“Foreword” by Lorraine Eden, Texas A&M University

In Oliver Treidler. Forthcoming in 2020. *Transfer Pricing in One Lesson: A Practical Guide to Applying the Arm’s Length Principle in Intercompany Transactions.* Springer International Publishing.

Transfer Pricing in One Lesson, according to its author Oliver Treidler, is designed as a pragmatic survival kit - not a “magic bullet” – for handling the day-to-day challenges that face a transfer pricing (TP) professional. While the book is a practical guide aimed at young TP professionals working in consulting or industry who have been asked to apply the OECD’s post-BEPS *Transfer Pricing Guidelines,* I suspect all TP professionals will find the book useful reading. I’ve been studying transfer pricing for 45 years and still find *Transfer Pricing in One Lesson* helpful reading, so I suspect others will also.

Treidler argues that to be successful as a TP professional one must understand the arm’s length principle and how to apply it to specific situations. The book starts with “one key lesson” (the basics of transfer pricing), which is then applied to a variety of specific situations. To illustrate the cases and provide a real-world feel for the lesson, Treidler creates a fictitious multinational (MNE), the Prima Group, and explores how the lesson can be applied in different situations.

The core message in the book is that transfer pricing is an art, not a science, where “the art of transfer pricing consists in never losing sight of the reality of a specific business when applying the arm’s length principle.” Treidler recognizes that there are both business and tax considerations that affect transfer pricing choices and he is mindful that the TP professional must find an “appropriate balance” between these pressures. To be successful at finding this appropriate balance, he argues that “you have to avoid the myopia of a fragmented transaction-by-transaction type of analysis and always be mindful of the economic essence of the business relationship as a whole.”

To do this, the TP professional must align the firm’s transfer pricing structure with the firm’s business model. Treidler says, “the first and foremost task of a transfer pricing consultant is therefore to understand the business model of his client and ensure that the model is accurately translated into a tax viable transfer pricing structure.”

Treidler argues that successful alignment depends on two tools or processes that can be used to translate the firm’s business into an analytical framework that can be used for tax purposes. These two processes are:

- Establishing an adequate level of segmentation of the firm’s transactions; and
- Performing a value chain analysis for each identified transaction or group of transactions.

The first process – segmenting the business into transactions – builds on industry analyses such as Porter’s Five Forces Model to identify the “commercial relations” and the “conditions and economically relevant circumstances” between the related parties. Such identification, of course, is required as part of a comparability analysis under the OECD’s *Transfer Pricing Guidelines*.

The second process, also required by the *Transfer Pricing Guidelines*, is value chain analysis (which he refers to as a Functional and Risk (F&R) analysis). Treidler views value chain analysis as the “heart and soul of transfer pricing.” Each entity in the MNE group must be identified in a general way, based on its functional and risk profiles, as either a low-risk, low-return (routine) entity or a high-risk, high-return (entrepreneurial) entity. The routine entity should receive a routine (arm’s length) return in line with its routine functions and risks. The appropriate amount can be determined by treating the routine entity as the tested party and using a one-sided transfer pricing method to determine its arm’s length return. The entrepreneurial entity is then compensated with the residual return after the routine entity or entities have received their return.

The functional and risk analysis forces the TP professional to “dissect the business model of the MNE.” With that model, the TP professional can identify which entity should be the tested party and come to a high-level understanding of what an arm’s length allocation of profits should be to that entity. Treidler argues that amount should intuitively be appropriate from both business and tax perspectives.

With the basic lesson in place, Treidler then moves to applying the lesson to the types of transactions that are likely to face a young TP professional. Each situation is illustrated with the Prima Group case. As one might expect, he starts with CUP, the comparable uncontrolled price, and then moves through the basic methods. I summarize some of the insights here:

- CUP: Comparing “Like with like” is not a trivial task.
- Resale Price Method: Comparability doesn’t stop at the gross margin.
- TNMM: Arm’s length net margins should make everyone happy.
- Profit Split Method: Internal negotiations are useful for approximating an arm’s length allocation of profits within the MNE provided that entities engage in real negotiations.
- (Net) Cost Plus Method: Arm’s length net margins should make everyone happy.

The book goes on to apply the lesson to more complex transactions, in particular to transfer pricing of management services and financial transactions. Lastly , Treidler discusses the critical importance of properly prepared documentation for the tax authorities.

Six annexes end the book. (Three of the annexes are available in a supplementary online package.) They are a: (1) Transfer Pricing Basics Questionnaire, (2) Value Chain Analysis Tool, (3) Checklist for Benchmarking Studies, (4) CUP License Fee Calculation Tool, (5) Cost Allocation Tool, and (6) Cash Pool Tool. TP professionals, especially those new to the field, will find the annexes very helpful.

Treidler has several years of experience as a transfer pricing practitioner, first for Big Four firms and later in his own consulting practice where he also offers workshops on transfer pricing and value chain analysis. The book is written in a practical and captivating style – as if the author were talking directly to the reader – which should give it a broad appeal, not only to beginning TP professionals but to those who are further along in their careers also.

It’s clear from reading this book that the author is passionate about transfer pricing. He believes – as do I -- that the arm’s length standard is the best way to value related party transactions within the MNE group, best not only for tax purposes but also because – when properly done – the arm’s length standard best captures the realities of the MNE’s activities.

Can transfer pricing be taught in one lesson? I believe that yes it can – and Treidler shows us how it can be done. I enjoyed reading this book and believe you will do so also. Enjoy!

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