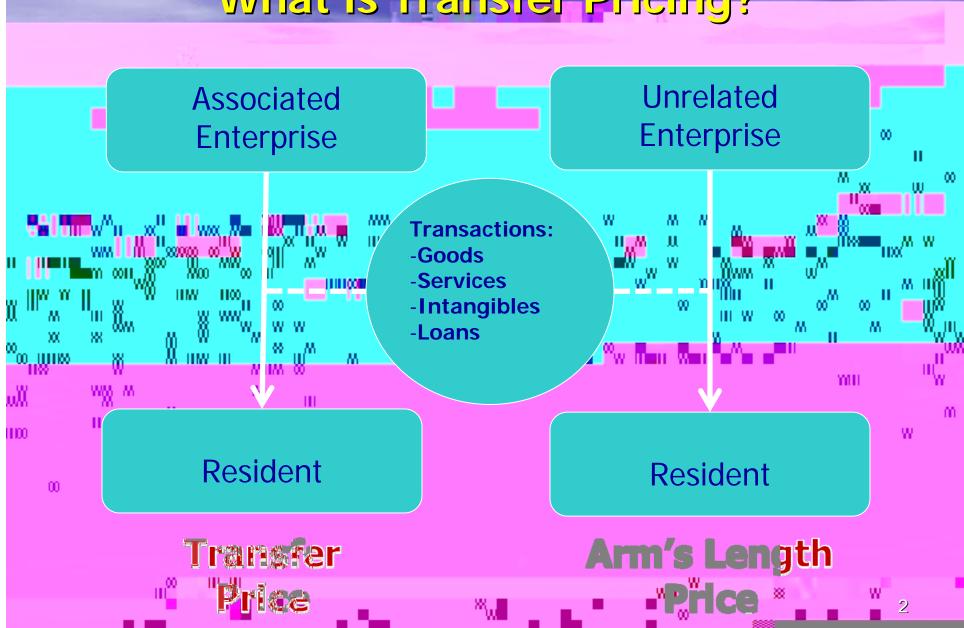


#### What is Transfer Pricing?

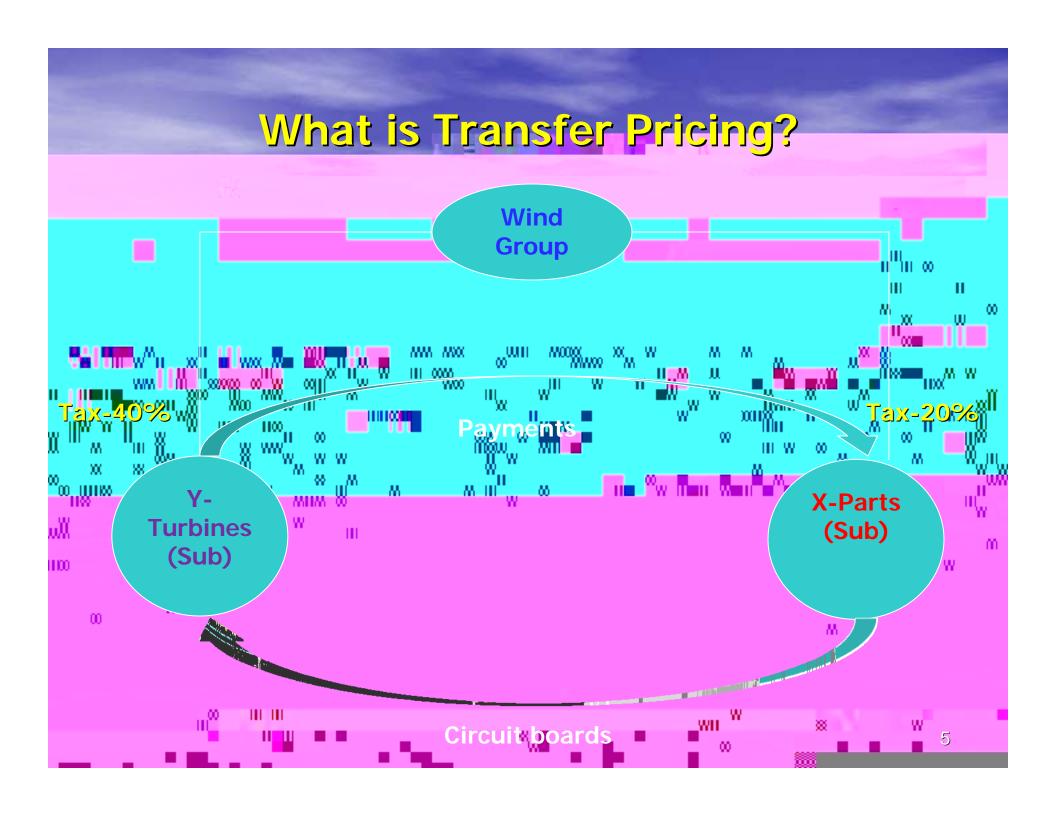


# Manglads 7. Hains Te21 Probing ?3



#### What is Transfer Pricing?

- The Wind Group is the parent company in a wind turbine manufacturing group " » The company has two subsidiaries: ""Y'-Turbines purchases the circuit boards from X-Parts at a transfer price set by the parent company.
  - (Based on example published in Gideon Benari, Tricky Tax; Tv; quitax avoidance schemes explained, 2009.)



