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Strategies to Manage Transfer Pricing Risks

Emmanuel Lah Kanee
Walden University

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Walden University

College of Management and Technology

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Emmanuel Lah Kanee

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Walden University
2019

Abstract

Strategies to Manage Transfer Pricing Risks

by

Emmanuel Lah Kanee

MBA, Webster University, 2003

BS, Rivers State University of Science & Technology, 1991

Doctoral Study Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Business Administration

Walden University

November 2019

Abstract

Transfer pricing compliance related issues continue to pose challenges to leaders of multinational entities (MNEs) and tax regulators. MNE leaders strive to mitigate the risks of non-compliance violations and double taxation, while tax regulators seek to minimize profit shifting and revenue losses. This multiple case study explored strategies for managing transfer pricing risks against the backdrop of various risks MNE leaders face for non-compliance violations. The cost contribution agreement theory served as the conceptual framework for this study. Data were collected from organizational documents and semistructured interviews conducted with 6 finance executives representing 2 multinational entities in the midwest and southwest regions of the United States who have implemented successful strategies to manage transfer pricing risks. Data were analyzed using Yin's multiple-step thematic analysis process. Following the thematic data analysis 5 themes emerged, including commitment to tax compliance, tax minimization, advance pricing agreement (APA), comparable uncontrolled price method (CUP), and cost plus method (CPM). MNE leaders favor commitment to tax compliance as an effective strategy as penalties for non-compliance increases risks to business functionality. The findings of this study may help business leaders to follow compliance procedures and adopt risk mitigation strategies, while also informing regulators to update tax regulations to reflect current economic realities. The findings of this study could result in positive social change through an enhanced governmental revenue that stimulates economic growth, improves productivity, and promotes technological innovations.

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Dedication

In honor of the memory of my mother, who loved me unconditionally and sacrificed so much for me and my siblings while we were growing up. To the faith of my father who taught me the value of believing in God, pursuing my dreams, and putting my faith into action. To my immediate family who stood with me while I was on this long academic journey. To my extended family and friends who encouraged and supported me morally and otherwise.

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Table of Contents

List of Tables.....	iv
List of Figures	v
Section 1: Foundation of the Study	1
Background of the Problem.....	1
Problem Statement.....	2
Purpose Statement	3
Nature of the Study	3
Research Question	5
Interview Questions	5
Conceptual Framework.....	5
Operational Definitions.....	7
Assumptions, Limitations, and Delimitations	9
Assumptions	9
Limitations.....	9
Delimitations	10
Significance of the Study	10
Contribution to Business Practice.....	10
Implications for Social Change	11
A Review of the Professional and Academic Literature.....	12
Transition	49
Section 2: The Project.....	51

Purpose Statement	51
Role of the Researcher	52
Participants	54
Research Method and Design	56
Research Method	56
Research Design	58
Population and Sampling	60
Ethical Research	62
Data Collection Instruments.....	63
Data Collection Technique.....	65
Data Organization Technique.....	69
Data Analysis	70
Reliability and Validity.....	74
Reliability	74
Validity.....	75
Transition and Summary	78
Section 3: Application to Professional Practice and Implications for Change	79
Introduction	79
Presentation of the Findings.....	83
Applications to Professional Practice	103
Implications for Social Change	105
Recommendations for Action.....	106

Recommendations for Further Research.....	107
Reflections.....	108
Conclusion.....	109
References.....	111
Appendix A: Interview Protocol.....	157
Appendix B: Interview Questions.....	158
Appendix C: Letter to Participants.....	159
Appendix D: Letter of Cooperation.....	160

List of Tables

Table 1. Literature Review Source Content.....	13
Table 2. Summary of Codes.....	82
Table 3. Rate of occurrence of Summarized Themes.....	83

List of Figures

Figure 1. Compliance levels and related risks85

Figure 2. CUP Method showing controlled and uncontrolled transactions98

Section 1: Foundation of the Study

The importance of transfer pricing in the operations of multinational entities is indisputable. Results from survey conducted by Ernst & Young indicated that 74% of parent companies and 81% of subsidiaries believe that transfer pricing is extremely important for their operations (Lin, Zheng, Tang, & Lu, 2016). While MNEs seek ways to avoid or minimize taxes, tax regulators are also strengthening regulations on transfer pricing to curb tax revenue losses (Jones, Temouri, & Cobham, 2017; Lin et al., 2016). Cobham and Jansky (2018) noted that tax avoidance by MNEs account for an estimated \$500 billion of revenue losses to governments annually. Tax avoidance strategies prompted tax jurisdictions around the world to intensify audit scrutiny of the MNEs (Jones et al., 2017). To respond to the menacing risk of transfer pricing on company operations, more tax managers in MNEs are seeking better strategies to avoid disputes with authorities and overcome compliance violations (Klassen, Lisowsky, & Mescall, 2017). Considering the challenging circumstances surrounding transfer pricing operations and MNEs, this doctoral study was focused on exploring the strategies managers in MNEs use to manage transfer pricing risks.

Background of the Problem

In an era of modern globalized economy, transfer pricing continues to pose challenges to business executives and financial managers (Perčević & Hladika, 2017). MNEs conducting businesses across international borders increasingly face the risk of double taxation. Some MNEs faced with this prospect resorted to using advance pricing arrangements to agree on transfer prices (Sansing, 2014). Tax regulators in various

jurisdictions focus on ensuring that MNEs adopt the arm's length principle in transfer pricing transactions and pay adequate taxes due (Cazacu, 2017). Both the MNEs and the tax authorities acknowledge transfer pricing problems as urgent and relevant in an ever-changing world economic environment (Melnychenko, Pugachevska, & Kasianok, 2017). In the face of these challenges, business managers lack effective strategies to manage the risks associated with transfer pricing activities. Cazacu (2017) recognized audit risks and risk of double or triple taxation as likely outcomes of implementing a wrong strategy.

Clempner and Poznyak (2017) noted that computing an optimal transfer price is an ongoing challenge that both scholars and practitioners are still grappling with. In this study, I explored strategies managers in MNEs use to manage transfer pricing risks. The findings of the study may bridge a gap in the extant literature on ways of managing risks associated with transfer pricing transactions. Understanding effective strategies may help MNE leaders to pursue suitable policies that reduce compliance risk and inform tax regulators to reform outdated regulations.

Problem Statement

Transfer pricing is the largest risk and toughest compliance challenge leaders of multinational entities and tax regulators face in cross-border transactions (Andrus & Oosterhuis, 2017; Jost, Pfaffermayr, & Winner, 2014). In the United States, 57% of the tax administrators and 48% of the largest corporate taxpayers identify transfer pricing as their primary tax compliance risk (Borkowski & Gaffney, 2014). The general business problem was that some leaders in multinational companies do not possess the strategies to minimize tax penalties associated with transfer pricing non-compliance violations. The

specific business problem was that some managers in multinational companies lack strategies to manage transfer pricing risks.

Purpose Statement

The purpose of this qualitative multiple case study was to explore the strategies managers in multinational companies use to manage transfer pricing risks. The target population consisted of 6 finance executives from two multinational companies in the midwest and southwest regions of the United States that have implemented successful strategies to manage transfer pricing risks. The implications for positive social change include the potential for multinational entities to reduce potential tax penalties. Increased savings could drive economic growth, promote innovations, enhance job creation, and boost productivity. Tax authorities could also benefit from the results of this study in the effort to bring back deferred earnings on foreign trades to the United States. Such deferred earnings, when brought back to the United States could enhance productivity, improve skill development of youths, fund public education, and promote investments.

Nature of the Study

Qualitative researchers use observations and interpretations to study a social or human problem (Khan, 2014). Similarly, the qualitative approach allows researchers to adopt strategies that enhance the credibility of a study findings (Noble & Smith, 2015). In this study, I employed the qualitative methodology to explore strategies managers use to manage transfer pricing risks. The qualitative approach is appropriate for this study because of the explorative and in-depth nature of the study. Gergen, Josselson, and Freeman (2015) noted that the qualitative inquiry fosters inclusion, inspires new ranges

of theory, and invites interdisciplinary collaboration. Researchers using the quantitative method seek to collect numerical data and use deductive reasoning to link theory and research (Barnham, 2015; Zou, Sunindijo, & Dainty, 2014). The quantitative approach was therefore not suitable for this study based on the probing nature of the study. The mixed method was also not suitable because researchers using a mixed method approach incorporate both qualitative and quantitative methods to explore and examine complex phenomena which I do not require to understand the subject phenomenon.

I determined that a case study design was suitable for this study because of the flexibility of data collection methods and the practice of in-depth analysis that provides richer detail about the case (Pearson, Albon, & Hubball, 2015). Other qualitative designs such as narrative, ethnographic, and phenomenological did not involve exploratory processes that capture the specifics of cases like the case study approach (Hyett, Kenny, & Dickson-Swift, 2014). A narrative study involves using stories and vignettes to provoke vicarious experiences (Bruce, Beuthin, Sheilds, Molzahn, & Schick-Makaroff, 2016; Hyett et al., 2014), which renders it unfitting for this study, because this study does not require vignettes. In contrast, researchers use the ethnographic design to study the cultures, languages, and ways of life of a people (Rashid, Caine, & Goetz, 2015), which also did not align with the purpose of my study. This study is not about cultures and ways of life of people. A phenomenological design involves a description of the lived experiences of people and the interpretation of such experiences (Matua & Van Der Wal, 2015). I did not choose the phenomenological design because I am not describing lived experiences and their interpretations. The case study design is suitable for exploring

current and complex real-life phenomenon and developing an extensive depiction and analysis of the case (Yin, 2017). Particularly, multiple case design involves replication and results in compelling evidences (Vallon & Grechenig, 2016; Yin, 2017). Thus, the multiple case study design was the most appropriate for addressing the research question for this study.

Research Question

The central research question for this study was: What strategies do managers in multinational companies use to manage transfer pricing risks?

Interview Questions

1. What strategies do you use to manage transfer pricing risks?
2. How did you implement the strategies?
3. What challenges do you face while implementing the strategies?
4. How do you overcome the challenges to implementing the strategies?
5. How do you measure the effectiveness of the strategies?
6. How often do you review your strategies?
7. What alternative strategies have you considered or tried, and why did you dismiss them?
8. What other information can you share about how you manage transfer pricing risks?

Conceptual Framework

The cost contribution agreement (CCA) concept served as the conceptual framework for this study. Theorists use the CCA model to characterize the foundation on

which transactions involving transfer pricing operate. Olson and Zeckhauser (1966) advocated for cost sharing among member countries in a military alliance such as NATO (North Atlantic Treaty Organization). Particularly, Olson and Zechhauser argued that a cost sharing arrangement on a percentage basis could provide members of an alliance the incentive to keep contributing to the alliance until that alliance accomplishes its purpose. Translated into business arrangement, the CCA is a pivotal element of contractual allocation of risk, enabling the business parties to demonstrate capacity to contribute to a controlled transaction and to benefit from it.

The Organization for Economic Cooperation and Development (OECD) adopted the CCA as part of its 1997 guideline for multinational entities and tax administrations. A CCA is a contractual arrangement among business enterprises to share contributions and risks of joint development, production or acquisition of assets or services with the understanding that such assets or services create benefits for all participants in the arrangement (OECD, 2015a, 2017a). The CCA model is a tax-planning tool some multinational companies utilize to shift profit from high-tax to low-tax jurisdictions. Although, the concept has not changed, recent base erosion and profit shifting (BEPS) rules changes could pose significant challenges to CCA participants (Doonan & Lopez de Haro, 2015). One of the new guidelines provides that parties to a CCA separately identify and document risks involved in a controlled transaction and steps taken to mitigate them (Doonan & Lopez de Haro, 2015).

The CCA framework is relevant to this study based on the elements of shared risk and shared benefit. OECD (2017a), noted that participants in a CCA exploit their interest

in the outcome and create the opportunities to achieve those outcomes. Multinational entities, through the CCA concept, understand the need to fully commit to the contractual agreements to qualify for the accruing benefits thereof. Cost sharing and cost contribution arrangements enhance the spreading of risks and reduce the potential for large losses from a business activity (HM Revenue and Customs, 2013). Jakada (2014) argued that strategic business alliances form a key source of competitive advantage, and position multinational corporations to cope with organizational and technological complexities in the global market.

Operational Definitions

Advance pricing agreement: A long-term agreement between a tax authority and a MNE that specifies the price of a related transaction (Afik & Lahav, 2015).

Arm's length principle: A requirement for multinational entities to set transfer prices at the same level for affiliate companies as it is for unrelated companies (Perčević & Hladika, 2017). Therefore, an arm's length price is the price of a transaction in the open market.

Base erosion and profit shifting: A strategy MNEs use to exploit gaps or inconsistencies in global tax systems by shifting profits to lower tax jurisdictions (Mohs, Goldberg, & Buitrago, 2017). MNEs accomplish this in one of two ways, either shifting income to lower tax jurisdictions or shifting expenses to higher tax jurisdictions.

Comparable unrelated price method (CUP): The price charged for an intra-firm transaction compared with the price charged in a transaction between independent parties

(Juranek, Schindler, & Schjelderup, 2018). The best way of confirming an arm's length price of a controlled transaction.

Controlled transaction: A transaction between interrelated entities in different countries connected to a single parent company (Melnychenko et al., 2017). Uncontrolled transactions are those between unrelated parties.

Cost contribution arrangement: A contractual arrangement among business enterprises to share the contributions and risks involved in the joint development, production or acquisition of intangibles, tangible assets or services with the understanding that such intangibles, tangible assets or services will create benefits for the individual businesses of each of the participants (OECD, 2017a).

Safe harbor: A provision that applies to a defined category of taxpayers or transactions relieving eligible taxpayers from certain obligations imposed by a country's general transfer pricing rules (OECD, 2015).

Tax haven: A nation or territory with low corporate and personal tax rates, enabling MNEs to shield their income from higher tax liabilities at their home countries (Bennedsen & Zeume, 2017).

Thin capitalization: A means of minimizing tax burden within a group of MNEs using excessive debt financing compared to equity capital (Proskura, 2016).

Transfer price: The price a transnational corporation chooses for the valuation of goods, services, skills, and intellectual property exchanged among different divisions or affiliates under its ownership or control (Mitra, Reza, & Islam, 2017).

Assumptions, Limitations, and Delimitations

Assumptions

Assumptions are statements accepted to be true without evidence to support them and are elements of a proposition relevant in finding solution to a problem (Dekel, Friedenber, & Siniscalchi, 2016). To progress in this study, I made some assumptions. First, I assumed that the U.S. corporate tax code is stagnated and in need of reform. Second, I assumed that leaders of multinational corporations transact international businesses in good conscience and would fulfil all legal obligations. My final assumption was that participants in the study responded to the interview questions truthfully to the best of their abilities.

Limitations

Limitations are potential weaknesses in a study outside of the researcher's control (Simon & Goes, 2018). The limitations of a study sometimes affect the outcome and conclusion of the study. The limited size of the participant pool is a limitation for this study. Another limitation of the study is the span of the location. The focused area of the study has limited number of suitable corporations in the established criteria of only multinational corporations that engage in transfer pricing transactions. The possibility of bias in the response to the interview questions is another limitation of the study. A sudden change in tax code could limit the results of the study. Subjective interpretations and incomplete responses by the participants could limit the validity of the results. Finally, the right of the participant to withdraw at any time could pose a limitation.

Delimitations

Delimitations are characteristics that researchers use to define the boundaries and limit the scope of a study (Simon & Goes, 2018). Among other things, delimitations may include theoretical perspective, purpose, and focus of study, all of which are under the researcher's control. The two delimitations criteria of this study are geographical location and focus of the study. The choice of the midwest and southwest regions of the United States without including the entire United States is a delimitation and secondly, the focus on strategies without examining cause-effect measurements.

Significance of the Study

Business leaders strive to minimize risk in business operations. For businesses with divisions across international borders, the risks are higher due to differences in tax policies in different jurisdictions. International managers who adopt an integrative approach in managing transfer pricing transactions can reduce audit risks and tax penalties. Perčević and Hladika (2017) argued that transfer pricing methods affect organizational profit, and called for proper documentation of methods and policy control of business processes, to prevent tax avoidance and double taxation. The findings of this study could be valuable to business success by alerting business leaders of the potential impact of bad transfer pricing policies, as well as the risk in compliance violations.

Contribution to Business Practice

Business leaders could benefit from the results of this study by implementing policy changes that complies with tax regulations. Realizing that functional tax strategies are an essential aspect of management control systems (Rossing, 2013), business leaders

could minimize tax penalties and mitigate audit risk by adopting effective and efficient policies. The results of the study may contribute to effective business practice by exposing the risks involved in transfer pricing and suggesting strategies for avoiding them. The findings of the study may result in leaders evaluating their transfer pricing policies and avoiding risky ones. The results of the study may provide solutions for multinational entities to mitigate double taxation, improve information sharing, and enhance transfer pricing documentation process.

Implications for Social Change

Sablonnière, Bourgeois, and Najih (2013) viewed social change as the transformation over time of the institutions and culture of a society. Societies where multinational entities operate could benefit from the results of this study because social change thrives through improving economies. The results of the study may contribute to positive social change by catalyzing for effective tax policies for both the MNEs and the government (U.S. Government and government of nations where multinational entities operate). Consequently, MNEs could pay appropriate taxes and the government can receive increasing tax revenues. Increasing governmental operating revenues can improve the social wellbeing of all citizens. The results of the study may result in the return of the deferred income earned abroad by U.S. controlled foreign corporations and injecting the earnings into the U.S. economy to create more jobs for young graduates, benefiting employees, families, and communities where the jobs are created.

A Review of the Professional and Academic Literature

A literature review is an essential element of academic research. A comprehensive literature review involves summarizing, analyzing, and synthesizing a group of related literature to understand the depth of existing work and identify gaps to explore (Xiao & Watson, 2017). The literature review section of a research work provides a conceptual background for new research, exposes the presence of a research problem, and justifies the proposed contribution of a new research (Paré, Trudel, Jaana, & Kitsiou, 2015). A literature review also enables researchers to broaden their understanding of a topic and critically appraise ideas and arguments (Rewhorn, 2018). My literature includes an in-depth analysis, discussion, exploration, and synthesis of information relating to my conceptual theory and transfer pricing strategies.

I searched for materials from various sources including, scholarly, peer-reviewed journals, books, conference papers, industry reports, and government reports. The search terms and key words included but not limited to the following: *transfer pricing, cost contribution, cost sharing, profit shifting, advance pricing, arm's length, thin capitalization, transaction cost, tax haven, safe harbor, and intangible property*. The Ulrichsweb Global Serials Directory served as the tool to verify that the articles were from peer-reviewed journals. I used the exploratory search method to ensure a persistent and enhanced literature search process. Exploratory searchers seek to answer complex questions through a multifaceted, open-ended, and cognitive literature search process (Athukorala, Głowacka, Jacucci, Oulasvirta, & Vreeken, 2016). The databases used in my literature search included Business Source Complete, ProQuest, EBSCO,

ABI/INFORM, Google Scholar, SAGE Premier, ScienceDirect, Emerald Management Journals, and Government websites.

