



## Tax Controversy Group

September 26, 2017

Hans van den Hurk

## Increasing controversy for offshore structures after BEPS

- Challenges for family owned business

A short overview with examples

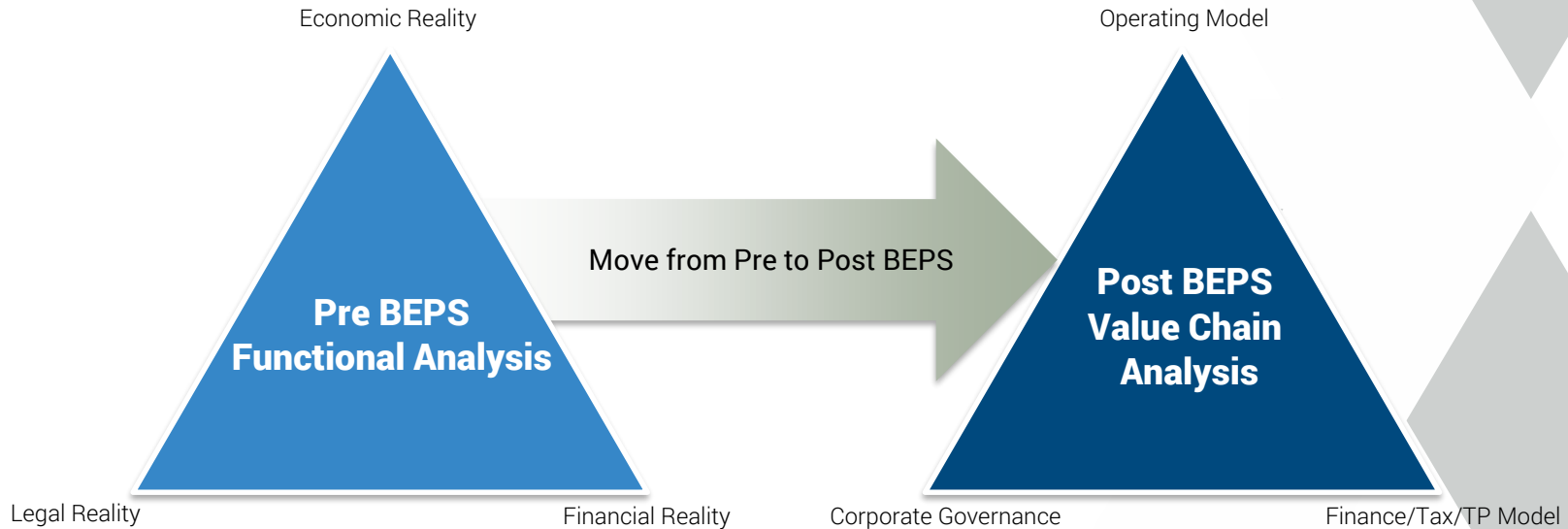
## Speaker

- **Prof. Hans van den Hurk**  
owner Cygnus Tax, owner Apertas 'Tax and Reputation' and Professor Maastricht University
- **Introduction by Steef Huibregtse**  
Managing Partner and CEO of TPA Global



Webinar facilitated by TPA Global. 

# VCA and BEPS context



## Tax Controversy Group

- From 2018:
- New network Tax Controversy Team will start
  - Supported by TPA-Global
- All regions in the world will be covered
- Includes litigators and mediators

## Main challenges

- New post-BEPS compliance
  - Documentation
  - Master file, Local file, VCA
- Changed attitude tax administrations after BEPS
  - China VCA
  - Germany TP
  - Italy TP
  - Spain, Portugal, Germany perverse incentives
- So litigation will be inevitable

## Three cases

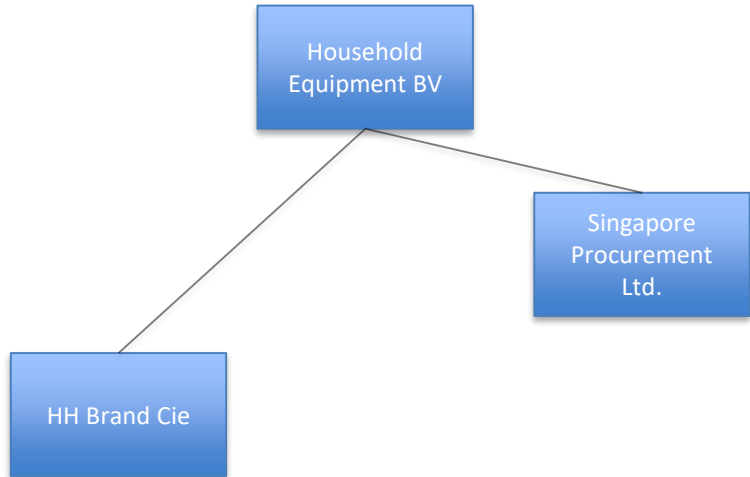
- Procurement Company
- Golden Pumps Company
- Innovation Box Headache

