UDC 336.221
JEL G32, H20, H20, H21, H26
DOI 10.32782/2786-8273/2025-9-19

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EVOLUTION OF APPROACHES TO TRANSFER PRICING IN THE CONTEXT OF INTERNATIONAL HARMONIZATION OF TAX POLICY: BEPS AS AN INSTITUTIONAL BENCHMARK

ЕВОЛЮЦІЯ ПІДХОДІВ ДО ТРАНСФЕРТНОГО ЦІНОУТВОРЕННЯ В УМОВАХ МІЖНАРОДНОЇ ГАРМОНІЗАЦІЇ ПОДАТКОВОЇ ПОЛІТИКИ: BEPS ЯК ІНСТИТУЦІЙНИЙ ОРІЄНТИР

Abstract. Introduction. *In the context of global economic transformation, transfer pricing has evolved from a technical accounting tool to a critical component of international tax governance. Multinational enterprises (MNEs) actively employ transfer pricing mechanisms to reallocate profits across jurisdictions, often exploiting regulatory gaps and tax arbitrage.* ***Purpose.*** *The article aims to conceptualize the evolution of transfer pricing approaches under the influence of international tax harmonization and to analyze the institutional role of the BEPS Action Plan in reshaping regulatory frameworks and fiscal control mechanisms.* ***Methods.*** *The research applies a multidisciplinary methodology, combining comparative legal analysis, economic reasoning, and elements of dialectical logic. Special emphasis is placed on the institutional perspective of transfer pricing regulation in post-BEPS conditions.* ***Results.*** *The study reveals that transfer pricing is no longer a neutral technical practice but a field of strategic interaction between states and corporations. The Ukrainian experience is analyzed in terms of implementation challenges, with focus on domestic schemes such as low-tax jurisdiction exports, inflated import pricing, and internal arbitrage through preferential entities. A risk-based control model is proposed, aligning with OECD standards and emphasizing transparency, digitalization, and fiscal sovereignty.* ***Conclusion.*** *Transfer pricing stands at the intersection of fiscal justice, corporate planning, and global coordination. Its effective regulation requires not only legal clarity but also philosophical and methodological coherence. The institutionalization of the BEPS agenda underscores the urgency of integrating national tax policies into a common global framework without compromising domestic economic priorities.*

Keywords: *transfer pricing, BEPS, tax control, multinational enterprises, arm's length principle, tax harmonization, fiscal risk.*

Анотація. *У статті досліджено трансформацію підходів до трансфертного ціноутворення в умовах посилення глобалізації, стрімкої цифровізації бізнесу та поступової гармонізації податкової політики на міжнародному рівні. Автором здійснено критичний аналіз еволюції концептуальних засад трансфертного регулювання – від його початкового розуміння як внутрішньогрупового інструменту обліку та цінової координації до його сучасного статусу як ключового елементу глобальної фіскальної архітектури. Особлива увага приділяється інституційному значенню Плану дій BEPS, розробленого ОЕСР, який виконує функцію міжнародного координатора підходів до протидії розмиванню податкової бази та переміщенню прибутку. З'ясовано, що трансфертне ціноутворення набуло ознак феномену з дуалістичною природою: з одного боку – це технічний інструмент податкового контролю, а з іншого – форма прояву суперечностей між фіскальними інтересами держав і стратегічними корпоративними намірами транснаціональних компаній. У межах дослідження виокремлено основні моделі зловживань трансфертним механізмом, які спостерігаються в Україні, зокрема в рамках експортно-імпортних схем і внутрішньодержавного ціноутворення. Проведено аналіз практичних аспектів імплементації принципу «витягнутої руки» у національному правовому полі. Запропоновано розглядати трансфертне ціноутворення як онтологічну категорію, що поєднує економіку, право, облік і управлінські механізми. Підкреслюється, що ефективне регулювання трансфертних операцій є складовою частиною досягнення фіскальної справедливості. У статті також викладено авторське бачення ролі трансфертного ціноутворення у формуванні бюджетного потенціалу держави, обґрунтовано доцільність запровадження ризикоорієнтованих підходів до податкового контролю та наголошено на необхідності філософсько-методологічного переосмислення архітектоніки системи трансфертного регулювання.*

Ключові слова: *трансфертне ціноутворення, BEPS, податковий контроль, транснаціональні корпорації, принцип «витягнутої руки», податкова гармонізація, податковий ризик.*

Statement of the problem. The intensive development of technology, transportation infrastructure, and communication systems in the second half of the 20th century has led to a rapid increase in the number of multinational corporations (MNCs), which have gained the ability to flexibly relocate their production and service units across the globe. Under current conditions, a substantial share of global trade is comprised of intra-group transactions – namely, operations involving goods, services, capital, and intangible assets conducted within a single corporate group. According to estimates, such transactions account for over 30% of total international trade.

