Transfer Pricing Practices among Public Listed Companies: Evidence from Malaysia

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Abstract

Transfer pricing comprises of one part of the management accounting aspects. Lately, it has become one of the main issues in the Malaysian tax perspectives. The pioneer legal case of alleged transfer pricing manipulation that shocked the Malaysian tax world proved to be one of the reasons why this area of business dealings are attracting more scrutiny and supervision. The move made by the Inland Revenue Board of Malaysia (IRBM) to amend the Transfer Pricing Guidelines 2007, to a more comprehensive act in 2012 showed such effort hurled to curb any manipulation and malpractice among the related parties transactions in particular among the Public Listed Companies (PLCs). This study aims to examine the potential transfer mispricing practices among the public listed companies in Malaysia through the analysis of the effective tax rate (ETR) and the number of subsidiaries possessed by those companies, especially the tax haven subsidiaries. From a sample of seventy (70) companies consisting of seven (7) industries, the general view of the landscapes of the transfer pricing practices are seen through the complex arrangement of some companies through their arrays of subsidiaries. The results indicate that PLCs have the alternative to using their subsidiaries as a medium to evade tax since the tax haven countries are also one of the famous location to be utilized by PLCs to erect subsidiaries. However, the argument is not entirely robust since only some company that at the same time have a low ETR and significant amounts of subsidiaries as well as tax haven subsidiaries. These findings show that the risk indicators based on the OECD Guidelines and IRBM Guidelines can be used to predict transfer pricing practices among PLCs. The potential results can be used as policy recommendations to relevant authorities in monitoring transfer pricing practices and enhance the collection of tax revenue.

Keywords: *Transfer pricing, Public listed companies (PLC), Tax haven subsidiaries, Effective tax rate (ETR)*

1. Introduction

From creative accounting to financial statement frauds as well as tax fraud, organisations from time to time discover new ways to manipulate their financial data thus enable them to enjoy an even higher return from their businesses. These schemes are done due to various reasons, whether to cook their book to make it looks good in order to seek financial assistance, maintaining consistent profitability trends, or even attempt to reduce their tax liabilities. The latter is what people are very much concern of since tax revenue is one of the sources of income for a country. For instance, based on Christian Aid report in 2010, there are two major forms of tax evasion involving multinational corporations (MNCs), which are transfer mispricing and false invoicing. Both of these tax-based crimes deprive tax revenues of developing countries amounting to a massive of US$160 billion every year (Christian Aid, 2010).

Corporate tax is making firms from all over the place busy planning and administering their tax bill. The corporate tax revenue itself contributes around thirty-percent (30%) of the total tax revenue collected in 2013 by the US government amounting to an enormous yield of $USD350 billion (Zucman, 2014). Some companies manage to plan it wisely, yet there are also several of them that remain in the middle or called the "grey" area. It is not much known to us whether they are evading or planning their taxes. According to Gravelle (2015), the term tax avoidance is considered to be a legal reduction in the tax perspectives while tax evasion is a reduction scheme that is illegitimate. However, the term may differ due to different jurisdictions of dissimilar rules and regulations. On the other hand, some organisations failed to mitigate a way out of the situation, therefore crossing the border of legality. Thus, the evasion of tax revenues is deemed to be a crime to the host or the home country as a whole since the company is diverting a portion of the funds out of the government pocket.

There is a huge loss suffered by a country if transfer pricing practices are not properly controlled and monitored. As per Christian Aid Report (2009), the impact of deprivation of tax revenue is vital to a nation since it involves such public allocations to erect infrastructures and human resources. The money seems to be siphoned out of the possession of the respected countries; since, in ordinary circumstances, they shall get the tax revenues, but the transfer mispricing schemes denied their rights. Thus, the country together with their citizen silently suffers, without knowing about the existence of the plausible tax funds.

