

November 1, 2009

**RE: Current Events Memorandum
SEC Rule Amendments Simplify Cross –Border Transactions**

In an increasingly global market, the potential for transfer pricing penalties in the United States are harsh. If the IRS, the US taxing enforcement agency, makes adjustments in an audit, the company is liable for additional tax, interest and penalties which can amount to a 20 to 40 percent penalty on underpaid tax.

Companies who operate in more than one country face the risk of double taxation if several countries seek tax on the same profits. To avoid this trap, the IRS' standard in transfer pricing says that prices charged in an intercompany transaction, must be similar to what would have been charged to an unrelated party with the same transaction and under the same circumstances. Tangible assets (inventory) as well as intangible assets (intellectual property and technology) and services are part of the IRS scrutiny.

Things can be done to avoid tax liability and audit exposure. In 2006, the Treasury Department issued regulations that involve transfer pricing transactions which include a new way (the Services Cost Method) for a company to value certain costs. The Services Cost Method became effective January 1, 2008 after a year delay.

Planning ahead can allow a qualified business to take full advantage of the Domestic Production Activities Deduction under IRS Section 199. This section examines pricing calculations and allocation of a company's income and expenses and is the most valuable tax break today in the area of Cross-Border pricing and transactions.