Particular attention must be paid to transactions involving the transfer of rights to intangible assets and complex, multi-component services, as their inherent complexity and high degree of integration create significant difficulties in evaluating compliance with arm's length conditions. An increasing number of international transactions escape the domain of traditional market-based regulation and instead reflect internal group interests. Within this context, determining an accurate transfer price – one that would be agreed upon by independent parties under comparable circumstances – acquires critical importance.

The concept of transfer pricing encompasses the process of setting prices within cross-border intra-group transactions between affiliated entities. These so-called controlled transactions are distinguished from uncontrolled transactions involving unrelated legal entities that operate according to market principles. It is important to emphasize that the use of transfer pricing mechanisms per se does not constitute a tax offense or act of evasion; the issue lies in adherence to the arm's length principle and the justification of applied pricing methods.

In the context of global economic instability, the growing prevalence of transnational business activity, and ongoing reforms of tax administrations (notably, the State Tax Service of Ukraine), the challenge of managing tax risks within transfer pricing assumes a new ontological dimension. Contemporary trends toward international tax policy harmonization– particularly the implementation of the BEPS Action Plan – necessitate a profound theoretical and methodological reconsideration of regulatory approaches to transfer pricing. In this regard, transfer pricing is no longer viewed solely as a tax control tool but as an institutionally embedded manifestation of the contradiction between the fiscal interests of states and the strategic objectives of global corporations.

Analysis of recent research and publications. A comprehensive review of academic literature on transfer pricing (TP) reveals a clearly defined trend in the evolution of scholarly approaches – from a primarily economic interpretation to a complex, multifaceted concept encompassing fiscal, legal, accounting, analytical, and institutional dimensions. This transformation logically reflects the broader global tendency toward tax policy harmonization, particularly through the implementation of BEPS standards, which embody the dialectics of modern fiscal policy as a contradiction between state control and corporate structural freedom.

The publications by Ivanov [9] and Tyshchuk [9] explore TP through the lens of fiscal security, emphasizing its role as an instrument of counteraction against capital outflows under conditions of financial market liberalization. This perspective defines TP as a key institutional mechanism for resisting transnational tax avoidance practices. In contrast, the work of Dzyuba [8] focuses on the economic essence of transfer pricing, framing it as a category of intra-firm exchange and highlighting the inherent tension between market-based and regulatory imperatives.

Alekseeva B. interprets TP as a mechanism of tax control, placing particular emphasis on its administrative rationale. This position aligns TP with the notion of a fiscal pressure instrument capable of modifying corporate behavior. Within this context, the research of Hretsa [6] addresses the influence of the normative environment on tax planning, demonstrating how legislative changes reshape the strategic logic of companies.

Hrechko [7], in turn, underscores the institutional dimension of TP, presenting it as a system of rules that ensures oversight of related-party transactions. This approach allows for interpreting TP not merely as a set of technical procedures but as a formalized response to the evolving nature of global corporate capital.

A separate group of studies authored by Kraievskyi [10–15], Muravskyi [10–15], Smirnova [10–15], and others offers deeper methodological insights into the subject. In particular, these authors propose viewing TP through the prism of tax–accounting dualism, emphasizing its ontological ambiguity – as both a formal accounting tool and a regulator of tax burden. They also examine the role of information and analytical support in monitoring systems, highlighting the need for digitalization through the integration of IT solutions and the implementation of risk-based monitoring frameworks.

Further analytical value is contributed by publications comparing national models of TP regulation within the EU. Here, transfer pricing is conceptualized as a legal construct adaptable to local contexts through the lens of BEPS-aligned harmonization, yet not devoid of interpretive variability and divergent enforcement mechanisms. This multiplicity of regulatory ontologies necessitates a philosophical reconsideration of the nature of international tax coordination.

Of particular scholarly significance are works that integrate philosophical and methodological approaches – such as the categorical evolution of concepts, dialectical variability, and the tension between fiscal and economic incentives – with the practical challenges of tax administration. Studies on risk-oriented audit frameworks and compliance control exemplify a productive synthesis of theory and practice, contributing to the development of more effective models of state–business interaction.

