

Tax Controversies Case Studies

Planning:

- Prepared a study of a Fortune 500 computer industry manufacturer's domestic profitability in connection with transfer pricing issues raised by the IRS. Primary project was development of product-line financial statements to demonstrate the company's profitability on the transactions under review.
- Prepared analysis of intercompany process for a series of Japanese controlled distributors and manufacturers. The analysis was used by outside counsel in opining on the existence of a specific pricing method, the reasonableness of the chosen method, within the meaning of Internal Revenue Code Section 6662, and the existence of documentation supporting the determination of the transfer prices. In addition prepared economic analysis of intercompany prices for a Japanese television assembly plant. The analysis was used by outside counsel in preparing a Section 6662 opinion related to U.S. subsidiary's transfer pricing with their Japanese parent.
- Assisted manufacturer of computers and related products with regard to Section 6662 planning related to its offshore subsidiaries. Prepared an expert accounting report in connection with this issue.
- Assisted Fortune 100 apparel manufacturer in connection with tax planning issues related to transactions with affiliated offshore manufacturer. Primary projects were the preparation of exposure studies analyzing issues from a comparable uncontrolled manufacturer pricing methodology, as well as the effect of location savings upon the transactions. The Internal Revenue Service sought adjustments of over \$100 million for a four-year period.
- Assisted an electronic instrument manufacturer in developing a location savings analysis for a Puerto Rican subsidiary. Presented results to the U.S. Tax Court.

Controversy:

- Assisted a Fortune 500 manufacturer of electrical devices in connection with Section 1059A issues alleged by the IRS. Prepared an expert accounting report in connection with this issue. Also prepared exposure analyses regarding the profitability of several of the company's international subsidiaries. Also prepared analyses of the company's royalty agreements with affiliated and unrelated offshore manufacturers and distributors. Reports used in successful planning/settlement negotiations.
- Testified for multinational transportation and waste management company in connection with accounting and valuation issues raised by the IRS under Sections 167 and 263. Specific projects included financial analyses related to the leverage characteristics, ability to secure debt, profitability and other financial characteristics of several subsidiaries. Filed an expert and rebuttal report in the case.
- Managed a four year engagement assisting trial and general counsel of a Fortune 500 technology firm in a claim filed against the Japanese National Tax Authority related to alleged tax deficiencies in amounts in excess of \$30 million. Taxpayer was granted full rescission of tax adjustments and refund of \$30 million as a result of this litigation. Managed trial preparation of three company witnesses, two expert accounting witnesses and separate data analysis teams in the United States and Japan. Specific projects included development of unique approach to intercompany transactions, including analysis of intercompany transfer price and interest issues and propriety of R&D cost-sharing agreements. Primary responsibility for writing two expert reports filed in Japanese Tax Court.
- Assisted the manufacturer of food supplement, health and beauty products in connection with tax deficiencies alleged by the Internal Revenue Service and issues raised by the Department of Justice. The case was the largest personal tax litigation case in the history of the United States and involved civil and criminal tax allegations. Our professionals developed a unique approach to the financial aspects of the case; the approach was used successfully in favorable civil and criminal settlement negotiation. Primary projects were the preparation of economic and accounting exposure analyses to demonstrate the profitability of the company and an offshore entity, pricing rationale and development.
- Testified in the U.S. Tax Court on behalf of major computer hardware company regarding the proper transfer price for computer components from Asia to the United States.
- Provided assistance to one of the world's largest multi-national food manufacturers in a tax dispute with the Internal Revenue Service involving the valuation of various intangible assets including goodwill and several of the world's best known trademarks. Submitted direct expert report and rebuttal report on an issue of whether certain intercompany loans should be characterized as either debt or equity on its tax returns. The expert reports presented the combined forecasted cash flows of both organizations and the amounts of cash flow available to service the acquisition debt. In addition provided extensive trial assistance to outside counsel in the areas of witness preparation and in analyzing and critiquing opposition experts' positions.
- Provided assistance to a semiconductor company in a tax dispute against the Internal Revenue Service involving the propriety of transfer prices changed for die (wafer) and devices (completed semiconductor chips) sold between the company and their Southeast Asian subsidiaries. Tasks included the preparation of an expert report and testing on the quantification of Location Savings. The Location Savings Analysis quantified the differential in costs generated due to manufacturing in Southeast Asia versus the United States. Also provided extensive trial assistance to outside counsel in the areas of witness preparation and in analyzing and critiquing opposition experts' positions.
- Provided assistance to a computer hardware company in a tax dispute against the Internal Revenue Service involving transfer pricing between its U.S. parent and their Singapore subsidiary. Tasks included development of Comparable Uncontrolled Pricing (CUP) study, application of Resale Price Methodology, Analysis of Warranty expense and related intercompany charge and Determination of Product Cost and Profitability. Also

provided extensive trial assistance to outside counsel in the areas of witness preparation and in analyzing and critiquing opposition experts' positions.

- Testified for multinational manufacturing of analytical measuring instruments in connection with transfer pricing and financial issues raised by the Internal Revenue Services relating to the company's offshore manufacturer. Project included analysis of company's domestic and foreign profitability by product line, a location savings analysis related to the company's transfer of assets offshore and an analysis of the propriety of the company's licensing agreement with its offshore affiliate. Provided testimony to Federal Tax Court.
- In an international tax disputes against various countries' taxing authorities, provided development and analysis of multiple information databases to support transfer prices of this international manufacturer and seller of home and business computers. Employed CUP methodology related to semiconductor prices and Cost Plus methodology on other components. Projects were completed in five different countries and included country-by-country profit splits, as well as product line profitability analysis. We worked extensively with outside counsel in analyzing the government's positions, per the original notice of deficiency and as the government's position changed.
- Assisted eyewear manufacturer in connection with Section 954 issues alleged by the Internal Revenue Service. Primary project was the development of accounting theory to support the substantiality of two international companies manufacturing operations. Prepared two expert reports for submission to Tax Court and prepared two expert witnesses for testimony. Presented results to the U.S. Tax Court.
- In a dispute between a Fortune 200 retailer and the Internal Revenue Service analyzed the credit granting policies and acceptance criteria of a CEBA bank for a three-year period to determine consistency of practices. In addition analyzed the worldwide manufacturing operations, including Far East sub-contractors to determine participation of various entities in the manufacturing process. Presented results to the U.S. Tax Court.
- Analyzed the costs of a major express delivery services company to administer and process lost and damaged parcel claims received from shippers during 1984 to prepare an expert report for the U.S Tax Court to the amount incurred during that year to administer "excess value" claims. In addition analyzed the corporate shareholder records of two corporate entities and determined the common ownership of the two entities at various points in time and presented those results to the U.S. Tax Court.