
- Alternative transfer pricing approaches, rejection of, 17–18
- “Arbitrated formulas,” 59
- “Anticipated benefits” alternative, 251–252
- Apportionment method, 273–275
- Argentina, Committee on Fiscal Affairs (OECD) and, 47
- Arm's length principle, 7–25
  - administrative burdens, 15–16
  - applying, to contribution analysis, 13–14
  - business restructuring provisions, 323–324
  - comparability considerations, 11, 172
  - compensation issues, 12–13
  - “control equals allocation,” 158–159
  - cost contribution arrangements, 295, 296–300, 304
  - formal statement, 10–11
  - generally, 8–10
  - global formulary apportionment and, 59–60
  - intangible property, 249

- Arm's length principle (*continued*)  
 maintaining, as international consensus, 16–17  
 OECD on, as “international pricing standard,” 7, 8  
 oligopolistic conditions, 14  
 “options available” concept, 151  
 rationale behind, 11–12  
 rejection of alternative transfer pricing approaches, 17–18  
 safe harbor simplification and, 31, 33  
 service arrangements and, 270  
 service arrangements and determining charge, 272–275  
 transactions that independent enterprises would not undertake, 15  
*See also* Arm's length range;  
 Comparability analysis
- Arm's length range  
 as central transfer pricing ingredient, 19  
 comparability analysis techniques, 199–202  
 comparability considerations, 20–21  
 comparability considerations and extreme results, 23–24  
 consequences of applying more than one transfer pricing method, 21–22  
 “most appropriate point,” 200–201  
 “most appropriate point” in range, 22–23  
 reliability requirement, 20  
 single-figure approach to, 19–20  
 transactional net margin method (TNMM) and, 114–115
- Assets  
 asset-based allocation keys, 84–85, 336–337, 338  
 asset utilization and comparability analysis, 156–157  
 net profits weighted to and transactional net margin method (TNMM), 123–124  
 transfer of assets and business restructuring, 319–320
- Associated enterprises  
 arm's length principle and, 8–9  
 comparability analysis of independent enterprises and, 167  
 cost contribution arrangements, 297
- Association for Relations Across the Taiwan Straits (ARATS), 237
- “At the disposal of,” for permanent establishment, 399–400
- Audits. *See* Reverse engineering transfer pricing process; Transfer pricing audits
- Auxiliary activities, permanent establishment and, 408–409, 410  
 “Auxiliary from” exemptions, 395
- Basic transfer pricing standards, 1–68  
 arm's length principle, 7–18  
 arm's length range, 19–25  
 generally, 3–5  
 global formulary apportionment, 57–68  
 safe harbor simplification, 27–46, 47–55
- Berry ratios, 124–126
- Bilateral tax treaties, global formulary apportionment, 65
- Blocked payments, comparability analysis, 171–172
- Book value, market value *versus*, 123–124
- Budget costs, actual costs *versus*, 122–123
- Burden of proof, documentation requirements, 241–242
- Business community  
 comparability analysis, 162–163, 169–170  
 cost contribution arrangements and distinguishing business categories, 298–299  
 declining businesses and permanent establishment, 394–305  
 service arrangements, 278–279  
*See also* Business restructuring;  
 Monitoring process (*Guidelines*)
- Business Industry Advisory Committee (BIAC), 233–234, 403–404

- Business restructuring, 315–336
  - compensation for undertaking restructuring, 318–321
  - generally, 315–316
  - postrestructuring remuneration, 321–323
  - recognition of actual transactions undertaken, 323–324
  - risk considerations, 316–317
- Buy-in payments, 306–309
- Buy-out payments, 307–309
  