The purpose of the article. The purpose of this study is to provide a theoretical and methodological justification for the evolution of approaches to transfer pricing in the context of international tax policy harmonization, taking into account contemporary fiscal challenges and global initiatives, particularly the BEPS Action Plan as an institutional reference point. The research is aimed at systematizing the stages of conceptual transformation in transfer pricing regulation, identifying the ontological nature of transfer pricing as an instrument of intergovernmental fiscal coordination, and evaluating the methodological and legal prerequisites for implementing risk-based control mechanisms within national jurisdictions.

Presentation of the main research material. Modern multinational corporations (MNCs) are characterized by a number of distinctive features. In particular, they establish expansive systems of international production encompassing a wide range of countries while being centrally governed from a single management center. Intra-group trade among subsidiaries located across multiple jurisdictions has become increasingly intensive, which significantly influences global trade flows.

Moreover, such corporations retain a certain degree of autonomy in operational decision-making both in their countries of origin and in the host states where they conduct economic activities. Their staffing structures are inherently global, allowing for high levels of employee mobility across national borders. It is also important to emphasize that MNCs actively develop, accumulate, transfer, and deploy advanced technologies within their closed corporate infrastructure. One of the key success factors for MNCs in national markets is the effective use of transfer pricing mechanisms, which enables them to create competitive advantages over domestic producers [24, p. 23].

According to L. Sheppard, transfer pricing constitutes one of the most acute and complex issues in international taxation [17, p. 130]. Dutch scholar H. Hamakers underscores that, from a financial perspective, transfer pricing is one of the most critical practices in global tax policy, as approximately 60–70% of global trade involves transactions between affiliated entities. It is important to note that the term "multinational corporation" encompasses not only large global firms such as General Electric, Glaxo, Citigroup, Microsoft, Sony, or Shell, but also small and medium-sized enterprises that have at least one subsidiary or a permanent establishment outside their country of tax residence [2, p. 19].

At the same time, it should be recognized that the application of transfer pricing is not confined solely to international economic activity but may also operate within a single country's domestic economic space [18, p. 36]. Ukrainian researchers O. M. Vakulchyk and O. V. Ryabych draw attention to specific methods of using transfer pricing for the purpose of minimizing tax liabilities in Ukraine, identifying the following models:

• Export model: Ukrainian enterprises that are part of industrial-trade groups export goods to related parties registered in low-tax jurisdictions. The goods are supplied at prices close to cost, enabling profits to be accumulated outside Ukraine. As a result, the state experiences revenue losses, and foreign exchange proceeds do not fully enter the national banking system.

• Import model: Distributors of international companies import products into Ukraine at inflated prices. This artificially reduces the taxable profit of Ukrainian entities, decreasing their corporate income tax obligations, while the excess profit remains in the producing countries.

• Domestic transfer pricing: Applied within the national market through transactions involving entities with preferential tax status (e.g., in the agricultural sector) or accumulated tax losses, thereby enabling the minimization of tax payments. These companies act as intermediaries in shifting profits away from taxation [3, p. 12].

Thus, transfer pricing represents a system for determining the prices of goods and services that are sold or transferred between divisions of a single enterprise or between entities that belong to the same corporate group or conglomerate. Based on the scope of application, the academic literature distinguishes between two primary forms of transfer pricing: intra-firm and intra-group transfer pricing.

In the context of intensifying globalization and growing international competition, the regulation of transfer pricing based on the arm's length principle, as codified in the OECD Guidelines, is becoming increasingly significant for ensuring the transparency of financial flows, preventing base erosion, and minimizing aggressive tax planning.

Intra-firm transfer pricing refers to the process of setting prices for goods and services transferred between various business units or branches within a single legal entity. This approach serves as a tool for optimizing resource allocation, enhancing the efficiency of internal controls, and mitigating tax risks– particularly relevant amid the tightening of international tax regulation in accordance with OECD standards. Intra-firm pricing is typically based on market prices and takes into account key economic factors such as production cost structures and market competition levels.

It is worth emphasizing that in today's globalized environment, transfer pricing has emerged as a central topic in international tax planning. In most jurisdictions, it is regulated at the legislative level through the implementation of the arm's length principle, enshrined in the OECD Transfer Pricing Guidelines. Therefore, the mere use of transfer prices – provided that regulatory norms are followed – is not unlawful and does not constitute grounds for administrative or criminal liability [4].

However, when transfer pricing is employed with the purpose of tax evasion or unlawful profit shifting, it necessitates the enhancement of tax control systems and the introduction of more effective mechanisms for detecting abuses within intra-group transactions.