The literature sources were both timely and scholarly. Panda and Gupta (2014) noted that the application of scholarly literature to pertinent business problems could benefit business leaders and practitioners, if implemented. The total number of references used in this study are 298. Out of 119 unique references used in the literature review, 92% are sources with publication date within 6 years of my expected completion date and 86% peer reviewed sources, while the remaining 8% are other publications with published date of more than 6 years. Table 1 below shows the summary of the literature content.

Table 1

Literature Review Source Content (6 years; 2014 – 2019)

Reference Type	Total	< 6 years	> 6 years	% Total < 6 years old
Peer-reviewed journals	97	94	3	97
Books	5	5	0	100
Organizations	7	2	5	29
Conferences	0	0	0	0
Government	10	9	1	90
Total	119	110	9	92

The empirical accounting literature on transfer pricing centered significantly on three areas of research, management control of transfer pricing issues, tax accounting and

income shifting issues, and transfer pricing fiscal compliance issues (Cools, 2014). Although Perčević and Hladika (2017) believed that transfer pricing issues are under-researched, other researchers view price setting and income shifting as the dominant areas in the current body of transfer pricing literature (Tran, Croson, & Seldon, 2016). Further review of the literature led to the identification of six components that influenced the decisions of MNE leaders in the way they manage transfer pricing activities. I reviewed the literature in the context of the six components, which are: (a) cost contribution agreement theory, (b) alternative theories in transfer pricing, (c) MNEs and tax avoidance, (d) transfer pricing documentation, (e) transfer pricing autonomy, and (f) trends in transfer pricing. The detailed discussion and analysis of these components follow.

Cost Contribution Agreement Theory

CCA theory emerged from a practice by members of a military alliance, such as NATO, in which members contributed to the cost of the alliance on percentage basis until the alliance accomplishes its purpose (Olson & Zeckhauser, 1966). The members of the alliance based their percentage contribution on the perceived national interest of the nations and presented a tendency for disproportionate contribution by the member states, such that nations with greater national interest contributed more toward the alliance and those with lesser national interest contributed less (Olson & Zeckhauser, 1966). The argument by proponents of the theory, who favor the model, pointed to the shared responsibility of the member states, indicating a stake in the cause. Nevin (2014) stated that shared risk brings shared rewards and risk sharing is a fundamental platform for

building organizational business-to-business trust. Alonazi (2017) agreed, noting that shared risk is a structured cooperation and collaboration among businesses particularly in the areas of emerging technologies.

A cost contribution agreement is a contractual arrangement among business enterprises to share the contributions and risks involved in the joint development, production or the obtaining of intangibles, tangible assets or services with the understanding that such intangibles, tangible assets or services would create benefits for the individual businesses of the participants (OECD, 2017a). A CCA enables businesses to contribute to joint research and development costs and thereby enjoy the right to sell the products developed through the research (Lin et al., 2016). With shared risks, the alliance grows stronger and actualizes its goals as a united force. Shared risk in a CCA also provides a cushioning effect in the face of market volatility (Kollmann, 2016). Strategic business alliance remains an important source of growth and competitive advantage for multinationals, especially in a growing global market (Russo & Cesarani, 2017). Cooperative agreements enable businesses to enter new markets, strengthen their competitive position, access critical resources and capabilities as well as respond to the challenges of market globalization (Russo & Cesarani, 2017).

In CCAs, the partners to the agreement enjoy the benefits of pooling resources together based on proportional contributions in lieu of expected returns (OECD, 2017a). It is a fair business arrangement because partners who contribute more benefit more and the opposite is the case for those that contribute less. OECD (2017a) recommended the arm's length standard as the basis for all cost contribution arrangements and called on

MNEs to report profits at their locations and not shift them to another. Olson and Zeckhauser (1966) indicated that any disagreement among members of an alliance, if it occurs, could affect the effectiveness of an alliance. That, however, is an infinitesimal exception and does not underscore the benefits of having an alliance. If competition overshadows cooperation among partners, a strategic alliance fails (Russo & Cesarani, 2017).

In the 21st century global markets, the number of business alliances continue to grow, but the success rate remains very low (Russo & Cesarani, 2017). One reason attributable for the low success rate in business alliances is the risk of a partner's opportunistic behavior that can undermine the spirit of collaboration (Varma, Awasthy, Narain, & Nayyar, 2015). Other reasons may include managerial complexity and lack of cultural, strategic and structural fit among partners (Russo & Cesarani, 2017). Agreeing with the strategic and structural fit challenge, Stejskal, Meričková, and Prokop (2016) noted that finding a suitable business partner is a complicated process. A scholarly debate among opponents of the CCA centers around MNEs using their rights in R & D (research and development) of intellectual properties to transfer intangible assets abroad to lower tax jurisdictions and thus avoid paying higher taxes in the countries of headquarter operations (Juranek et al., 2018; Lin et al., 2016). Another potential drawback to a CCA is that partners allocate contributions based on projections and also allocate future benefits based on projections. Such projections may raise problems for the MNEs and for tax administrations of the countries they do business, especially when actual outcomes differ significantly from earlier projections (OECD, 2017a).

Researchers sometimes refer to cost contribution arrangement as cost sharing arrangement (CSA). In business application, the cost sharing arrangement enables a business organization to acquire the right to an intangible property through a *buy in* [emphasis added] payment equal to the value of the existing intangible and agree to share the cost of future development on the basis of the anticipated future benefit from the use of the technology (OECD, 2015a). The acquired right to the intangible property extends to different jurisdictions. CSA allows related parties to share costs and risks of developing intangibles in proportion to their expected benefits and does not apply to rules governing unrelated parties (De Simone & Sansing, 2018). The shared risk in incremental cost-sharing arrangements enhances business cooperation and project funding (Nouhoheflin et al., 2017). With CSA businesses understand their commitment to quality products and the impact of quality on expected profit (Obied-Allah, 2016).

MNEs use cost sharing arrangement to their advantage to shift income attributable to valuable intellectual property to low-tax jurisdictions (De Simone & Sansing, 2018). Based on the possibility of MNEs shifting income and avoiding taxes, the Organization for Economic Cooperation and Developments (OECD) adopted a strict position on the base erosion and profit shifting (BEPS) project to address the tax challenges of the digital economy, calling it Action 1 – 2015 Final Report (OECD, 2015a). The OECD position on cost sharing and profit shifting ended the debate on profit recognition by advocating for-profit reporting based on jurisdictions identifiable with the economic activity and value creation (OECD, 2015a).

Cottani (2015) offered a different view on cost sharing arrangement, by arguing that tax administration of one country may have difficulty harmonizing their approach with other tax administrations of other countries and might prefer a unilateral measure to address base erosion. Cottani (2015) saw a practical challenge in the uncertainties surrounding the new OECD rules, even if countries may accept it on face value. Countries handle national interest and investment risks differently, Cottani argued. Contrasting the isolation view and the cooperation view with trends in the business world, most economies lean toward cooperation, as firms unite to reach objectives of a common interest while remaining independent (Jakada, 2014). Cooperation and collaboration among businesses in a CSA enhance accountability and create incentives for process improvements in supply chain management (Kim, Park, Jung, & Park, 2018; Obied-Allah, 2016). Businesses enhance their research and development (R&D) processes, innovation potentials, and competitive advantage through cooperation (Stejskal et al., 2016). Strategic business alliances form a key source of competitive advantage, Jakada (2014) agreed, noting that business alliances enable firms to cope with organizational and technological complexities in the global market. Mihardjo and Furinto (2018) disagreed, noting that innovation management has greater influence than business alliance.

Cost sharing arrangements, the IRS, and the EU. The Internal Revenue Service (IRS) code, Section 1.482-7 deals with cost-sharing arrangements with focus on businesses under common control. The code described parties under common control as those owned or controlled directly or indirectly by the same interests whether

incorporated or organized in the United States or not. By IRS definition, only recognized businesses under common control can participate in cost sharing arrangement. The code identified a change in participation as occurring when a transfer of interests or a capability variation occurs. Transfer of interest occurs when a cost sharing participant transfers all or part of its interests in the CSA, and the transferee assumes the associated obligations under the CSA (IRS, 2015a). After a transfer of interest occurs, the CSA continues to exist if at least two controlled participants have interests in the cost shared intangibles.

Similarly, a capability variation occurs when divisions of an organization divide the interest in cost-shared intangibles and alter the capacity to benefit from the intangibles (IRS, 2015a). Following a controlled transfer of interest, the transferee assumes the transferor's prior history under the CSA concerning the transferor's interests, including cost contributions, benefits, and other transactions attributable to such rights or obligations, with all changes stated in arm's length consideration (IRS, 2015a). The IRS allows a U.S. taxpayer or corporation to participate in a CSA with a controlled foreign corporation (CFC), provided the CFC makes platform contributions at arm's length to the U.S. corporation (IRS, 2016b). The IRS recommends a best method rule, that is, any method that produces the most reliable measure of an arm's length result in a given circumstance, in any qualified CSA (Cooper, Fox, Loeprick, & Mohindra, 2017).

In the European Union's (EU's) perspective, platform contribution transaction (PCT) must satisfy the definition of CSA and align with the administrative requirements specified in the IRS code Section 1.482-7 (European Union, 2016a). A platform

contribution transaction is any resource, capability, or right that a controlled participant has developed, maintained, or acquired externally, reasonably anticipated to contribute to the development cost of an intangible (IRS, 2014a). Both the European Commission and the U.S. Department of Treasury agree on the CSA rules. The recommended methods of valuing PCT include the comparable uncontrolled transaction method, the income method, the acquisition price method, the market capitalization method, and the residual profit split method (European Union, 2016a). As specified under EU and IRS regulations, MNEs could use an unspecified method by properly documenting the process and using it in collaboration with the arm's length standard (European Union, 2016a). The potential for increased use of CSA is high both in the U.S. and the EU, but in the EU there is a heightened call by EU member countries for increased use of CSA especially in the sustainability of the health sector (Tambor, Pavlova, Golinowska, & Groot, 2015). Tambor et al. (2015) called for a broader use of value-based CSA to improve quality and efficiency in healthcare systems in European countries. Van der Wees, Wammes, Westert, and Jeurissen (2016) agreed, calling on policy makers to use measures such as, considerations for services covered, price control mechanisms, and evidence-based practice within an integrative approach to enhance CSA.

MNEs adopt CCA and CSA for risk sharing and for other benefits. While costs and risk sharing are the key benefits, other benefits may include but not limited to R&D, leveraging combined expertise within an MNE, increased efficiency through economies of scale, and tax savings (Cooper et al., 2017). Tax savings by MNEs sometimes translate into tax avoidance. Revenue losses to various governments from tax avoidance amount to

several billions of dollars every year, raising the question and the need for tax rate reductions and a possible resultant inbound income shifting (Dharmapala, 2014). Inbound income shifting brings in revenue rather than taking it out. If MNEs have tax incentives to engage in inbound income shifting, they would do so (Dyreng & Markle, 2016). For those involved in outbound income shifting Dyreng and Markle (2016) argued that taxes due on dividends from shifted income reduces the benefits of income shifting and nullifies the intended outcome for the US multinationals trying to shift the income in the first place. In all considerations, MNEs continue to use CCA and CSA as tax planning tools by transferring intangible assets to subsidiaries in low tax jurisdictions abroad (Lin et al., 2016).

Arm's length standard. The arm's length standard is the central principle in transfer pricing and international taxation (Ylönen & Teivainen, 2018). Agreeing to this position, Lankhorst and Van Dam (2017) called the arm's length standard the cornerstone of transfer pricing rules. Applying the arm's length principle places MNEs, both associated and independent, on equal footing for tax purposes (Ylönen & Teivainen, 2018). The arm's length principle first appeared in the League of Nations' Model Tax Conventions in the 1930s. In 1963, the OECD added the arm's length principle to Article 9 of the OECD Model Tax Convention and later in 1980 the United Nations adopted the arm's length principle into Article 9 of the United Nations Model Double Taxation Convention between developed and developing countries (OECD, 2014a). In today's international tax systems, the arm's length principle has universal application, forming

the basis of an extensive network of bilateral income tax treaties between OECD member countries and non-OECD economies (Lankhorst & Van Dam, (2017).

Article 9 of the OECD Model Tax Convention defines the arm's length price as the transfer price between two associated enterprises being the same price for similar goods in similar circumstances by unrelated parties dealing at arm's length with each other (OECD, 2014a; Ylönen & Teivainen, 2018). The regulators and tax authorities believe the arm's length standard represents fairness to all business parties and removes the tendency of MNEs moving profits to lower tax jurisdictions. Lalic and Dragicevic (2014) agreed with the position and stated that the arm's length standard provides equal tax treatment to members of the group of multinational companies and unrelated persons and reflects the economic realities of the facts and circumstances of the taxpayer. To the OECD, the arm's length principle is an international standard that calls for the operation of market forces in all cross-border transactions for both related and unrelated party transactions (Clempner & Poznyak, 2017; OECD, 2017a)

The Internal Revenue Service adopted the arm's length standard as part of its regulatory codes under Section 1.482-1(c) in what it described as *best method rule* [emphasis added] (IRS, 2014a). The IRS under the best method rule requires the application of transfer pricing method to reflect the most reliable measure of an arm's length price based on a particular set of facts. The IRS recognized the arm's length standard to mean controlled parties pricing transactions in the same way as uncontrolled parties under similar circumstances. Accordingly, a foreign parent company should charge a U.S. subsidiary the same price it would charge an unrelated party for the same

product, under the same circumstance (IRS, 2014a). By IRS regulations, this applies to both tangible and intangible products and requires factual and functional analysis of the actual transaction or transactions among the controlled parties.

In establishing the factual development of each TP transaction, the IRS called for proper methodology and proper documentation of every aspect of the transaction (IRS, 2015a). The IRS recognized the arm's length standard as established by the OECD, but cautioned that bilateral agreements are not always possible, and a unilateral agreement, while providing comfort for filings with the IRS, will not provide comfort to the taxpayer in other tax jurisdictions, and will not protect the taxpayer from exposure to double taxation (Ulmer, Ethridge, & Marsh, 2013). The IRS encouraged the use of advance pricing agreement and acknowledged the risk element even when the offshore country is a U.S. treaty partner.

Garcia (2016) stated that the use of arm's length method does not prevent MNEs from shifting profits abroad. The arm's length standard does not facilitate the easy break down of related party transaction and does not also enhance the accurate valuation of intangibles (Garcia, 2016). Garcia argued that the arm's length standard ignores efficiency and economics of scale and proves unworkable as a solution to BEPS. Business managers expect solutions to intangible property valuation and BEPS problems from outside the arm's length standard (Garcia, 2016). The use of arm's length and strict adherence to stipulated tax codes does not eliminate the shifting of profit. This position supports the risk element factor acknowledged by tax regulators. Garcia indicated that the responsibility for proper tax compliance rests with the organizations and the choices they

make, and that arm's length standard is not a panacea for tax compliance failures. Also taking issues with the arm's length standard, Solilova and Nerudova (2017) view the application of the arm's length principle as a resource-intensive process that may impose a heavy administrative burden on taxpayers and tax administrations.

Arguing in favor of keeping the arm's length principle, Benshalom (2013) agreed to implementing the arm's length standard more rigidly. Benshalom (2013) called on tax authorities to apply the standard more accurately and consistently, making it difficult to manipulate. He identified areas the arm's length standard was not feasible to apply, such as equity investments and dividends of subsidiary companies. In such areas, Benshalom proposed maintaining the arm's length standard and re-characterizing the intra-group equity investments as long-term subordinated debts to reduce manipulations leading to income-shifting. While emphasizing the fact that arm's length standard will continue as the preferred standard by tax authorities, Benshalom (2013) called for reforms in the taxation of foreign income. Also supporting a reform of the standard, Mitra et al. (2017) called for a uniform method of calculating the arm's length price to avoid miscalculations but affirmed the standard as the only internationally accepted standard that mitigates profit shifting activities. Gormsen (2017) also viewed the arm's length principle as an internationally agreed standard but contended that it is not a rule of international law.

The OECD in 2010 proposed an alternative to the arm's length principle in what it called the global formulary apportionment. The global formulary apportionment as proposed by the OECD (2010) called for allocating the global profits of an MNE group on a consolidated basis among the associated enterprises in different countries by means

of a predetermined and mechanistic formula. Included in the formula are combinations of costs, assets, payroll, and sales (OECD, 2010). The OECD proposed three components to applying global formulary apportionment: (a) determining the unit to tax, that is, which of the subsidiaries and branches of an MNE group comprised the global taxable entity; (b) accurately determining the global profits; and (c) establishing the formula to use in allocating the global profits of the unit. The global formulary apportionment as an alternative to the arm's length standard would serve as a means of determining the proper level of profits across national taxing jurisdictions, using a predetermined formula for all tax payers to allocate profit (OECD, 2010).

Advocates of the alternative argued that it would provide greater administrative convenience and certainty for taxpayers and also reflect business and economic reality. Some proponents call it a compelling alternative for international tax reform (Clausing, 2016). The advocates also argued that the global formulary apportionment reduces compliance costs for taxpayers since companies would prepare only one set of accounts for domestic tax purposes. The opponents of the proposition disagreed, citing accounting concerns about the measurement of the formula and legal concerns about the definition of a consolidated business, as well as the impact on international tax treaties (Clausing, 2016). Others express concern about the difficulty of implementation and the possibility of generating tax distortions.

Opponents also argued that the implementation would require substantial international coordination and consensus on the predetermined formula, stating that each country would want to include different factors in the formula based on the activities and

factors that predominate in that jurisdiction (OECD, 2010). Eden (2015) agreed with the proposition to replace the arm's length standard with the global formulary apportionment but contended that the difficulty of implementing a new system will work to the advantage of the arm's length standard remaining viable for the foreseeable future. Eden alluded to an unfair and rampant abuse of the current system by MNEs leading to anomalous development. Eden called for improvement and changes within the current arm's length standard to make it workable in the 21st-century business world.

Alternative Theories in Transfer Pricing

Other rival theories to cost contribution agreement exist such as the cost-plus method, the profit split method, the comparable uncontrolled price, the comparable uncontrolled transaction, and the comparable profits method. While these alternative theories matter in their own context of tax competitions, it is not an exhaustive list of relevant models (Melnychenko et al., 2017). Two other rival theories, the advance pricing agreement and the transaction cost theories are the focus of the current discussion.