In the context of Malaysia, the regulation is also of the same with the rest of the world. There is a provision in the Income Tax Act (ITA) 1967 regarding wilful evasion of tax covered under Section 114. It is further explained in Public Ruling No. 8/2000 to describe several examples to illustrate different situations which amounting to tax evasion schemes. The Malaysian government views tax fraud as a serious offense whereby the punishment include imprisonment as well as a fine imposed on the perpetrator (Income Tax Act 1967, 2014). In 2012 alone, Inland Revenue Board of Malaysia (IRBM) solved nearly RM1.9 billion worth of tax evasion cases (New Sabah Times, 2013). Furthermore, just glance through the Bank Negara Malaysia (BNM) website, where there are also numerous cases being investigated, and it also involves tax fraud cases among companies in Malaysia (Bank Negara Malaysia, 2015).

The Global Financial Integrity (GFI) report estimated that 80% of the unrecorded financial outflows in Malaysia amounting to USD$227.1 billion during 2001-2010 were due to trade mispricing (Kar and Freitas, 2012). The pioneer legal case of alleged transfer pricing manipulation in Malaysia is involving MM Sdn Bhd, where Transfer Pricing Guidelines 2012 issued by IRBM had no lawful impact on the case as it is merely a guideline for companies to follow (Quantera Global, 2013). Much to the government dismay, the decision favoured the taxpayer and the claimed tax evasion scheme through transfer pricing medium was unsuccessful.

MM Sdn Bhd (taxpayer) is one of the world's largest shipping and logistics operators. The litigation represented the conclusion of a long and tiring battle, which started with an audit process conducted by the IRBM on the taxpayer, which lasted for more than 2 years (Armizam, 2014). The main highlights are the commission rates, Business Process Improvement services, and regional service charges or known as “inter-company service charges” (Armizam, 2014). The transfer pricing aspect is referring to the intra-firm service charges where IRBM disregard the charges for several years alleging that MM Sdn Bhd’s Singaporean company did not provide the services to them (Armizam, 2014). The dispute is on the legal basis regarding the power possessed by the IRBM to disregard the services, as it is claimed to be a legitimate transaction by the taxpayer.

The IRBM also had come up with a new Transfer Pricing Guidelines in 2012, where it replaces the earlier version of Transfer Pricing Guidelines incorporated in 2003. The guidelines serve as the medium to further define the transfer pricing aspects as per outlined in the Section 140A of the Income Tax Act (ITA) 1967. In the same year, OECD (Organisation for Economic Co-operation and Development) came up with a recommendation to deal effectively with transfer pricing. The report entitled “Dealing Effectively with the Challenges of Transfer Pricing” indicates that OECD is putting great emphasis on transfer pricing practices among its member countries, as they provided some features that might suggest transfer pricing risk.

This paper is trying to examine the potential transfer mispricing practices among the public listed companies (PLCs) in Malaysia. Transfer mispricing practices will be gauged by the extent of effective tax rate (ETR) of a company, the number of subsidiaries as well as the number of tax haven subsidiaries. Then, the paper will proceed with the review of past literature from which hypotheses will be developed. Then, it further continues to the empirical stage of variable measurement, sampling, data analysis, and discussion of results. The final part of this paper presents conclusion, limitations, and suggestions for future research.

2. Transfer Pricing

Transfer pricing or sometimes known as trade pricing is one part of management accounting technique. Previously, it is known only by a few tax experts. However, the situation has already changed. Lorraine Eden (2009) in her book defines transfer price as the price charged in transactions between companies that are associated, for example, trade between a parent company and its foreign subsidiary or between two affiliates. Harrowven (2014) defines transfer pricing as the price whereby associated enterprises charge each other for goods or services. It can be in the form of commission, items, royalties, and any forms of pricing transacted between related parties. The definition of transfer pricing will be further elaborated by IRBM (2012), where in the guidelines it is defined as intercompany pricing arrangements for the transfer of goods, services, and intangibles between associated person. Generally, any transactions that include the related parties are known as transfer price because there is a need for a determination of the transfer price between these related entities.

