Transfer Pricing and Latin America Countries

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### Latin America Context

**Huge differences in the Income Tax**

<table>
<thead>
<tr>
<th>Country</th>
<th>Tax Rate &amp; Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>30% /SMEs 10% or 20% (T)</td>
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<td>5% on gross income (31% on taxable profits) (T)</td>
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**Central America countries**

- **Costa Rica**: 30% /SMEs 10% or 20% (T)
- **Honduras**: 25% (WWT)
- **Nicaragua**: 30% (T)
- **Panama**: 27.5% on net income or 4.67% on gross income (T)
- **El Salvador**: 25% (T)
- **Guatemala**: 5% on gross income (31% on taxable profits) (T)

**MERCOSUR Countries**

- **Argentina**: 35% (WWT)
- **Brazil**: 15%+10% exc. of R$ 240M + 9/15% Soc. Cont. (WWT)
- **Paraguay**: 10% (T)
- **Uruguay**: 25% (T)

**Andean Community countries**

- **Colombia**: 33% (WWT)
- **Bolivia**: 25% (T)
- **Ecuador**: 24% or 14% reinvested profits (RM)
- **Peru**: 30% (WWT)

**Risk of TP manipulation at national level**
In LA, is there sufficient TP legislation?

LA COUNTRIES: 17
TP LEGISLATIONS: 14
TP LEGISLATIONS IN FORCE: 13

- Dominican Republic (2006)
- Panama (2010)
- Venezuela (1999)
- Honduras (2011)
- Brazil (1996)
- Uruguay (2007)
- Argentina (1998)

- Mexico (1995)
- El Salvador (2009)
- Colombia (2002)
- Ecuador (1999)
- Peru (2001)
- Chile (1997)
- Guatemala (2012)
Motivation

CONTRIBUTE WITH THE CORRECT ALLOCATION OF TAX BASES

COMPLY WITH THE REQUIREMENTS OF THE INTERNATIONAL COMMUNITY

INCREASE TAX COLLECTION
HR aspects

1- Do Latin American governments have sufficiently expert and sufficiently trained transfer pricing administrations?

There are big differences between LA countries!!!!
What about salaries and HR policies?
How much money does the TA invest in training?
What about the availability of experts in the country?
What about political influences in the HR management?
What about motivation of tax officials?

2- Is there a need of strengthening the expertise of transfer pricing administrations?

Of course!.
Also in tax treaties and audit of MNE.
International organizations and TA have a “key role”.
Not only TA, also is necessary to train officials from the legal system.

3- Is there a "revolving door" problem? That is, do government transfer pricing experts get their training while in the government, and then leave for the private sector?

Is the TA strong?
What about the labor market?
What about the HR policies in TA and in the private sector?
Is TP a new issue?
Is there any restrictions for tax officials when they leave the TA?
Are there harder restrictions when the tax officials receive costly training?
TP Guidelines and Tax Administration in LA

<table>
<thead>
<tr>
<th>MATURITY</th>
<th>JUSTICE</th>
<th>RESOURCES</th>
<th>INTANGIBLES</th>
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</thead>
<tbody>
<tr>
<td>BIG INFLUENCE</td>
<td>COMPLEXITY</td>
<td>INFORMATION</td>
<td></td>
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</table>

- **Current guidelines** are a good starting point.
- 2010 update is based on country experiences.
- Almost all LA countries observed them.
- “Tropicalization” is advisable.
Comparable transactions in LA Countries

Looks for information in

PRODUCE MORE INFORMATION FROM LA COUNTRIES

| Lack of LA comparables companies in countries and their neighbors | Not in all countries is possible to use secret comparables | Usually the adjustments by market or geographic location are not reliable | Comercial databases are very useful but not enough | Public information provided by institutions of developed countries is very useful |
Capacity to obtain information from foreign sources, in order to enforce TP rules

**Commercial Data Bases**
- Costly
- Training
- Not enough info

**Public Information**
- Identify sources
- Edgar, SEC, etc.
- Hard, timely and costly to process data

**Treaty Network**
- Tax policy
- Expertise
- Costly and timely
- Automatic EoI
- Simultaneous tax audit
Barriers to obtain information from jurisdictions with strict secrecy/confidentiality laws.

- It isn’t easy for LA countries to obtain information from ex “tax heavens” out of LA.
- Sometimes there isn’t a political will to EoI between LA countries.
- Lack of sources of information from TAs and other governmental entities.
- Lack useful public information.
- Usually, ex “tax heavens” sign treaties or TIEAS with developed countries.
- Time consuming procedure.

The context is changing in Latin America.
Interest of LA Countries in Brazilian TP methods

Countries use to observe the Brazilian model at the moment of formulating their own TP legislation

- The model is good for Brazil.
- Easier to apply but not easy to adopt
- What about harmonization?
- It is possible to avoid double taxation?

Legislations of LA countries follow mostly the OECD guidances.
THANK YOU VERY MUCH FOR YOUR ATTENTION

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