
Business Restructurings Minimizing Tax Liabilities

Michael Murphy

Alvarez & Marsal Taxand LLC, USA

(Stand-in Speaker: Darpan Mehta

Director, BMR & Associates, India)

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Objectives

- ▲ Throughout your company's lifecycle, you will encounter a number of restructuring events
- ▲ When those events involve cross-border activities or processes, you will need to adjust your transfer pricing to accommodate the restructuring
- ▲ Your transfer pricing changes will then affect your global tax profile
- ▲ You need to understand how this works to effectively manage your global taxes

Business Restructuring Events

- ▲ **Business reorganization directed at cost cutting/ rationalization of production**
- ▲ **Outsourcing of manufacturing to a 3rd party**
- ▲ **Outsourcing of services (IT, F&A, etc.) to a 3rd party**
- ▲ **Revision of business model (e.g., migrate to internet based sales)**
- ▲ **Establishment of internal shared services center (e.g., IT, procurement)**
- ▲ **Centralization of regional management**
- ▲ **Development of new products (R&D), services, or other IP (e.g., software)**
- ▲ **Creation of centres of excellence (e.g., marketing and sales, etc.)**

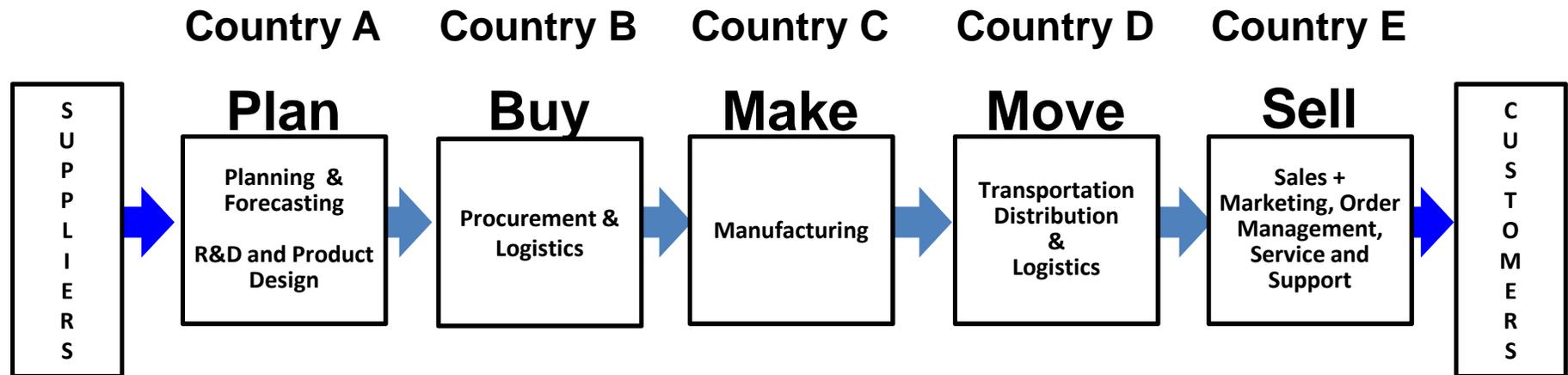
- ▲ **All of these events can...**
 - **Move functions across geographies**
 - **Change risk profile across the business**
- ▲ **How does this work?**

Determinants of a Company's Global Tax Profile



- ▲ Algebra behind global ETR determination
 - Value adding activities and profits
 - Location and the tax rates effective in those jurisdictions
 - Credits and NOLs
- ▲ Key role of location
 - IP domicile
 - Manufacturing
 - Other supply chain components
 - Debt – internal and external
- ▲ Legal structuring and allocation of risks is the foundation
- ▲ Transfer pricing ties it all together

Supply Chain/ Tax Profile Interplay



- ▲ Restructurings may merge supply chain components (boxes) or may break them apart
- ▲ The restructuring may move functions to different countries with different tax rates
- ▲ It's in this way that restructurings can alter your global tax profile
 - Generates a need for understanding this
 - Generates tax planning opportunities

