

# BOOK REVIEW

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## *Resolving Transfer Pricing Disputes: A Global Analysis*

*Resolving Transfer Pricing Disputes:  
A Global Analysis*

Edited by Eduardo Baistrocchi and Ian Roxan  
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988 pages

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**E**duardo Baistrocchi and Ian Roxan have brought a new contribution, *Resolving Transfer Pricing Disputes*, to the global literature on transfer pricing. The basic structure is straightforward: The introduction provides an overview of the book's mission, coverage, and design process. Chapter 2 outlines the transfer pricing problem, its history, and the evolving international response. The following 18 chapters highlight countries around the globe, both those with a long history of transfer pricing regulation and countries just beginning to develop and implement a national response. The concluding chapters return to themes identified at the outset regarding the evolution of the transfer pricing regime — the claim that the international tax system has been moving from a rules-based response to a more standards-based approach to the problem of artificial income shifting.

A number of the project's features, however, render it a more distinctive contribution. The decision to affirmatively treat the book as a collaborative process rather than a collection of chapters results in the country-specific chapters displaying more cohesion in content, style, and structure. In an era of increased globalization with growing attention to comparative questions, the interest in creating a *comprehensive* work may not always be matched by the production of an *integrated* work. Stand-alone chapters can be a valuable reference for those seeking an enhanced understanding of an

issue in a given country. Fortunately, though, collaboration was achieved in this volume through joint meetings and a process of commenting, which enabled authors to remain connected to the evolving nature of the product and the broader themes and questions as they drafted and revised their individual chapters.

Collaboration is, of course, only as good as the participants, and a quick review of the country authors reveals that they are major scholars in transfer pricing and international tax. Although most readers may only be able to independently evaluate the content of one or two country-specific chapters, the academic reputation and prior work of the other authors give the foreign reader confidence in unfamiliar sections.

A valuable level of uniformity was achieved by having each author respond to a list of questions of likely interest to the reader (for example, structure of the law for resolving transfer pricing disputes, actual policy regarding resolution, and prevailing dispute resolution methods). But this degree of uniformity was not at the expense of allowing the chapter to tell the unique story of transfer pricing in each country. Rather than dominating the country chapters, the standard questions are answered at the end of each chapter. The heart of each country chapter is the singular story of transfer pricing in that jurisdiction. Thus, the chapters vary in content and scope. Some countries have a long history of regulating transfer pricing. Others are only recently implementing rules. Additional factors, including the legal culture, the importance of OECD guidance, and the role of courts, differ across countries. The reader comes away from the book with a sense of each individual country and not a boilerplate analysis that may be technically correct but fails to fully capture transfer pricing practice in the jurisdiction.

Another feature of the volume enhances the reader's understanding of the law and practice described: the conscious attention to history. Although many readers may be particularly eager to gain a working knowledge of current law and practice in a country, inclusion of a historical perspective is not merely a concession to historians and scholars. Contemporary law, especially the

law of a foreign jurisdiction, can be clearer and more accessible against the backdrop of history and the economic, political, and legal context. For readers new to the subject entirely or unfamiliar with specific countries, the richness of a more historical narrative illuminates the nuances and the important choices and issues by tracking change through time.

Whether or not the writing style was a conscious decision in the collaborative process, the ease of exposition in the chapters and the absence of a rigid formality to the writing render this book more readable and more comprehensible. Although it is always desirable to have multiple sources to consult when examining questions of foreign tax law, often the manner in which the information is conveyed (including the formality of the writing and the effort on the part of an author to stay close to the words of statutes, regulations, or cases) creates a distance between the reader and the actual experience of the law in that country. Despite its multiple authors, *Resolving Transfer Pricing Disputes* maintains a strong, consistent, and readable style throughout.

A useful feature included in the book, the “Golden Bridge,” is a multi-page chart that links cases in each country with the OECD guideline topics. A reader with an interest in a specific transfer pricing question (as opposed to a general interest in the transfer pricing treatment in a country) can use the chart to identify where in each chapter that issue arises. Given the size of the volume, the chart significantly enhances the reference role of the book.

*Resolving Transfer Pricing Disputes* has a distinct perspective beyond its articulation of a historical trend from a rules-based to a standards-based approach to transfer pricing. The conclusion (in Chapter 21) develops an overarching framework in the form of six stages of development in managing (or not needing to manage) transfer pricing. The chapter maps transfer pricing regimes across the globe and through time on the dimensions of these six stages. Asserting the view that the taxation of transfer pricing has proceeded through discernible stages and that these stages are universal and can be found in all countries can be risky, but here the argument and the reasoning resonate with the international tax reader’s experience and is well documented and grounded historically. Moreover, the presentation of the stages is nuanced and understood to be nonlinear. For example, movement from stage 6 to stage 5 is imagined if circumstances in the jurisdiction change. In the future, it would be interesting to examine what the concept of the stages suggests about the likelihood of increased agreement among jurisdictions on transfer pricing (for example, as reflected in the projects of the OECD). Furthermore, the transfer pricing analysis could be expanded to consider how the stages of transfer pricing might relate to other emerging practices in international tax.

Regardless of whether a reader is ultimately persuaded by the historical vision presented by *Resolving Transfer Pricing Disputes*, the work’s contribution to the international tax literature is ensured. ◆