The determination of the "arm's length price" is one of the most discussed topics in the transfer pricing world. The issue here is when the transfer price is set for these companies; they can easily determine the price based on their discretionary estimation without considering the arm's length (AL) principle. As this matter is getting widespread in the international trade sector, authorities have implemented AL pricing as the main principle of taxing multinational corporations (MNCs) to safeguard the tax base (Keuschnigg and Devereux, 2013). The AL price is the rate set in a transaction between independent firms (Keuschnigg and Devereux, 2013). The rate will refer to the most acceptable price determined by both parties (similar or as of the same to any independent transactions) before carrying on with the intra-firm transactions. It will govern the prices at which intra-firm transfers are set for tax purposes, and it can be found in Article 9 of the OECD Model Tax Convention (Keuschnigg and Devereux, 2013)

2.1 Tax Planning Theory

In this modern yet fast changing world, there is a need for a multinational corporation (MNC) to manage their tax bills properly. Due to their enormous business transactions all over the world, they are facing various types of taxes in return. Failing to do so may result in massive payment being issued by corporations for tax purposes. A further complication arises from the additional cost of compliance they face due to the need to comply with the different administrative requirements that may differ from country to another (OECD, 2010). Thus, it is acceptable for an MNC to plan their tax bill by referring to the available incentives and rebates offered by the countries they resided in.

The theory outlines the importance of devising a strategy to provide a better tax return for a company. Tax planning or sometimes refers to tax mitigation is concerned with the organisation of a taxpayer's affair so that it has an effect on the minimum tax liability within the law (Kasipillai, 2010). Often this legal approach is involved with the choice of a business vehicle and the use of options or tax shelters which will reduce the tax liabilities (Kasipillai, 2010).

An MNC, especially the one that deals with major transactions across the world borders may face varieties of tax bills. Normally, tax planning is the process of structuring one's affairs to defer, reduce or even eliminate the amount of tax payable to the government (Pniowsky, 2010). In Malaysia, tax planning is legal as long as it is executed through proper means. The government of Malaysia has their way to boost foreign direct investment (FDI) or precisely to attract the foreign companies to do business here. The implementation of several tax incentive schemes such as Pioneer Status (PS), Investment Tax Allowance (ITA) and Reinvestment Allowance (RA) are considered as the most prominent incentives offered to businesses (Hoe, 2011).

2.2 Subsidiaries and Tax Planning

An MNC usually has big businesses that comprise of multiple locations in different regions. Due to the geographical constraint to monitor the businesses across nations, MNC tends to construct subsidiaries under their belt to undertake their daily chores. They have displayed an emergent trend to expand through establishing subsidiary companies, either through buying the already-existing companies or creating new companies (Eisenberg, 1971)..

According to Oxford Dictionary (2015), a subsidiary is a company controlled by a holding or parent company. Based on IRBM Guidelines (2012), two companies are associated companies respectively to each other if one of the companies has shares or participate directly or indirectly in the management, control or capital of the other company; or the same persons participate directly or indirectly in the management, control or capital of both companies. The word subsidiary is not an exhaustive term that only include a direct subsidiary, as the term also include indirect subsidiary, joint venture companies alongside associate companies.

2.3 Tax Haven Subsidiaries and Tax Planning

The term “tax haven” already forms an indifferent meaning to the people as the word “haven” may suggest some shelter from a normal taxation practice. Tax haven features are defined based on the low or taxes-free, insufficient effective information change and transparency, bank secrecy, requires little or no substantial economic activity for an entity to obtain legal status (Gravelle, 2015). A tax haven subsidiary is a subsidiary that meets the stipulated requirements above.

Kasipillai (2011) in his book emphasises about tax havens that exist in many developing countries as they induce businesses from overseas through offering low tax rates on various business entities. There are plenty of countries deemed to be recognised as tax haven countries. Besides, there are several international bodies that have set their standard to label a country as a tax haven. Several past studies had revealed that MNCs systematically charge different prices for internal transactions or report higher profits in low-tax countries (Egger and Seidel, 2013).

2.4 Perceived Transfer Mispricing Practices and Tax Planning

The transfer pricing practices sometimes are carried out to meet a company’s certain objectives and evolves into a negative connotation that is known as “transfer mispricing”. Transfer mispricing or sometimes also known as transfer price manipulation (TPM) is the strategic setting of transfer prices above or below opportunity cost in order to avoid (but not evade, since evasion is illegal) government controls and/or arbitrage differences in regulations between countries (Horst, 1971; Eden, 1998; Eden 2003). The impact of transfer mispricing done by businesses proves to be damaging since they will escape from paying a higher tax, and the tax revenue for a country will be lesser.

