



Insights: Transfer Pricing

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Associates

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In this issue of *Insights: Transfer Pricing*, we include recent articles on transfer pricing issues, an upcoming speaking engagement, and industry recognitions.

Recent Insights

Navigating transfer pricing amidst economic headwinds

The economy continues to make the headlines as we near the end of 2022 due to a confluence of factors, which may have an impact on transfer pricing policies within multinational groups. Economic conditions are integral to transfer pricing analyses from a comparability perspective; accordingly, it is important to monitor macroeconomic trends. In this *Insights*, [Robin Hart](#) discusses various macroeconomic factors that are impacting our clients' internal operations and financial results. A recent simulation that we have performed to derive indicative interquartile ranges for certain US comparable company sets for 2022 can help with year-end planning. [Read the article.](#)

Transfer pricing audit defense and negotiation with the NTA

In this *Insights*, [Rebel Curd](#) and [Haruka Abe](#) provide a summary of our recent experiences related to transfer pricing audit defense and the subsequent negotiation process with the Japanese tax authority, the National Tax Agency (NTA). In addition, they discuss how taxpayers can increase their audit readiness and the probability of successful negotiation with tax authorities. [Read the article.](#)

Transfer pricing concepts spreading throughout the tax code

More than four years after the passage of The Tax Cuts and Jobs Act (TCJA) legislation, in December of 2017, the US Department of Treasury (US Treasury) continues to implement the law in the Internal Revenue Code (IRC) via Treasury Regulations and other guidance. While Section (§) 1.482 of the Treasury Regulations (the Transfer Pricing Regulations) remains unchanged from its pre-2017 state, several TCJA-based revisions to the IRC rely on concepts outlined in the US Transfer Pricing Regulations.

In this *Insights*, [Harrison Vale](#) provides an overview of some transfer pricing concepts incorporated into new sections of the IRC, specifically:

- Stewardship expense as detailed in §1.861-8 of the Treasury Regulations; and

- The application of the Services Cost Method (SCM) to the base erosion and anti-abuse tax (BEAT) under IRC §59A. [Read the article.](#)

Medtronic v. Commissioner: Rebel Curd and Robin Hart interviewed by Law360 Tax Authority

Rebel Curd and **Robin Hart** were interviewed for an October 14, 2022 *Law360 Tax Authority* [article](#) about an unspecified transfer pricing method used by the Tax Court to determine a case involving an intangible property (IP) license in the medical device sector. Curd noted that unspecified methods are rarely seen in Tax Court opinions and could be the focus of an appeal in the case involving Medtronic.

The IRS and taxpayer positions were rejected on the basis that the data used for benchmarking was not reliable enough, but the 80/20 method used by Judge Kerrigan does not appear to be more reliable, Curd said. Hart said Judge Kerrigan attempted to “bridge the difference” between the parties’ pricing which resulted in something much more subjective. In practice, Hart noted that every price and adjustment is supported by data.

For additional commentary regarding the case, [Robin Hart](#) explores the facts and findings of the case, as well as the method used by the Tax Court in this [Insights](#).

CRA consultants to speak at TPMinds West, December 6 and 7 in San Francisco

Rebel Curd, **Robin Hart**, and **Anna Soubbotina** are speaking at the [TPMinds West Conference](#). CRA is a gold sponsor of the conference held on December 6 and 7 in San Francisco. Hart and Soubbotina are on a panel to discuss economic conditions and supply chain issues. Rebel Curd will present on emerging transfer pricing issues relating to intangible property.

Recognitions

Our transfer pricing consultants [Rebel Curd](#), [David Kemp](#), and [Anna Soubbotina](#) have been recognized for their expertise by several industry publications.

International Tax Review – World Tax Guide 2023

- “Women in Tax” Category
 - Rebel Curd – USA (California Region)
- “Tax Controversy” Category
 - David Kemp – Canada

International Tax Review – World Transfer Pricing Guide 2023

- “Transfer Pricing” Category
 - Rebel Curd – USA
 - David Kemp – Canada
 - Anna Soubbotina – USA
- “Transfer Pricing Firm” Category
 - Charles River Associates – Canada

Legal Media Group – Expert Guides 2022

- “Women in Business Law” Guide – Transfer Pricing Category
 - Rebel Curd – USA
- “Best of the Best United States” Guide – Transfer Pricing Category
 - Rebel Curd – USA

About CRA’s Transfer Pricing Practice

Our consultants help clients navigate every phase of implementing and supporting international tax structures including: intangible property (IP) and acquisition planning, documentation, and audit defense. We also provide litigation support and expert testimony services in tax and transfer pricing disputes.

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