Advance pricing agreements (APA). Advance pricing agreement is a long-term agreement between a tax authority and a MNE that specifies the price of a related transaction (Afik & Lahav, 2015). The MNEs agree to use the specified price for a fixed time for all related transactions and the tax authority accepts it as the arm's length price. Afik and Lahav (2015) stated that the agreed price account for the risks associated with the transactions over the specified period of time. Recognizing that improper transfer pricing can harm a multinational entity, based on the complexities of profit adjustments and especially in a globalized business world, Afik and Lahav argued that an accurate

pricing of an intercompany transaction was essential for tax purposes and eliminates legal procedures over tax disputes. This process of eliminating risk through advance negotiations benefit both the MNEs and the tax authorities and is preferable to arguing about transfer price ex-ante (Afik & Lahav, 2015). Advance pricing agreement reduces the potential for double taxation, offers tax administrations and tax payers certainty on transfer pricing for a predetermined period, and provides an open environment for understanding among the parties (European Union, 2017; OECD, 2015c)

Chen (2017) arguing to the contrary, identified some difficulties in the aspect of enforcing APAs. Becker, Davies, and Jakobs (2017) agreed, noting a lengthy, costly, and complex application process as some of the difficulties in implementing advance pricing agreement. Those complicated processes lead to a hold-up problem preventing the parties from committing to the agreements (Becker et al., 2017). APAs may also lead to an increase in profit shifting to low tax jurisdictions and poses a higher audit risk for MNEs (Becker et al., 2017). Only large MNEs can undertake an APA with tax authorities because of the expensive cost and because it is more suitable for complex international supply chains (Afik & Lahav, 2015). Becker et al. concluded that multilateral APAs are more efficient to implement than unilateral APAs.

The internal revenue service (IRS) report on advance pricing agreements between the U.S. and other countries indicated that Japan and Canada accounted for more than 75% of APAs executed in 2015 (IRS, 2016a). Similarly, the report on APAs by industry showed that manufacturing accounted for 40% followed by wholesale/retail with 35% of APAs finalized in 2015 (IRS, 2016a). The IRS advance pricing and mutual agreement

program achieved a milestone in 2015 with the execution of the first bilateral APA between the U.S. and Italy (IRS, 2016b). The final IRS procedures on advance pricing agreement released in 2015 include but not limited to roll back conditions, user fees, consent agreements, interrelated matters, procedural consistency, and preference for bilateral or multilateral agreements over unilateral agreements (IRS, 2015b). The EU guideline on APA also favors bilateral and multilateral agreements but allows unilateral agreements, provided such unilateral agreement is consistent with the arm's length principle in the same way as bilateral or multilateral APAs (European Parliament, 2015).

Transaction cost theory. Transaction cost economics is a framework for analyzing boundary and organizational design choices among entities in a supply chain (Cecchini, Leitch, & Strobel, 2013). The economics of transaction cost centered on two things; the transaction risk and the associated performance risk (Cecchini et al., 2013). Transaction costs include the coordination costs of exchanging information and incorporating that information into the decision process, such as searching for partners, negotiating and writing contracts, monitoring and enforcing contract compliance, and dispute resolution (Cecchini et al., 2013). The second component dealing with performance risk is the opportunistic behavior of certain entities in an exchange relationship that may be guided by self-interest considerations to take advantage of other entities in a value chain. This includes behaviors such as cheating, lying, subtle forms of violating agreements and using leverage to take advantage of trading partners (Cecchini et al., 2013).

Understanding that some MNEs in an exchange relationship could take advantage of their trading partners, Caballero and Soto-Onate (2016) viewed transaction cost from the angle of internalization and institutional environment. Internalization is the process by which MNEs leverage domestic and foreign-originated means to access intangible resources and develop firm-specific advantages (Boehe, 2016). Berghuis and Butter (2017) sees a connection between transaction cost and intangibles, but views transaction cost as a barrier to internationalization processes. Transaction cost theory pushes the internalization logic further by specifying the conditions for market failures, including asset specificity, uncertainty, personnel development, transaction management, and the practice of manufacturing (Berghuis & Bytter, 2017). Transaction costs made up of performance risk and opportunistic risk, affect transfer pricing policies (Cecchini et al., 2013). Similarly, the location of resources, coordination of resources, and motivation also affect transfer pricing policies.

Taking the discussion further into the early economic era, transaction cost described by neo-classical economist Ronald Case in 1937 consists of the cost of production and the cost of transportation, which translated into modern economic consideration, form the central theme to understanding the sharing economy (Hansen Henten & Windekilde, 2016). Further expansion on Case's assumption by other theorists included in the definition of transaction cost the concepts of bounded rationality, uncertainty, opportunism, asset specificity, and transaction frequency (Hansen Henten & Windekilde, 2016). All these factors combined with environmental factors such as market operations, taxes, and regulations affect transfer pricing policies. MNEs seek ways to

economize on cost by minimizing production and transaction costs (Mooi, 2015). Thus, minimizing transaction cost is vital for a business survival and more importantly for businesses operating across international borders.

Transfer Pricing Documentation

Transfer pricing documentation rules specified in IRS Treas. Reg. §1.6662-6(d)(2)(iii) consist of 10 requirements in what the IRS called contemporaneous documentation. The documentation requirements are: (a) overview of the taxpayer's business, including an analysis of the economic and legal factors that affect the pricing of its property or services; (b) description of the taxpayer's organizational structure (including an organization chart) covering all related parties engaged in transactions potentially relevant under section 482; (c) documentation explicitly required by the regulations under section 482, including any inter-company contracts, documentation (if applicable) of a bona fide cost sharing arrangement, a market share strategy, correlative adjustments resulting from proposed setoffs; (d) description of the transfer pricing method selected and an explanation of why that method was selected; (e) description of the alternative methods that were considered and an explanation of why they were not selected; (f) description of the controlled transactions (including the terms of sale) and any internal data used to analyze those transactions; (g) description of the comparable used, how comparability was evaluated, and what (if any) adjustments were made; (h) explanation of the economic analysis and projections relied upon in developing the method; (i) description or summary of any relevant data that the taxpayer obtains after the end of the tax year and before filing a tax return which would help determine if a

taxpayer selected and applied a specified method in a reasonable manner; and (j) a general index of the principal and background documents and a description of the recordkeeping system used for cataloging and accessing those documents (IRS, 2002).

Total transparency is demanded of MNEs in the implementation of documentation rules (OECD 2015d).

For intra-group services, the IRS require documentation to include intercompany agreement, group ownership/organizational structure, and a detailed description of functions and expenses incurred in providing services (IRS, 2002). Minh and Bich (2015) contended that tax authorities should consider the balance between demand to documentation and cost to produce those documents, to avoid imposing extensive costs on taxpayers to collect documentation overseas. OECD (2015d) agreed, noting that tax authorities should wave a request for documentation when the cost of locating such information by an MNE is disproportionately high relative to the amount at issue. Timing of the documentation process is another key factor in the documentation process. The timing rules depends on the regional tax administrations (OECD, 2015d). Some authorities require documentation at the due date of filing the fiscal year's taxes, while others require documentation when an audit commences (OECD, 2015d). The best practice for documentation requires MNEs to finalize documentation filing not later than the due date of the fiscal year's tax filing, with the possibility of one-year extension under special circumstance and all documentation maintained for minimum of 10 years (Minh & Bich, 2015; OECD, 2015d).

Policy makers in many countries concerned about corporate tax losses had implemented transfer pricing documentation rules to increase transparency in price setting behavior and reduce the scope of transfer price distortions (Minh & Bich, 2015). Those documentation rules, Franklin and Myers (2016) noted, agree with the OECD transfer pricing guidelines and the stipulated calculation methods. The calculation methods approved by the OECD guidelines include: the CUP (comparable uncontrolled price) method, the resale price method, the cost-plus method, the profit split method, and the comparable profits method, for tangible goods; the CUT (comparable uncontrolled transaction) method, the profit split method, and the comparable profits method, for intangibles; and the service cost method, the comparable uncontrolled service price method, the gross services margin method, the cost of services plus method, the comparable profits method, and the profit split method, for service transactions (Fedan, 2014; Franklin & Myers, 2016).

Another recommended TP documentation process involves MNEs preparing regional files based on geographical regions, indicating the industry and economic conditions of the region (Abdallah, 2016). Such regional documentations, Abdallah noted, would help MNEs reduce compliance cost and enhance faster response to requests from regional tax authorities. Minh and Bich (2015) agreed noting that timely compliance by MNEs reduces the need for tax audits and penalties and benefits both the MNEs and the tax authorities. Consequently, MNEs need a well-designed and workable TP documentation process to assure compliance with tax rules and to avoid regulatory penalties (Abdallah, 2016).

Transfer Pricing Autonomy

Transfer pricing autonomy represents the extent to which divisional managers, rather than the top management of the firm, determine the final transfer prices for internal transactions between divisions (Chen, Chen, Pan, & Wang, 2015). The concept of autonomy in transfer pricing remains a challenge for senior level management with regard to domestic and cross-border transactions. Through globalization, MNEs create opportunities to own divisions in different parts of the world as a means of increasing profitability (Sekhar, 2016). Those opportunities further enhance the function of transfer pricing to target good coordination among divisions, managers' awareness of valued goods and services, as well as a proper allocation of the resources of the organization (Fernandes, Pinho, & Gouveia, 2015). Chen et al. (2015) stated that factors that reflect information asymmetry between the top management of the firm and the divisional managers influence transfer pricing autonomy. Such factors include intermediate product standardization, foreign investment, and tax rate difference between divisions. Senior management in organizations also considered factors that reflect goal congruence, such as the weight on firm-level performance measures in divisional managers' performance evaluation as other factors that influence transfer pricing autonomy.

Chen et al. (2015) suggested that senior management should determine the right amount of autonomy for divisional managers in transfer pricing decisions according to the companies' environmental and organizational factors because a fit between such factors and the extent of divisional autonomy have an impact on perceived transaction fairness and transfer pricing effectiveness. Granting too much or too little autonomy to

divisional managers reduces transfer pricing effectiveness (Chen et al., 2015). Dutra, Bossato, and Oliveira (2017) agreed that autonomy does not mean absolute independence but a process that allows for rational decision making and recognition of limits and possibilities within a unit. Decentralizing decision making could impact the organization either positively or negatively, depending on the goal of the organization and how well the central and regional management coordinate the decisions (Liu, Zhang, & Tang, 2015).

Chen et al. (2015) concluded in favor of decentralization and postulated that properly designed performance measurement and evaluation systems for divisional managers can facilitate more autonomous transfer pricing practices. Similarly, an appropriate level of delegation increases divisional managers' perception of procedural and distributive fairness, which in turn, increases their job satisfaction, organizational commitment, and performance (Chen et al., 2015). Understanding that MNEs use transfer pricing to determine divisional profit and shift income, it is important for senior management to properly assess the level of autonomy and delegation to grant to divisional managers (Shunko, Debo, & Gavirneni, 2014). Hence the choice for management, both central and regional, remains the overall interest of the organization, to improve efficiency and to maximize profit (Liu et al., 2015).

Meins Pedersen and Spon Kofod-Jensen (2017) also support strong collaboration among central and regional management to reduce or eliminate the risk of losing connectivity between headquarters and subsidiaries. Meins Pedersen and Spon Kofod-Jensen identified a positive correlation between strategic and operational autonomy. The

subsidiaries using more decision-making autonomy on operational matters within the local market, while the headquarters handle more strategic decisions. Conversely, since MNEs are networks of interrelated affiliates, the decision-making autonomy of subsidiaries is of strategic importance to the overall performance and success of the MNEs (De Jong, Van Dut, Jindra, & Marek, 2015). Recognizing that the affiliates contribute immensely to the competitive advantages of the MNEs, intra-firm collaboration is important while country context distance is of no effect to the distribution of decision-making autonomy (De Jong et al., 2015).

Multinational Entities and Tax Avoidance

Tax avoidance by MNEs accounts for an estimated \$500 billion of revenue losses annually to governments around the world (Cobham & Jansky, 2018). Most of the losses occur in low and middle-income countries, Cobham and Jansky noted. MNEs also engage in export practices that deviate from the arm's length standard for purposes of tax avoidance and pricing-to-market (Davies, Martin, Parenti, & Toubal, 2018). Because of increasing tax avoidance activities by MNEs, tax jurisdictions around the world have intensified their audit scrutiny of the MNEs to curb losses from profit shifting (Ayvaz, 2017; Jones et al., 2017). In the United Kingdom (UK), public pressure from activist groups on MNEs brought change to the costs and benefits of tax avoidance and subsidiary disclosure rules (Dyrenge, Hoopes, & Wilde, 2016). To that effect, policy makers expanded the disclosure requirements for MNEs, resulting in a record rate of increase in compliance (Dyrenge et al., 2016). Further research on tax avoidance led to the

identification of five key areas in which MNEs avoid taxes, and they are BEPS, tax haven, safe harbors, intangible property, and thin capitalization.

Base erosion and profit shifting (BEPS). The Organization for Economic Cooperation and Development addressed the issues relating to base erosion and profit shifting, in recognition of the magnitude of the problem it posed (Mohs et al., 2017). The OECD identified four coordinated strategies for international tax planning as follows: minimization of taxation in a foreign operating or source country, low or no withholding at source, low or no taxation at the level of the recipient, and no current taxation of the low-taxed profits (OECD, 2013a). Multinational entities indulge in tax avoidance strategies to shift profits from high tax jurisdictions to low tax jurisdictions (Burgers & Mosquera, 2017; Ohnuma & Sakurada, 2017). Van Apeldoorn (2018) called the BEPS problem an impediment to the fiscal sovereignty of states, noting that public consciousness has heightened on the subject. Nations of the world recognize base erosion as a serious risk to tax revenue, tax sovereignty, and tax fairness (Harmse & Van der Zwan, 2016; OECD, 2013a). To address this problem, the OECD put forward the BEPS Action Plan to reduce existing leeway for multinational enterprises to shift profits through exploiting transfer pricing rules (Rossing, Cools, & Rohde, 2017). Schon (2015) noted that the action plans addressed three areas of concern for the authorities: intangibles (Action Plan 8), risk and capital (Action Plan 9), and other high-risk transactions (Action Plan 10).

OECD (2013a) referenced two studies carried out by independent bodies to demonstrate the existence of BEPS behavior among MNEs and to affirm the danger

posed by BEPS to the business world. Researchers, in the first study analyzed a linked sample of 754 large non-financial U.S.-based MNEs obtained from the Treasury Department's database. Findings revealed that the share of aggregate pretax worldwide income earned abroad increased from 37.1% in 1996 to 51.1% in 2004. Of this increase, the share of income not repatriated from abroad accounted for more than 45%, increasing to more than 60% in 8 years. The changes in the location of sales and the pricing of intellectual property resulted in the biggest impact on profit shifting activities. Companies with lower foreign effective tax rates have both higher foreign profit margins and lower domestic profit margins. Burger and Mosquera (2017) argued that distortions induced by income shifting affect fair competition among MNEs and undermines the integrity of tax systems.

Researchers, in the second study by OECD used data on U. S. parent corporations and their manufacturing subsidiaries to analyze the links between intangible income, intercompany transactions, income shifting, and the choice of location. Findings indicated that income derived from R&D based intangibles account for about half of the income shifted from high-tax to low-tax countries and that R&D intensive subsidiaries engage in a greater volume of intercompany transactions, thus having more opportunities for income shifting (OECD, 2013a). Findings of the study also showed that subsidiaries in locations with either very high or very low statutory tax rates, with a strong incentive to shift income, also undertake a larger volume of intercompany transactions. The evidence of income shifting from the United States magnifies the impact of U.S.- foreign tax differentials.

The findings of the two studies attest to the immensity of the problem posed by BEPS and the need for urgent action by both tax authorities and MNEs to deal with the problem. Van Apeldoorn (2018) called for a thoughtful consideration of the magnitude of BEPS problems and the costs and benefits of implementing a reform. While agreeing to a level of policy reform to improve the efficiency and effectiveness of international tax enforcement, Van Apeldoorn (2018) cautioned against radical reforms that could undermine fiscal self-determination and reduce government tax collections. BEPS remains an issue of concern in international taxation until MNEs and tax authorities implement the rules set by the OECD (Melnychenko et al., 2017).

Tax haven concept. Tax haven as a concept represents the practice of imposing only minimal taxes or no taxes and preventing the effective exchange of information between tax authorities (Bennedsen & Zeume, 2017; Kemme, Parikh, & Steigner, 2017). It relates to a jurisdiction that promotes tax avoidance via transfer pricing by permitting the reallocation of taxable income to low-tax jurisdictions, and by reducing the amount of domestic taxes paid on foreign income (Bennedsen & Zeume, 2017). Tax havens facilitate transfer pricing aggressiveness by acting as a conduit for the flow of goods and services between countries with established operations and parent firms domiciled in higher taxed countries (Kemme et al., 2017). Tax havens lack transparency on financial and tax arrangements and on access to financial records. Bennedsen and Zeume (2017) stated that tax havens allow MNEs to conceal assets and income that may be subject to taxes.

In the 111th Congress, the U.S. Congress advanced numerous legislative proposals to address both individual tax evasion and corporate tax avoidance. The HIRE Act (P.L. 111-147) passed by the Congress included several anti-evasion provisions, and P.L. 111-226 included foreign tax credit provisions directed at perceived abuses by U.S. multinationals (Cotorceanu, 2015). The Congressional Service Report cited the list of tax haven countries listed below based on regions of the world (Gravelle, 2015). The report identified a total of 50 countries broken down as follows:

Caribbean/West Indies (17) - Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, British Virgin Islands, Cayman Islands, Dominica, Grenada, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and Grenadines, Turks and Caicos, U.S. Virgin Islands; Central America (3) - Belize, Costa Rica, Panama; Coast of East Asia (3) - Hong Kong, Macau, Singapore; Europe/Mediterranean (12) - Andorra, Channel Islands (Guernsey and Jersey), Cyprus, Gibraltar, Isle of Man, Ireland, Liechtenstein, Luxembourg, Malta, Monaco, San Marino, Switzerland; Indian Ocean (3) - Maldives, Mauritius, Seychelles; Middle East (3) - Bahrain, Jordan, Lebanon; North Atlantic (1) – Bermuda; South Pacific (7) - Cook Islands, Marshall Islands, Samoa, Nauru, Niue, Tonga, Vanuatu; West Africa (1) – Liberia.

There are two viewpoints to the tax haven debate, the deontological viewpoint representing the proponents and the consequentialist viewpoint representing the opponents (Batrancea, Chirila, & Nichita, 2014). The proponents argue that governments are morally responsible for their citizens' well-being and are therefore obligated to adopt strategies that attract foreign capital flow via low taxation. Supporting this notion,

Batrancea et al. (2014) stated that granting tax relief generates positive consequences that benefit all parties, including job creation, business opportunities, and foreign investments. They contended that independent nations are sovereign and have the right to design and implement their own fiscal strategies to meet their set goals.

Tax haven countries often accuse foreign countries of discrimination and preferential treatment of developed countries and often blame the OECD for imposing regulations on non-member countries (Batrancea et al., 2014). The opponents, on the other hand, contend that tax havens result in loss of revenue and hinders economic development and ultimately widens the gap between developing and industrialized countries. The morality of tax haven countries is called to question, stated Batrancea et al. (2014). The consequentialists' strongest opposition to tax haven is that they lessen the quality of public services and trigger huge fiscal burdens that sometimes lead to levying of indirect taxes (Batrancea et al., 2014).

