

Assignment briefing

Aalto BIZ | 32E29000 European and international tax law

Spring 2019

Assignment briefing (workshop + home work)

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- The idea of the assignment is to explore the working of the cross-border tax dispute resolution process in practice on a real-life transfer pricing case.
- The assignment may be performed individually or in a group of up to 4 students (same or different than in court case presentation).
- Based on available case material, you will be requested to prepare to discuss certain topics during the workshop (on January 31 , 2019 @ 13.15-15.30) where these topics will also be elaborated by the guest lecturer.
- After the workshop, you will be assigned a homework: preparing a presentation (Powerpoint) for the Board of Directors of the multinational group (A Group) involved, illustrating your plan and main arguments for effective dispute resolution. The homework assignment (i.e. BoD presentation) should be submitted on MyCourses (assignments box) before the book exam, i.e. latest **on February 19, 2019**.
- The case material (background information on A Group & underlying tax audit report for FY2014-2016) and further instructions are contained in this assignment briefing.
- Should you have any further questions, please do not hesitate to contact the guest lecturer (petteri.rapo@aldersound.fi) or tomi.viitala@aalto.fi.

Background information – A Group

A Group is engaged in manufacturing and distribution of construction materials

- ▶ Headquartered in Helsinki, Finland, A Group is engaged in manufacturing and distribution of construction materials.
- ▶ A Group Oy is the group parent entity. The company performs a variety of head office functions ranging from shareholder type activities to activities carried out for the benefit of individual Group companies; such categories include management, finance and control, HR, communication, IT and legal affairs.
- ▶ The Group has manufacturing operations in Finland (A Oy), Sweden (A Sweden AB), Lithuania (A Lithuania UAB) and Poland (A Poland Sp. z o.o.), with representative offices in 13 countries.
- ▶ Historically, the Group has grown both organically and through acquisitions. The majority of the Group's products are sold within the European Union, accounting for 80 % of the total net sales annually.
- ▶ On January 2, 2018, the Large Taxpayers' Office (LTO), part of the Finnish Tax Administration, initiated a transfer pricing audit concerning FY 2014-2016.

Background information – The dispute

On January 15, 2019, the LTO issued tax assessment decisions based on a re-assessment of A Group's business model during a tax audit

- On January 15, 2019, the LTO issued a tax audit report and related tax assessment decisions, according to which A Oy would have to pay EUR 14.1 million in additional taxes and EUR 9.1 million in penalty charges and interest for the period of 2014-2016, based on a re-assessment of A Group's business model during a tax audit.
 - In the audit report, the LTO claims that during the time period in question, the taxable income of A Oy has not been in line with the functions performed, the R&D contributions made, the relevant risks carried and the intangible assets owned by the company, especially in comparison to other manufacturing entities.
 - Consequently, the LTO has also disregarded the transfer pricing methods applied and comparable information utilized by the company and assessed the taxable income through Transactional Profit Split Method by determining arm's length routine return levels for manufacturing and distribution activities and then by allocating the residual profits based on accumulated R&D expenditures incurred by different A Group entities.
 - During the audit process, A Group has consistently denied the claims made by the LTO and maintains the view that its transfer pricing processes and intra-group transaction pricing principles have been in full compliance with all relevant laws and regulations in all its operating countries.
- A copy of the tax audit report is provided as a separate document. -----

Preparing for the workshop discussion

January 31, 2019 @ 13.15-15.30

- Based on available case material (background information & tax audit report), prepare to discuss the following topics during the workshop:
 - **What are the three (3) key arguments presented by the LTO** in the tax audit report supporting the re-assessment of A Group's business model?
 - **What would be your / your group's three (3) key counter arguments** (factual & legal) for opposing the re-assessment of A Group's business model made by the LTO?
 - Based on your current understanding & knowledge, **what would be the next steps in the dispute process?**
 - Based on your / your group's opinion about the case at hand, **what chances do you see for A Group to successfully argue against the tax assessment** presented by the LTO (on a scale 0-100)?
- These topics and the overall dispute resolution framework will be elaborated by the guest lecturer during the workshop.

Homework assignment – BoD presentation

The homework assignment should be submitted on MyCourses (before the book exam, i.e. latest on February 19, 2019)

- After receiving the tax audit report, the BoD of A Group has called in you / your group to assess the situation and prepare a brief presentation (Powerpoint) illustrating your plan and main arguments for effective dispute resolution.
- The presentation (max. 5 content slides + cover & potential appendices) should address the following topics:
 - 1) **Summary of key arguments and potential supporting evidence** for opposing the re-assessment of A Group's business model made by the LTO
 - 2) **Illustration of the expected phases / next steps** in the dispute resolution process (both domestic & international dispute resolution)
 - 3) **Your professional opinion of the most likely outcome** for the dispute (including reasoning for the presented opinion)
- The h assignment (i.e. BoD presentation) should be submitted on MyCourses (assignments box) before the book exam, i.e. latest on February 19, 2019.
- The grading will be based on correctness, thoroughness and practical applicability of answers provided.



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