- Central purchasing function, for business restructuring, 322–323
- Centre for Tax Policy and Administration (OECD), 28
- China-Taiwan trade, 345–356
  - Advance Pricing Agreement (APA) process, 355–356
  - generally, 345
  - history of, 345–348
  - tax considerations, 348–352
  - transactional profit split method criteria, 352–355
- Collection, timing of, 206–207
- “Combined profits to be split,” determining, 79–80, 81–82
- Commercial relations, 9, 410
- Commission-generated allocation keys, 338
- Committee on Fiscal Affairs (OECD)
  - composition of, 47
  - Guidelines* issued by, 3
  - monitoring process, 228 (*See also* Monitoring process (*Guidelines*))
  - on safe harbors, 28
  - Working Party No. 6 on the Taxation of Multinational Enterprises, 229–231, 397 (*See also* Permanent establishment)
- Common law permanent establishment criteria, 391–394
- Comparability analysis, 149–175
  - additive approach, 193–196
  - alternatively structured transactions, 167–168
  - arm’s length principle and, 11
  - arm’s length range, 199–202
  - associated enterprises and independent enterprises, 167
  - broad-based analysis of taxpayer’s circumstances, 181
  - business restructuring and lack of comparability, 316–317
  - business strategies, 162–164
  - business strategies, implementing, 169–170
  - comparability adjustments, 196–199
  - comparable profits method (CPM), 141–145
  - comparable uncontrolled price (CUP) method, 71, 154, 277–278
  - comparable uncontrolled transactions, 188–193
  - controlled transaction and choice of a tested party, 181–188
  - determining when transactions are comparable, 149–152
  - economic circumstances, 161–162
  - factors and comparability, 152–155
  - functional analysis, 155–160
  - general comparability guidance considerations, 177–179
  - generally, 149
  - governmental policies and, 170–173
  - losses, 168
  - multinational enterprises, 168–169
  - recognizing actual transactions undertaken, 165–167
  - return on investment, 164–165
  - selecting or rejecting potential comparables, 193
  - techniques, generally, 177
  - timing issues, 205–211
  - transactional net margin method (TNMM) and, 112–114
  - transactional profit split measures and, 74
  - typical comparability processes, 179–181

- Compensation issues
  - arm's length principle, 12–13
  - business restructuring, 318–321
- Compliance
  - comparability analysis and timing issues, 210
  - compliance relief and safe harbors, 31–32
  - costs and global formulary apportionment, 63–64
- Construction site context, permanent establishment and, 406–408
- Contract manufacturing, 282, 400–401
- Contract research, 282
- Contracts, concluding with third parties, 411
- Contractual terms, as comparability factor, 159–160
- Contribution analysis
  - arm's length principle, 13–14
  - profit splitting approaches, 77–78
- “Controlled transactions that are potentially comparable,” 177–178
- “Controlled transaction under review,” 177–178
- Control mechanisms, 4–5
- Cost allocation, 273–275
- Cost-based allocation keys, 35, 336–337, 339–340
- Cost contribution arrangement, transactional profit split method and, 144
- Cost contribution arrangements, 289–313
  - applying allocation keys, 300–302
  - concepts, 291–296
  - criteria, 291
  - documentation, 310–312
  - entry, withdrawal, termination of, 306–309
  - generally, 289–291
  - mandatory arm's length requirements, 296–300
  - monitoring and structuring, 309–310
  - reverse engineering transfer pricing process, 374–375
  - tax treatment of contributions and balancing payments, 302–306
- Cost-plus method
  - arm's length range, 19
  - comparability analysis, 154
  - for intragroup services, 279–280
  - transactional net marginal method, 108, 113, 126–127
  - transactional profit split measures, 71
- Country-specific practices, safe harbors, 44
- Cross-Straits Economic Cooperation Framework Agreement (ECFA), 345–346, 347–348
- Currency exchange, comparability analysis and, 159
- Customs valuations, 172–173
- Database issues
  - arm's length principle, 16
  - comparability analysis and timing issues, 208–210
  - comparable uncontrolled transactions, 190–191
  - transactional net margin method (TNMM), 114
- Data requirements
  - data and permanent establishment, 409–410
  - global formulary apportionment, 63–64
  - internal data for transactional profit split measures, 86–88
  - profit split illustration and, 91–97
  - statistical data and safe harbors, 40
- Debt-factoring activities, 281
- Deductive approach, to comparability analysis, 194, 195–196
- Development property, permanent establishment and, 409
- Digital products, permanent establishment and, 409–410
- Direct charge method, 272–273
- Discounted cash flow profit split approach, 79