Safe harbors. A safe harbor is a provision that applies to a defined category of taxpayers or transactions and relieves eligible taxpayers from certain obligations imposed by a country's general transfer pricing rules (OECD, 2017a). A safe harbor substitutes simple obligations and exempts a defined category of taxpayers or transactions from the application of all or part of the general transfer pricing (European Union, 2017). Safe harbor rules allow for tax deduction of internal debt, increase efficiency and liquidity for corporations, and protect MNEs from insolvency (Paech, 2016; Ruf & Schindler, 2015). Safe harbor rules benefit MNEs in several ways, some of which the revised Section E, Chapter IV, OECD guidelines on safe harbor state as follows: (a) Simplifying compliance

and reducing compliance costs for eligible taxpayers in determining and documenting appropriate conditions for qualifying controlled transactions; (b) Providing certainty to eligible taxpayers that the price charged or paid on qualifying controlled transactions are accepted by the tax administrations that have adopted the safe harbor with a limited audit or without an audit beyond ensuring the taxpayer has met the eligibility conditions of, and complied with, the safe harbor provisions; and (c) Permitting tax administrations to redirect their administrative resources from the examination of lower risk transactions to examinations of more complex or higher risk transactions and taxpayers (OECD, 2013b).

Opponents of the safe harbor guidelines argue that safe harbors could lead to countries reporting taxable income that does not conform with the arm's length principle, which undermines the validity of the transaction (European Union, 2017). The opponents also argue that safe harbors increase the risk of double taxation and open avenues for inappropriate tax planning as well as negate equity and uniformity by creating two set of rules in the transfer pricing area (OECD, 2013b). European Union (2017) opined that safe harbors are most suitable within sub-regions through bilateral or multilateral negotiations and requires enactment in national law as a provision of the general tax code. The European Union further suggested that safe harbor rules should not discourage investors but should enhance economic development and strengthen the capacity of tax administrations.

Intangible property and transfer pricing. Intangible property involves property that is not a physical or financial asset (Fedan, 2014; OECD, 2014b). Researchers sometimes refer to intangibles as intellectual property (IP). The concept of an intellectual

property deviates from the traditional notion of a property being an object or a thing to something not physical. Intangible property relates to an idea or a concept and refers to copyright, patent, and trademark (Fedan, 2014). The IRS identify intangible property as an area of high risk for tax purposes. Taylor, Richardson, and Lanis (2015) stated that the business division of the IRS considers the transfer of intangible assets between group affiliates as a tier-1 risk and compliance challenge. Valuing intangible is difficult due to the risk involve and so is the flexible nature of the pricing process (Beer & Loeprick, 2015; Taylor, Richardson, & Lanis, 2015). Similarly, intangibles are unique in nature, making the prices difficult to compare and active market hard to find (Taylor et al., 2015). These factors make intangibles prone to tax minimization by MNEs as well as other tax evasion strategies (Beer & Loeprick, 2015). Intangibles are a key source of growth and competition for MNEs and are key in driving profit-shifting behavior (Abdallah, 2017; Beer & Loeprick, 2015).

Taylor et al. (2015) argued that MNEs exploit various tax benefits by transferring intangibles between tax jurisdictions in a bid to minimize taxes. The IRS stepped up efforts to deal with the transfer pricing risks associated with intangibles. Taylor et al. (2015) stated that the IRS allocated significant resources to this area and required MNEs to disclose information on the nature and migration of intangible assets among group affiliates through a Schedule UTP (Uncertain Tax Position) Statement No. 9, as part of transfer pricing documents.

The OECD also spelled out guidelines in the operation of intangibles under Action 8: 2014 Deliverable. The OECD declared that MNEs should implement the

following as part of the comparability and functional analysis of arm's length conditions for the transfer of intangibles: a) identify the specific intangible, b) state the legal ownership of the intangible, c) state the contributions of MNE group members to the development, enhancement, maintenance, protection, and exploitation of the intangible, and d) state the nature of the controlled transactions involving the intangible, including the manner in which such transactions contribute to the creation of value (OECD, 2014b). The OECD guidelines identified two major categories of intangibles, marketing and trade intangibles. OECD (2014b) defined marketing intangible as one that relates to marketing activities, aids in the commercial exploitation of a product or service, and/or has an important promotional value for the product concerned, for example, trademarks, trade names, customer lists, customer relationships, and proprietary market and customer data that is used for marketing and selling goods or services to customers. OECD (2014b) also identified another class of intangible it referred to as unique and valuable. Unique and valuable intangibles, as stated by OECD (2014b), are those whose use in business operations (e.g. manufacturing, provision of services, marketing, sales, and administration) is expected to yield greater future economic benefits than would be expected in the absence of the intangible.

Thin capitalization. Thin capitalization is a means of minimizing tax burden within a group of multinational companies using excessive financing through debt versus equity capital (Proskura, 2016). It illustrates a situation where the company's debt financing is higher than equity financing. Thin capitalization involves financial activities such as (a) granting mixed loans that give to the lender the right to convert them into

equity interests of the borrower; (b) granting a loan to finance long-term investments; (c) granting a loan amount that is proportionate to lender's participation in the borrower's equity, or as a condition of such participation; (d) granting loan to cover significant losses; (e) having low creditworthiness of the borrower. Thin capitalization reduces the tax-incentive to use internal debt and encourages the use of external debt (Auerbach, Devereux, Keen, & Vella, 2017).

Germany has a long tradition of thin capitalization rules and in 2008 reformed the rules to include what it called an earnings-stripping approach. Ruf and Schindler (2015) stated that the new German thin capitalization rule is effective in reducing internal debt-to-asset ratios. Thin capitalization from a broader theoretical perspective limits international debt shifting and increases tax revenue. Norway and Finland adopted the German rule in 2014 and are achieving the intended effect, while Sweden on the other hand, adopted a comprehensive business income tax (CBIT) expected to eliminate thin capitalization incentive (Ruf & Schindler, 2015). The downside of thin capitalization is in reducing domestic investment through a low domestic cost of capital that makes a country less competitive internationally. Wamser (2014) stated that the biggest tax savings on thin capitalization derive from interest deductions associated with debt capital.

Trends in Transfer Pricing

Transfer pricing has evolved from the IRS Section 482 code of 1928, to the League of Nations draft convention on the allocation of profits and property of international enterprises of 1936, and most recently to the OECD Transfer Pricing Guidelines of 2017. The pace of change in transfer pricing is accelerating due to

commercial globalization and effective supply chain management (Yuan & Ma, 2018). MNEs are focusing more on technology-driven solutions, stronger global competitiveness, and decentralization of authority for greater management efficiency, while tax administrations are focusing more on protecting the tax base (Yuan & Ma, 2018). This discussion focused on global developments in transfer pricing around the world, transfer pricing and China, and transfer pricing and the 2017 U.S. Tax Cut and Job Act.

Global developments in transfer pricing. At the Cairns, Australia G20 countries meeting in 2014, Australia agreed to pursue a common interest to implement compliance, accountability, and legitimacy in global tax rules, especially the BEPS and other OECD regulations relating to transfer pricing (Lesage, 2014). Tax experts view the initiative as remarkable and a landmark achievement in global tax governance. Another key development in the world of transfer pricing is the new interpretation of the arm's length principle to include "accurately delineating the actual transaction" (Deloitte, 2015 p. 2). This interpretation supports an expanded view and analysis of the economic substance of a controlled transaction. Under the new guideline, if the parties have the financial capacity to bear the risk, a contractual allocation of risk results. The new guideline also stipulates the need to distinguish funding risk from operational risk (Deloitte, 2015).

Interestingly, the new guideline also addressed the issue of location-specific advantages (LSA). The new guidelines created the framework to analyze the existence and allocation of LSA. The framework serves for comparability and adjustments (Deloitte, 2015). The new guideline also addressed changes to CCAs with an

understanding that parties performing activities under arrangements with similar economic characteristics should receive similar expected returns regardless of the existence of a CCA (OECD, 2015b). Such participants must have the capability and authority to control the risks associated with a risk-bearing opportunity (OECD, 2015b). A recent change in the Chinese tax authorities' approach to transfer pricing includes reducing the focus on auditing foreign-owned enterprises and placing more focus on western multinationals and larger companies (Chan, Lo, & Mo, 2015).

Governments around the world are introducing tougher transfer pricing regulations to limit profit shifting activities. Recently, the French government asked Google to pay back taxes to the tune of \$1.8 billion due to transfer pricing practices (Tran et al., 2016). In the European Union (EU), pressure is mounting on the government to stop tax avoidance by MNEs, estimated to cost member countries of the EU up to EUR 50-70 billion of tax revenue annually (European Parliament, 2016). The EU and member states are currently investigating digital companies such as Google, Amazon, Apple, and Facebook to identify the best approach to taxing the companies. The EU recently proposed an anti-tax avoidance directive (ATAD) and endorsed the OECD's Modified Nexus Approach to tackle harmful tax practices and deal with the challenge of taxing the digital sector. The EU and Member States, as well as other countries around the world are contemplating the idea of introducing specific taxes on the digital economy. In that regard, the EU is keeping a vigilant eye on the reform process within the US tax system, in which the Obama administration proposed a minimum tax of 19 % on global earnings of U.S. companies, regardless of whether the income is repatriated to the US or not

(European Parliament, 2016). The OECD is continuing to monitor developments in the digital economy and consulting with all stakeholders to design an inclusive monitoring process and to produce a detailed report by 2020 (OECD, 2015a).

Transfer pricing and China. China is not a member of the Organization for Economic Cooperation and Development and has not formally adopted the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (Ainsworth & Shact, 2014). What that implies is that China is charting a different transfer pricing course in nine important areas, stated Ainsworth and Shact (2014), as follows: (a) comparability adjustments with other developed countries, (b) transactional net margin, (c) location savings and cost plus mark-up for research and development, (d) toll manufacturers and contract manufacturers, (e) distributor status and brand building, (f) market premium and profits, (g) tax haven and intellectual property ownership, (h) cost-plus methodology under high and new technology status, and (i) royalty adjustments. Ainsworth and Shact argued that the course China is taking indicates an intent to shift income back to China and does not follow the basic concepts of the OECD Guidelines. In contrast to the U.S. approach to transfer pricing, China pushes for profit split at the beginning of a transaction, while the U.S. applies residual profit-split at the end of a transaction. Ainsworth and Shact concluded that the Chinese approach to transfer pricing will impact the way cross-border problems are analyzed globally.

China adopted APAs in the late 1990s, only on a trial basis and in 2004 promulgated the *Implementation Rules on Advance Pricing Arrangements for Transactions between Related Parties, No. 118* (State Administration of Taxation, 2014).

The rules provided details of the APA program and specific procedures such as negotiation and conclusion procedures, requirements, follow up execution and monitoring, as well as guidance on APA administration in China. From 2005 to 2014, China signed 28 bilateral APAs with Asian countries, 9 with European countries, and 6 with North American countries (State Administration of Taxation, 2014). This showed the extent to which China has evolved with transfer pricing over the years.

KPMG's observation on China indicated that China is broadening and deepening its transfer pricing regime after 30 years' history of enforcing transfer pricing (KPMG, 2014). KPMG reported that the Chinese authorities run an aggressive transfer pricing audit program and are becoming more sophisticated in enforcing a comprehensive and refined regulatory framework.

Contrasting the reports on China with trends around the world, the indication is that China is on track to follow the rules but has not fully aligned with the rest of the economic world on transfer pricing. China needs to move from an observer to the OECD to an active member of the OECD. In the words of Chinese President Xi in 2014 while attending the 9th G20 summit, "the world should enhance global cooperation in tax matters, crack down international tax evasion and help developing countries and low-income countries build tax administration capacity" (State Administration of Taxation, 2014, p. 1). China has come a long way with transfer pricing, recording its first anti-avoidance case in 2014 to the tune of \$840 million reimbursement by Microsoft Corporation to the Chinese tax authority (Lin et al., 2016). In the post-BEPS era, China is taking measures to implement the BEPS project and collaborate with the global

community to ensure a successful implementation of the entire BEPS package (Avi-Yonah & Xu, 2018).

Transfer pricing and the 2017 US Tax Cut and Job Act (TCJA) law. The Tax Cuts and Jobs Act (the Tax Act), signed into law by President Donald Trump on December 22, 2017, is a game changer for transfer pricing and international tax planning and fundamentally reconditions the US and global economy (Bazel, Mintz, & Thompson, 2018; Mayer Brown, 2018). Some highlights of the law include reducing the corporate tax rate from 35% to 21%, moving the U.S. toward a territorial system for taxing foreign-source income of domestic MNEs, establishing a base erosion and anti-abuse tax (BEAT) aimed at curbing aggressive profit shifting and introducing a minimum tax on global intangible low-taxed income (GILTI), aimed at increasing revenue from profits earned abroad (Mayer Brown, 2018; Oxner, Oxner, & Phillips, 2018). Proponents of the law see it as an incentive for employers to keep jobs in the U.S. rather than taking it abroad while opponents see it as global race to the bottom on corporate taxes (Glied, 2018; Mayer Brown, 2018). Particularly, the BEAT, Mayer Brown noted, opponents fear it might result in double taxation.

Transition

The purpose of this qualitative multiple case study is to explore strategies managers in multinational companies use to manage transfer pricing risks. Section 1 focused on the foundation and background of the study, comprising the problem statement, the purpose statement, the nature of study, the research question, as well as the theoretical framework of the study. Section 1 also included the significance of the study

and the review of the professional and academic literature on transfer pricing. The literature review segment is vital to the foundational discussion of the study, detailing the synthesis and analysis of key theories on transfer pricing and the trends on the subject. Central to the discussion on transfer pricing is the arm's length standard. In the literature analysis of Section 1, I discussed the arm's length principle extensively as part of the synthesis of the theoretical framework. Section 2 will focus on the project methodologies, including interview processes, data organization, and ethical procedures used in assuring the reliability and validity of the study.

Section 2: The Project

In Section 2, I focused on the main project elements including the role of the researcher, gaining access to the participants, research method and design, population and sampling, and ethical research procedures. I also presented information relating to the data collection instruments, including a detailed description of the interview processes, the data collection techniques, the data organization techniques, the data analysis processes, as well as ways of assuring reliability and validity of the study. The project elements discussed in this section include supportive information from peer-reviewed sources to ensure research quality.

Purpose Statement

The purpose of this qualitative multiple case study was to explore the strategies managers in multinational companies use to manage transfer pricing risks. The target population consisted of 6 finance executives from 2 multinational companies in the midwest and southwest regions of the United States that have implemented successful strategies to manage transfer pricing risks. The implications for positive social change include the potential for multinational entities to reduce potential tax penalties. Increased savings could drive economic growth, promote innovations, enhance job creation, and boost productivity. Tax authorities could also benefit from the results of this study in the effort to bring back deferred earnings on foreign trades to the United States. Such deferred earnings, when brought back to the United States could enhance productivity, improve skill development of youths, fund public education, and promote technological growth.

Role of the Researcher

The role of a researcher is to collect, analyze, and interpret data to better understand a subject and to help practitioners and policymakers reflect on current practices and guide change (Gustavsson, 2015; Nelson, London, & Strobel, 2015). My role as a researcher was to conduct an interpretive case study to understand strategies tax managers use to manage transfer pricing risks. In this regard, I defined the research concept, designed the research questions, and conducted interviews. Sanjari, Bahramnezhad, Fomani, Sho-ghi, and Cheraghi (2014) noted that transcribing recorded data from an interview helps in developing themes for the research. Similarly, Hyett et al. (2014) recommended that researchers administer the interview questions and use a unified and standard data analysis protocol to shape the context for better understanding. Considering Kilb and Herzig's (2016) argument that data collection could be a frustrating experience for researchers, Sanjari et al. (2014) urged researchers to adopt a process of honest and open interaction between researcher and participants.

As a researcher, I had no direct relationship with the participants and had no connection to the organizations providing the data. Berger (2015) argued that a researcher's position with respondents may affect a research in three ways: (a) the access to quality information, (b) the researcher – researched relationship, and (c) the filtering and interpreting of data collected. Henriques (2014) noted that a researcher's role involves openness and tolerance in dealing with participants and maintaining confidentiality. As a researcher, I followed the ethical standards of anonymity, confidentiality, and informed consent. Researchers maintain confidentiality in the

research process to protect the rights of the participants, to encourage participation, and to ensure the use of data only for the purpose for which they were collected (Allen & Rotenberg, 2016).

Adopting the ethical research standards recommended by the Belmont Report (U.S. DHHS, 2014), namely respect for persons, beneficence, and justice is critical in this research. In that regard, I provided participants with an informed consent form and assured them of their rights to withdraw their participation at any time in the process. Johnsson, Eriksson, Helgesson, and Hansson (2014) noted that adopting a standard of integrity and moral competence helps researchers to safeguard the efficacy and quality of the study. I kept to the six ethical values of academic research advocated by Katavić (2014) namely, honesty, fairness, objectivity, openness, trustworthiness, and respect for others to fulfil the call for total transparency and credibility as a researcher. Maintaining objectivity is critical to mitigating personal bias in the research process. Keeble, Law, Barber, and Baxter (2015) argued that bias reduction is an important part of any study because bias could cause contradictory findings and undesirable results. This argument aligns with the understanding that minimizing subjective assessments reduces bias (Murray et al., 2016).

An interview protocol is useful for preparing and setting up the ground rules leading to an effective interview process (La Rooy et al., 2015; Mwangi, Chrystal, & Bettencourt, 2017). Researchers adopt a standard interview protocol as a guide to ask the right questions and properly document the participant's responses to the questions (Arias, 2016). An effective interview protocol is critical for information gathering (Rivard,

Fisher, Robertson, & Hirn Mueller, 2014). The interview protocol (see Appendix A) consist of (a) introducing the subject, (b) making the interviewee feel comfortable by explaining the contents of the consent form and discussing other ethical concerns, (c) asking for permission to start audio recording, (d) asking the interview questions, (e) making notes, (f) explaining the member checking process, and (g) scheduling a follow-up interview.

Participants

The participants for this study consisted of finance executives from multinational companies in the midwest and southwest United States that had successfully implemented strategies to manage transfer pricing risks. The manager level employees and leadership of organizations understand risks, provide safeguards to policies, and understand regulatory requirements (Weng, 2015). The choice of experienced managers is important for the appropriateness and credibility of the data content of a research (Elo et al., 2014). Recruiting the right participants and early planning are key factors to a successful research (White & Hind, 2015). In qualitative research, the criteria for selecting eligible participants include but not limited to knowledge, worldviews, and competencies in the subject phenomenon (Wittmayer & Schöpke, 2014). The rationale for the eligibility criteria was to have participants whose understanding and experience align with the research question.

To gain access to the organizations, managers, and directors, I initiated the first contact by emails to the senior management of the organizations. Key factors to gaining access to a participant include demonstrating transparency on the part of the researcher

and negotiating with the participants to obtain an agreement (Høyland, Hollund, & Olsen, 2015). Considering the complex nature of the issues relating to the protection of research participants, gaining access to the right participants could sometimes pose a challenge (Phillips et al., 2015; Von Benzon & Van Blerk, 2017). After obtaining the letter of cooperation from the organizations (See Letter of Cooperation in Appendix D), indicating management's permission, I then contacted the participants directly by phone and by email to ask for their participation (see Letter to Participants – Appendix C). I emailed copies of the informed consent form to the participants. Once they answered yes to indicate their willingness to participate and returned the signed informed consent form, I then contacted them by phone to set up interview appointments.