Following its initial publication in 1979, the original version of the OECD Transfer Pricing Guidelines was formally approved by the OECD Council in 1995. A limited update was issued in 2009, primarily in connection with the introduction of an arbitration mechanism in the 2008 revision of the OECD Model Tax Convention. The 2010 edition included substantial editorial changes to Chapters I–III, covering:

(i) the selection of the most appropriate transfer pricing method based on the facts and circumstances of the case;

(ii) the practical application of transactional pricing methods;

(iii) the implementation of a more robust comparability analysis. In addition, a new Chapter IX was introduced, focusing on transfer pricing issues in the context of business restructurings.

The OECD Guidelines on Transfer Pricing operate in close connection with the broader initiative to combat Base Erosion and Profit Shifting (BEPS), launched in response to widespread tax planning schemes. These schemes involve the artificial shifting of profits to jurisdictions with nominal or zero taxation, without any actual economic activity or value creation in those locations. As a result, such practices substantially reduce the effective tax burden and undermine the fairness and sustainability of the international tax system. These negative consequences are particularly acute in developing economies, where corporate income tax constitutes a critical source of public revenue – especially in the context of operations conducted by multinational enterprises.

In view of the above, addressing BEPS practices has been recognized as a global priority. In 2013, as a result of joint efforts by OECD and G20 countries, a 15-point Action

Plan on BEPS was adopted. The objective of this initiative is to align taxation with the actual location of economic activity and value creation, while also promoting a coherent set of international tax rules based on consensus. The project aims to strengthen national tax bases while simultaneously creating a transparent and predictable environment for taxpayers. Importantly, the adoption of new rules must not result in unintended consequences such as excessive regulatory burdens or barriers to legitimate cross-border economic activity.

Particular attention in the sphere of international tax cooperation is given to the Mutual Agreement Procedure (MAP), which is regarded as a supranational mechanism for alternative dispute resolution. As noted by M. Lombardo, this procedure constitutes an extrajudicial form of coordination, involving consensus-building between the competent authorities of contracting states regarding the interpretation or application of provisions in tax treaties, particularly in cases where a risk of double taxation arises due to the violation or misapplication of treaty terms. E. Christians, in turn, characterizes MAP as an institutionalized form of diplomatic dialogue between tax administrations.

According to modern tax doctrine, the mutual agreement procedure is predominantly applied to disputes concerning the interpretation of double tax treaty provisions, rather than issues arising under domestic tax legislation. The usual outcome of such procedures is the establishment of a jointly agreed interpretation of the convention's provisions, implemented without the use of formal diplomatic channels, thereby ensuring efficiency and expediency in dispute resolution.

One of the most common grounds for initiating MAP is the need to assess the validity of applied transfer pricing methods in cross-border controlled transactions between related parties that are tax residents of different jurisdictions. In such cases, a unilateral resolution may eliminate jurisdictional conflict, but if mutual concessions are not achieved or states' obligations remain misaligned, this may result in double or inconsistent taxation. The necessity of concluding bilateral or multilateral tax treaties is grounded in the existence of two generally recognized concepts of tax sovereignty – residence and source – which are neither absolute nor mutually exclusive under national legal systems [20, p. 1418].

Given the ability of multinational corporations to autonomously set the terms of intra-group agreements, they possess the potential to create unique internal coordination mechanisms that significantly influence both local market participants and the macroeconomic balance of host countries. On the one hand, the activity of MNCs facilitates trade globalization by improving access to goods and services on the international market. On the other hand, transfer pricing becomes a tool for shifting profits to jurisdictions with preferential tax regimes – a practice frequently employed to minimize tax liabilities [16].

However, it is important to emphasize that the application of transfer pricing methods is not always driven exclusively by fiscal considerations. It may also serve as a strategic corporate instrument aimed at achieving broader business objectives, such as expanding market share, attracting highly qualified specialists, mitigating financial risks (including currency risks), implementing innovative technologies, or enhancing the investment appeal of a business or the region in which it operates [23, p. 93].

From the perspective of managerial science, transfer pricing performs a critical function in the decision-making process within corporate groups, contributing to the optimization of resource allocation and increasing the efficiency of internal coordination mechanisms [19, p. 5].

In the context of aligning Ukrainian tax legislation with European standards, there is an urgent need for a systematic analysis of the legal foundations of EU tax norms, particularly with respect to combating aggressive tax planning and abuses involving offshore structures [22, p. 74]. In response, Ukraine has adopted special legislation aimed at countering the use of offshore jurisdictions, which is also consistent with the imperatives of the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds..." [21; 184].

