

The 10 Commandments of Transfer Pricing Documentation



Disclaimer: These commandments are for informational guidance only, not for legal advice.

THE FOUNDATION & LEGAL COMPLIANCE

Thou Shalt Define Thy Scope and Structure: Always clearly document the organizational structure, the business strategy, and the economic and legal ownership of all associated entities. This forms the bedrock for justifying why transactions occur where they do.

Thou Shalt Detail Thy Intercompany Transactions: Document every material controlled transaction with precision. Specify the nature (e.g., sale of goods, provision of services, royalty payment), the value, the terms, and the flow of the transaction.

Thou Shalt Adhere to Local & Global Regulations: Comply fully with the local documentation requirements of every jurisdiction (e.g., Master File, Local File, CbC Reporting, or specific local forms). Consistency across all files is paramount.

FUNCTIONAL, RISK, AND ASSET ANALYSIS (FAR)

Thou Shalt Perform a Meticulous FAR Analysis: Thoroughly identify and document the specific Functions performed, Assets employed, and Risks assumed by each entity in the intercompany chain. The greater the risk assumed and the functions performed, the greater the expected return.

Thou Shalt Substantiate Thy Risk Assumptions: Do not just list risks; prove that the entity assuming the risk has the financial capacity to bear the risk and the operational control over that risk.

ECONOMIC ANALYSIS & ARM'S LENGTH PRINCIPLE

Thou Shalt Select and Apply the Most Appropriate Method: Choose the Transfer Pricing Method (e.g., CUP, Resale Price, Cost Plus, TNMM, PSM) that is best suited to the transaction, providing clear rationale for the selection over alternative methods.

Thou Shalt Conduct a Thorough Comparability Analysis: Diligently search for and select independent comparable transactions or companies. Document the search process, selection criteria, and all adjustments made to enhance comparability. The key is to demonstrate the Arm's Length Principle (\$ALP\$).

TIMELINESS & MAINTENANCE

Thou Shalt Prepare Thy Documentation Contemporaneously: Complete the documentation before the filing deadline for the tax return to which the documentation relates. Documentation prepared years later holds little defense value.

Thou Shalt Review and Update Annually: TP documentation is not a one-time exercise. Review the analysis annually, update the financial data, and refresh the comparable search every three years (or sooner if economic circumstances change significantly).

MASTER THE HOLDING COMPANY STRATEGY

Thou shalt select a holding company jurisdiction based on its treaty network and domestic tax law. This choice should minimize Withholding Tax (WHT) on dividends and allow for tax-free Capital Gains Exemption (CGE) upon the eventual sale of a subsidiary.

DEFEND AGAINST CONTROLLED FOREIGN CORPORATION (CFC) RULES

Thou Shalt Ensure Consistency and Be Ready to Defend: Ensure the TP policies, legal agreements, accounting records, and the documentation are all mutually consistent. Be prepared to use the documentation as your primary defense during a tax audit.