Clausing (2003) suggested that the behavior of intra-firm trade is affected by tax minimization strategies of multinational firms. Meanwhile, Sikka and Willmott (2010) argument was that firms look at transfer pricing as a method that is still a weakly regulated area where detection of the regulatory bodies are low, and they deemed it as an acceptable business risk. However, on a certain point they do agree with Clausing (2003) such as due to the openness of the market territorial jurisdictions, companies can easily erect subsidiaries, affiliates, or other called terms that represent another company under their power and control, and take advantages of the geographical differences that will yield lower subsidies and taxes (Sikka and Willmott, 2010).

In an overall view, according to Huizinga and Laeven (2008), several past researchers (Hines and Hubbard, 1990; Collins and Shackelford, 1992; Froot and Hines, 1992; Grubert, 1998) provided evidence that multinational financial composition and the arrangement of intra-firm interest and other income flows are consistent with the tax minimization objectives. Thus, this intra-firm interest is synonymous yet closely related to transfer pricing practices.

3. Methodology

3.1 Sampling Technique

The study population will consist of 70 PLCs that meet most of the criteria stipulated by OECD (2012) regarding the transfer pricing risk indicators. The nine criterion are as follows: (1) Significant transactions with related parties in low tax jurisdictions, (2) Transfers of intangibles to related parties;,(3) Business restructurings, (4) Specific types of payments, (5) Loss-making, (6) Poor results, (7) Effective Tax Rates, (8) Poor/Non-existent documentation’ and (9) Excessive debt. However, the study will only focus on 2 out of the 9 criteria which are low tax jurisdictions (ordinary subsidiaries and tax haven subsidiaries) and effective tax rates since there are several constraints in gathering the intended data.

The companies selected are within the same industry (10 companies for each industry) to ease the comparability analysis as per industry based on the recommendation by OECD’s guidelines for Multinational Enterprises and Tax Administrations (2010). A total of 7 industries selected to make it a list of 70 PLCs in total. Although the number of samples is below 100 and can be considered small, it is still in a relevant range as the study is done using a micro backward-looking approach from a sample of 70companies consisting of 350 firm-years for the year 2009 to 2013.

To conclude, the list of PLCs selected should also fulfil several risk indicators for transfer pricing practices provided by OECD's transfer pricing risk guidelines (2012). The least requirement is that the company has subsidiary companies to enable them to engage in transfer pricing. Then only, the samples are also picked from PLCs with gross profit exceeding RM25 Million. This is to align with IRBM's Transfer Pricing Guidelines (2012) whereby it is more focused on PLCs that meet the thresholds for them to initiate an investigation. The Transfer Pricing Guidelines (2012) actually covers companies that exceed RM25 Million amount of gross profit alongside more than RM15 Million amount of related-party transaction.

The data for all the PLCs are obtained from the annual reports covering the years from 2009 to 2013. The list of the samples of PLCs is shown in Table 4.5. The data gathered is only extracted from the annual reports. Data consists of the number of subsidiaries alongside several tax haven countries are obtained from this medium.

3.2 Measurement of Variables

The dependent variable in this research is ETR of each of the PLC for the 5 years period between 2009 and 2013. The discussion of the DV will be on the ETR yielded by the PLCs whereby the selected companies' corporate ETR will be ascertained and analysed accordingly. The calculation of ETR for each PLC is by dividing the Tax Expense (or tax income) with the Profit before tax (pre-tax income). The basis of measuring the ETR is referring to Gupta and Newberry (1997), whereby the ETR is considered normal if it is around 10% to 25% while it is considered low if it is less than 10%. The low ETR is somehow may be related to transfer mispricing practices.

ETR yielded is use in the equation to measure transfer pricing activities. The adoption of ETR is supported by Olibe and Rezaee (2008) where they use US Effective Tax Rate (ETRUS) as one of the variable to measure cross-border intrafirm transfers (CITs). Based on Olibe and Rezaee (2008) results, they found out that their finding are consistent with Jacob (1996) and Mills and Newberry (2003), where ETRUS is a positive function of CITs. This means that companies that engage in CITs are those that pay more US taxes.

