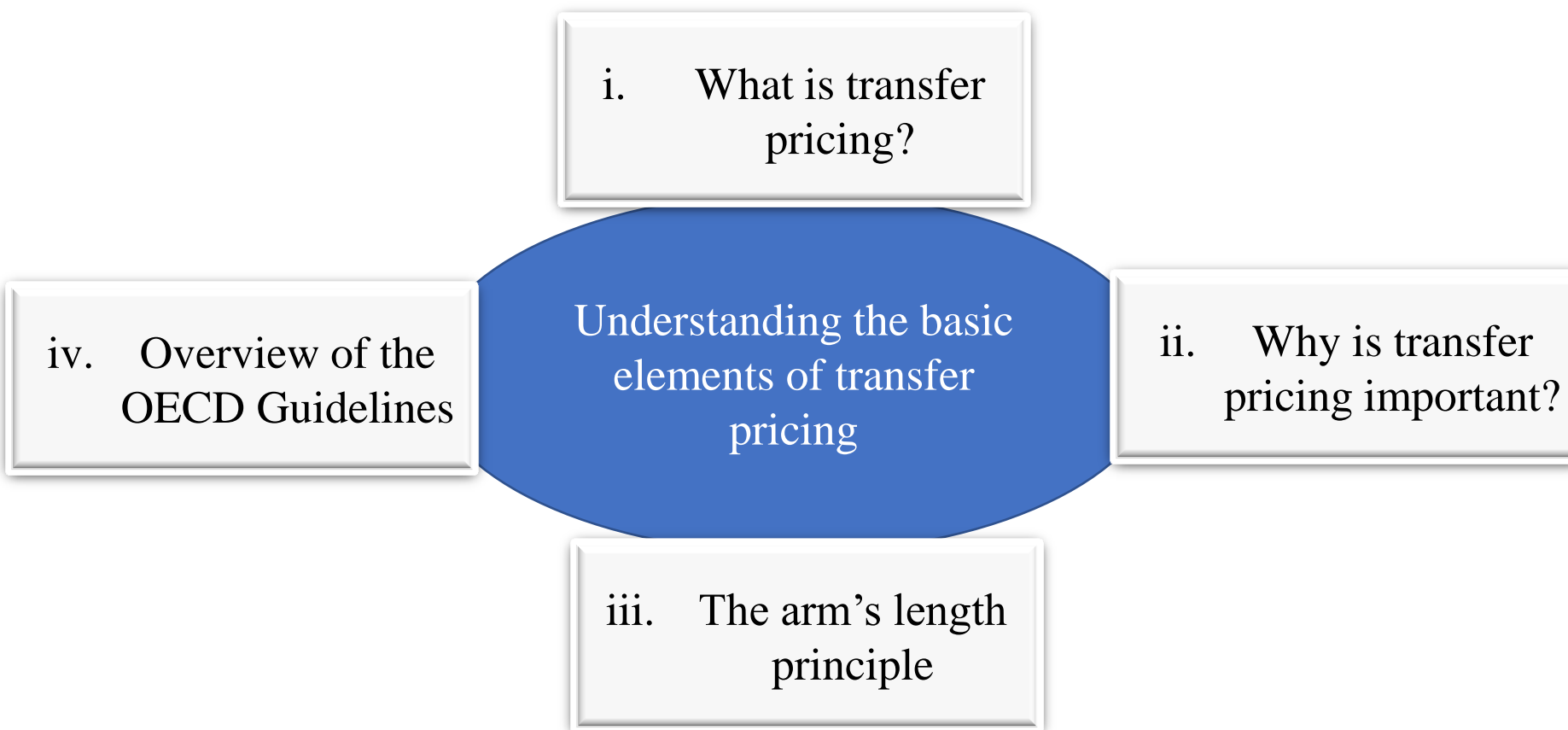


# Transfer Pricing: Understanding the Basics

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**CCPA-K**  
**June 2019**

# Agenda



# Introduction to Transfer Pricing



**What is transfer price?**

❖ Transfer price is the value or price at which transactions take place amongst related/associated parties

**Fact:** Over **60%** of international trade occurs within multinational companies rather than between different multinational corporations

Tax regimes in different countries have different tax rates

These two, among other facts creates a tempting recipe for revenue/profit shifting across different jurisdictions with the primary aim of minimising the taxes payable