## Elements of cases

- Action 3 – CFC rules
- Action 5 – Harmful tax practices
- Action 6 – Principal Purpose Test/ Limitation of Benefits
- Action 7 – Permanent Establishments
- Actions 8 – 10 – Allocation of risks and intangibles in line with significant people functions



# Procurement Company



HH Brand Cie sells HH applications  
Singapore P Ltd buys from independent factory  
appliances for 1 USD

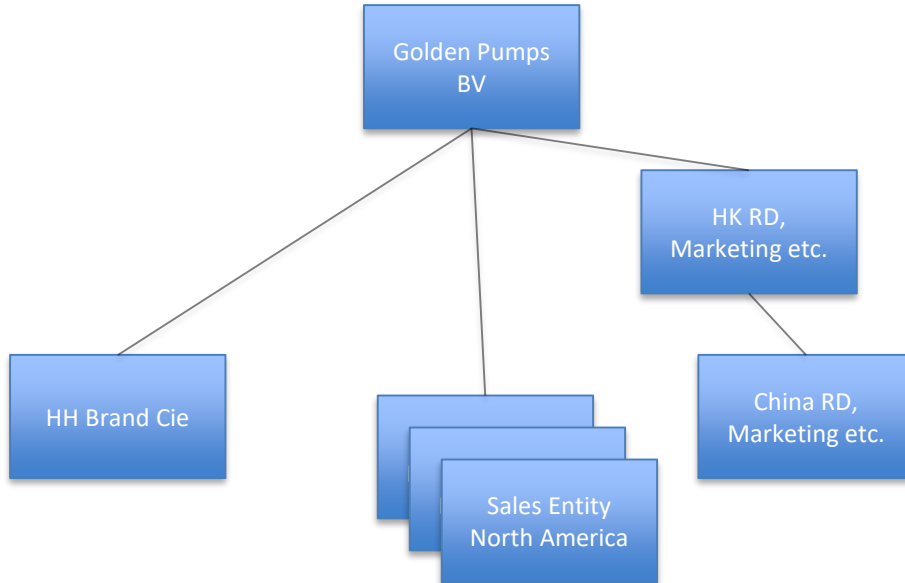
Sale to HH Brand Cie USD 7,50  
Market price HH is USD 10

Singapore Margin USD 6,50  
Dutch Margin USD 2,50

Issues:

Seat company  
Actions 8-10/new TPGL

# Golden Pumps



GT sells Mining pumps which are being developed by an international team in HK and being produced in China.

In NL only pumps for European construction work are being made and sold.

No mining pumps are being sold in Europe.

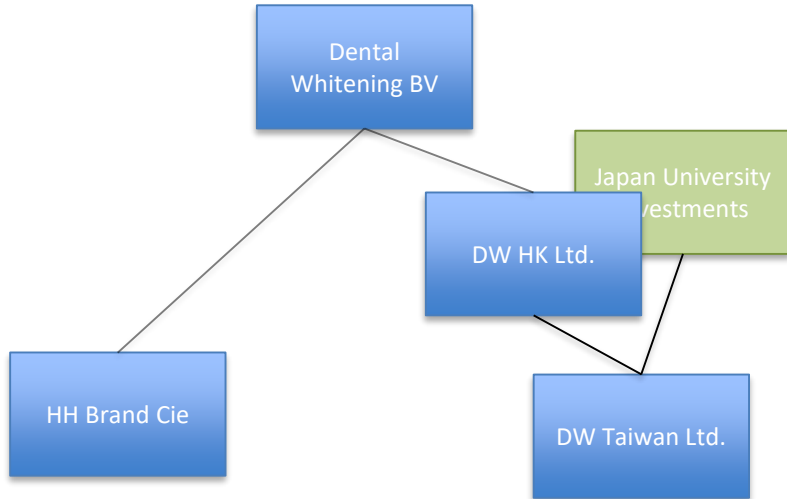
Issues:

Seat company

Action 7

Actions 8-10/new TPGL

## Innovation Box Headache



DH BV had tried to develop a safe dental whitening product with universities in NL but failed.

They succeeded with help of a Japanese University

A company in Taiwan produced the product with help of Japan at a cost plus basis  
HK receives residual

Issues:

Where is profit taxed?

Seat company

Action 5/nexus

Actions 8-10/new TPGL

## Some last elements to consider

- PE issues
- New 5.4
- New 5.5
- Influences MLI



**Thnx!!**

**Questions: email me at: [hurk@cygnustax.com](mailto:hurk@cygnustax.com)**