The first independent variables, the subsidiaries location will base on the diverse locations of the company's subsidiaries as per listed in the annual reports. The measurement of the first variable, the number of subsidiaries is based on the number of subsidiaries a PLC possessed. These include local and foreign subsidiaries. The measurement relies on the final calculation of the number of subsidiaries a PLC possessed.

The second variable which is referring to tax haven subsidiaries is based on the number of tax haven countries a PLC possessed. The criteria are based on OECD's List of Tax Haven Countries (2000) which is recently updated in 2006. Those PLCs which do not own any subsidiaries will be measured at zero (0). Both the first and second variables are only based on the respective PLCs Annual Report in 2013. The lists of ordinary subsidiaries alongside tax haven subsidiaries are gathered from each of the selected samples in the study. The year 2013 is selected as the latest year where the information required for the study is available. In addition, the reason is also due to the data constraint, as the list of subsidiaries is only compulsory to be disclosed by the PLCs in 2011. This is by referring to Bursa Malaysia Disclosure Guide (2011) where it requires a comprehensive disclosure for a PLC with regards to its subsidiaries and related-party transactions. Thus, in the year before 2011, there were not much data available, as PLCs may omit the items or just ignore the information though there might be some included the listings in their report. The second reason is due to the consistent pattern of possessing subsidiaries, as when one firm acquire a subsidiary, it is by a slim chance to see they part off with their affiliates.

Table 1: Definition and Measurement of Variables

Variable Acronym	Definition	Measurement
NOS	Number of Subsidiaries	Based on the number of subsidiaries a PLC possessed. These include local and foreign subsidiaries.
THS	Tax Haven Subsidiaries	Based on the number of tax haven countries a PLC possessed. The criteria are based on OECD's List of Tax Haven Countries (2000) which is recently updated in 2006. Those PLCs which do not own any subsidiaries will be measured at zero (0).
ETR	Effective Tax Rate	Dividing the Tax Expense with the Profit before tax (pre-tax income).

4. Findings and Analysis

4.1 Descriptive Statistics for Variables

Table 2 Descriptive Statistic for Dependent Variable

	Range	Minimum	Maximum	Mean	Std. Deviation
ETR	281.7678	-111.4841	170.2837	20.392530	22.6778465

Table 2 presents the descriptive statistics on the dependent variable that is the ETR. From 70 samples selected across 5 years period, the mean value of ETR is 20.3925, and the range is from the minimum score of -111.48 to 170.283. Thus, it shows that on average, the ETR stands at 20.39%, which means that most of the PLC's ETR results are within the normal range as suggested by Gupta and Newberry (1997).

Table 3 Descriptive Statistic for the Independent Variables

	Range	Minimum	Maximum	Mean	Std. Deviation
NOS	177	2	179	27.46	33.383
THS	32	0	32	1.19	4.260

Note: NOS represents number of subsidiaries, THS represents number of tax haven subsidiaries

Based on the result from Table 3, the mean value for the number of subsidiaries is high, approximately 27 subsidiaries possessed by a PLC, within the range of 2 to 179. In relation to tax haven aspect, the mean value of 1.19 is reasonably high, as one (1) PLC is subject to have at least one (1) tax haven subsidiaries. The presence of tax haven is evident in developing countries as they encourage foreign businesses through offering lower tax rates on various business activities (Kasipillai, 2010). The amount cannot be interpreted easily, as it is a vague issue as the utilisation of tax haven countries is not wrong according to the legal perspectives, though that it might be used as a special purpose vehicle (SPV) to reduce tax and acquire lower tax liability.

Table 4 Proportion of ETR across 5-year period for each Public Listed Companies (PLC)

ETR	2009	2010	2011	2012	2013
Low (<10%)	14	18	18	14	22
Normal (10%-25%)	25	27	26	29	23
High (>25%)	31	25	26	27	25
Total PLCs	70	70	70	70	70

Table 4 represents the ETR incurred by those selected PLCs, and the ETR results are classified into 3 groups which are low (L), normal (N), and high (H) (Gupta and Newberry, 1997). In 2009, most of the PLCs have a high ETR, while in the following year there were more PLCs having a normal ETR. Meanwhile, in 2011, the result shows that normal ETR and high ETR shared the same numbers while the trend changes in 2012 and 2013, where more PLCs had a high ETR. In an overall view, the numbers of PLCs having low ETR for each year are lesser as compared to normal and high ETR groups.

