

# Arm's length treatment of soft-intangibles

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## Valorisation Addendum

1. What is the social and economic relevance of your research results?

Businesses are ever evolving, which includes the restructuring of their value chain, resulting in the shift of various types of intangibles across borders.

Specifically, research into the treatment of soft-intangibles as well as the posterior valuation of intangibles transferred in the course of a business restructuring becomes relevant from a societal and economic perspective, given the tax base, the tacit values and their taxation that might be shifted. Due to the specific qualities of soft-intangibles such taxation might either not happen or be subject to taxation in ceding and/or receiving countries to various degrees.

The arm's length principle has shown that it is inapt to deal with soft-intangibles and capturing the appreciation of intangibles that can be linked to the ceding country after it has been shifted. As a remedy various approaches have been pursued, potentially deviating from this internationally recognized principle.

The complications stemming from the taxation of these intangibles in the course of a business restructuring can result in foregone revenue limiting states in their abilities; acting as a barrier to exploit the competitive advantage of certain jurisdictions based on potential location savings and synergies; and thereby leading to overall inefficiencies due to misallocation of production factors.

Therefore, this research is of relevance as it aims at finding the best practice to deal with soft- and hard-to-value intangibles in the course of a business restructuring.

2. To who, in addition to the academic community, are your research results of interest and why?

This research is of relevance to national policy makers and law makers aiming at implementing legislation in order to specifically deal with soft-intangibles and (hard-to-value) intangibles in the course of a business restructuring. Furthermore, it should be of relevance for intergovernmental bodies such as OECD and UN that aim at shaping the best and coherent legislations internationally.

Additionally, it could draw interest from businesses seeking to restructure, involving either one of the country's legislation researched or those countries that are seeking to implement legislation which has been modelled according to that type of legislation or the OECD guidelines.

3. Into which concrete products, services, processes, activities or commercial activities will your results be translated and shaped?

The outcome of this research can be better legislation, seeking to tax soft-intangibles and (hard-to-value) intangibles that are transferred in the course of a business restructuring. This is methodologically warranted by applying the comparative method to approaches chosen by Germany, the United States and the OECD.

4. To what degree can your results be called innovative in respect to the existing range of products, services, processes, activities and commercial activities?

Considering legislation as a product, my research is insofar innovative as it sheds light on the possible approaches of dealing with soft-intangibles and hard-to-value intangibles while previous literature has been focused primarily on various sorts of intangibles, yet not soft-intangibles.

5. How will this/these plan(s) for valorisation be shaped? What is the schedule, are there risks involved, what market opportunities are there and what are the costs involved?

I intend to make this dissertation and its outcomes available to policy and law makers in order to shape better law making with an aim of alleviating the shortfalls of the arm's length principle at least in this particular niche. Furthermore, the insights gained from actively sharing my findings as well as applying these in my daily work as international tax adviser, will allow me to further refine my dissertation in future. This can be considered to be an ongoing process given the potential implementations of legislation based on the OECD TP Guidelines on hard-to-value intangibles.