STILL FOURTH DOWN AND GOAL FOR MEDTRONIC TRANSFER PRICING CASE

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INTRODUCTION

In an article published in *Insights* in 2022,[1] the following comment was made regarding two seemingly never-ending transfer pricing battles being conducted, one between Medtronic and the I.R.S. and the other between the U.S. Tax Court and the 8th Circuit Court of Appeals:

> [The Tax Court] court adopted a standard under which the ends justified the means, which differs from the norm under which the means justify the ends. The [Tax Court] knew where it wanted to end up, and simply looked for a method that was consistent with its destination.

In early September, the Eighth Circuit issued its long-awaited decision in *Medtronic, Inc. v. Commr.,*[2] vacating the U.S. Tax Court's second decision and remanding the case for further proceedings.

The opinion marks a pivotal moment in the ongoing saga over transfer pricing of intangible property between Medtronic and its Puerto Rican manufacturing subsidiary ("M.P.R.O.C."), and provides critical guidance on the application of the best method rule under Treas. Reg. §1.482-1(c).

STILL AT ISSUE

The controversy remains centered on the appropriate royalty rate for M.P.R.O.C.'s use of intangible property, including patents, know-how, and regulatory approvals, licensed by Medtronic, Inc. Medtronic relied on the Comparable Uncontrolled Transaction ("C.U.T.") method, referencing a licensing agreement with Siemens Pacesetter. The IRS instead applied the Comparable Profits Method ("C.P.M."), arguing that M.P.R.O.C.'s profitability should be benchmarked against selected comparable manufacturers.

After the Tax Court initially sided with Medtronic in 2016, the Eighth Circuit vacated that decision,[3] citing insufficient factual findings. On remand, the Tax Court

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1 Michael Peggs, "Medtronic Part Deux: the Best Method is Yet to Come?" *Insights* Vol. 9 No. 5, page 40, 46. (September 29, 2022.)

2 __ F. 3rd __ (Docket No. 23-3281, 8th Cir., September 3, 2025.) The case is reported unofficially at the following link.

3 *Medtronic, Inc. v. Commr.,* 900 F.3d 610 (8th Cir. 2018), T.C. Memo. 2016-112.

abandoned its earlier C.U.T. conclusion and adopted a hybrid, three-step unspecified method. This method combined elements of the C.U.T. and C.P.M. methods, ultimately allocating 68.7% of profits to Medtronic, Inc. and 31.3% to M.P.R.O.C..

THE EIGHTH CIRCUIT'S DECISION

In its most recent decision, the Eighth Circuit rejected the Tax Court's use of the Pacesetter agreement under both the C.U.T. method and the unspecified method. The court held that the Pacesetter agreement failed the "similar profit potential" requirement under Treas. Reg. §1.482-4(c)(2)(iii)(B)(1)(ii), and thus could not serve as a reliable benchmark, even as a starting point in an unspecified method.

The appellate court also found that the Tax Court misapplied the legal standard in rejecting the I.R.S.'s C.P.M. analysis. Specifically, the Tax Court overemphasized product similarity, ignoring regulatory guidance that states that the C.P.M. method is less sensitive to product differences. The Eighth Circuit directed the Tax Court to reconsider the CPM using the correct comparability criteria, including assets used and created, functions performed, and product liability risk.

IS THE BEST METHOD YET TO COME?

The article in the September 2022 volume of *Insights* asked whether "the best method is yet to come," and in hindsight offered a reasonably good forecast of the path ahead in the Medtronic controversy and the Tax Court's approach to the best method rule. The article correctly anticipated several key themes that emerged in the 2025 appellate decision:

Skepticism of the CUT Method: The article noted that the Pacesetter agreement lacked comparability in terms of profit potential and scope of licensed I.P. The Eighth Circuit confirmed this, ruling that the agreement could not be used under either C.U.T. methor or unspecified method.

Critique of the Unspecified Method: The article noted that the Tax Court's hybrid method a "no-recipe recipe," combining unreliable elements from both the CUT and the CPM. The Eighth Circuit mostly echoed this concern, emphasizing that unreliable data cannot be repurposed under or an unspecified method.

Misapplication of the Best Method Rule: The article argued that the Tax Court sought an "ideal method" rather than applying the regulatory standard of reliability. The appellate court agreed, finding that the Tax Court's reasoning was result-driven rather than methodologically sound.

Need for Detailed Findings: The article highlighted the lack of factual findings on asset base, functions, and risk. The Eighth Circuit's remand instructions focused precisely on these gaps, requiring the Tax Court to quantify and evaluate these factors under CPM.

CONCLUSION

The Eighth Circuit's 2025 decision reaffirms the primacy of the best method rule as a reliability-based standard, not a quest for perfection. It underscores that comparability must be rigorously tested, and that methods must be applied consistently with regulatory guidance. The 2022 article anticipated these conclusions and discussed the broader implications for transfer pricing jurisprudence.

As the case returns to the Tax Court, companies will be watching closely. The decision may reshape how the I.R.S. and taxpayers approach method selection, comparability analysis, and the use of unspecified methods under Section 482.