Table 5 Proportion of Low ETR across 5-year period based on Industry

Low ETR (<10%)	2009	2010	2011	2012	2013
Industrial	3	3	1	3	4
Trading/Services	1	1	2	1	1
Construction	2	3	3	1	4
Properties	1	3	3	1	1
Consumer Products	1	1	2	2	2
Plantation	0	1	1	1	3
Technology	6	6	6	5	7
Total PLCs	14	18	18	14	22

Table 5 depicts the proportion of low ETR across 5-year period divided by 7 different industries. All the other industries generated a lesser lower level of ETR except technology-based industry. This is because out of 10 companies in the technology-based industry, there are more than 5companies for each consecutive years yielded low ETR rates. This may be due to the lots of trading from outside countries to procure the technological-based items or equipment.

For the purpose of this study, the research will only focus on the low (L) ETR yielded since this mean that the firm pays less tax as compared to the actual amount they should pay. This may trigger the tax authority alert as the company may do a proper tax planning or might as well a tax evasion scheme to reduce their tax bill.

Table 6 Number of Subsidiaries held by the Public Listed Companies (PLCs) as of 2013

Sample Company No.	Industry	Local Subsidiaries	Foreign Subsidiaries	Tax Haven Subsidiaries	Total (All)
1	Industrial	7	0	0	7
2	Industrial	13	4	0	17
3	Industrial	10	3	0	13
4	Industrial	17	0	0	17
5	Industrial	5	4	0	9
6	Industrial	8	6	4	18
7	Industrial	15	16	1	32
8	Industrial	5	6	0	11
9	Industrial	4	0	0	4
10	Industrial	13	6	0	19
11	Trading/Services	55	1	0	56
12	Trading/Services	17	14	2	33
13	Trading/Services	29	22	3	54
14	Trading/Services	11	1	0	12
15	Trading/Services	63	6	4	73
16	Trading/Services	37	8	1	46
17	Trading/Services	15	0	1	16

Sample Company No.	Industry	Local Subsidiaries	Foreign Subsidiaries	Tax Haven Subsidiaries	Total (All)
18	Trading/Services	4	0	0	4
19	Trading/Services	10	2	0	12
20	Trading/Services	70	93	32	195
21	Construction	23	2	0	25
22	Construction	34	5	2	41
23	Construction	138	41	14	193
24	Construction	25	5	0	30
25	Construction	3	0	0	3
26	Construction	20	3	2	25
27	Construction	15	0	0	15
28	Construction	86	3	0	89
29	Construction	34	13	0	47
30	Construction	8	1	0	9
31	Consumer Products	15	8	0	23
32	Consumer Products	3	3	0	6
33	Consumer Products	46	0	0	46
34	Consumer Products	17	2	0	19
35	Consumer Products	4	1	0	5
36	Consumer Products	21	3	1	25
37	Consumer Products	2	0	0	2
38	Consumer Products	8	1	0	9
39	Consumer Products	5	1	0	6
40	Consumer Products	4	0	0	4
41	Properties	27	2	1	30
42	Properties	51	2	0	53
43	Properties	6	0	0	6
44	Properties	57	3	0	60
45	Properties	58	2	1	61
46	Properties	28	0	0	28
47	Properties	87	20	4	111
48	Properties	14	1	0	15
49	Properties	61	3	3	67
50	Properties	22	4	0	26
51	Plantation	8	0	0	8
52	Plantation	14	5	1	20
53	Plantation	40	2	0	42
54	Plantation	6	0	0	6
55	Plantation	28	0	0	28
56	Plantation	10	2	0	12
57	Plantation	2	0	0	2
58	Plantation	11	0	0	11
59	Plantation	45	32	8	85
60	Plantation	2	0	0	2
61	Technology	10	1	0	11
62	Technology	3	1	0	4
63	Technology	12	0	0	12
64	Technology	9	4	0	13

Sample Company No.	Industry	Local Subsidiaries	Foreign Subsidiaries	Tax Haven Subsidiaries	Total (All)
65	Technology	3	1	0	4
66	Technology	2	2	0	4
67	Technology	7	0	0	7
68	Technology	0	4	0	4
69	Technology	5	1	0	6
70	Technology	3	2	0	5

Table 6 shows that from the list of 70 PLCs, 18 of them possessed tax haven subsidiaries. The maximum number of tax haven subsidiaries held by a PLC stood at 32, where on average those companies (18 PLCs who possessed tax haven subsidiaries) possessed nearly 5 tax haven subsidiaries each. In term of industry, 6 out of 10 PLCs in trading/services sector have tax haven subsidiaries on their rank.