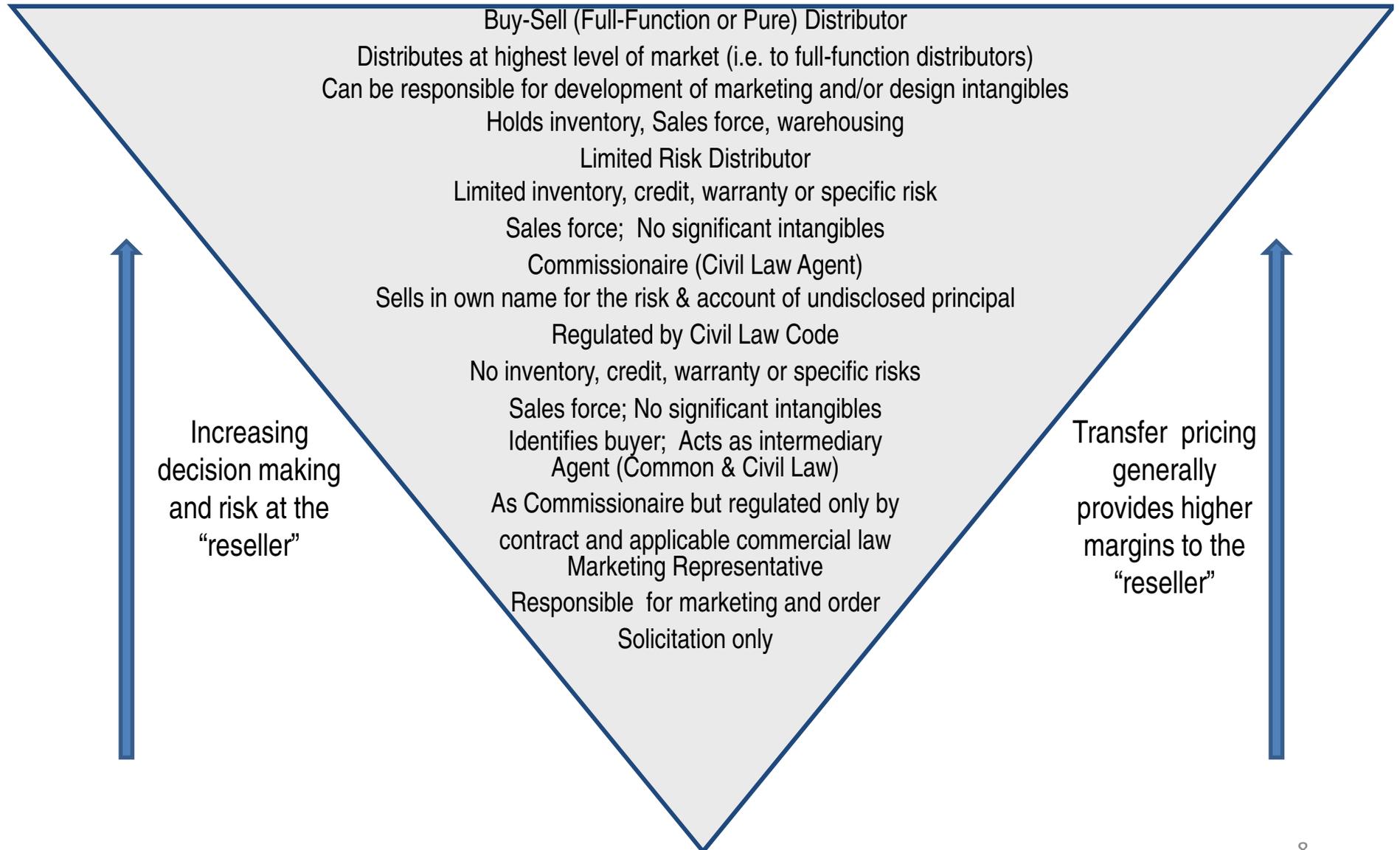
Next Step – Transfer Pricing

- ▲ **The business restructuring will change your company’s functional map... requiring changes in your transfer pricing**

