## Table of Contents

Editors		v
Contributors		vii
Preface		xvii
	r 1 m's Length Principle: Between Legal Fiction and Economic Reality <i>e Petruzzi</i>	1
I. II. III. IV. V.	Introduction The Historical Background The Origins of the Arm's Length Principle: The Legal Fiction The Evolution of the Arm's Length Principle: The Economic Reality Conclusions and Proposals	2 3 9 12 27
	r 2 Redefined in Transfer Pricing Post-BEPS <i>en Gonnet</i>	33
I. II. III. IV. V.	Introduction The New OECD Risk Framework A Proposed Framework for Understanding Risks in an MNE Case Study Conclusions	34 36 43 50 58
	r 3 er Pricing Aspects of Intangibles: The License Model <i>Wilkie</i>	61
I.	Introduction	62

II. III. IV. V. VI. VII. VII. IX.	The Significance of Intangibles: The Arm's Length Standard The License Model Transfer Pricing and BEPS 'Intangibles' What Has the OECD Done, and What Are the Implications? A 'Definition' of 'Source' Back to the License Model The Practical Reality A Concluding Comment	64 66 67 76 83 86 88 94
CHAPTER Transfer Model Yarív Br	r Pricing Aspects of Intangibles: The Cost Contribution Arrangement	97
I. II. III. IV. V.	Introduction BEPS: The Promise Promises Undelivered CCA Conclusion: Undelivered Promises	98 100 103 111 127
Chapter Interest Financii Antonio	Deductions and Transfer Pricing Aspects of Intra-group	131
I. II. III. IV. V. VI.	The Report on Action 4 The 'Best Practice Approach': Overview General Comments and Policy Considerations The Fixed Ratio: Best Practice or Missed Opportunity? The 'Best Practice Approach': A Bridge to Article 7? What Is in Store for the Future?	132 133 136 139 142 142
	6 Pricing Aspects of Low Value-Adding Services no Maisto	145
I. II. III. V. V. VI. VI.	Definition of Low Value Services Services Which Are Excluded from Low Value Services List of Low Value Services The Determination of Costs The 5% Markup The Threshold of the Application of the Simplified Approach Procedural Issues and Scope of the Simplified Approach	146 148 151 153 154 155 156

Profits t	e 7 ssionaire Arrangements/Low-Risk Distributors and Attribution of to Permanent Establishments <i>arco Cottani</i>	159
I.	Introduction: The Development of Action 7 of the BEPS Project	
1.	and Its Outcome	160
II.	Commissionaire Arrangements and Article 5(5) of the OECD MTC:	
	Historical Background	162
III.	Commissionaire Structures in Light of the Action 7 BEPS Report:	164
IV.	More Clarity or the Beginning of the End? Attribution of Profits to PEs: Current Guidance and Future	164
1V.	Developments	178
V.	(Tentative Conclusions): Should the Different Approaches Lead to	170
••	the Same Outcome?	185
CHAPTER	8	
Transfer	r Pricing and Documentation Requirements	
Christian Kaeser & Sven Bremer		187
I.	Introduction	189
II.	International Developments	189
III.	Practical Experiences to Date	192
IV.	TPD According to BEPS Action 13	194
V.	Additional Challenges in Light of BEPS Action 13	196
VI.	Concerns about the Master File	197
VII.	Concerns with Regard to the Local File	200
VIII.	CbCR Requirements Raising Concerns	201
IX.	Increasing the Risk of Double Taxation	204
Х.	Review and Outlook	206
Index		209