- Discretionary power, safe harbors and, 43
- Divergence of interests, comparability analysis and, 160
- Documentation
  - cost contribution arrangements, 310–312
  - requirements, 241–246
- Domestic comparables, foreign source comparables *versus*, 191–192
- Double taxation
  - global formulary apportionment, 60–61
  - Malaysia-Singapore allocation keys example, 342
  - rejection of alternative transfer pricing approaches and, 17
  - safe harbors and, 36, 37, 38
  - service arrangements and risks of, 276
- Economic issues
  - business restructuring and financial capacity, 317
  - comparability analysis, 161–162
  - contractual terms and comparability analysis, 158
  - permanent establishment, 389
- Entrepreneurial risk, 412
- Equity, safe harbors and, 41–42
- Essential factual pattern conflict, 100
- European Venture Capital Association (EVCA), 412
- Exchange rate movements, global formulary apportionment, 63
- Exclusion, TNMM and, 120
- Exemption, safe harbor, 32
- “Expected benefit” rule, 297
- External comparables
  - comparable uncontrolled transactions, 189
  - functional analysis, 159 (*See also* Comparability analysis)
  - TNMM and, 115
- Extreme results, arm’s length range and, 23–24
- Factor selection, global formulary apportionment, 62
- Feinschreiber, Robert, 329, 330, 348
- First resale price method, TNMM example, 127
- Foreign source comparables, domestic comparables *versus*, 191–192
- Functional analysis
  - China-Taiwan trade, 349–350
  - comparability analysis, 155–160
  - product similarities *versus*, 155
  - reverse engineering transfer pricing process, 369–370
  - service arrangements, 278
  - in transactional profit split measures, 74–75
- Functionally separate entity approach, 389
- Fund management, permanent establishment and, 412
- Geographic markets, comparability analysis, 162
- Global dealing, global formulary apportionment, 58
- Global formulary apportionment, 57–68
  - arm’s length principle compared to, 60
  - arm’s length principle’s impact on, 59–60
  - attack on, 58–59
  - bilateral tax treaties, 65
  - compliance costs and data requirements, 63–64
  - double taxation, 60–61
  - economic issues, 62–63
  - factor selection, 62
  - generally, 57
  - global dealing, 58
  - impact of exchange rate movements, 63
  - lack of common accounting system, 61
  - members of multinational group excluded from, 65–66
  - OECD’s rejection of non-arm’s length methods, 66
  - profit split methodologies, 58

- Global formulary apportionment
  - (*continued*)
  - safe harbors, 66–67
  - separate entity approach *versus*, 64–65
  - transitional issues, 62
  - valuation difficulties, 64
- Goods
  - delivery/sale relationship, 409
  - “goods or merchandise,” 409–410
  - integrated production of highly special goods, 13–14
- Governmental policies, comparability analysis and, 170–173
- Guidelines*. *See* *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*
- Home office, as permanent establishment, 401–403
- Hong Kong, permanent establishment provisions, 389–391
- Independent enterprises
  - arm’s length principle and, 8–9, 15
  - comparability analysis of associated enterprises and, 167
  - intangible property and uncertainty resolution, 251–253
  - lack of data and comparability analysis, 172
  - role of, in assessing comparability, 150
- Indirect charge method, 274–275
- “Indirect fixed costs,” 113
- Industrial assets, defined, 247–248.
  - See also* Intangible property
- Inland Revenue Board of Malaysia, 329
- “Innovative technological design,” 99, 100
- Insurance agents, permanent establishment and, 413
- Intangible assets expenditure, profit split illustration, 95–96
- Intangible property, 247–261
  - arm’s length issues, 249
  - basic provisions, 247–248
  - business restructuring and, 320
  - future developments, 248–249
  - generally, 247
  - highly uncertain valuation issues, 250–251
  - independent enterprises and uncertainty resolution, 251–253
  - OECD developments, 249–250
  - OECD highly uncertain valuation examples, 254–259
  - recommendations, 259–260
  - reverse engineering transfer pricing process, 373–374
  - service arrangements and, 265
  - soft intangibles, 250
  - tax administrator’s response, 253
  - timing considerations, 254
- Intentional set-offs, 184–185
- Intercompany autonomy, arm’s length principle, 9–10
- Interest rate, comparability analysis and, 159
- Internal comparables
  - comparable uncontrolled transactions, 189
  - functional analysis, 159 (*See also* Comparability analysis)
  - TNMM and, 115
- International Accounting Standards Board (IASB), 61
- “International consensus,” 16–17
- International Financial Reporting Standards (IASB), 61
- International LP gas companies, 377–379
- Intragroup service considerations.
  - See* Service arrangements
- Jurisdiction
  - multijurisdictional production processes, 143
  - reverse engineering transfer pricing process and multijurisdictional production processes, 372–373
  - safe harbors and, 33, 39–40
  - transfer pricing audits and tax administration, 215–225

