

CRA Outlines Rigorous Approach to Intra-group Services

By David Talakoub

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News: On January 29, 2015, the Canada Revenue Agency (“CRA”) published Transfer Pricing Memorandum (“TPM”)-15 on intra-group services and section 247 of the *Income Tax Act*. TPM-15 is intended to clarify the CRA’s policy on several audit and tax issues commonly encountered during the audit of intra-group services. The new memorandum expands on the CRA’s existing transfer pricing guidance and outlines a detailed and rigorous approach to determining and supporting intra-group services charges.

Views: While the framework outlined in TPM-15 has the advantage of providing taxpayers with more certainty, the timing of this release is troublesome in light of the recent Organization for Economic Co-operation and Development (“OECD”) discussion draft on low value-adding intra-group services.

TPM-15 makes extensive references to the *2010 version* of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (the “Transfer Pricing Guidelines”) and effectively ignores the recent efforts that seek a simplified and practical approach for certain intra-group services charges. The OECD’s recent efforts on low value-adding intra-group services follow its revision of Section E on safe harbors in Chapter IV of the Transfer Pricing Guidelines, which acknowledged the administrative simplicity and compliance relief that taxpayers could expect to enjoy from properly applied safe harbors.

The CRA’s approach can be described as anything but simple as it advocates for comprehensive and extensive analysis supporting intra-group services arrangements with a particular emphasis on substantiating the nature and composition of the services cost base. The implications of intra-group services safe harbors being applied to certain countries and not to others remain to be seen, however this divergence will add confusion and complexities to an area of transfer pricing that is already considered burdensome by many taxpayers.

Based upon the detailed roadmap outlined in TPM-15, it is clear that the CRA will continue to scrutinize and intensely audit intra-group services. Taxpayers can expect laborious audits and detailed information requests and should be prepared to support their Canadian intra-group services arrangements with robust transfer pricing documentation.

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