

At A Glance

# Transfer Pricing Litigation and Controversy Support

## Overview

Wherever they operate, multinational companies are being asked to pay more corporate income tax. Reliance upon intercompany pricing guidelines and regulations continues to be the most promising way for tax authorities to maximize their expected return from protracted litigation and controversy. NERA's transfer pricing expert economists utilize market-based pricing techniques—including value-chain and industry structure analyses, benchmarking studies, and rigorous valuation methodologies—to help lawyers resolve their clients' tax disputes.

## Areas of Expertise

NERA's controversy support capabilities build on our established reputation as expert witnesses and our ability to apply sound, accepted economic theory in the resolution of tax disputes. We have substantial experience in providing economic advice to attorneys in transfer pricing tax litigation and controversy situations.

Our economic insights will help make your transfer pricing case more complete. Our experts can assist with:

- Conducting objective and fact-based economics investigations at all stages of your case to assess the economic merits of tax authority positions, and assisting in developing the overall case strategy based on these assessments;
- Assessing the purpose of data requests by tax authorities and preparing strategic responses with appropriate supplemental explanations; and
- Preparing objective, rigorous, and unbiased expert rebuttal testimony that communicates economic concepts, opinions, and conclusions in a clear, understandable, and persuasive manner.

## Case Summaries

### Hedge Fund Transfer Pricing Audit

A hedge fund with global operations received transfer pricing inquiries from the tax authorities about the remuneration received by a foreign entity that provides research and investment management services to the main fund manager. NERA economists prepared a comprehensive value-chain analysis of the taxpayer's business. NERA's analysis highlighted the importance of seed capital and intangible assets to the client's business. Data were used to establish arm's length ranges for different classes of assets under management and for the calculation of overall weighted averages. Adjustments were made to account for total assets under management using statistical valuation techniques. As a result of NERA's analysis, the taxpayer was able to demonstrate, to the satisfaction of the tax authorities, that the remuneration received by the foreign service entity was consistent with the arm's length outcome.

### Financial Sector Tax Litigation

A client retained NERA experts to provide economic support in tax litigation related to valuation of corporate guarantees provided as part of complex cross-border

financing structures. NERA experts prepared detailed reviews of the transactions and the related parties involved, and performed analyses of credit ratings and net risk exposures of the parties. Due to the complexity of the transactions, the valuation methodologies and parameters varied from one case to another. NERA prepared robust and defensible estimates of arm's length remuneration of guarantees provided by the parent organization to special purpose subsidiary vehicles.

#### **Audit Defense and Documentation in China**

A Japanese manufacturing MNE whose Chinese subsidiaries were scrutinized by the tax authorities retained NERA to evaluate its transfer pricing policy and bring its related-party transactions into compliance with Chinese regulations. After reviewing the client's business, NERA conducted a detailed benchmarking study to determine the arm's length remuneration for various transactions. On behalf of the client, NERA entered into discussions with local tax bureaus in different districts of China and achieved resolutions acceptable to both the client and the tax bureaus. To further reduce ongoing tax risks, NERA assisted in preparing the Chinese subsidiaries' contemporaneous compliance documentation based on the analytical method developed during the negotiations with tax authorities.

#### **Tax Audit Defense of a Medical Products Company**

A major US medical products firm faced substantial income adjustments stemming from transfer pricing audits in various parts of the world. NERA analyzed the relevant local markets, identified the most appropriate local benchmark comparables, and applied the selected benchmarks with appropriate adjustments. The taxpayer's analysis provided the relevant tax authorities with objective facts to resolve the situation of double taxation.

## **About NERA**

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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