Understanding that gatekeepers could constitute a barrier to gaining access to participants, I worded the letters to senior management carefully and used the utmost care in seeking for their approval. Ahern (2014) described gatekeepers as people who can provide or deny access to research participants. Gatekeepers continue to pose a challenge to researchers while protecting the interest of their organizations (Rattani & Johns, 2017). Gatekeepers not only serve to protect the interest of participants, but also control the access to specific fields, sites, and locations of an organization (Emmerich, 2016). Researchers understand the unique responsibilities of gatekeepers and seek for partnership through proper engagement and mutual respect (Rattani & Johns, 2017). Gatekeepers stand for transparency and pursue the interest of various stakeholders including communities and regulatory agencies, which enhances the legitimacy of a research process (Whicher, Miller, Dunham, & Joffe, 2015).

To have a good working relationship with the participants, Close, Smaldone, Fennoy, Reame, and Grey (2013) posited that researchers should assure participants of the protection of their privacy. Making the participants feel at ease is essential in a researcher-participant relationship. In that regard, I explained the consent form and the right of the participants to withdraw their participation at any time. Zahle (2017) encouraged researchers to use both informed consent and other measures to prevent the privacy invasion of participants. Similarly, Raheim et al. (2016) noted that the quality of the researcher-participant relationship is vital to the quality of information the participant releases. Hence the researcher does everything possible to gain the trust of the participant. I maintained courtesy, friendliness, and professionalism through the interview process and assured the participants of the protection of their privacy.

Research Method and Design

A researcher's worldview influences the choice of a research methodology (Kiyunja & Kuyini, 2017). My paradigm as an ontological thinker influenced the selection of research method, research design, and other research strategies. My philosophical perspective is rooted in critical and pragmatic paradigms which Kiyunja and Kuyini (2017) described as dialogical, axiological, practical, and pluralistic. A method that is most appropriate, explorative, and all-embracing. I employed the qualitative case study method and the multiple case study design.

Research Method

To pursue the objective of exploring strategies tax managers use in managing transfer pricing risks, I adopted the qualitative research method. The qualitative research

tradition uses a wide variety of theoretical paradigms and research strategies including descriptive study, case study, ethnography, narrative inquiry, phenomenological research, action research, and grounded theory, among others (Yilmaz, 2013). A qualitative method enables researchers to understand people, behaviors, and situations, illuminating them from a variety of perspectives, including social, cultural, and economic (Hazzan & Nutov, 2014). I chose the qualitative method over quantitative and mixed methods because of the exploratory nature of the study.

Yilmaz (2013) contended that qualitative study allows researchers to capture people's experiences via observation and interviews without resorting to standardized or predetermined outcomes. Researchers consider the qualitative method over quantitative and mixed methods because the qualitative approach enables researchers to achieve deeper insight into issues, adopt a flexible structure, to capture dynamics, and understand meanings (Rahman, 2016). Almalki (2016) stated that the mixed methods approach is time-consuming and poses a challenge to the researcher in integrating different types of skill set. Similarly, the quantitative research method producing generalizable findings, but ignores the specificity of individual cases (Claydon, 2015; Gorylev, Tregubova, & Kurbatov, 2015). Anyan (2013) argued that quantitative research method focuses on numerical expression of data while qualitative researchers prioritizes in-depth understanding of a phenomenon. Both the quantitative and mixed methods of research are unsuitable for this study.

Research Design

Yin (2017) described the five qualitative research designs as: case study, ethnography, narrative studies, grounded theory, and phenomenology. I chose the case study design for this study based on the objective of exploring strategies tax managers use in managing transfer pricing risks. Specifically, I chose an exploratory multiple case study. The case study design allows researchers to gain a deep holistic view of a research problem through an intensive study of a single unit for understanding a larger class of similar units (Baskarada, 2014). Qualitative researchers use the case study design to explore a real-life case or cases over time, through detailed, in-depth data collection involving multiple sources of information (Hyett et al., 2014). Mariotto, Zanni, and Moraes (2014) view the case study design as a process of theory building through an inductive analysis of one or more cases to create theoretical propositions from the empirical evidence provided by the case(s). The case study approach gained popularity among researchers by providing a methodological flexibility to qualitative research (Hyett et al., 2014).

The other qualitative research designs did not fit the explorative nature of the study. The ethnographic research design allows researchers to apply a subversive worldview to the conventional logic of cultural inquiry (Rashid et al., 2015). Ethnographic researchers focus on historical memory of different population in relation to facts or experiences from the past (Marcén, Gimeno, Gutiérrez, Sáenz, & Sánchez, 2013). As a research methodology, ethnography is based on sustained, explicit,

methodical observation and paraphrasing of social situations in relation to their naturally occurring events (Cappellaro, 2017).

Bruce et al. (2016) noted that researchers use the narrative design to describe whole stories, a participant's narrative context, stories within stories, and exemplars. Narrative methodology allows researchers to uncover nuance and detail of previous experiences through the stories of the research participants (Wang & Geale, 2015). Narrative research design also affords researchers a better understanding of real-life individuals and implicit behavior, and by reflecting on courageous actions, patterns become clearer (Smit, 2017). That is outside the scope and focus of the study, making the narrative design unsuitable for the study.

Researchers use the grounded theory design to inductively build a theory about a practice or phenomenon (Bulawa, 2014). The grounded theory design involves the discovery of theory through data and focuses on uncovering patterns in the social life of individuals (Noble & Mitchell, 2016). In addition to building a new theory from data, researchers view the grounded theory as an analytical approach to qualitative data using an inductive process (Chapman, Hadfield, & Chapman, 2014). Based on the explorative nature of the study, compared with the new theory focus of the grounded theory, the grounded theory design is not suitable for this study.

Similarly, the phenomenological design is not fitting for this study due to the focus of the study. Researchers use the phenomenological approach to extract peoples' lived world experience or lived-through experience also called the "science of the unique" (Koopman, 2015, p. 6). Phenomenology encompasses research in humanities,

human sciences, and arts and focuses on investigating people's experiences to reveal what is hidden in them (Matua & Van Der Wal, 2015). Phenomenology allows researchers to apply their perspectives, experiences, values, beliefs, and identity to the data collection and analysis process (Lee et al., 2014).

Researchers seek to show data saturation by obtaining enough information to replicate the study (O'Reilly & Parker, 2013). Data saturation allows researchers to focus on rich data that has conceptual depth and not necessarily a final limit (Nelson, 2016). I ensured data saturation by interviewing only tax managers that are experienced in transfer pricing working in companies with long history of transfer pricing activities. O'Cathain et al. (2015) posited that researchers face a challenge in determining when data saturation has occurred but must be pragmatic in deciding which emerging analysis themes warrant more data collection.

Population and Sampling

Participant selection in qualitative research depends on several factors including the purpose of the inquiry, the credibility of the participant, and the usefulness of the data (Cleary, Horsfall, & Hayter, 2014). In situations of very large population where randomization is impossible, researchers use non-probability sampling to select participants (Etikan, Musa, & Alkassim, 2016). I chose the purposive non-probability sampling to select participants based on the large population size and the expected quality of participants. Non-probabilistic sampling is quicker to implement, cost effective, and best suited for participants that meet the criteria (Etikan et al., 2016).

Lucas (2014) argued that results from non-probabilistic sampling are not generalizable but concluded that such results provide a theoretical insight that proves sufficient and effective as a research technique. Cleary et al. (2014) argued that participant selection should have a clear rationale and fulfil a specific purpose related to the research question. This underscores the need to use purposive sampling in fulfilling the need for a diverse sample and obtaining expert opinion in the specific field of study (Martínez-Mesa, González-Chica, Duquia, Bonamigo, & Bastos, 2016). Etikan et al. (2016) stressed the importance of availability and willingness to participate as a key factor in purposive sampling, as well as the ability to communicate experience and opinions in an articulate, expressive, and reflective manner.

The participants for this study consisted of tax managers from 2 multinational companies in the midwest and southwest U. S. responsible for transfer pricing transactions. Selection criteria specified senior level tax managers with transfer pricing experience for at least 3 years. Smith and Harris (2014) noted that managers are responsible for measuring performance and enforcing policies and has the capacity to provide information on policies and strategies. Researchers decide the number of participants based on the scope of the study (Fugard & Potts, 2015). For small projects, Fugard and Proter (2015) recommend 6-10 participants and 10-50 for certain focus groups. Marshall, Cardon, Poddar, and Fontenot (2013) also posited that 6-10 participants is sufficient sample size for a qualitative study. I kept my participant goal in the study within the recommended range of 6, with the ultimate purpose of providing analytic generalizations. Bearing in mind also, that the aim of qualitative inquiry is not to acquire

a fixed number of participants, but to gather sufficient depth of information to fully describe a phenomenon (O'Reilly & Parker, 2013).

Data saturation is the point at which no additional themes are found from the reviewing of successive data regarding a phenomenon or a higher-level concept (Ando, Cousins, & Young, 2014). Nelson (2016) considered saturation as an important part of qualitative research but cautioned that the concept could also be misleading if researchers view it as completeness. In broader consideration of the term, Nelson suggested the term conceptual depth as an alternative to saturation. He posited that the point of conceptual density or conceptual depth is the point of sufficient depth of understanding for the researcher to build a theory and not necessarily a point of final limit. To ensure data saturation I continued interviewing until no new themes emerge. I also obtained data saturation based on existing theory. Palinkas et al. (2015) noted that researchers could attain saturation a-priori on the basis of an existing theory or conceptual framework. A combination of both the extensive interview data and existing theory provided sufficient data saturation for the conceptual depth of the study.

Ethical Research

Katavić (2014), identified six ethical values of academic research as honesty, fairness, objectivity, openness, trustworthiness, and respect for others. Following ethical standards of research, I obtained the necessary approval from the Institutional Review Board (IRB) of Walden University before making contacts with the participating organizations and conducting the interviews. The Walden University IRB approval number for this study was 12-21-18-0557590. I provided the informed consent form to all

participants and adhered to the ethical standards stipulated in the Belmont report. Before commencing my research process, I completed the National Institute of Health web-based training course, Protecting Human Research Participants (NIH # 1764744; see Appendix B). I communicated to all participants, their rights to withdraw from the study at any stage of the process.

I communicated to participants in detail, the purpose, nature, scope of the study and potential benefit to the business community. I disclosed to participants that participation was voluntary and that participants will receive no rewards or incentives for participating. I handled participants' information with the highest level of confidentiality to eliminate the risks involved in research information processes (Stevenson, Gibson, Pelletier, Chrysikou, & Park, 2015). I will secure all data in a protected storage for a minimum of five years, including electronic files that I saved on password protected computers. After five years as specified by Walden University, I will destroy the data by shredding the paper documents and permanently deleting the electronic files.

Data Collection Instruments

Data collection in case study research enables researchers to further shape the context of the case and develop it for better understanding (Hyett et al., 2014). Yin (2017) identified six sources of case study data instruments namely: documentation, archival records, interviews, direct observations, participant observations, and physical artifacts. In this study, I am the primary data collection instrument and I used interviews as one of my data collection methods. Using interviews as a data collection instrument in qualitative research is particularly effective because it enables the interviewees to speak

in their own voices and express their own thoughts and feelings (Alshenqeeti, 2014). Interviews include structured, semistructured, and narrative categories (Stuckey, 2013). Semistructured interviews enable respondents to provide in-depth answers to preset open-ended questions (Jamshed, 2014). I used semistructured interviews to explore the strategies tax managers use to manage transfer pricing risks. In addition to semistructured interviews, I also collected data from annual reports and other public documents of the participating organizations.

While conducting the semistructured interviews, I followed the established interview protocol outlined in Appendix A of this study. Interview protocol spells out the procedures for gaining access to the interviewees, addresses availability issues as well as other unanticipated events relating to scheduling (Yin, 2017). I also ensured the participants read and sign the informed consent form prior to scheduling the interviews. Informed consent is essential in protecting the rights and privacy of research participants as specified by federal regulations (Lorell, Mikita, Anderson, Hallinan, & Forrest, 2015). Rights, safety, and well-being of participants always prevail over the interest of any research, and the parties need to understand their obligations and avoid any misuse of their powers (Lloyd & Emerson 2017). The consent form stated that participation is voluntary, and participants are free to withdraw their participation at any time in the process. I included copies of the consent form and the interview questions in the appendices.

To ensure the validity and reliability of the data collection, I used member checking to allow participants to verify the accuracy of their responses and provide

additional comments as needed. Member checking enhances validity and allows participants to give feedback useful for revisions (Grossoehme, 2014). As a process, member checking creates transactional validity and illuminates a better representation of the participant's lived experience (Koelsch, 2013). I emailed to participants, a transcript of the interview and their responses for them to review for accuracy and comment as needed. Member checking is the most important action a researcher can take because it goes to the heart of the credibility criterion (Van Der Spuy, Busch, & Bidonde, 2016).

Data Collection Technique

The growing concern over transfer pricing risks among multinational entities triggers the need for more research into the strategies business leaders use in managing transfer pricing risks. The effort to address the overarching research question of this study, "What strategies do managers in multinational companies use to manage transfer pricing risks", required several data collection techniques. Semistructured interviews allow respondents to answer open-ended and follow-up questions in their own words (Stuckey, 2013). I considered face-to-face and telephone interviews the most viable options for the purpose of this research. Vogl (2013), argued that face-to-face and telephone interviews are effective data collection techniques depending on the situational requirements of the participants.

To facilitate the process of this research and data collection, I identified two multinational companies, one in the midwest and one in the southwest regions of the United States. I contacted the companies first by email and later by phone and followed up with more email communications to familiarize myself with the leaders. After

completing all protocols including the consent forms, I scheduled times and date for the interviews with the participants. Based on the physical locations of the participants, I conducted all the interviews by telephone. Vogl (2013) asserted that while personal touch is missing in telephone interviews, both telephone and face-to-face interviews carry the symbolism of the voice of the respondent. Telephone interviews have the advantage of low logistical cost and reduces bias that may occur through personal interaction (Ortiz et al., 2016). Telephone interview also has the advantage of allowing researchers to interview participants at a time convenient to the interviewees, such as, during their lunch time or after hours in the evenings (Johnson et al., 2014). With many apparent advantages of telephone interviews, the lack of rapport and richness of interaction, and becoming mechanical and cold are evident limitations (Iacono, Symonds, & Brown, 2016).

Face-to-face interviews, on the other hand, allows researchers to establish trust through rapport with the interviewees (Nandi & Platt, 2017). The physical presence and rapport between researcher and participants create a socially desirable environment for the respondent to give more open answers to the interview questions (Nandi & Platt, 2017). Similarly, during face-to-face conversations, the interviewer can create a positive interview ambiance (Deakin & Wakefield, 2014). Face-to-face interview is flexible, adaptable, and allows a researcher to observe the respondent within a controlled environment (Szolnoki & Hoffmann, 2013). These point to the benefits of personal interaction. Vadi et al. (2016) stated that the desire to interact and geographic proximity are key considerations for some participants to prefer face-to-face interviews. Face-to-face interviews are also problematic due to time, financial constraints, and other logistical

considerations (Deakin & Wakefield, 2014). Szolnoki and Hoffmann (2013) contended that interviewer bias, high cost per respondent, geographical limitations, and time pressure on respondents are disadvantages of face-to-face interview.

On a broader level, semistructured interview is the most widely used type of interview in qualitative research (Deakin & Wakefield, 2014). It is moderate, flexible, and allows interviewees to provide more information (Deakin & Wakefield, 2014). The interview guide used in semistructured interviews helps researchers to achieve optimum use of interview time and keeps the interview focused on the desired line of action, and also within the parameters of the study (Alshenqeeti, 2014; Jamshed, 2014).

Semistructured interview allows respondents to provide new and novel information when they are given the opportunity to freely speak (O'Keeffe, Buytaert, Mijic, Brozović, & Sinha, 2016). It allows interviewers to probe and expand the interviewee's response, delving for depth (Alshenqeeti, 2014). However, this advantage could also be a set-back if the interviewer becomes domineering, impatient, and unable to pick on what the respondent is saying (Chittem, 2014).

Gaining access to annual reports and other public documents of the participating organizations, provided a valuable source of secondary data. Russell and Brannan (2016) stated that documentary analysis helps to enrich a researcher's understanding of the operations of an organization. I obtained annual reports of the organizations I partnered with from their published materials, and also requested other documents from the executives I interviewed. The ease of access, availability, and increased transparency are some of the advantages of open documents (Kucera & Chlapek, 2014). On the other

hand, open documents bear the risk of misinterpretation by users, either intentionally or unintentionally, and are sometimes inaccurate (Kucera & Chlapek, 2014).

Researchers use a pilot study to shape and refine methodologies and practical issues (Wray, Archibong, & Walton, 2017). A pilot study is a mini version of a full-scale study, and it enhances the researcher's confidence and competence in carrying out the main study (Wray et al., 2017). I planned on conducting a pilot study after receiving IRB approval, but later shelved the plan because it was not necessary in the circumstance. The experience from a pilot study helps researchers explore procedural elements and identify which communication method works better (Eldridge et al., 2016; Wray et al., 2017). A Pilot study also helps researchers to improve the quality and efficiency of the main study (Maldaon & Hazzi, 2015). Pilot study reveals logistics issues and likely modifications needed in the main study (Maldaon & Hazzi, 2015).

To ensure quality, credibility, and reliability of the data, I used member checking to validate the participant's responses. After transcribing the interviews, I emailed to each participant a transcribed copy for them to verify the correctness. Van Der Spuy et al. (2016) stated that member checking goes to the heart of the credibility criterion and is the most important action a researcher can take. To follow through on the validation process, I made the necessary modifications suggested by the participants and presented to them a corrected copy for their confirmation. Member checking is important in qualitative research because it eliminates the possibility of having distorted data transcription and interpretation (Gagliardi & Dobrow, 2016; Grosseohme, 2014).

Data Organization Technique

Researchers consider data organization and storage as a key part of the research process (Read et al., 2015). Data organization is important for data sharing, data reuse, reproducibility of results, and collaboration (Sobolev et al., 2014). Among other means of managing data, researchers use coding and abstractions as elements of data organization in the qualitative research process (Vaismoradi, Jones, Turunen, & Snelgrove, 2016). Coding involves a process of organizing, categorizing and sorting qualitative data that relate to one another (Stuckey, 2015). Researchers use coding for predetermined or emergent codes and use memos for clarifications and interpretations (Stuckey, 2015).

I recorded the interviews with a hand-held digital recorder and used an android phone recorder as a backup. I tested the operational functionality of both devices before conducting the interviews. Researchers use a recording device to capture the words of the participants, allowing the interviewer to concentrate on listening and responding to the participant and not needing extensive notes (Stuckey, 2014). I subsequently transcribed the recordings for ease of use and storage. Meredith (2016) stated that transcription is extensive in qualitative research and helps in the readability, accessibility, and usability of audio data. Ensuring an accurate transcription is important for the accuracy of the data (Stuckey, 2014). To aid the transcription process, I used NVivo data analysis program. NVivo software facilitates data analysis and enhances transparency and trustworthiness of the qualitative research process (Kaefer, Roper, & Sinha, 2015). I used field notes and research logs to record and track my research experience. Researchers use observations,

audio recordings, and field notes as part of the documentation process in a research (Cronin, 2014; Nottingham & Henning, 2014).

