



Self-Assessment Questionnaire

Is your group's Transfer Pricing strategy sufficiently supported by Intercompany Agreements?

Introduction

Historically, tax authorities globally have placed great importance on the existence of documentation to support a multinational group's cross-border intra-group charges for goods and services. The impact of the various BEPS ('Base Erosion and Profit Shifting') initiatives has significantly increased such importance.

This questionnaire focuses on the area of Intercompany Agreements and related intercompany charges. It is intended to be a thought provoking prompt for in-house finance, TP and tax teams, rather than an exhaustive list.

LCN Legal is a recognized global leader and educator in the area of intercompany agreements for transfer pricing compliance. We help multinational groups to create and maintain the legal agreements and structures they need, by working alongside tax and transfer pricing professionals and providing training, practical tools, templates and resources, as well as hands-on advice and assistance.

Should you wish to discuss how we can help you in this area, please contact LCN Legal by telephone on **+44 20 3286 8868** or email us at **info@lcnlegal.com**.

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Self-Assessment Questionnaire: Intercompany Agreements for Transfer Pricing Compliance

Name of group:

Name of person completing questionnaire:

Date:

1. Assessment

In the context of the group’s overall tax risks, on a scale of 1 to 5 how important does your Board of Directors/Senior Management consider Transfer Pricing to be?

Not at all important				Extremely important	Don't know
1	2	3	4	5	

2. Tolerance of Transfer Pricing Risk

On a scale of 1 to 5, how tolerant is your Board of Directors/Senior Management of unexpected tax liabilities, tax adjustments or adverse publicity arising from Transfer Pricing non-compliance?

Not at all important				Extremely important	Don't know
1	2	3	4	5	

3. Current status of transfer pricing policies

When were the group’s transfer pricing policies last updated?

Month and year:

Since then, have any of the following events occurred?

Event	Yes	No	Don't know	Brief details
Material acquisition of new business or assets				
Material disposal of business or assets				
Material change in lines of business or value of intangible assets				
Other material changes to the group’s operations or offerings				

4. Historic Tax / Transfer Pricing Challenges involving Intercompany Agreements

Has a lack, or inadequacy, of Intercompany Agreements contributed to any adverse tax or transfer pricing challenge suffered by the group? If so, please provide brief details.

5. Current existence of Intercompany Agreements

Have any of the following functions within the group prepared Intercompany Agreements which remain in existence?

Function	Prepared intercompany agreements?		
	Yes	No	Don't know
Corporate tax / transfer pricing			
Indirect tax			
Customs			
Treasury / finance			
Regulatory / compliance			
Legal / company secretarial			
Intellectual property enforcement			
Other			

If the response to all the above questions is “No” or “Don't know”, move to question 7

6. Last review of Intercompany Agreements

When were the group’s Intercompany Agreements last reviewed to ensure they are consistent with its transfer pricing policies and any changes in the operation of the group in each country in which it operates?

Month and year:

7. Key functions required to be involved in the creation and maintenance of Intercompany Agreements

To be certain that they meet the needs of the group it is critical for Intercompany Agreements to be prepared and maintained on a cross-functional basis with input from people representing all the key disciplines or functions which are relevant to the group.

For each function listed below, indicate the individual or job title who should have responsibility for ensuring that the needs of that function are appropriately reflected in the group’s Intercompany Agreements.

Function	Name of Individual or Job Title who should have responsibility for that function *	Has that individual been consulted to date? (Y / N)
Legal		
Finance		
Corporate Tax / Transfer Pricing		
Indirect tax		
Customs		
Treasury		
Data protection		
Intellectual property protection		
Commercial operations		
Parent and subsidiary governance		
Human resources		
Regulatory		
Compliance		
Other		

* Although an individual may have responsibility for more than one function, for each function, only one person should have overall responsibility.

8. Adequacy of current arrangements regarding intercompany agreements for transfer pricing compliance

How accurate are the following statements in relation to the current status of Intercompany Agreements intended to support your group’s Transfer Pricing policies?

	Not at all accurate				Accurate	Don't know
	1	2	3	4	5	
Signed Intercompany Agreements exist in relation to all material intra-group transactions.						
Clear roles, responsibilities and processes exist for the creation, monitoring and updating of Intercompany Agreements.						
All key functions are involved in the creation and updating of Intercompany Agreements.						
The Intercompany Agreements reflect the group’s current business model and transfer pricing policies.						
The group has effective procedures for approval and signature of Intercompany Agreements by the relevant participating entities.						
The group has effective procedures for storage and speedy retrieval / maintenance of signed Intercompany Agreements.						

9. Major countries your group is active in

List the most significant countries in which your group does business. For each country, please indicate on a scale of 1 to 5 (where 1 is low and 5 is high):

1. the relative value of intercompany transactions involving that country, in the context of the group; and
2. your assessment of the risk presented by that country from a transfer pricing perspective.

For the purposes of your risk assessment of each country, factors to consider include:

- whether it is a low tax or no tax jurisdiction;
- how aggressive the tax administrations in that country are known to be in dealing with transfer pricing related matters;
- the quantum and likelihood of fines and penalties being raised by that country for non-compliance; and
- any historic issues or non-compliance affecting the group which relate to that country, and which may have an impact on the level of risk.

Country	Value of intercompany transactions involving that country (1 = low, 5 = high)	Country risk rating (1 = low, 5 = high)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		

10. Key types of intercompany transaction

For each of the following types of intercompany transaction, indicate your assessment as to how important they are to the group’s value chain for transfer pricing purposes, and whether they involve countries which you consider to be high risk.

Type of Transaction	Importance Rating (1 = not important, 5 = very important)	Does this type of transaction involve a high-risk country? (Y/N)
Back office services		
Strategic management services		
Revenue / profit sharing between profit centres delivering services to shared customers		
Supply or distribution of goods		
Toll or contract manufacturing		
Distribution or licensing of software		
IP licences / franchise arrangements		
R & D services		
Intercompany loan facilities		
Cash pooling arrangements		
Marketing services		
Cost contribution / sharing arrangements		
Staff secondment		
Other		

11. Intercompany Invoices

	Yes No
Is there a policy document covering the issuance of Intercompany invoices?	
Does Tax sign off on the policy and any amendments ?	
Does the invoice narrative clearly reflect the underlying Intercompany Agreement ?	
Are issued invoices stored electronically ?	
Can Tax directly access stored intercompany invoices ?	

12. Specific drivers and deadlines

Give brief details of specific drivers for creating or updating your group’s Intercompany Agreements, and any associated deadlines (e.g. anticipated tax audit, adoption of new transfer pricing policies, need to support tax filings, response to issues raised by auditors, implementation of group reorganization, need for contemporaneous documentation as at commencement of financial year etc).

LCN Legal – assistance

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