Year-end adjustments from a transfer pricing and indirect tax perspective

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Recurring year-end process and transfer pricing adjustments

- Transfer pricing (TP) rules typically require that a company reflects arm's length prices in its audited financial statements (AFS) or makes an adjustment in its tax return.

Situations that can give rise to the need for TP adjustments:

1. TP policies targeting an arm's length margin, implemented through the pricing of goods and services
2. TP policies based on budgeted costs, which need to be reconciled with actual cost
3. Exceptional economic circumstances that mean the TP policy needs to be revisited, e.g. COVID-19 impact

- For a December year-end entity, there is still a chance to perform adjustments in December or January, which would be reflected in both AFS and tax return. When performing TP year-end adjustments, indirect tax implications should be properly considered.

Illustrative process for a December year-end entity

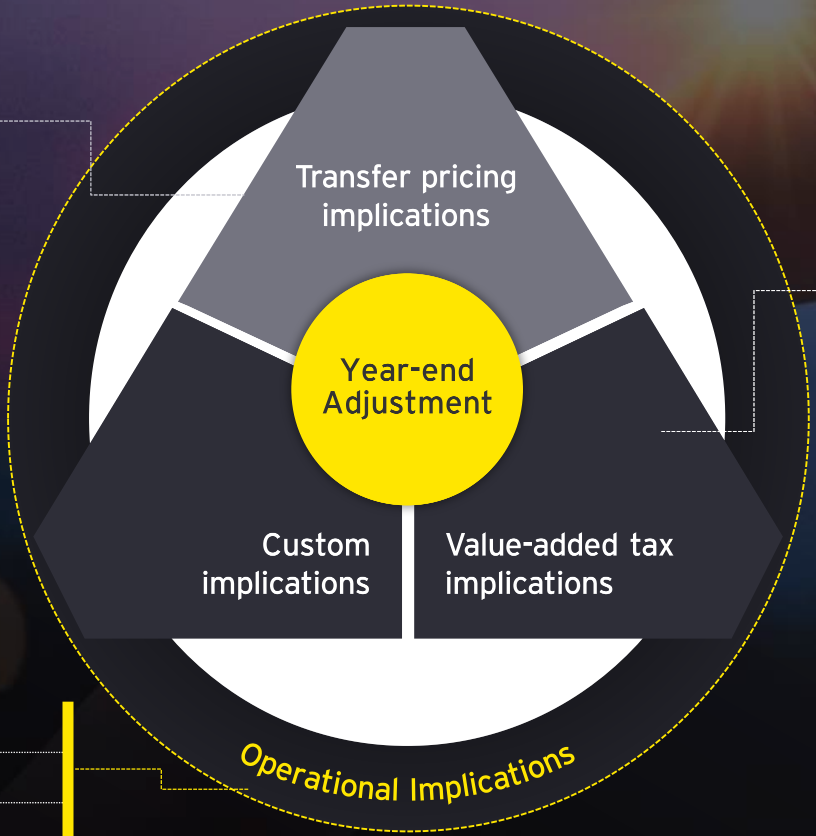
December to January	March	April	May to June
Year-end or closing books	Audited financial statements	Tax returns, including TP disclosures	TP documentation*

** Note TP documentation preparation deadline varies depending on the domestic requirements. In some countries, deadlines can be earlier, e.g. March of the following year.*

General considerations from transfer pricing and indirect tax perspective

Transfer Pricing

1. Documentation considerations:
   - TP policies and TP reports
   - Intercompany agreements
2. Implementation considerations:
   - Prescribed approach
   - Feasibility of downwards adjustments
   - Impact of significant adjustments
3. Strategic considerations:
   - Certainty via APAs / tax rulings
   - Economic circumstances, e.g. COVID-19
   - TP audit readiness



Indirect Tax

Typically three models from an EU indirect tax perspective which need to be actively managed:

1. Price adjustment of a prior supply of goods
   - Impact on prior supply
   - VAT treatment
   - Customs impact and mitigation
2. A supply of service
   - Separate supply of services?
   - Any non-recoverable VAT?
   - Customs impact and mitigation
3. Financial compensation (one-off adjustment)
   - Profit shift and out-of-scope for VAT and customs
   - Impact on prior supply
   - Impact on intercompany agreement

Operational Implications

1. Availability of data
2. Governance framework
3. Availability of technologies

Next steps

Now

- Review full-year results and assess whether year-end adjustments will be needed
- Analyze the impact of the timing of TP adjustments (pre or post year-end) and decide approach
- Perform any pre year-end TP adjustments, including related indirect tax considerations

Next

- Analyze and perform any post year-end TP adjustments on the tax return, customs declarations and VAT returns
- Prepare TP documentation supporting the transfer pricing outcomes for the year, including support for any TP adjustments on the tax return

Beyond

- Review TP process and strategy
- Update TP control framework to ensure effective implementation of TP policies
- Clear decision how to treat TP adjustments for VAT and documenting this in processes and contracts
- Consider appropriate technology to support the process
- Monitor feasibility of improving certainty on TP positions by using APAs and (indirect) tax rulings

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