I secured all field notes, research logs, journals, and audio recordings in locked, fireproof, combination safe. I also secured all hard copies of interview transcriptions in the same locked fireproof combination safe. I ensured that the storage of all data aligns with IRB requirements and that I am the only person with exclusive access to the raw data. All data will remain in storage for five years and full destruction will occur after five years from completion of the study. Yang, Li, & Yu (2015) noted that a secure destruction of sensitive and expired data is an important element of the research process.

Data Analysis

Data analysis reveals the underlying patterns, trends, and relationships of a study's contextual situation (Albers, 2017). Due to the increasing need to process large data sets and converting such data into useful information, the field of data analysis continues to grow rapidly (Angelov, Gu, & Kangin, 2017). Through data analysis, researchers transform raw data into a new and meaningful object of knowledge for decision (Bumblauskas, Nold, Bumblauskas, & Igou, 2017). Data analysis involves organizing and eliciting meaning from a data set to draw a realistic conclusion (Bengtsson, 2016). In Akinyode and Khan's (2018) view, data analysis comprised of a five-steps procedure namely: data logging, anecdotes, vignettes, data coding, and thematic networks. These five steps, Akinyode and Khan noted, begins with logging, which involves documenting and verifying the data, to anecdotes, involving summarizing the chronological sequence of the data, to vignettes, which involves a deeper description

and interpretation of the data, to coding, which involves fragmenting, classifying, and labelling the data, and finally to thematic networks, which involves linking the codes. Similarly, Yin (2017) identified five stages of data analysis as follows: (a) collecting the data, (b) separating the data into groups, (c) regrouping the data into themes, (d) assessing the information, and (e) developing conclusions. I incorporated elements of both Akinyode and Khan's, as well as Yin's five steps and stages of data analysis.

To facilitate the data querying and coding process, I found a valuable tool in NVivo data analysis software. I imported transcripts from the interview recordings and achieved documents into NVivo software for coding and querying. NVivo possesses character-based coding features, rich text capabilities, and multimedia functions crucial for qualitative data management (Zamawe, 2015). NVivo helps researchers save time with transcription and is instrumental to the accuracy and speed of the analysis process (Zamawe, 2015). Houghton et al. (2017) argued that NVivo is good for managing data within a qualitative evidence synthesis (QES) and for querying the findings in a rigorous manner to enhance trustworthiness of the review. This is also true for Dollah, Abduh, and Rosmaladewi (2017) who noted that NVivo is valuable for coding, classification, annotations, and managing large amount of data to create relationship among themes. It was also true for me in identifying 16 codes from which five themes emerged. Nowell, Norris, White and Moules (2017) noted that organizing codes and themes in research makes the process from text to interpretation easier. Similarly, Bengtsson (2016) noted that the use of codes and themes helps researchers to identify concepts and patterns in the analysis process to secure reliability.

Vaismoradi et al. (2016) stated that theme is the main product of data analysis that yields practical results. Themes are descriptors with subthemes as subdivisions that enable researchers to obtain a comprehensive view of data (Vaismoradi et al., 2016). Thematic analysis helps researchers to use both latent content and manifest content as categories in data analysis (Vaismoradi et al., 2016). A rigorous thematic analysis enables researchers to produce trustworthy and insightful findings (Nowell et al., 2017). Nowell et al. (2017) further described thematic analysis as a method for identifying, analyzing, organizing, describing, and reporting themes from a data set. Based on the considerations outlined by Nowell et al. and the probing nature of this study, I considered thematic analysis appropriate for this multiple case study. Themes involve the systematic search for patterns, a common feature in qualitative data analysis that helps to describe the phenomenon under investigation (Gale, Heath, Cameron, Rashid, & Redwood, 2013). Not only are themes good for organizing and pattern search, but are also instrumental to the flexibility, simplicity, and tangibility of the analysis phase of a qualitative research, leading to better understanding of results (Javadi & Zarea, 2016).

A key objective of qualitative research is to increase confidence in the findings by using two or more independent measures to confirm a proposition, known to researchers as triangulation (Johnson et al., 2017). Triangulation enables researchers to use more than one approach to researching a question (Johnson et al., 2017). Yin (2017) identified four types of triangulation in case studies: (a) data triangulation, (b) investigator triangulation, (c) theory triangulation, and (d) methodological triangulation. Methodological triangulation allows researchers to reconcile data in different contexts without

committing errors of interpretation (Sánchez-Gómez, Iglesias-Rodríguez, & Martín-García, 2016). A major advantage of methodological triangulation is that the strength of one method compensates for the weakness of the other (Dang, 2015). In this multiple case study, I used methodological triangulation as a key component in analyzing the data. I used a combination of interview data, company reports, archived public records, government reports, and field notes in my data analysis. In analyzing the different sources of data, I ensured an alignment with the conceptual framework and literature. Researchers seek consistency and alignment of conceptual framework, evidence, and the broader literature to build shared understanding of the subject (Desimone, Wolford, & Hill, 2016).

In qualitative research, a combination of multiple conceptual frameworks, prior research, and current body of knowledge point toward a worldview for social change (Trochim, Donnelly, & Arora, 2015). The company documents and reports, as well as archived public records significantly aligns with the themes emerging from the participants' responses. The notes and memos were vital in the development of the preliminary drafts of what translated into codes and themes. Bengtsson (2016) noted that researchers' memos are critical for tracking changes in coding and re-coding decisions and other developments during the data analysis process. After completing the correlation and analysis of the themes, I saved all processed data on a password-protected computer and used data cleansing technique to remove all unwanted data. Data cleansing involves a process of detecting and correcting errors and inconsistencies in data (Li, Sun, & Higgs,

2017). Data cleansing also identifies corrupt and duplicate data inherent in the data sets (Li et al., 2017).

Reliability and Validity

Reliability

Reliability in research relates to trustworthiness, clarity, and transparency of the research process while validity relates to the integrity and precision of the findings as an accurate reflection of the data (Noble & Smith, 2015). Both terms jointly addressed the questions of credibility, transferability, dependability, and confirmability. Leung (2015) viewed reliability as consistency and validity as appropriateness of the tools, processes, and data. Leung considered validity, reliability, and generalizability as the three gold criteria of assessing the quality of any research. Bolarinwa (2015) refer to validity and reliability as research instruments and called for consistency in the use of the instruments. Yin (2017) also endorsed the call by recommending the use of multiple sources of evidence to enhance reliability and validity of study findings.

Ensuring the reliability of a study involves an explicit and well documented process that allows for replication (Singh, 2014). The idea of process clarity and proper documentation in a study indicates trustworthiness of the research and answers the reliability and dependability question (Anney, 2014). To address the issue of dependability, I used member checking to assure the accuracy of participants' responses. Birt, Scott, Cavers, Campbell and Walter (2016) consider member checking as a tool to enhance trustworthiness and viewed trustworthiness as the bedrock of high-quality qualitative research. Member checking increases the tendency of capturing participants'

experiences correctly, thus reducing methodological concern (Birt et al., 2016). Researchers use member checking as a tool to allow participants to confirm their truthfulness to their experiences (Elo et al., 2014).

Simpson and Quigley (2016, p. 377) considered member checking a “best practice” in the field of qualitative research, as well as a validation of descriptions and an accuracy of interpretations. Simpson and Quigley (2016) further described member checking as a sound component of qualitative research. Anney (2014) supported that description by stating that member checking is the heart of credibility and helps in eliminating researcher’s bias when analyzing and interpreting results. Kopechek et al. (2016) viewed member checking as the confirmation of content and interpretation, the recognition, plausibility and truthfulness of participants’ information. While Thomas (2017) expressed reservation on the usefulness and relevance of member checking, Birt et al. (2016) emphasized the need to allow participants to confirm their own words, experiences, and ideas for purposes of assuring the dependability of a research report.

Validity

While categorizing validity into internal and external, Khorsan and Crawford (2014) described validity as the degree to which a result from a study is likely to be true and free from bias. This description underscores the importance of validity in research as researchers and users of research want all study results to be true and bias free. When study results and conclusions are valid for the study population, Khorsan and Crawford (2014) describe it as internal validity, which they added is a prerequisite for external validity. External validity is viewed as the generalizability of a study, indicating how

likely the observed effects would occur outside the study (Khorsan & Crawford, 2014). Anney (2014) arguing for research trustworthiness, stated that credibility should replace internal validity and transferability should replace external validity. Hagan (2014) viewed validity from the perspective of policy makers, affirming the importance of validity because inaccurate concepts could lead researchers to wrong conclusions and lead policy makers to wrong decisions. I ensured validity of the study by implementing measures of credibility, transferability, and confirmability.

Credibility. Credibility is the confidence in the truth-value of a research finding, indicating a correct interpretation of the participant's original view (Korstjen & Moser, 2018). To assure the credibility of a study, Korstjens and Moser advised researchers to implement prolonged engagement and persistent observation, triangulation, peer debriefing, and member checking. Similarly, Anney (2014) also recommended the following credibility strategies: prolonged and varied field experience, time sampling, reflexivity, triangulation, member checking, peer examination, interview technique, establishing authority of researcher, and structural coherence. Boccia (2015) on his part, called for an improvement to the credibility and efficiency of scientific investigation, stating that potentials exist to increase credibility. To ensure credibility of the study, I used prolonged engagement and member checking.

Transferability. Transferability refers to the degree of transfer of the results of qualitative research to other contexts with other respondents (Anney, 2014). Anney suggested two ways of facilitating transferability: through thick description and through purposeful sampling. In assessing transferability, Václavík et al. (2016) viewed

transferability in terms of the relevance of a study outside of the study area. Václavík et al. (2016) focused on the geographical relevance of case studies and the potential of transferability beyond the geographical context of the study. Similarly, Mabuza, Govender, Ogunbanjo, and Mash (2014) described transferability as the ability to apply the findings of a study to other settings. This ability, Mabuza et al. (2014) stated, depends on a detailed description of the study settings, the participants' selection, and the findings of the study, a concept referred to as thick description. I addressed the issue of transferability by the process of thick description (i.e. by the detailed description of the inquiry) as well as by means of purposive selection of participants. The quality and expertise of the study participants increased the potential of the study's transferability.

Confirmability. Confirmability refers to the ability to confirm and corroborate a research finding by other researchers (Anney, 2014). Such ability to confirm a research finding shows the thoroughness of the researcher to correctly interpret the findings based on the data and not the figments of imagination (Anney, 2014). Audit trail, reflexive journal, and triangulation are means of confirming the validity of a study (Anney, 2014). Noble and Smith (2015) viewed confirmability as addressing truth value, consistency, and applicability. In that regard, research findings reflect the researcher's experiences and perspectives. Moon, Brewer, Januchowski-Hartley, Adams, and Blackman (2016) described confirmability as making sure that the findings of a study are not a function of the researcher's biases, motivations, interest and perspectives, but are solely from participants' responses. To achieve confirmability, Moon et al. argued that researchers must establish the connection between results and conclusions and demonstrate that other

researchers can replicate the study. I addressed confirmability by using member checking and thereby allowed participants to verify and confirm their responses. The confirmability process helps to establish the connection between the data and the findings (Chowdhury, 2015).

Transition and Summary

In Section 2, I discussed the purpose of the study, which is to explore strategies managers in multinational companies use to manage transfer pricing risks. In the discussion, I explained my role as a researcher and described the interview protocol. The discussion in section 2 also included the criteria for getting the right participants, the means of gaining access to the participants, the research method, and the research design. Section 2 detailed the population and sampling, as well as the methods of ensuring an ethical research, including the informed consent and data security processes. Other descriptive contents in section 2 include data collection instruments and techniques, data organization instruments and techniques, and data analysis. This section concluded with the means of ensuring reliability and validity of the study findings. Section 3 will focus on the presentation of findings, the application to professional practice, the implications for social change, and the recommendations for action and further study.

Section 3: Application to Professional Practice and Implications for Change

In Section 3, I provided the summary of the findings and the detailed presentation of the findings. The contents of this section include an overview of the pilot study, identifying the themes of the main study, analyzing the themes, and discussing the themes in relation to the research question and conceptual framework. In this section, I also presented the application to professional practice, the implications for social change, and the recommendations for action and further research. Section 3 ends with a reflection and a concluding statement.

Introduction

The purpose of this qualitative multiple case study was to explore the strategies managers in multinational companies use to manage transfer pricing risks. 6 finance executives from 2 multinational companies in the midwest and southwest United States participated in the study. The participants responded to eight open-ended interview questions designed to elicit comments related to the overarching research question of the study. To protect the privacy of the participants, each participant was identified with a code as follows: Participant 1, Participant 2, Participant 3, etc. The data collection process included triangulating information gathered from company documents, transcribing interview responses, and validating all data for usefulness and accuracy.

After receiving the IRB approval to commence data collection, I reached out to the organizations to obtain the letter of cooperation, first by email and later by phone calls. Once I obtained the signed letter of cooperation from each organization, I contacted the participants by phone to schedule interview appointments. Prior to the appointed

interview dates, I emailed the consent form to the participants to review and sign. All 6 participants that agreed to participate in the study returned their signed consent forms before the interview date. At the time of the appointment, I called each participant to schedule interview sessions lasting no more than 20 minutes. During the interview, the participants responded to eight interview questions (see Appendix B). I ensured that the participants understand their right to withdraw their participation. I accomplished this by restating key elements of the consent form relating to privacy and rights of participants, thus creating a comfortable atmosphere for purposeful discussion. All interviews were conducted over the phone since the participants live in different cities and states throughout the United States. Participation was restrictive based on the eligibility criteria of only senior management personnel experienced in transfer pricing.

After transcribing the interview responses, I emailed the transcripts to the participants to validate and to confirm that it is a true representation of their responses. The member checking process afforded the participants an opportunity to add more comments and provide additional information necessary for data saturation. The interpretations did not change after the member checking, however, I expanded on the details based on additional comments from the participants. Data saturation is reached when the data obtained provides maximum information on the concept and no new analytical information emerges (Korstjen & Moser, 2018). Evaluating the concept of data saturation further, Nelson (2017) viewed data saturation as achieving conceptual depth on a subject. I achieved data saturation based on the valid and enriched information the

participants provided, which after the sixth interview, emerged no new themes. My data analysis techniques, in addition to theoretical propositions, was thematic analysis.

I downloaded the interview transcriptions and my notes on corporate data collected into NVivo data analysis software for coding and querying. Houghton et al. (2017) noted that NVivo enhances coding and framework synthesis in qualitative research. NVivo is also useful for the transparency and validity of a study (Maher, Hadfield, Hutchings, & Eyto, 2018). A total of 16 codes emerged with a total frequency of 70 (see table 2). I further categorized the codes into matching groups and five key themes emerged from the coding and querying of the data: (a) commitment to tax compliance, (b) tax minimization, (c) advance pricing agreements (APA), (d) comparable uncontrolled price method (CUP), and (e) cost plus method (CPM). The section below includes a detailed analysis of these themes.

Table 2

Summary of Codes

Code	Frequency
Advance pricing agreements	5
Audit prevention	7
Comparable uncontrolled price method	8
Compliance policy	8
Cost plus method	6
De-risk options	3
Dispute resolution	2
Documentation review	3
Documentation strategy	3
Intercompany agreements	4
Lack of dispute	6
Procurement hubs	2
Resale price method	3
Shared service centers	2
Tax minimization	6
Treasury Centers	2
Total Frequency	70

In table 3 below, I categorized the emergent codes into subgroups that make up the themes. 6 codes match up the commitment to tax compliance theme, audit prevention, compliance policy, de-risk options, documentation review, documentation strategy, and lack of dispute, making up a total frequency of 30. While 4 codes match up to the tax minimization theme, procurement hubs, shared service centers, tax minimization, and treasury centers, making up a total frequency of 12. Procurement hubs, shared service centers, and treasury centers fit into the tax minimization category because MNE leaders establish those centers in jurisdictions with high-skilled but low-priced labor and low taxes. 2 codes fit into the category of advance pricing agreements and intercompany

agreements. The comparable uncontrolled price and the cost plus methods are stand-alone themes.

Table 3

Rate of Occurrence of Summarized Themes

Theme	<i>n</i>	Rate of Occurrence
Commitment to Tax Compliance	30	42.9%
Tax Minimization	12	17.1%
Advance Pricing Agreements	9	12.9%
Comparable Uncontrolled Price	8	11.4%
Cost Plus	6	8.6%

Presentation of the Findings

The central research question for this study was: What strategies do managers in multinational companies use to manage transfer pricing risks? To find answers to this overarching research question, I presented eight pre-determined interview questions to six finance executives experienced in transfer pricing transactions. All six participants have more than five years' experience in transfer pricing. The participants shared candidly about their experiences with the transfer pricing strategies they use in their current or past organizations. The emergent five themes add up to a frequency of 65 and a rate of occurrence of 92.9%. The remaining two codes, dispute resolution and resale price, with a total frequency of 5, make up the remaining 7.1% rate of occurrence and fell short of an emergent theme from the data query. The transcription and coding of participants' responses and the analysis of archival documents revealed five key themes:

(a) commitment to tax compliance, (b) tax minimization, (c) advance pricing agreement (APA), (d) comparable uncontrolled price method (CUP), and (e) cost plus method (CPM). The detailed analysis of these themes is included in the presentation below.

Theme 1: Commitment to Tax Compliance

Compliance with tax regulations was a common theme from the participants' responses to the interview questions. Four of the six participants alluded to compliance as a key strategy in responding to question 1. By committing to compliance, the participants noted, organizational leaders strategically avoid penalties and other negative consequences of non-compliance. Participant 2 stated:

Our core strategy is to do the right thing, to use the arm's length prices and avert lengthy violation audits. We do not want to subject our board of directors to legal battles and months of IRS audit on our company and we do not want problem with the tax authorities of the countries we do business.

Similarly, Participant 5 noted:

Our company's reputation is a key factor in the strategies we adopt in running our business. Our company has built a good business reputation for many years and our goal is to keep that as a model. We follow the rules; we do clean business and we ensure all our affiliated companies operate the same way in all jurisdictions.

As a strategy, commitment to tax compliance appeals more to leaders of MNEs based on their perception of the negative impact non-compliance could have on business operations. Most of the participants believe that non-compliance is a high-risk approach

that could spell doom to business operations. To those participants, non-compliance is an avoidable business risk.

Klassen et al. (2017) agreed to the idea that some business risks are avoidable, positing that MNE leaders view transfer pricing as the biggest audit risk and would prefer no disputes with tax regulators. For this category of participants and MNEs, the failure to comply with tax regulations constitutes a great risk to business operations and would prefer to avoid such risk, as much as possible. Figure 1 below indicates an inverse relationship between tax compliance and audit risks. From the perspective of these participants, the higher the level of compliance, the lower the tendency of audit risk, and vice versa.