## Risks of Transfer Pricing?

Profits may be "allocated" away ifrom higher- tax countries to low."



- Commentary explains the term as meaning a price based upon the ""

  "mormal open market commercial"

  "mormal open market commercial"
- "creates difficulties in application."
- Where do the costs of complexity fall?

### What does Article 9 Say?

#### 1 Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control of capital of an enterprise of the other Contracting." "

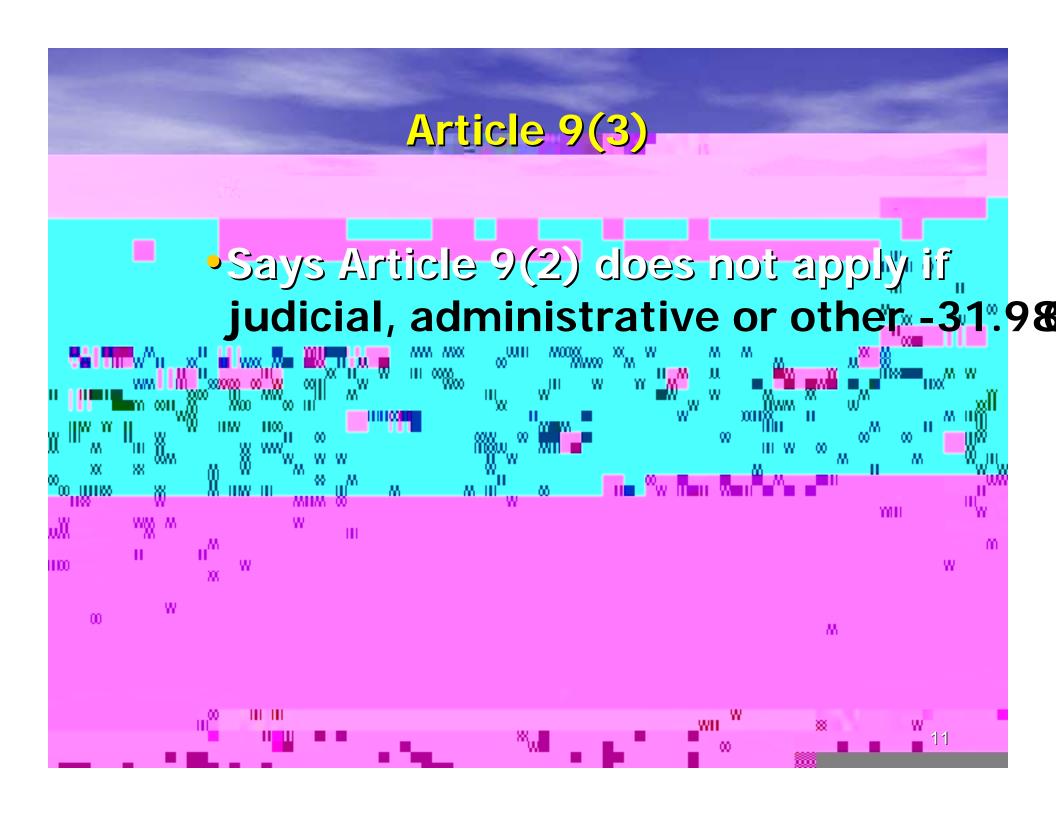
  State, or

#### What does Article 9 say about it?

... and in either case conditions are made or imposed between the two enterprises in their commercial or wijnangial rejations which differ irom reewted ebem ed blyow holdw eent independent enterprises, then any wprofits which would, build in the se conditions, have accrued to one of the w "enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

#### Article 9(2)

- Provides for a corresponding (downwards) adjustment to profits made in a country where an upwards adjustment has been made under Article 9(1) by the other.
- Seeks to eliminate the [economic] double taxation that would otherwise arise.
- · Not always found in treaties.



#### The Commentary

- "3. With regard to transfer pricing of goods, technology, trademarks and services between associated enterprises and the methodologies which may be applied for determining correct entionno elegninged evign chefchight endionne en misde en misde " " " " the Contracting Sta wwill follow the OECD principles which are set <u>in (the OECD Transfer Pricing Guidelines. These</u> usions represent internationally acreed principles and the Group of Experts recommend. shat the Guidelines should be followed for the application of the arm's length principle which underlies the article."

#### Paragraph 3 of the UN Model Commentary

- :ji wo<mark>/l •</mark>
  - Puts that statement in context as one made by the former UN Group of Experis;
    - Notes that the issue has not been fully
    - considered by the current Committee
    - Refers to the public records of "---
    - Committee's Annual Sessions for the debate so far; and

### Paragraph 3 of the UN Model Commentary

- The records of the 2011 Annual Session of the Committee noted that the """ recommendation may need to note that the """ the Guidelines are for guidance only """ "" and some reservations expressed." """"
- " Clearagreement on Arm's Length

  Standard."
  - Made clear no change to direction of Practical UN Transfer Pricing Manual.
  - · Debate likely to begin again this year.