- Kent, Margaret, 329, 330
- “Key functions,” 333
- License administration, 282
- Location savings, business restructuring and, 322
- Losses, comparability analysis, 168
- Malaysia-Singapore allocation keys, 329–344
  - analysis of potential allocation keys, 337–342
  - applying transactional profit split method, 332–333
  - four allocation key categories, 333
  - generally, 329
  - importance of allocation keys, 329–330
  - key functions, 333
  - selecting among allocation keys, 336–337
  - selecting potential allocation keys, 334–336
  - specialized services, 331–332
  - “strong correlation” standard, 337
  - transactional profit split method as “most applicable” transfer pricing method, 330–331
  - transfer pricing strategies, 342–343
- “Management fee” categorization, 271–272
- Market forces
  - arm’s length principle, 9
  - comparability analysis, 163
  - cost contribution arrangements, 298
- Market value, book value *versus*, 123–124
- “Material differences,” 152
- Measurability, TNMM and, 120
- Minority shareholders, comparability analysis and, 188–189
- Model Agreement for the Undertaking of Simultaneous Tax Examinations (OECD), 217
- Model Tax Convention on Income and Capital (1977)
  - arm’s length principle, 10
  - China-Taiwan trade, 356
  - documentation rules and procedures, 243
  - global formulary apportionment, 57
  - permanent establishment, 386, 387, 397, 399, 404, 405, 409, 412
  - tax arrangements, 217, 359
  - transactional net margin method, 107
  - valuation, 207
- Monitoring process (*Guidelines*)
  - biennial meetings of tax examiners, 232–233
  - business community involvement, 233
  - business community’s updates on legislation and practice, 236
  - Business Industry Advisory Committee (BIAC), 233–234
  - business’s role in contributing to OECD, 235
  - cost contribution arrangements, 309–310
  - difficult case paradigms, 231–232
  - method selection, 228–229
  - peer reviews and business community, 235–236
  - role of U.S. Council for International Business (USCIB), 236–237
  - specific monitoring processes, 229
  - understanding, 228
  - Working Party No. 6 on the Taxation of Multinational Enterprises peer reviews, 229–231
- “Most appropriate point,” arm’s length range and, 200–201
- Multi-Country Analysis of Existing Transfer Pricing Simplification Measures* (OECD), 47–55
  - absence of simplification measures, 51
  - administrative thresholds, 54–55
  - assessing effectiveness of simplification, 55
  - domestic transactions, 55
  - double taxation and simplification measures, 55
  - generally, 48–49

