



Chartered  
Institute of  
Taxation  
Excellence in Taxation

Syllabus and Guidance Notes

The Advanced Diploma in  
International Taxation 2011

Principles of Corporate and International Taxation  
Paper III Option F – **Transfer Pricing**



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## Notes accompanying the syllabus

In order to achieve success in this paper candidates will need to possess a broad knowledge of transfer pricing, preferably informed by experience.

This document contains the detailed syllabus for the Paper III – Principles of Corporate and International Taxation, **F – Transfer Pricing Option**, together with recommended reading list.

Questions will NOT be set which require knowledge of any law or regulation or any Statutory Instrument, EC directive or similar legal provision made within five months before the date of the examination, or on any tax or legal court case reported less than three months before that date.

The syllabus contains a list of topics included, together with an indication of the level of knowledge that a candidate may be required to demonstrate.

The levels specified are:

### **Level 1**

Candidates will be expected to have a broad understanding and awareness of the topic, but will not be required to provide answers in detail on these topics.

### **Level 2**

Candidates will be expected to have a detailed knowledge of the topic and be able to apply this knowledge in both written and computational situations (where appropriate), showing an understanding of the issues involved.

Candidates are expected to have an awareness of current accounting issues relevant to tax.

### **Balance of each syllabus**

The tables below are intended to give candidates broad guidance on the approximate proportion of marks available for the major areas within the syllabus for each paper.

## Paper III – Principles of Corporate and International Taxation

### **F – Transfer Pricing Option**

I	Fundamental Sources	20%
II	The Arm's Length Principle and Comparability	10%
III	Functional Analysis	10%
IV	Transfer Pricing Methods	10%
V	Comparability analyses in practice	5%
VI	Specific transactions	15%
VII	Permanent Establishments	15%
VIII	Compliance issues	5%
IX	Avoiding Double Taxation/Dispute Resolution	10%

# Paper III – Principles of Corporate and International Taxation, F – Transfer Pricing Option

<b>I Fundamental Sources</b>		
A	Tax treaties, based on OECD Model: Article 9; also Article 7; and “special relationship” in Articles 10-12	1
B	OECD sources (Model Convention Commentary, TP Guidelines including proposed revisions, Attribution of Profits to PEs (see further 7. below), other discussion papers)	1
C	UN Model Commentary	1
D	EU Codes of Conduct (EUJTPF)	1
E	Local domestic law, illustrating various national examples where they substantially differ from OECD guidelines	1
F	Selected leading cases e.g. National Semiconductor, Bausch & Lomb, Sundstrand, Xilinx (US), Glaxo (US), Ford, (Canada), DSG (UK), Roche (Australia), Aztech, Mentor Graphics, Ranbaxy (India)	1
<b>II The Arm’s Length Principle and Comparability</b>		
A	Interpretation of the arm’s length principle and current dialogue	1
B	Associated enterprises	2
C	The role of comparables; rationale and limits. Situations where no comparables or only imperfect comparables are found.	1
D	Transaction analysis	1
E	Recharacterisation issues. To what extent should contractual terms between associated enterprises be respected?	2
<b>III Functional Analysis</b>		
A	Goal of functional analysis	1
B	Analysis of functions, assets and risks	2
C	Relating functional analysis to selection of transfer pricing method	2
D	Entity characterisation (e.g. characterisation as “entrepreneur”, stripped risk manufacturer, commissionaire etc.)	1
<b>IV Transfer Pricing Methods</b>		
A	Description of methods	2
B	Choice of method (including by reference to FAR analysis, entity characterisation and availability of comparables); the party to be tested	2
<b>V Comparability Analyses in Practice</b>		
A	Typical process proposed by the OECD	2
B	Aggregation of a taxpayer’s transactions/use of non-transactional third party data	2
C	Information on the foreign associated enterprise;	1
D	Sources of information on comparable uncontrolled transactions: internal/external comparables; “secret comparables”	2
E	Comparability adjustments	2