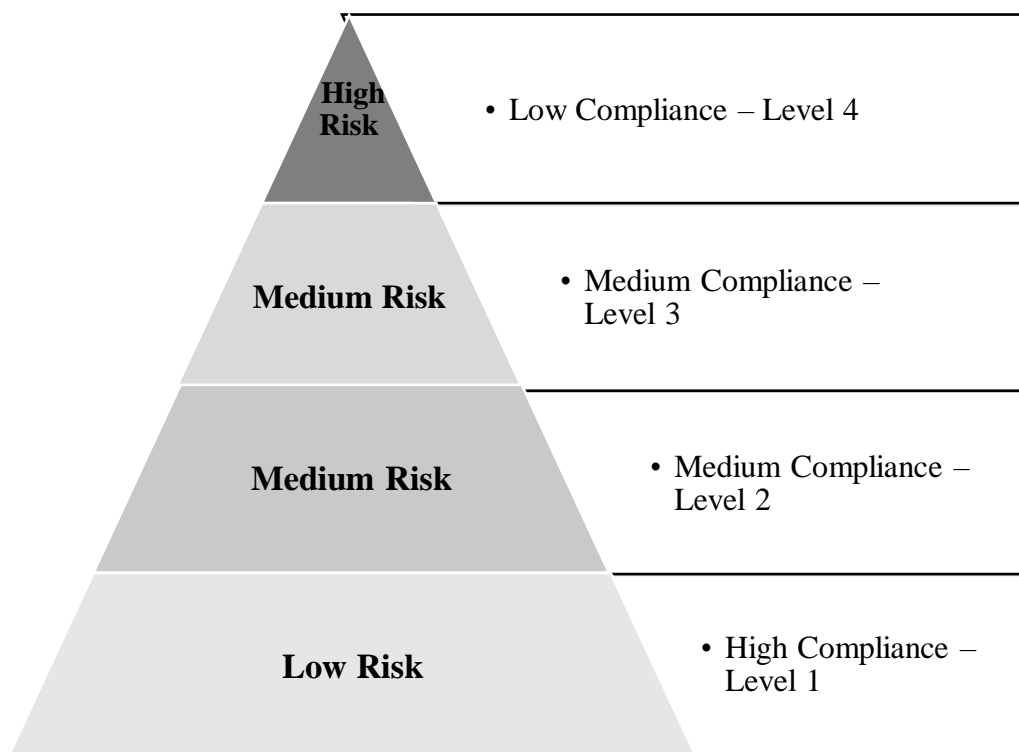


Figure 1. Compliance levels and related audit risks

Participant 1 indicated that their company had to pay very harsh penalty in the past and would not want to deal with such assertive enforcements again. To Participant 1, the cost of non-compliance and the accompanying penalties are higher than the cost of compliance. This is a valid argument, since businesses operate to save cost and to make profit. Akeem (2017) agreed, noting that cost control and cost reduction are ingredients of profit maximization in a competitive market. Similarly, Abdallah (2016) advised MNE leaders to adopt transfer pricing methods that reduces compliance costs and burdens and avert stringent tax penalties. Business entities function more effectively when they balance compliance strategies with other policy standards. To this end, Abdallah noted that MNEs achieve cost-effective standards while balancing business goals with regulatory needs.

Participants stressed the need for proper transfer pricing documentation as a panacea for achieving compliance. Participant 4 noted that proper compliance is not attainable without a commitment to documentation requirements. Responding to question 2, Participant 4 stated:

We take our documentation process very seriously. Compliance is all about proper documentation. That is how we stay on track, knowing the consequences of failing to do the right thing. To us and our affiliated companies, transfer pricing documentation is a value and a focus. Management is serious about the oversight of the process, making sure that omissions do not occur.

Similarly, Participants 1 and 5 indicated their companies' commitment to a stringent documentation process. Challenging as it may be, the participants noted that

staying on track with their strict documentation processes help their companies to stay compliant. Staying compliant then becomes a success measurement to the participants. Agreeing to the necessity of proper documentation as a sign of compliance, Cooper et al. (2017) noted that transfer pricing documentation provides the information needed to assess a taxpayer's compliance with regulations. Advising that policy makers in MNEs while formulating documentation rules, should consider the impact on the burden of proof and the risk of transfer pricing audits. The burden of proof notion was a key consideration by participants when discussing the necessity of proper documentation. MNE leaders understand the impact of carrying such burden, asserted the participants, prompting the resolve to follow the rules and to keep proper record of compliance at all levels of operations. The participants noted that proof of compliance is maintained at all locations or countries of operations, by virtue of individual company policies. Company reports and bulletins from Participants 1 and 5 indicated a strong compliance culture in both organizations spanning for over 10 years, thus confirming the participants' submissions.

The BEPS Action 13-2015 Final Report spells out the rules for transfer pricing documentation to include a master file, a local file, and a template for country-by-country reports, to bring consistency in the ways to assess transfer pricing compliance (OECD, 2015d). The participants in the compliance category all attested to their companies' adherence to the BEPS Action 13 rules in reference to the three-tier approach to documentation, the contemporaneous nature of the filing, the materiality of the documentation, the frequency of the updates, and the document retention period, among

others. All four participants in the compliance category (Participants 1, 2, 4, and 5), noted in response to question 8 that documentation filing is a consistent practice at their organizations.

The result of this theme aligns with the conceptual framework on risk sharing and risk mitigation by MNEs. By complying with transfer pricing regulations, leaders of the MNEs strategically position their businesses for growth and competitive advantage in a global market, a core focus of cost contribution agreements. Andrus and Oosterhuis (2017) noted that MNE leaders make decision on risk mitigation by taking actions that affect risk outcomes. To this group of MNEs, compliance to regulations is the best risk mitigation business decision a leader could make. Andrus and Oosterhuis further argued that an MNE must have the capacity to assume risk and control risk through decisions on transaction performance. Also arguing in favor of the compliance strategy, Klassen et al. (2017) noted that compliance-related strategies are of greater importance for MNEs than other strategies as a metric for assessing transfer pricing efficiency. This aligns with the goal of cost contribution agreement, which aims at greater business efficiency and competitive strength.

Theme 2: Tax Minimization

Tax minimization was the next most favored strategy the participants identified. Five participants considered tax minimization as a good strategy for business profit, but all five do not see it fit for first choice. Participants 3 and 6 indicated tax minimization as a top choice while participants 1, 2, and 4 considered it good for a second choice. Participants 3 and 6 noted that tax minimization strategy enables their companies to build

more cash reserve. The extended cash reserve builds up for the company paying less taxes. Two participants (3 and 6), argued that paying higher taxes is never a rational business goal, because MNEs exist to make profit and thrive, while also fulfilling their responsibilities to tax authorities at the barest minimum level possible. Consenting to this belief, Participants 1, 2, and 4 noted that tax minimization is a cost saving measure and companies take advantage of this measure within the dictates of the law to stay in business and to sustain profitability.

Neubig and Wunsch-Vincent (2018) viewed tax minimization as a tool for allocation of cross-border intellectual property income especially in countries of operating surpluses. This extends the argument on tax minimization to the level of using it as a tool for profit shifting. Neubig and Wunsch-Vincent further noted that tax minimization is a form of distortion of real economic activities on royalties and licensing because it minimizes income and withholding taxes in different jurisdictions. The participants who favor tax minimization strategy do not see it as a distortion but agree to using it in some way to shift profit. Participant 4 in response to question 3 indicated that a real possibility of distortion exists in the transfers and distribution of intellectual property, but his company leaders never allow distortion.

Using tax minimization as a profit shifting strategy, Participant 1 stated, “To take advantage of low tax rate in a particular jurisdiction, our company moves the ownership license of our intellectual property to that country, so that only minimal taxes are paid on the profit generated in that jurisdiction.” Griffith, Miller, and O’Connell (2014) calls this a pattern of substitution of location. This pattern, Griffith et al. noted, inspires MNEs to

determine patent rights location based on corporate income tax rates. Participants 1 and 6 agree to this notion in responding to question 5, noting that their organizations make IP shifting decisions for the benefit of their organizations. In that regard, Participant 2 stated “intellectual property location is one of the areas our management gives considerable attention to, so that maximum tax benefit is achieved. It has been our company policy for many years to locate IP licenses in very low tax jurisdictions. This seems to be common sense business decision.” The institution-based view of a broader intellectual supports the notion that managers and policy makers in organizations rationally pursue their interests and make strategic choices within the formal and informal constraints in a given institutional framework (Peng, Ahlstrom, Carraher, & Shi, 2017).

Participant 6 responded similarly, arguing that seeking company’s interest is a strategic consideration to ensure continued maintenance of cash reserve while paying the minimal amount of taxes allowed by law. Participant 3 agreed, noting:

Our business model focuses more on tax havens. We conduct most of our businesses in countries that allow tax reliefs as a means of attracting investment. It is mutually beneficial to the businesses that operate in those jurisdictions and the authorities as well. Because of the mutuality of benefit, it is legal to operate in a tax haven country and that greatly enhances our tax minimization business goal.

The cordiality of tax haven and tax minimization is a business reality. Jones et al. (2017) noted that tax minimization is a key driver of tax haven. Similarly, Klassen et al. (2017) argued that the benefits of operating in a tax haven significantly aids in tax minimization, creating a multiplier tax goal-tax benefit effect. The Participants who favor

tax minimization maintain that it is a legitimate business practice and indicated their intention to continue to use it as a model for as long as the law permits. Shin (2017) viewed the regulators and policy makers that permit tax haven and profit shifting as partisan but opined that less stringent policies are sometimes good for attracting investments. Be that as it may, most compliant MNEs and policy makers in non-tax haven jurisdictions view profit shifting as tax evasion and a loophole that deprives Governments of tax revenues needed for developments and infrastructure. Omar and Zolkafli (2015) called on the authorities to enact laws that makes profit shifting a punishable offence and a deterrent to MNEs to strive for compliance. A review and comparison of annual reports of the participating organizations, as well as archived public documents indicate a higher average tax saving for companies focusing on tax minimization and the reverse for companies focusing on compliance.

Tax minimization aligns with the conceptual framework in the area of spreading risks on intellectual property. While attempting to take advantage of tax loopholes by transferring licenses and royalties to different areas of operations, the MNEs are invariably spreading the risks of development or acquisition of intangible assets to create benefits for the group. Spreading the inherent risks in businesses enables MNEs to minimize vulnerability to changing demands, facilitates a wider customer base, and ultimately leads to business growth (Kidney, Harney, & O’Gorman, 2017). Similarly, risk spreading in business positions MNEs for competitive advantage and corporate sustainability performance (Sihite, 2018). Tax minimization remains a controversial tax

planning tool, important for some for profit shifting, but viewed by others as a tax evasion mechanism, detested, and worthy of criminalizing.

Theme 3: Advance Pricing Agreements (APA)

Successful business leaders in MNEs use the advance pricing agreement method to reduce or eliminate risks through forward negotiations with tax authorities and other parties. Participants in this study favor APA as a viable alternative strategy. Participant 4 stated:

Advance pricing agreement remains a strong benchmark strategy for negotiating transfer pricing terms of operation. Our company leaders use APA to remove the negative effects of uncertainty and more importantly, to eliminate the risk of double taxation.

Participant 2 echoed the same thing, stating:

The biggest drive for companies to use an APA is to avoid a possibility of double taxation. Because the companies have operations in different jurisdictions, there is always a possibility of double taxation. Companies want to avoid double taxation and save cost. It is an alternative strategy for our company, and we look at the country of operation, the current transfer pricing landscape, and other economic factors to make the decision to seek an agreement.

Participants 2 and 4 are concordant in the belief that certain economic and environmental conditions may warrant the use of an APA in negotiating the terms of transfer pricing operations. The participants in the APA category (participants 1, 2, 3, 4,

and 6), agree that certain landscapes where there had been disputes in the past or there is a sense of future economic uncertainty may necessitate the use of an APA.

Such economic and environmental conditions vary from country to country especially with the BEPS Action 13 on country by country reporting requiring certain framework on mutual assistance and tax information exchange between parent entities and competent authorities. In this general framework, the competent authority sets out the operational details of the exchange (OECD, 2017b). Participant 1 stated, “Our APA agreements are usually bilateral or multilateral in nature, that is, between our company and the competent authority of the country we do business and sometimes involves other countries as well. We never do a unilateral agreement.” Participant 3 stressed the same point, stating, “We enter into bilateral agreements to increase transparency and to avoid potential adjustments that could lead to double taxation. The negotiations help us to set a benchmark with our treaty partners.”

The foremost reasons for the APA bilateral agreements are cost savings and reasonable certainty (KPMG, 2017). The cost savings consideration includes the avoidance of double taxation. MNE leaders being conscious of price and economic fluctuations embrace APAs to bring a level of certainty to their processes and transactions. Dispute avoidance is another strong consideration for APA (KPMG, 2017). Participant 1 noted in response to question 5 that bilateral agreements work better for his organization as a dispute avoidance mechanism. This is also true for Participant 6 who stated in response to question 5 that “Our company leaders understand the need to avoid

dispute with tax authorities and so far, the advance pricing strategy is an effective means to achieve that goal.”

In response to question 5 on how to measure the effectiveness of the strategies, Participants 2 and 3 indicated that APA is a means for their organizations to avoid disputes. Participant 3 stated, “Less disputes with the tax authorities means that the APA strategy works for our company. We have successfully avoided disputes for many years.” IRS reports indicate that the increase in APAs between Japanese MNEs and US tax authorities shows the effectiveness of the APA transfer pricing strategy (IRS, 2018). Avi-Yonah and Xu (2018) also indicated similar agreements between Chinese MNEs and the Russian tax authorities, primarily aimed at avoiding double taxation and preventing fiscal evasion. The participants in the APA category agreed that APAs protect both the MNEs and the tax authorities and serve as an enforcement of the arm’s length standard. The United Nations (2017b) agreed with Participant 3 that APAs lead to transparency in transfer pricing transactions, noting that APA is an innovative instrument designed to promote and facilitate transparency, making it a reachable and timely solution to tax disputes.

Opponents of the APA strategy disagree with the participants’ position on the overwhelming benefits of the APA but argued that the APA process is a costly and complex one. Becker et al. (2017) noted that APAs are very costly processes both in terms of manpower and fees and are often lengthy and complex. Agreeing to that argument, Afik and Lahav (2015) noted that only large MNEs can undertake an APA because of the expensive nature of the program. Chen (2017) also view APAs as

challenging especially in the area of supervision and enforcement. Chen argued that the parties to the agreements could do something different without adequate supervision. Participant 6 in response to question 4 on overcoming the challenges of the APA strategy, noted that agreements are enforceable because the terms are spelt out and any violation would amount to a breach of the agreement. Participant 3 agreed similarly, stating that the agreements are legally binding and signers to the agreements do their best to keep to the terms. Company documents from Participant 3's organization indicated no violations to advance pricing agreements in the last seven years.

The APA strategy aligns with the conceptual framework because of the cost savings and double taxation avoidance focus. Avoidance of dispute is a strong risk mitigation effort and that elevates the alignment between APAs and cost contribution agreements. In this instance, both concepts are agreements aimed at preventing the effects of uncertainty and thus avoiding business risks. APAs like CCAs are tax planning tools aimed at spreading risks and reducing the potential for large businesses losses (HM Revenue and Customs, 2013). The increasing use of these tax planning tools by MNEs indicate a strong and unmistakable alignment between the concepts.

Theme 4: Comparable Uncontrolled Price (CUP) Method

Business leaders use the comparable uncontrolled price method very often as an appropriate transfer pricing strategy, because it reliably aligns with the arm's length standard. All the participants in this study mentioned the CUP method in their responses to interview question number 7. While CUP method is the most preferred alternative strategy, three Participants had used it as the number 1 strategy at some point in their

business experience. Participants 2, 5, and 6 had used the CUP method as their main transfer pricing method prior to the method they currently use. Participant 2 stated, “CUP method is best among the best as a transfer pricing strategy because the regulators see it as an enforcement of the arm’s length price. CUP method involves using the operating market price and keeps our company clean with audits.” Participant 5 re-echoed a similar response stating,:

We love the CUP method. It is next to full compliance strategy. The tax regulators love it as well because it is a personification of the arm’s length standard. It is good for audit because the auditors love it also. The parties are always comfortable with the transactions because the current market conditions prevail, and everyone is exercising good faith.

It is no surprise then for Andrew Shact of the Boston University School of Law to call the CUP method a preferred method over all methods (European Union, 2016b). Perčević and Hladika (2017) also noted that the CUP method was the most frequently used OECD method of determining transfer prices in related companies in Croatia in the year 2008. The CUP method is most suitable for determining transfer prices because of the comparable nature of the transactions (Perčević & Hladika, 2017). Regulators also use the CUP method to evaluate intra-firm prices against those at arm’s length (Flaen, 2017). Participant 6 described the CUP method in this way,

The CUP method is good for price comparison. It enables us to compare the prices we charge for goods and services to our affiliated and non-affiliated parties,

with the prices obtainable on the open market. It is an ideal method in consonance with the arm's length standard. It helps us stay in compliance.

Participant 1 though has not used the CUP method as the main strategy, but speaks very well of the method in these words,

The CUP method as an alternative method for our company could well fit as the main pricing method because of the comparability attribute. The ability to compare the price makes this method a unique method. It is good for audits also. Our company has never had any problems whenever we use this method and our company is fully compliant. The CUP method has the capacity to be first place transfer pricing strategy for any company. It asserts the arm's length standard more directly than other transfer pricing methods.

Melnychenko et al. (2017) firmly established this position by stating that the CUP method is the most direct and most consistent use of the arm's length principle. This placed the CUP method in a very high-ranking position among the transfer pricing methods. Melnychenko et al. further called CUP method the most recommended for use among OECD countries. Similarly, Suraj (2017) called it a prescribed method by the UN and the OECD. Company reports provided by Participants 2 and 5 indicated that both companies used the CUP method for over five years in controlled transactions with their affiliated companies.

Juranek et al. (2018) placed the CUP method in a much high-ranking position, calling it the most direct way of ascertaining an arm's length price in a controlled transaction. Also calling it a favored method by the OECD and one of the more

traditional ways of pricing intellectual property. Jost et al. (2014) also referred to the CUP method as one of the traditional methods of pricing intangibles. Based on the Participants' assertions, supported by the prevailing literature on the subject matter, the comparability feature and the alignment with the arm's length standard are noticeably the distinguishing factor of the CUP method as a favored transfer pricing strategy. Esser and Vliegthart (2017) noted that comparability is crucial to establishing equivalence. Fig 2 below indicates the relationship between related parties in a controlled transaction and similar relationships between unrelated parties in an uncontrolled transaction.