# Introduction to Transfer Pricing



## Amazon paid just £15m in tax on European revenues of £19.5bn

Online retailer's UK warehouse and logistics operation more than halved its corporation tax bill from £15.8m to £7.4m



## Starbucks' EU unit paid just 2.8% in UK tax last year

Michael Selby-Green ☒

Sep. 19, 2018, 11:02 AM 963



Technology

## Google's 'Dutch Sandwich' Shielded 16 Billion Euros From Tax

By [Jeremy Kahn](#)

January 2, 2018, 6:23 PM GMT+3 Updated on January 3, 2018, 12:39 AM GMT+3

- ▶ Amount for 2016 was seven percent higher than the year before
- ▶ Tax shelter saved Google billions of dollars in 2016

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## Apple may face \$14.5 billion tax bill after EU rules Irish deal is illegal

Published: Aug 30, 2016 10:41 a.m. ET



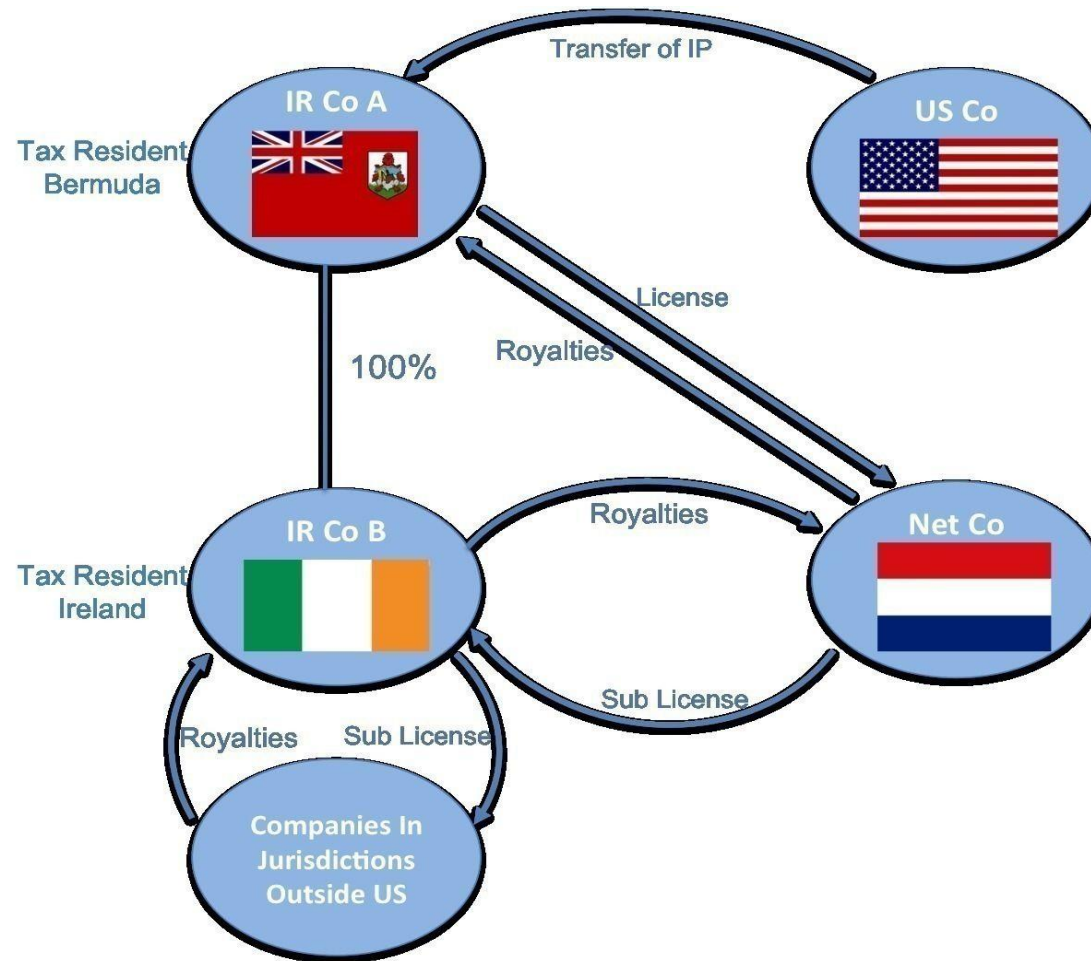
Aa

Ireland ordered to recoup unpaid taxes from Apple



# Introduction to Transfer Pricing

## The Double Irish with a Dutch Sandwich



# Introduction to Transfer Pricing

## What is the effect of transfer pricing?

- ❖ Companies are required to ensure their transactions follow the **Arm's Length principle**
- ❖ Revenue Authority TP audits to determine the arm's length nature of pricing arrangements
- ❖ Governments accusing MNEs of paying little/no tax
- ❖ Media reporting on MNEs tax avoidance
- ❖ Tax justice movement and civil societies