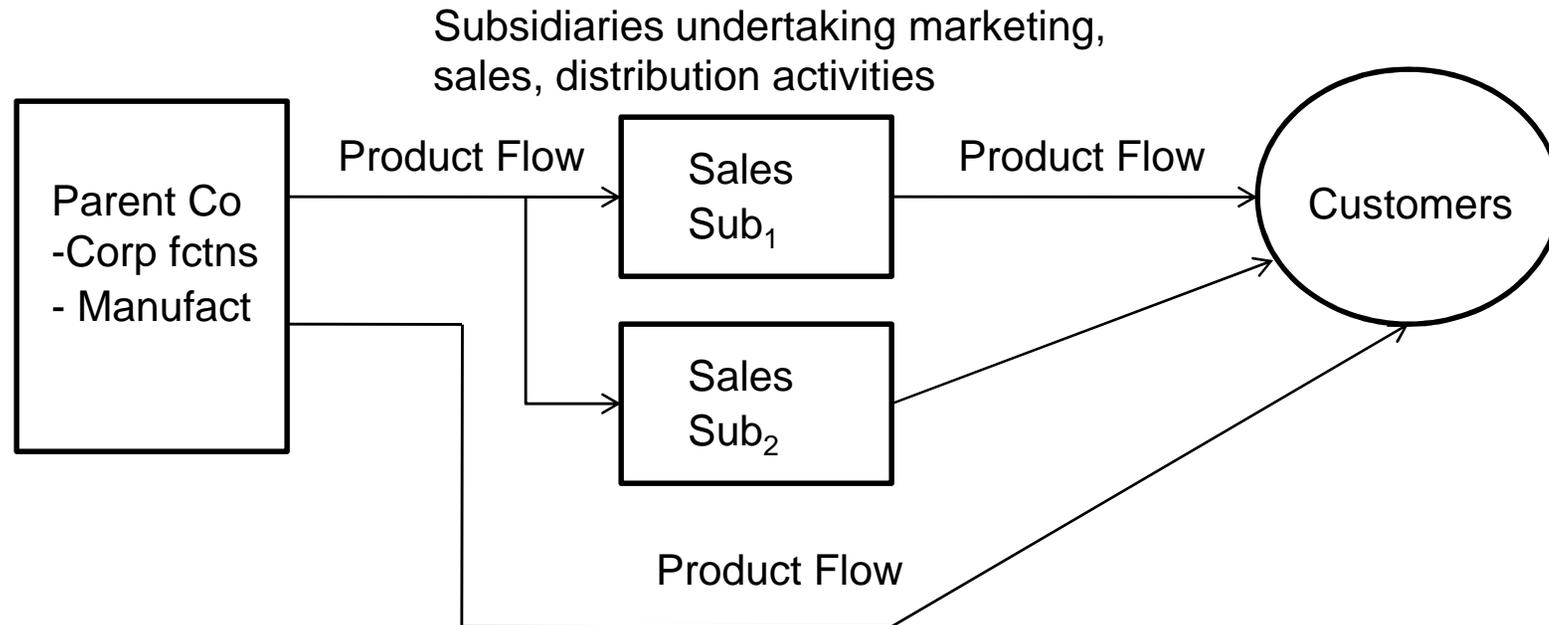
- ▲ **A key consideration in the transfer pricing overlay is the risk assignment**
 - Risk assignment – affected by location of individuals with decision making authority relating to activities that guarantee risk
 - Risk assignment – affected by intercompany agreements
 - Alignment between the two is important

- ▲ **You may have different choices as to how to structure the transfer pricing overlay**
 - Will affect your tax rate
 - Latitude of choice affected by business structure