Considering that the BEPS Action Plan outlines 15 comprehensive measures to eliminate tax avoidance schemes, the choice of tax jurisdiction for business registration now requires not only an assessment of the attractiveness of tax burden levels, but also careful consideration of the regulatory environment, particularly in relation to increased oversight of cross-border activities and the transparency of financial operations [5, p. 91].

The implementation of the BEPS (Base Erosion and Profit Shifting) Action Plan represents a core commitment undertaken by Ukraine within the framework of the Association Agreement with the European Union, especially regarding the harmonization of fiscal regulation with European standards. The adoption of the Law of January 16, 2020, marked a significant step forward in improving the national transfer pricing control mechanism through the implementation of Actions 8–10 and 13 of the BEPS Plan. Specifically, this legislative act provides for:

- In the context of international tax procedures – the establishment of a taxation regime for dividend equivalents in cross-border transactions with non-residents;
- In the field of Controlled Foreign Companies (CFC) regulation – the definition of the legal status and taxation rules for such entities in line with Action 3, as well as restrictions on deductible expenses in financial transactions between related parties, consistent with the requirements of Action 4;
- In terms of preventing treaty abuse – the implementation of anti-abuse measures in accordance with Action 6, and the introduction of mechanisms to counteract the artificial avoidance of permanent establishment status, in line with Action 7.

Thus, the current challenges in the field of transfer pricing in Ukraine encompass both methodological and procedural-institutional issues that require improvements at the levels of legislation and administrative practice. Transfer pricing constitutes a critically important element of international tax planning and directly impacts the fiscal capacity of the state. It determines how income from cross-border transactions is allocated among tax jurisdictions and what portion of tax is payable in each.

Among the main mechanisms through which transfer pricing influences public revenues, the following should be highlighted:

- Profit shifting: Multinational corporations may underreport profits in high-tax jurisdictions while overreporting them in low-tax jurisdictions, leading to revenue losses for the former;
- Regulatory enforcement: Proper legislative provisions and effective tax administration of transfer pric-

ing help minimize tax losses and enhance financial transparency;

• Anti-avoidance: Combating aggressive tax planning – particularly through the enforcement of business purpose tests – contributes to increased tax collections;

• Investment incentives: A transparent and predictable transfer pricing regime enhances a country's attractiveness to foreign direct investment, indirectly strengthening the budgetary base.

The choice of a transfer pricing model depends on several factors, including the nature of the legal system, the sectoral profile of the enterprise, its geographic structure, the volume and risk level of transactions, the market environment, and the degree of competition. These variables affect the justification for selecting a particular method in the context of compliance with the arm's length principle.

Among the internationally recognized methods used to determine whether a controlled transaction reflects market-based conditions between independent parties, the following are typically applied: the Comparable Uncontrolled Price Method, the Resale Price Method, the Cost Plus Method, the Transactional Net Margin Method, and the Profit Split Method. These approaches serve as tools for ensuring tax fairness, aimed at identifying deviations of transfer prices from market levels and preventing the erosion of national tax bases.

Conclusions. The findings of this study confirm that transfer pricing is no longer merely an instrument of intra-firm regulation but is evolving into a full-fledged component of the global fiscal architecture. In the context of international tax policy harmonization and heightened requirements for transparency in the operations of multinational enterprises, new conceptual approaches to the regulation of controlled transactions are emerging – approaches that are grounded in the principles of fairness, economic substance, and business purpose.

The conducted analysis has revealed that the implementation of the BEPS standards marks a critical stage in the transformation of transfer pricing methodology – from static arm's length models to dynamic, risk-based systems of control. This transition is accompanied not only by shifts in the legal framework but also by a fundamental reconceptualization of the ontology of transfer pricing as a category situated at the intersection of economics, accounting, law, and fiscal governance.

The scholarly contribution of this work lies in its dialectical analysis of the evolution of transfer pricing approaches, combined with a critical assessment of the practical challenges facing tax control in a globalized economy. At the same time, the study has highlighted persistent problems – namely, the absence of a unified classification of tax risks and the normative fragmentation of existing regulatory frameworks – that hinder the formation of an effective administrative system.

Future research should aim to synthesize the philosophical, methodological, and institutional foundations of transfer pricing regulation in order to strengthen fiscal stability and ensure the equitable allocation of tax revenues across jurisdictions.

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Стаття надійшла до редакції 14.04.2025