F	Arm's length range	2
G	Timing issues in comparability	2
H	Compliance issues	2
<b>IV Specific Transactions</b>		
A	Intra-group services	
	1. Different types of intra-group services	1
	2. Transfer pricing methods. CUPs vs Cost Plus; when Cost Plus is not enough	2
	3. Direct/indirect charging; allocation keys	2
	4. EUJTPF guidelines on reviewing low value-added services	1
B	Financing	
	1. Loan pricing	2
	i. Creditworthiness; thin capitalisation	
	ii. Interest rates	
	iii. Discussion: is thin capitalisation a transfer pricing issue?	
	2. Guarantees – when they would be given, guarantee fees. The GE Canada case	2
	3. An example of treasury services: cash pooling	2
C	Intangible property	
	1. The life cycle of intangibles (development, exploitation, exit strategy)	1
	2. Different types of intangibles	1
	3. Two possible models to structure the development of intangibles: contract research and development versus cost contribution / cost sharing arrangements	1
	4. Two possible models for exploiting intangibles: principal structure versus licensing out	1
	5. Valuation of intangible assets	2
D	Business restructurings	
	1. The nature of business restructuring	1
	2. The OECD guidance on the transfer pricing aspects of business restructurings (Chapter IX of the TP Guidelines) including risk, compensation and characterisation	2
<b>VII Permanent Establishments</b>		
	1. Article 7 (old and new) of the Model Tax Convention ; the 2010 Report on the Attribution of Profits to PEs	2
	2. Model tax convention	1
	3. Recognition of dealings	1

<b>VIII Compliance issues</b>	
1. TP documentation	<b>1</b>
2. Penalties	<b>1</b>
3. TP risk management	<b>1</b>
<b>IX Avoiding Double Taxation/Dispute Resolution</b>	
1. Internal TP adjustments: corresponding adjustments, secondary adjustments	<b>2</b>
2. Mutual agreement procedure	<b>2</b>
3. Tax treaty arbitration, new Article 25(5)	<b>1</b>
4. EU Arbitration Convention	<b>1</b>
5. APAs (unilateral, bilateral, multilateral)	<b>1</b>

## Recommended reading list for Paper III F – Transfer Pricing

### Essential Reading – Primary Sources

*Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (OECD Publishing, 2010 Edition) [ISBN: 9789264090330]. Available from the OECD online bookshop: <http://www.oecdbookshop.org>

*Report on the Attribution of Profits to Permanent Establishments* (<http://www.oecd.org/dataoecd/23/41/45689524.pdf>)

*OECD Model Tax Convention and its Commentary: Article 9, Article 7, and “special relationship” in Articles 10-12*

### Other Relevant reading

*EU Joint TP Forum (EUJTPF) Revised Code of Conduct for the effective implementation of the “Arbitration Convention”* (see Official Journal C322 of 30/12/2009) and *Code of Conduct on transfer pricing documentation for associated enterprises in the EU (EUTPD)* (Official Journal C176 du 28/07/2006, p.1)

Local domestic law, illustrating various national examples where they substantially differ from OECD guidelines

Selected leading cases e.g. National Semiconductor, Braush & Lomb, Sunstrand, Xilinx (US), Glaxo (US), Ford (Canada), DSG (UK), Roche (Australia), Aztech, Mentor Graphics, Ranbaxy (India), GE Canada, Veritas Software Corporation, Maruti Suzuki India Ltd v. CIT

### Reference

OECD Transfer Pricing Internet page: [www.oecd.org/ctp/tp](http://www.oecd.org/ctp/tp)

EU JTPF [http://ec.europa.eu/taxation\\_customs/taxation/company\\_tax/transfer\\_pricing/forum/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/company_tax/transfer_pricing/forum/index_en.htm)

OECD Publications  
<http://www.oecd.org/publications>

# Courses of Study for Paper III F - Transfer Pricing

## **International Bureau of Fiscal Documentation (IBFD)**

The IBFD International Tax Academy (ITA) offers courses and workshops that will help prepare students for ADIT Paper III Option F – Transfer Pricing.

ITA courses are offered as open courses at various locations around the world, in-house courses or as comprehensive online courses. On submission of their CIOT membership or ADIT student number, students will benefit from a 20% discount (or a 30% discount if they register at least 60 days before the start of a course).

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