- Multi-Country Analysis of Existing Transfer Pricing Simplification Measures* (OECD) (continued)
- general obligations, 50
  - key findings, 49–50
  - legal basis of simplification measures, 51–52
  - optional simplification regimes *versus* exclusions from operations, 53–54
  - rules that alleviate documentation, penalties, compliance burdens, 54
  - scope of existing simplification measures in transfer pricing area, 50–51
  - simplification involving specific transfer pricing method, 52–53
- Multinational enterprises. *See*
- Administrative approaches;
  - Advanced OECD analysis; Associated enterprises; Basic transfer pricing standards; Comparability analysis; *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*; Permanent establishment; Transfer pricing methodologies
- Multiple-year data, 208–210
- Multisided transfer pricing method, applying, 142–145
- Mutual agreement procedures, taxation safe harbors and, 36, 37, 38–39
- Mutual benefits, cost contribution arrangements and, 294–296
- Net profit indicators
- selecting, 115–119
  - volatility of, 113
  - See also* Transactional net margin method (TNMM)
- Nonlinearity, 180–181
- Nontransactional third-party data, 192
- OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*
- China-Taiwan trade, 345–356
  - complexities, 5
  - control, 4–5
  - formal statement as to arm's length principle, 10–11
  - generally, 3–4
  - Malaysia-Singapore allocation keys, 329–344
  - monitoring, 227–238
  - reverse engineering the transfer pricing process, 357–381
  - safe harbor, defined, 28–29 (*See also* Safe harbors)
  - tax havens, 5
  - on transactional profit split method, 73, 77–79 (*See also* Transactional profit split measures)
  - See also* Basic transfer pricing standards; China-Taiwan trade; Malaysia-Singapore allocation keys; Reverse engineering transfer pricing process
- Oligopolistic conditions, arm's length principle, 14
- “On call” services, 270–272
- “One-sided” methods, 71, 187–188
- Operating profit, profit split illustration, 93–94
- “Options available” concept, 151
- Organisation of Economic Co-Operation and Development (OECD) Centre for Tax Policy and Administration, 28
- China-Taiwan trade and, 349
- Committee on Fiscal Affairs, 3, 28, 47, 228, 229–231, 397
- generally, 3–4
- on global formulary apportionment, 57, 66 (*See also* Global formulary apportionment)
- Model Agreement for the Undertaking of Simultaneous Tax Examinations, 217
- Multi-Country Analysis of Existing Transfer Pricing Simplification Measures*, 47–55

- participants, 249–250
- on transactional net margin method (TNMM), 107, 128
- on transactional profit split method, 71–72, 91 (*See also* Profit split methodologies; Transactional profit split measures)
- Transfer Pricing Guidelines (See OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations)*
- See also* Administrative approaches; Advanced OECD analysis; Basic transfer pricing standards; Comparability analysis; Model Tax Convention on Income and Capital (1977); *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*; Permanent establishment; Transactional profit split measures; Transfer pricing methodologies
- Origin, timing of, 206
- Overhead expenses, profit split illustration, 94–95
- Owens, Jeffrey, 28
- Pacific Association of Tax Administrators (PATA), 242
- “Package deal,” 183–184
- Pass-through costs, TNMM and, 122
- Payments, balancing, 299, 303–304
- Peer reviews. *See* Monitoring process (*Guidelines*)
- People functions, permanent establishment and, 389, 394
- People’s Republic of China, Committee on Fiscal Affairs (OECD) and, 47
- Permanent establishment, 383–413
  - business restructuring, 315
  - China-Taiwan trade, 351–352
  - cost contribution arrangements, 292
  - focus on, 397–413
  - parameters, 385–396
- Pharmaceutical firms, intangible property and, 259–260
- “Place of management,” 407
- Portfolio approaches, 182–183
- Preparatory activities, permanent establishment and, 408–409, 410
- “Preparatory to” exemptions, 395
- Price adjustment clauses, 252
- Price controls, comparability analysis and, 170–171
- Profit, separate sources of, 389
- Profit indicators
  - comparability analysis and temporary decrease in profits, 163–164
  - selecting, 133–139
- Profit split methodologies
  - global formulary apportionment, 58
  - illustration, 91–97
  - See also* Residual analysis; Transactional profit split measures
- Projected profits, actual profits *versus*, 80–81
- Property, characteristics of, 153–154
- “Prudent business management” principle, 242–244
- Real estate leasing example, 330, 334–343. *See also* Malaysia-Singapore allocation keys
- “Relatively equal degree of comparability,” 20–21
- Reliability requirement, 20
- Resale method
  - comparability analysis, 154
  - first resale price method TNMM example, 127
  - resale price method, defined, 154
  - second resale price method TNMM example, 127–128
- Research and development
  - cost contribution arrangements, 294
  - reverse engineering transfer pricing process, 373–374
  - transactional profit split method and, 143