Example 1 - Sales Function Structuring

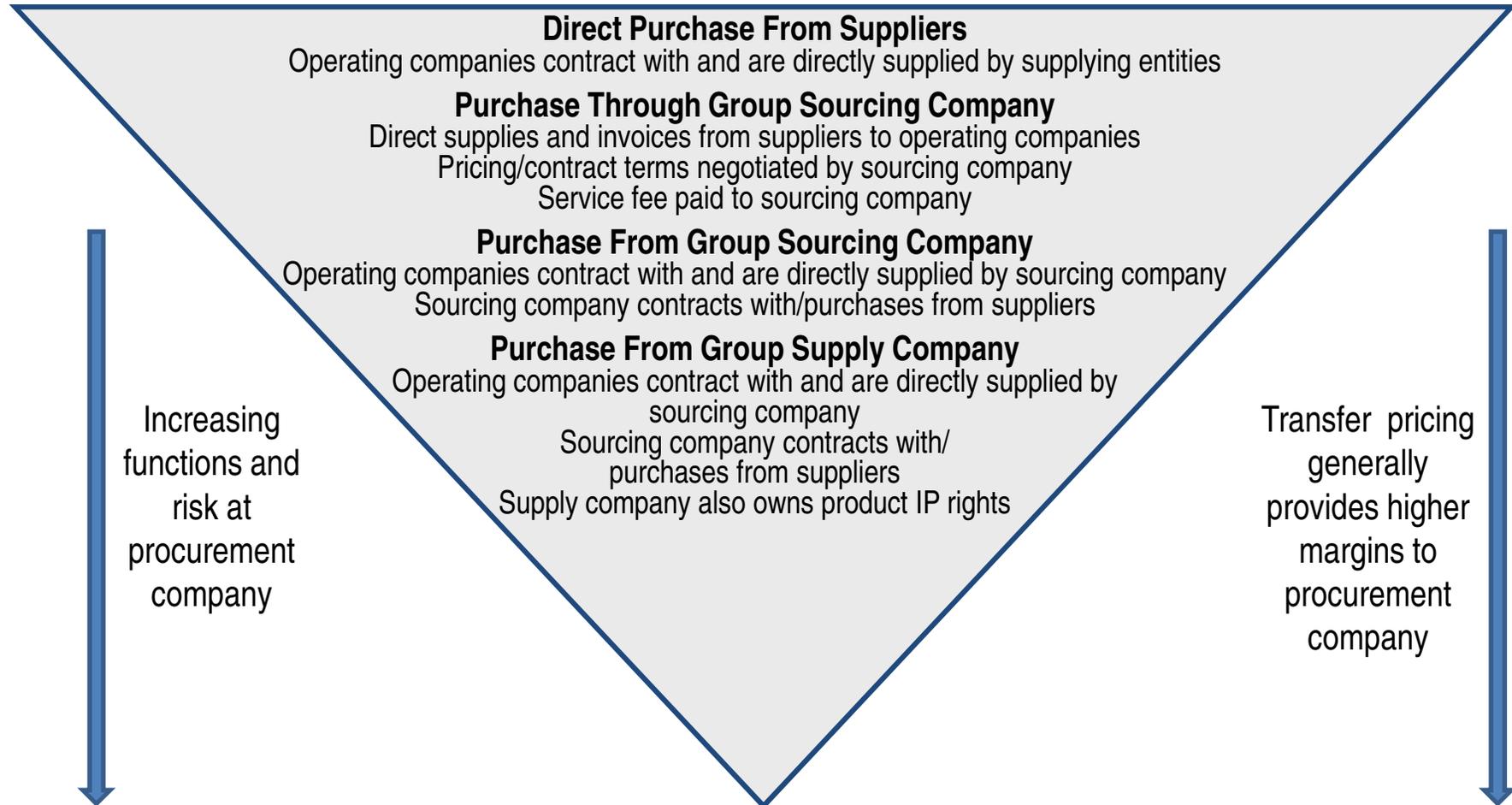


Example 1 – Sales Function Structuring

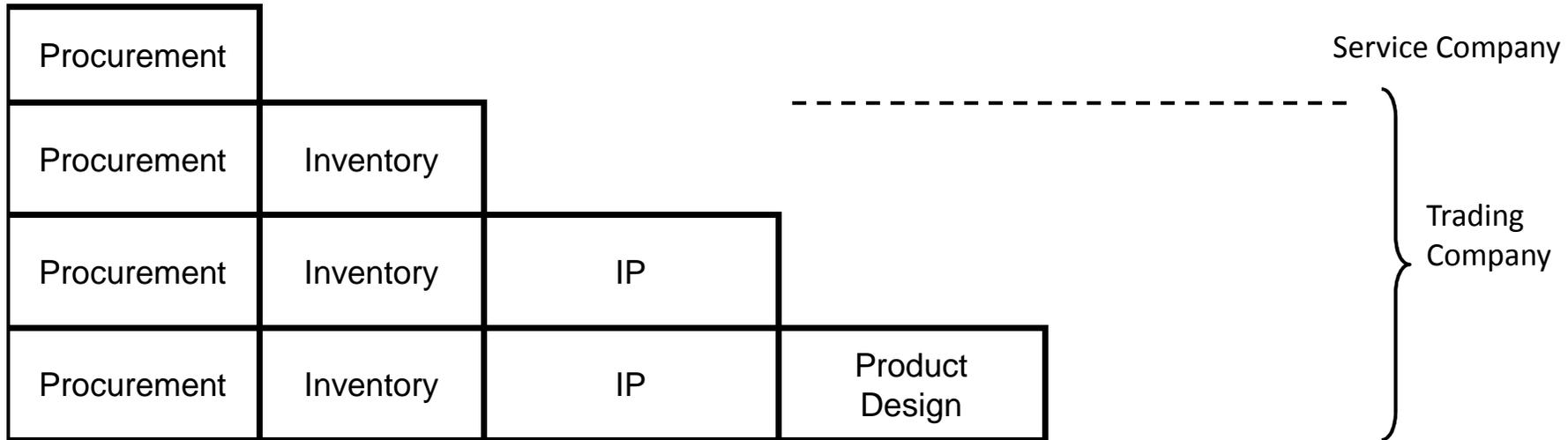


- ▲ **Facts and circumstances relating to product (title) flow will affect possible transfer pricing structure**
 - Purchase products versus provide services
- ▲ **Facts and circumstances relating to locus of decision making regarding customer identification, pricing, other contractual terms, product mix, inventory, and related matters also impact transfer pricing structure**
 - The lower the functions and risks at the sales subs, the lower their profitability

Example 2 – Procurement Restructuring



Example 2 – Procurement Restructuring



- ▲ **Changes in the procurement organization require changes in the transfer pricing.**
 - **Compensation for services versus purchases of products versus purchases of products with embedded IP**
- ▲ **Title flow, functions and risks are key to the transfer pricing**
- ▲ **Movement from one structure to another will alter your tax profile**

Planning – Before Restructuring

- ▲ **Front end planning can help avoid costly business decisions... avoid costly changes later (exit costs)... and instead optimize your tax planning**

- ▲ **Location considerations**
 - **Business operation requirements will be key driver**
 - **Understand the implications of the location decision – can drive risk assignment**
 - **IP special considerations**
 - **Always consider platform for future growth**
 - **Exit costs can be significant for later changes**

- ▲ **Legal structuring affects allocation of risks and rewards/losses within the group**
 - **Affects all aspects of the business supply chain**
 - **Requires alignment of business operations and economic substance**
 - **Ultimately driven by business operation requirements**
 - **Exit costs can be significant for later changes**

Concluding Comments

- ▲ **Business restructurings are a corporate fact of life**

- ▲ **Develop your transfer pricing global plan in advance**

- ▲ **Use the restructuring events to control your taxes instead of viewing it as just a compliance requirement**

Stand-in Speaker

Darpan Mehta: Darpan is a Director with BMR & Associates in India. Prior to joining BMR, he worked with the Global Corporate Tax team of McKinsey & Co. leading their global transfer pricing initiatives and managing taxes for India, China, Korea and Japan. Before that he worked with Arthur Andersen and Ernst & Young for several years. Darpan has significant experience in managing international tax treaty and transfer pricing issues in a wide range of industries.

Note: Due to a family illness, Mike is unable to join us at the conference. Darpan Mehta from BMR & Associates in India has agreed to “stand-in” for him and gives his presentation. :