# Key Terms in Transfer Pricing

## Related parties

- ❖ Common shareholding/control/capital
- ❖ Common directorship and management

## Control

- ❖ Participate directly or indirectly in the management, control or capital of an enterprise

## Transfer pricing

- ❖ The pricing of goods, services, intangibles and financial arrangements between related parties located in the same or different tax jurisdictions.

## Transfer mis-pricing

- ❖ The trade between related parties at prices designed to manipulate markets and to deceive tax authorities (shifting income from a high tax jurisdiction to a low tax jurisdiction)



# Key Terms in Transfer Pricing

Controlled  
transaction

- ❖ A transaction between related parties

Uncontrolled  
transaction

- ❖ A transaction between unrelated/independent parties

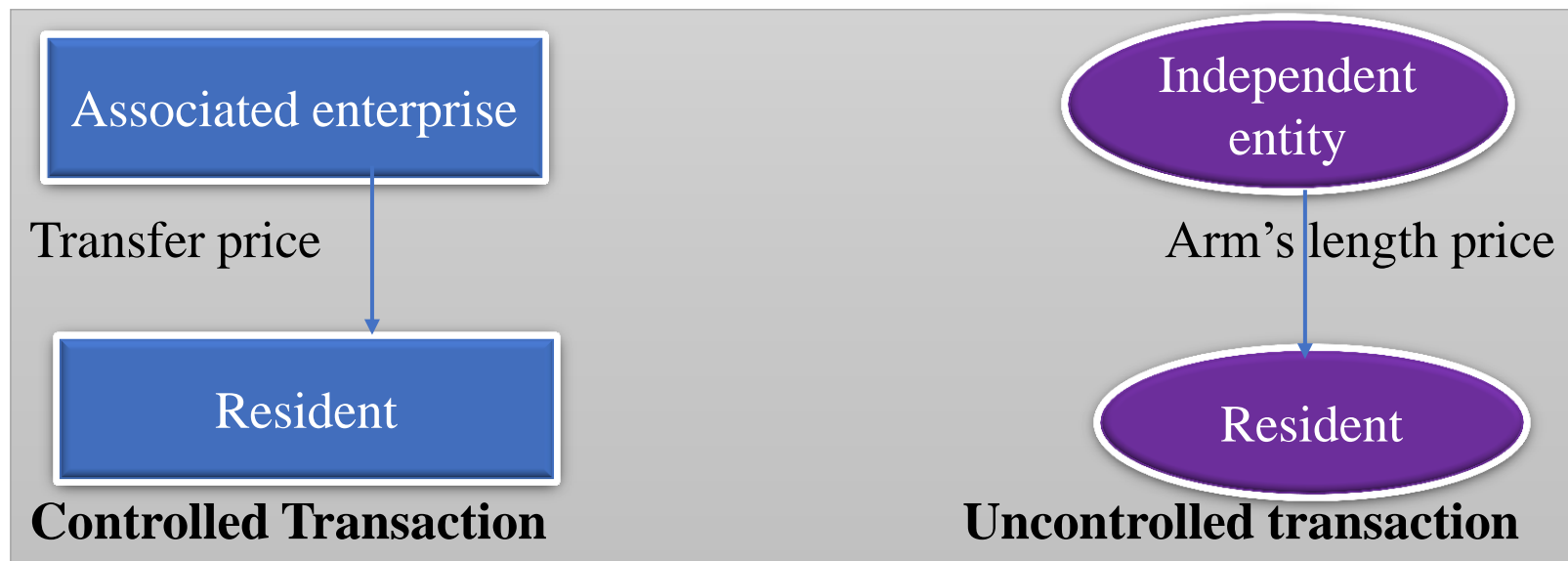
Arm's length  
price

- ❖ Price which is generally charged in a transaction between independent parties.
- ❖ The price of a transaction in an open market

