Intra-group services and transfer pricing

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Every function that one entity performs for another must be paid for at arm's length. Switzerland has no transfer-pricing statute. The arm's length principle is derived from the rules on hidden profit distributions and hidden capital contributions in the DFTA and applied by reference to the OECD Guidelines. The Swiss Federal Tax Administration published a question-and-answer document in 2024 that confirms the approach.[1] Singapore has a statutory arm's length rule in s. 34D of the Income Tax Act and mandatory transfer-pricing documentation for companies with gross revenue above S$ 10 million. Adjustments carry a five per cent surcharge. Routine support services enjoy a safe harbour of cost plus five per cent.[2]

The typical dual-hub group has three flows. The Swiss operating company develops the protocol for the foundation under a development agreement. The Singapore company provides business development, community and support services to the foundation or to the Swiss company under a services agreement. One entity licenses the brand or the proprietary tooling to the other. The development agreement is priced at cost plus a margin, which for high-value development is above the five per cent routine-services safe harbour and in practice falls in the range of eight to fifteen per cent, benchmarked against comparable software development agreements. The

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services agreement for business development and support can sit at cost plus five per cent in Singapore if it is routine, with the risk that IRAS considers business development for a token project to be more than routine. The licence is priced by reference to comparable royalty rates, which for protocol brands barely exist, so most groups use a profit-split or residual method and document the reasoning.

Both administrations have a particular sensitivity. The Zug tax administration looks for value leaving Switzerland through under-priced development work to a foundation or through management fees to a Singapore company whose managers in fact sit in Zug. IRAS looks for value leaving Singapore through royalties to a Swiss intellectual-property owner that has no DEMPE substance. The treaty's associated-enterprises article and mutual agreement procedure provide a remedy for double taxation after an adjustment, but it is slow.[3] Documentation prepared at the time of the transaction is the only efficient protection.

Notes

1. DFTA, SR 642.11, Art. 58 para. 1 lit. b (hidden profit distributions added back to taxable profit); Swiss Federal Tax Administration and SIF, "Transfer pricing: questions and answers", published 23 February 2024; FTA Circular No. 4 of 19 March 2004 on service companies (cost-plus). ↩
2. Income Tax Act 1947, s. 34D (arm's length principle) and s. 34F (transfer pricing documentation; surcharge under s. 34E); IRAS e-Tax Guide, "Transfer Pricing Guidelines", 7th edition, 14 June 2024, sections 6 and 14 (documentation thresholds; routine support services at cost plus 5 per cent). ↩
3. Switzerland–Singapore double taxation agreement of 24 February 2011, SR 0.672.968.91, Art. 9 (associated enterprises) and Art. 24 (mutual agreement procedure). Part G, Chapter IX, and Part M, Chapter IX. ↩

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