Table 7 PLCs who possessed tax haven subsidiaries with low ETR from 2009 until 2013

Sample Company No.	Industry	2009	2010	2011	2012	2013
6	Industrial		√			
7	Industrial					
12	Trading/Services					
13	Trading/Services					
15	Trading/Services					
16	Trading/Services		√	√	√	√
17	Trading/Services	√				
20	Trading/Services					
22	Construction					
23	Construction					
26	Construction		√	√		√
36	Consumer Products					√
41	Properties					
45	Properties					
47	Properties		√			
49	Properties					
52	Plantation					
59	Plantation					

Table 7 presents the total 18 PLCs who have tax haven subsidiaries, alongside the verification of their low ETR results from the year 2009 until 2013. Five out of 18 PLCs shown are having low ETR during those years. To be specific, only w of the sample PLCs showed a continuous yield of low ETR within that period which are PLC number 16 and 26.

5. Conclusion and Limitation

5.1 Summary of Findings

The primary objective of this study is to explore the potential transfer mispricing practices through descriptive analysis of some risk indicators as per the OECD Guidelines (2012) and IRBM Guidelines. Based on a sample of 70 PLCs listed on Bursa Malaysia for the financial periods 2009 to 2013, the descriptive analysis revealed that from the 70 samples selected across the 5 years period, the mean value of ETR is 20.3925, and the range is from the minimum score of -111.48 to 170.283. Thus, it shows that on average, the ETR stands at 20.39%, which means that most of the PLC's ETR results are within the normal range as suggested by Gupta and Newberry (1997). However, the results indicate that all industries have less low level of ETR except technology-based industry. This may be due to substantial trading from outside countries to procure the technological-based items or equipment. In a nutshell, 18 PLCs have tax haven subsidiaries, from the total 70 samples collected.

As a summary, based on the results, it can be concluded that the subsidiaries, tax haven subsidiaries, as well as ETR are merely significant to predict the transfer pricing practices. This is because the higher the number of subsidiaries a PLC possessed, there is only some PLCs that have a low level of ETR. The situation also of the same with the possession of tax haven subsidiaries, as though the latter may be utilized as special purpose vehicle (SPV), still there is only 5 PLCs that simultaneously have tax haven subsidiaries alongside the lower amount of ETR. These subsidiaries may be utilized to be the channels to store some of the profits of these large firms and consequently act as a tax shelter for them. Hence, these two results may indicate a plausible transfer mispricing practices, but somehow it is not a strong yet decisive result to say that the PLCs are involved in transfer mispricing scheme.

5.2 Limitation

Some limitations of this study are worth mentioning. First of all, this study was tested using the financial data from public listed companies and could not extend the samples to private firms as the financial statements were not publicly available. However, private companies also could have been subjected to transfer pricing manipulation practices. A firm that does not have any subsidiary is automatically excluded as transfer pricing is an inter-company transaction that requires a subsidiary to do at least a transfer price.

Furthermore, the samples selected were relatively small in size as it was limited to 10 PLCs of 7 industries. Hence, the results cannot be generalized.

5.3 Future Study

This study only explores three risk indicators of transfer pricing practices as per stated in the OECD guidelines (2012). It is recommended that all or most of the risk indicators be examined in predicting transfer pricing activities. In addition, the sample size needs to be extended to more than just 70 PLCs. More sample size may produce more robust results that can be used as policy recommendations to the relevant tax authority.

Finally, a qualitative research approach could be conducted in the future to support the quantitative results, such as interviewing the finance managers and the transfer pricing personnel of the related firms. Nevertheless, the findings of this study provide some indications that the indicators can be used to predict transfer pricing practices among public listed companies.

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