- Residual analysis
  - profit splitting approaches, 78
  - profit splitting approaches and alternatives to, 78–79
  - residual profit split, examples, 99–105
- Return on investment, comparability analysis, 164–165
- Revenue-based allocation keys, 336
- Reverse engineering transfer pricing process, 357–381
  - contract manufacturers and contract service activities, 377
  - cooperation between tax administrations, 360–367
  - cost contribution arrangements, 374–375
  - distribution of generic goods or standardized goods, 376–377
  - extensive research and development activities, 373–374
  - functional analysis, 369–370
  - generally, 357–358
  - international LP gas companies and multinational tax claims, 377–379
  - multijurisdictional production processes, 372–373
  - multinational service enterprises, 379–380
  - planning, 377
  - reverse engineering process, explained, 367–369
  - “simultaneous tax examinations,” 358–359
  - specialized services, 375–376
  - success parameters to, 370–371
  - synergistic activities, 371–372
  - tax arrangements, 359–360
  - transactional profit split, 358
  - transactional profit split method, 370
  - unique intangibles, 374
- Risk management
  - business restructuring, 316–317
  - comparability analysis, 157–158
  - permanent establishment and, 389
- Royalties, cost contribution arrangements and, 292
- Russian Federation, Committee on Fiscal Affairs (OECD) and, 47
- Safe harbors
  - country-specific practices, 44
  - equity and uniformity issues, 41–42
  - examples, 40, 44–45
  - factors supporting safe harbor, 31–33
  - flexible practices, 43–44
  - generally, 27–28
  - global formulary apportionment, 66–67
  - Multi-Country Analysis of Existing Transfer Pricing Simplification Measures* (OECD), 47–55
  - multiple jurisdictions, 33, 39–40
  - possibility of opening avenues for tax planning, 40
  - problems of safe harbors, 33–39
  - recommendations, 42–43
  - safe harbor, defined, 29–30
  - safe harbor burdens and benefits, 28–29
  - safe harbor principles, 41
  - safe harbor provisions as arbitrary, 31
  - scope of safe harbor provisions, 30–31
  - service arrangements and cost-benefit issues, 280–281
  - statistical data, 40
  - tax administrations’ discretionary power, 43
  - undertaxation, 41
- Sales, net profits weighted to
  - transactional net margin method (TNMM), 120–121
- “Scope of the application” standard, 30
- Screening, 194–195
- Second resale price method TNMM
  - example, 127–128
- Secret comparables, 192
- Sector considerations, of safe harbor, 34–35
- Separate entity approach, 64–65
- “Separate organization” threshold, 410

- Service arrangements, 263–287
  - adjusting to form of arm's length consideration, 270
  - applying cost-plus method for intragroup services, 279–280
  - applying transactional profit split method to, 284–285
  - applying transfer pricing methods, 277–278
  - business strategies, 278–279
  - calculating arm's length consideration, 276–277
  - cost-benefit issues and safe harbor, 280–281
  - determining arm's length charge for intragroup service, 272–275
  - double-taxation risks, 276
  - examining actual use of services, 276
  - functional analysis, 278
  - generally, 263–264
  - including service costs in transfer of goods, 275–276
  - intragroup service examples, 281–282
  - multinational service enterprises, 283–284
  - “on call” services, 270–271
  - “on call” services, evaluating, 271–272
  - scope of intragroup arrangements, 264–266
  - shareholder activities and stewardship activities, 267–270
  - specialized service industries, 284
  - specialized services, 283
- Services, characteristics of, 153–154
- Shareholder/stewardship activities
  - permanent establishment and, 393–394
  - service arrangements and, 267–270
- Ships, shops on, 403
- “Simultaneous tax examinations,” 216–217, 358–259
- Singapore. *See* Malaysia-Singapore allocation keys
- Single-figure transfer pricing, arm's length range and, 19–20
- Soft intangibles, 250
- “Sound theoretical basis,” 16–17
- South Africa, Committee on Fiscal Affairs (OECD) and, 47
- Specialized services
  - Malaysia-Singapore allocation keys example, 331–332
  - reverse engineering transfer pricing process, 375–376
  - service arrangements, 283
  - transactional profit split method and, 144
- Storage, as permanent establishment, 410, 412–413
- “Storage, display or delivery,” 410
- Straits Exchange Foundation (SEF), 347
- “Strong correlation” standard, 337, 353–354
- Subcontracting, permanent establishment and, 405–406
- “Substantial deviation,” arm's length range and, 21–22
- Sufficient reliability alternative, 252
- Taiwan. *See* China-Taiwan trade
- Tax administration
  - cost contribution arrangements, 299, 302–306
  - documentation requirements, 244–245
  - intangible property, 253
  - reverse engineering transfer pricing process, 357, 359–367
  - taxpayer structure, broad-based analysis of, 181 (*See also* Comparability analysis)
  - taxpayer structure, disregarding, 165–166
  - transfer pricing audits, 217–218
- See also* Administrative approaches; Advanced OECD analysis; Basic transfer pricing standards; Comparability analysis; *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*; Permanent establishment; Transfer pricing methodologies