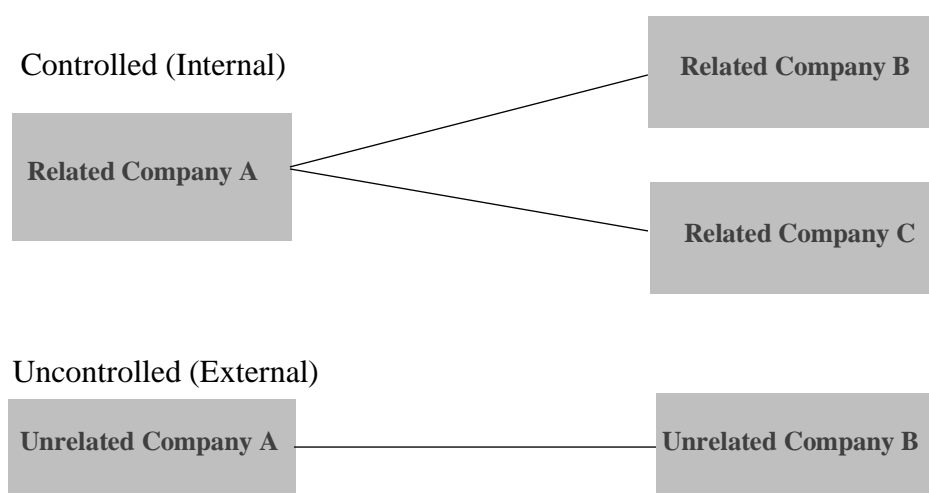


Figure 2. Comparable Uncontrolled Price (CUP) method showing controlled and uncontrolled transactions

Controlled transactions are transactions between related parties, while uncontrolled transactions are those between unrelated parties (Mitra et al., 2017). The CUP method compares the price charged for goods and services among related and unrelated parties in comparable circumstances (Flaen, 2017; Mitra et al., 2017). While the comparability factor is a key advantage of the CUP method, it also serves as a

limitation because it is sometimes hard to find comparable circumstances (Juraneck et al., 2018). The EU (2016b) agreed, noting that the general lack of sufficiently comparable internal data, especially with regards to fact patterns and risk allocations, is a limiting factor to the use of the CUP method. Similarly, the United Nations (2017a) observed that commercial databases are not available in all countries to enable an effective identification of external comparables, making it difficult to effectively use the CUP method. Based on those indications, the applicability of the CUP method for both internal and external comparables, depend on finding an exact comparable. When that happens, the CUP method is a high choice method, but when an exact comparable is not found, it is challenging to use the CUP method.

The CUP method aligns with the conceptual framework based on the risk mitigation focus. As a highly favored method, deeply embedded in the arm's length standard, the CUP method enables MNEs to stay compliant. By staying compliant, business leaders save cost for their companies and avoid disputes with tax regulators. Also, by interacting with related and unrelated parties in arm's length's standard transactions, the MNEs spread transaction risks, which is the core focus of the cost contribution agreements conceptual framework, to spread risk. Hardin, Kilian, and Spykerman (2017), noted that inter-organizational collaboration among competing systems leads to effective service delivery and reduces operational cost.

Theme 5: Cost Plus Method (CPM)

Cost plus a market-based markup price is one of the strategies leaders in MNEs use to manage transfer pricing risks. Four participants in this study (participants 2, 3, 5,

and 6) favor the cost plus method as a viable alternative strategy. The four participants indicated that they had used the cost plus method as either a main strategy or an alternative strategy in the course of their business experience. Participant 2 stated “We used the cost plus method in our manufacturing facilities to capture our incremental production costs. Capturing the incremental costs always provide the means for our company to compete with other companies in similar production business like ours.” Participant 5 also noted, “Our company had used the cost plus method for many years in the production centers by simply adding a gross profit to the production cost. In that way, our price agrees to the arm’s length price that is comparable to related party transactions.” Similar to Participants 2 and 5’s positions, Participant 3 submitted:

The cost plus strategy affords the opportunity to add an incremental production cost and the opportunity cost of the facility used to reach a competitive cost. With this pricing method, our company and related affiliates comply with the arm’s length standard of pricing. We achieve this easily by determining a correct markup to apply to comparable transactions. The cost plus method is always a good pricing method to keep our production centers in compliance.

In Participants 6’s assertion, the cost plus method is a good alternative strategy when it is possible to find a comparable transaction.

Although Participant 2 agrees with Participant 6’s position on the difficulty in finding comparables some of the time, Participant 2 remains strong on the suitability of the cost plus method as a preferred alternative strategy for the production arms of organizations. Participant 3 also agreed in part with Participant 6 on the difficulty of

finding controlled transactions but maintained that “the cost plus method is a simple and justifiable way of allocating overhead costs without violating any business rule.”

Participant 3 agreed with the notion of the cost plus method being a best practice method for arm’s length transactions, but noted that, “the cost plus method sometimes ignores competition by setting a price that might be substantially different from the market price and which can potentially impact profit or market share.”

On similar note to Participant 3’s position on the limitation of the cost plus method, Participant 5 stated that “The cost plus method sometime ignores replacement cost by using the historical cost, which is not a good reflection on current replacement value.” Jajairam (2013) favored current replacement value pricing because it reflects current market reality rather than just a historical cost. This is also true for Andrade and Martins (2017) in the assertion that current replacement value better reflects future value in the case of increase or decrease, than does a historical cost. Participant 2’s position is different from Participant 5 on historical versus replacement cost. Participant 2 noted in response to question 5 on measuring the effectiveness of the CPM, that the cost plus method reflects more actual overhead cost relating to the production of goods. This is contrary to Participant 5 who viewed the CPM as using historical cost.

Perčević and Hladika (2017) viewed the CPM as reflecting incremental production costs plus the opportunity cost of the facilities used. The notion of opportunity or real cost supports the position of Participant 2. OECD data indicates that MNE leaders used standardized methods in determining the appropriate cost plus mark up. Based on using a consistent and standardized mark up over a period, MNEs record great successes

from using the cost plus method (OECD, 2017a). Deloitte (2016) agreed, noting that cost plus a 15% profit margin is an acceptable method of pricing export transactions among related business parties. Challoumis (2018) also considered the cost plus method a part of an objective measure of profitability for MNEs, especially for controlled transaction. Challoumis noted that the cost plus method enables manufacturers to recover their production cost through the mark up pricing. Company reports and documents provided by Participant 2 indicated a consistent pattern of profitability for the company when the cost plus method was the pricing method for the manufacturing unit, thus asserting Deloitte's and Challoumis' positions on the acceptability and objectivity of the cost plus method of transfer pricing.

The CPM as a transfer pricing strategy aligns with the conceptual framework in the area of risk minimization and risk mitigation for manufacturing centers. From the participants' responses supported by existing literature on the concept, the CPM agrees to the arm's length price in comparable transactions. In that understanding, the cost price method reduces or eliminates risk of losses which aligns with the cost contribution agreement conceptual framework. Both the CPM and the CCA represent shared financial responsibilities at the core level of business operations, and cost minimization through proper cost allocations and commitments of the business parties. Both are tax planning tools aimed at creating benefits for the business entities involved in a controlled transaction.

Applications to Professional Practice

Successful business leaders always strive to attain a high professional standard in the practice of business. That is the standard portrayed by the participants in this study, who from their practical and professional experiences provided rich insights into the strategies managers in multinational entities use to manage transfer pricing risks. The findings of this study could benefit MNE leaders in ways that reflect best business practices in transfer pricing transactions. It is not surprising that the highest percentage of the findings relate to commitment to compliance as a strategy. The findings of this study could point business leaders, that are not currently focused on compliance, to see the need to re-focus on compliance. The findings of the study show the inverse relationship between compliance and business risk. The higher the rate of compliance, the lower the risk of audit and violations, and the lower the rate of compliance the higher the business risk. Leaders of MNEs could learn from this study that having tax compliance goals increases business efficiency and reduces the potential for uncertain risks (Klassen et al., 2017).

Risk mitigation continues to be in the forefront of goals and strategies for business leaders, making the findings of this study relevant to business practice. At the core of the findings of this study are risk mitigation, risk minimization, and proper documentation. Abkowitz and Camp (2017) described risk management in business as critical for business leaders in dealing with volatility and organizational complexities. Expanding further on the need for proper risk management, Abkowitz and Camp noted that risk mitigation positions businesses for efficiency, competitive advantage, and cost

reduction. Similarly, business leaders adopt a proper documentation strategy to remain compliant, a critical factor known to reduce profit shifting (Beebeejaun, 2018). The findings of this study indicate the relevance of proper documentation as a panacea for compliance and a key factor for business success.

Also important for business applicability and success is the APA, a vital benchmark strategy of forward negotiations, MNE leaders use to minimize risk and reduce cost. The findings of this study indicate positive outcomes from the use of advance negotiations, especially in an increasingly volatile and uncertain global business environment. Successful business leaders continue to use advance price negotiations to assure certainty and avoid double taxation in bilateral agreements (United Nations, 2017a). APA is a vital cost saving measure and leading tool for MNE leaders to attain new levels of success in cross border business transactions.

The comparable uncontrolled price method and the cost plus method are key findings of this study that are relevant and highly recommended for business leaders for greater business successes. The CUP method is an important price comparison tool for both related and unrelated business party transactions. Melnychenko et al. (2017) called the CUP method the most direct and most consistent use of the arm's length principle. Not only that, but researchers view the CUP method as the most recommended and most direct ascertainment of the arm's length price in a controlled transaction (Juraneck et al., 2018; Melnychenko et al., 2017; Suraj, 2017). All these findings are relevant for business leaders of all times. The CPM is a most suited method of pricing for manufacturing businesses. The findings of this study indicated that the CPM is useful for capturing

incremental cost and determining a correct markup in production centers. This is a great advantage for business leaders in cost reductions and efficiency in manufacturing processes. Since businesses operate to make profit, most cost saving measures are good for business growth. Deshpande (2018) described the cost plus method as a means of providing assured profits to a business entity, making it an effective business strategy for MNE leaders.

Implications for Social Change

Social change is the transformation over time of the institutions and cultures of a society (Sablonnière et al., 2013). The implications for social change in this study findings include invoking a compliant attitude for MNE leaders and prompting tax authorities to institute effective tax policies. When both things happen, tax revenues would increase leading to an enhanced economic and infrastructure development. The results of the study may steer up actions in both the MNE leaders and the governmental authorities towards improved tax codes to curb the ability of profit shifting. Enhanced governmental revenue means economic growth, economic stability, more job creation for college graduates and a thriving financial system.

Furthermore, the results of this study could encourage a return of deferred income earned abroad by U.S. controlled foreign corporations and injecting those earning into the US economy to boost productivity and enhance industrial growth. Such economic growth could result in a new economic boom, necessitating the return of jobs that were taken abroad and driving more investment confidence. A healthier economic climate could give financial institution more credence to extend credit facilities to entrepreneurs and small

businesses, spurring even more economic growth and technological advancement. Social change is driven by societal changes including social movements and technological advancements (Botta, 2017).

Recommendations for Action

Successful business leaders pursue effective strategies to sustain businesses in a competitive landscape. Without such strategic leaders, businesses are doomed to failure (Hitt, Haynes, & Serpa, 2010). My recommendations for action are in keeping with the unique insights the participants of this study provided. The foremost of which is commitment to compliance. I recommend that leaders of MNEs should implement transfer pricing policies that are focused on compliance. Focusing on compliance involves a proper and timely documentation process that meets established guidelines. Effective compliance processes also involve a commitment to the arm's length standard in all transactions, avoiding practices that could trigger IRS audit and penalties, and avoiding risky decisions on all levels of operations. MNE leaders should consider the use of a bilateral agreement when necessary to avert disputes and eliminate double taxation tendencies.

MNE Leaders may find the results and recommendations of this study suitable for price comparisons using the CUP method and for market-based price mark up at manufacturing locations using the cost plus method. Tax regulators could also find the results of the study helpful in formulating workable tax policies that reflect current business trends. To properly disseminate the findings of this study, I plan to publish the summary of the findings in business journals, to speak in transfer pricing conferences and

business forums, and to publish in academic journals as an enhancement to existing transfer pricing literature. Understanding that dissemination effectiveness depends on the audience and the channel, among other factors (Brownson, Eyler, Harris, Moore, & Tabak, 2018), in this era of social media, I plan to write transfer pricing articles regularly on LinkedIn to capture the social media audience. I also plan to maintain a blog on transfer pricing.

Recommendations for Further Research

The recommendations for further research relate to ways to improve business practices and address the limitations identified in Section 1 of this study. The finding from this study could pave the way for future research on transfer pricing strategies and how managers in multinational entities handle risks associated with cross-border transactions. From my experience in conducting this study, I recommend further research on transfer pricing strategies to include the following areas:

- (a) A larger participant pool of MNE leaders with extensive experience in transfer pricing, to add more perspectives to the findings and conclusions of prior researches.
- (b) An expanded geographical coverage to include MNEs in the northern and east coastal regions of the US and those from outside the US.
- (c) Include the latest tax codes and regulations that affect the way MNEs leaders in those jurisdictions handle transfer pricing transactions differently from where archaic laws exist.

The other limitations on participant's bias, subjective interpretations, and participant's right to withdraw, are uncontrollable factors. However, future researchers could expand on the findings of this study to conduct a quantitative analysis on deferred

income held abroad by US controlled foreign corporations. Future researchers may also investigate the impact of obsolescent tax laws on profit shifting by MNE leaders and seek a broader understanding of how regulations relate to MNEs' transfer pricing policies.

Reflections

My academic journey to attain the DBA is the best academic journey of my lifetime. In the course of this doctoral study process I widened my analytical skills and became a critical thinker. The DBA study process taught me how to examine things from all perspectives before drawing a conclusion. My experience on this program changed my perception about life to a higher degree. A contrast of my worldview when I started and my worldview at the completion of the program are very wide apart, particularly in the areas of business application and social change. The social change focus at Walden opened my understanding on how business affects society and that transformed my perception of business and community. My doctoral training at Walden made me a better business manager at my current job and gave me a solid foundation for future business management opportunities, either working as a management employee or managing my own business organization. My academic experience at Walden boosted my confidence to become better at many things.

With regards to personal biases and preconceived ideas, my doctoral study experience at Walden taught me to always set aside biases when deciding on an issue. This translates beyond business decisions to all decisions. My doctoral study experience opened my understanding to the benefits of objectivity over subjectivity. I learned through my Walden experience that looking at all the facts makes for a better decision

and conclusion. That things are not always the way they look but digging deeper could reveal what something truly is. Listening to the participants of this study relate their experiences on the subject made me a better listener. I learned patience in the course of this doctoral study. I learned to communicate and understand things better through follow up questions. I am glad I made the decision to embark on this academic journey. Though it was not an easy road, but my takeaway in learning experience made the outcome, well worth it.

Conclusion

The purpose of this qualitative multiple case study was to explore strategies managers at multinational entities use to manage transfer pricing risk. The findings of the study indicate that MNE leaders favor commitment to compliance strategy over other strategies. MNE leaders want less conflicts or no conflict with tax authorities. To properly manage risks associated with cross-border transactions, managers at MNEs must understand the need for adequate documentation that meets the arm's length standard and when applicable embark on advance pricing arrangements. MNE leaders must adopt price comparison measures for all comparable transactions, minimize cost as much as possible, and use the correct mark up for all production related activities.

The recommendations for action are for MNE leaders to implement transfer pricing policies that focuses on compliance and for tax regulators to institute effective tax policies that reflect economic realities. Such actions would bring social change through increased government revenue and enhanced economic and infrastructure development. Other implications for social change include a return of deferred income earned abroad

by US controlled foreign corporations and injecting those earnings into the US economy to boost productivity, enhance industrial growth, and drive investment confidence.

Consequently, compliance policies by MNEs with effective tax laws by regulators, both help to minimize transfer pricing risks to the benefit of all.

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Appendix A: Interview Protocol
Strategies to Manage Transfer Pricing Risks

Table of Content

1. Introducing the subject,
 - a. Mission and goal – To gain an understanding of how managers in multinational entities manage transfer pricing risks
 - b. The purpose of the multiple case study is to explore the strategies leaders in multinational entities use to manage risks associated with transfer pricing operations
2. Making the interviewee feel comfortable by
 - a. Explaining the contents of the consent form and the rights of the participant, including the right to withdraw at any time
 - b. Discussing other ethical concerns including privacy rules, etc
3. Asking for permission to start audio recording
4. Beginning the interview session by asking the participant for a brief background and how long in the current position
5. Begin the interview questions
6. Taking notes as the participant responds to the questions
7. Explaining the Member checking process
8. Scheduling a follow-up interview, if needed.

Appendix B: Interview Questions

1. What strategies do you use to manage transfer pricing risks?
2. How did you implement the strategies?
3. What challenges do you face while implementing the strategies?
4. How do you overcome the challenges to implementing the strategies?
5. How do you measure the effectiveness of the strategies?
6. How often do you review your strategies?
7. What alternative strategies have you considered or tried, and why did you dismiss them?
8. What other information can you share about how you manage transfer pricing risks?

Appendix C: Letter to Participants

Email Invitation to Participate in Transfer Pricing Research

Dear XXXXXXXX,

My name is Emmanuel Kanee, and I am a doctoral student at Walden University working on my doctoral dissertation research as a partial fulfilment of the requirements for completing the Doctor of Business Administration (DBA) degree. I am conducting this doctoral research study to explore the strategies managers in multinational entities use to manage transfer pricing risks. The research is purely for academic purposes and all information obtained will be protected and kept confidential.

I would like to invite you to participate in the study. I respect your time and ask that you spare some time to read the attached consent form to decide whether you will like to participate in the study. Your participation in this study will help me to gain new insights into practical methods of managing risks associated with transfer pricing operations. I understand that your knowledge and experience is vital in this exercise and will be a valuable contribution to meeting the objectives of this research.

Your participation in this study will involve a 20–30 minutes interview process. Following the interview, I will email to you a summary of your responses for confirmation and verification. If you agree to participate in this study, please sign the attached consent form and return to me.

If you have any questions or concern, I will be glad to address them.

Looking forward to hearing from you.

Sincerely,

Emmanuel Kanee, Doctoral Student, Walden University

Appendix D: Letter of Cooperation

[*Company Name and Address*]

Date:

Dear Mr. Emmanuel Kanee,

Based on my review of your research proposal, I give permission for you to conduct the study entitled Strategies to Manage Transfer Pricing Risks within the [*Insert Name of Multinational Entity*]. As part of this study, I authorize you to conduct interviews, review documents, conduct follow up interviews for member checking and validation, and share the results of the study with the participants and management of the company. Please note that individual's participation is discretionary.

We understand that our organization's responsibilities include authorizing you to access our senior management team members, facilitating access to interview rooms and other resources as the need arises, and allowing you to access documents relevant to your area of research. We understand that we are responsible for allowing you access to the aforementioned members during business hours to conduct interviews and validation. We reserve the right to withdraw from the study at anytime if circumstances change.

The student will be responsible for complying with our site's research policies and requirements. I confirm that I am authorized to approve research in this setting and that this plan complies with the organization's policies. I understand that the data collected will remain entirely confidential and may not be provided to anyone outside of the student's supervising faculty/staff without permission from the Walden University Institutional Review Board (IRB).

Sincerely,

Authorized Official and Contact Information