The Arm's Length  
Principle



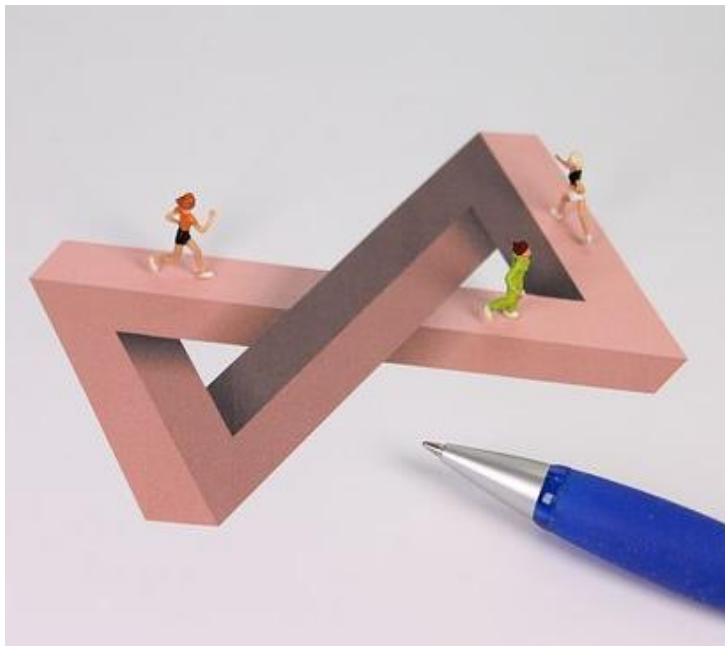
# The arm's length principle



**Arm's-length principle:** “the amount charged by one related party to another for a given transaction must be the same as if the parties were not related (independent parties)”

- ❖ Reference is made to the profits that would have arisen if a similar transaction to the controlled transaction had been executed by or between independent enterprises

# The arm's length principle



## Rationale for the application of the arm's length principle (ALP)

- ❖ Markets govern the transactions between unrelated (independent) parties
  - ❖ Prices charged between related parties should be based on the margins earned/prices charged in comparable unrelated party transactions
  - ❖ Ensures a market based allocation of income between the related parties
- It prevents shifting of profits to jurisdictions with lower tax rates

### Note:

- ❖ The ALP is generally accepted rule in establishing **acceptable** transfer prices
- ❖ In majority of the countries across the world, the ALP lays the basis for **TP rules** and **bilateral trade agreements**

# Transactions subject to the Arm's Length Principle



## **Transactions subject to the arm's length principle**

- ❖ Purchase and sale of goods (including assets);
- ❖ Rendering or receiving services;
- ❖ Agency arrangements, leasing arrangements, & license agreements;
- ❖ Financial transactions including guarantees and collaterals;
- ❖ Transfer of Intangible including R&D;
- ❖ Management contracts; and
- ❖ Any other transactions which may affect the profit or loss of involved entity

# Overview of the OECD Guidelines



- ❖ OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2010 (OECD TP Guidelines) are a revision of the 1979 Report
- ❖ Originally approved for publication by the OECD Council in July 1995
- ❖ The Guidelines have been updated and reviewed through the years and are supplemented by additional guidance
- ❖ OECD released its 2017 edition of the TP Guidelines which incorporated changes to the 2010 edition. ( Amendments based on BEPS Action 8 - 10 and Action 13)

**These OECD Guidelines provide detailed guidance on applying the arm's length principle**

The Guidelines are accepted and followed by most countries and are routinely used in resolving cross border transfer pricing disputes

**Note:** The UN Manual is generally consistent to the OECD Guidelines

# Overview of the OECD Guidelines



## **Applying the arm's length principle (ALP)**

The OECD Guidelines generally revolve around the application of the ALP in conducting a transfer pricing analysis

The general provisions cover the following

- i. Functional analysis
- ii. Comparability analysis
- iii. Selection and application of the most appropriate TP Method
- iv. Selection of the tested party
- v. Burden of proof and safe harbours

# Overview of the OECD Guidelines



## Point to remember

- ❖ The arm's length principle is key in transfer pricing
- ❖ TP is not a science - it's principle based
- ❖ Revenue authorities often focus on large transactions with material amount of tax at stake

# Interactive Session



Uphold public interest