- Tax-planning opportunities, safe harbors for, 40
- “Tested party” concept, 110, 181–188
- Timing issues
  - comparability analysis and, 163, 205–211
  - cost contribution arrangements, 293, 300–302, 303
  - intangible property, 254
  - permanent establishment, 395, 403–404
- “To include contracts in the name of the enterprise,” 410–411
- Transactional net margin method (TNMM), 107–131
  - applying comparability standard to, 112–114
  - arm’s length range impact on, 114–115
  - Berry ratios, 124–126
  - database issues, 114
  - examples, 126–128
  - exclusion and measurability, 120
  - generally, 108–109
  - guidance, 126
  - initial considerations, 107–108
  - net profits weighted to assets, 123–124
  - net profits weighted to costs, 121–123
  - net profits weighted to sales, 120–121
  - OECD on, 107, 128
  - reliability, 109–110
  - selecting, 115
  - selecting net profit indicator, 115–119
  - selecting transfer pricing methods, 141–145
  - strengths of, 110–111
  - weaknesses of, 111–112
- Transactional profit split measures, 71–90
  - actual profits *versus* projected profits, 80–81
  - allocation keys, 83–86
  - applying, 76–77
  - applying to service arrangements, 284–285
  - availability of comparables in, 74
  - China-Taiwan trade, 352–355
  - comparability analysis and, 154–155, 187
  - concepts, 72–73
  - conclusions about, 88–89
  - determining combined profits to be split, 79–80
  - different profit measures and, 81–82
  - generally, 71–72
  - Guidelines* profit splitting approaches, 73, 77–79
  - importance of functional analysis in, 74–75
  - Malaysia-Singapore allocation keys example, 332–333
  - reliance on comparable uncontrolled transactions data, 83
  - reliance on internal data, 86–88
  - reverse engineering transfer pricing process, 358
  - splitting combined profits, 82–83
  - strengths of, 73–74
  - transfer pricing audits, 216
  - weaknesses of, 73–74, 75–76
- Transfer pricing audits, 215–225
  - examples, 220–224
  - generally, 215–216
  - potential levels of cooperation between tax administrations, 218–219
  - simultaneous tax examinations and transfer pricing, 216–217
  - tax arrangements, 217–218
  - transactional profit split method, 216
  - See also* Reverse engineering transfer pricing process
- TransferPricingConsortium.com, 329
- Transfer Pricing Guidelines*. *See* OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*
- Transfer pricing methodologies, 69–145
  - alternative transfer pricing approaches, rejection of, 17–18
  - applying, to service arrangements, 277–278

- determining “most appropriate,” 178  
(*See also* Comparability analysis)
- optional simplification regimes *versus*  
exclusions from operations,  
53–54
- profit split illustrations, 91–97
- residual split examples, 99–105
- selecting profit indicators, 133–139
- selecting transfer pricing methods,  
141–145
- transactional net margin method,  
107–131
- transactional profit split measures,  
71–90
- See also* Basic transfer pricing standards;  
*Multi-Country Analysis of Existing  
Transfer Pricing Simplification  
Measures* (OECD); Safe harbors;  
Transfer pricing audits
- Transparency, 178–179
- “Two-sided” methods, 71
- Undertaxation, safe harbors and, 41
- Uniformity, safe harbors and, 41–42
- Unique intangible situations,  
transactional profit split method and,  
143–144
- U.S. Council for International Business  
(USCIB), 236–237
- Valuation
  - comparability analysis and timing  
issues, 207–208
  - customs, 172–173
  - global formulary apportionment and  
difficulties of, 64
  - intangible property and, 250–253,  
259–260
  - “Voice of OECD Business,” 233–234
- WantChinaTimes.com, 356
- Working Party No. 6 on the Taxation of  
Multinational Enterprises, 229–231

<http://www.pbookshop.com>