Abstract:
The production of an intangible is expensive and sometimes the cost is unaffordable for just one entity. This aspect motivates the fact that business organizations decide to finance jointly a research project to obtain an intangible asset. In general terms, the cooperation takes place through a cost-contribution arrangement (CCA), a provision of services or a license of technology development agreement. On the other hand, the agreements can take place between related or non-related companies. Each of these three figures has a different tax treatment, so is necessary to distinguish between one and the others.

Keywords: Intangible assets, royalties, cost-contribution agreements, right to use, beneficial interest.

Conceptual aspects:

- Cost-contribution arrangement (CCA): “A framework agreed among business enterprises to share the costs and risks of developing, producing or obtaining assets, services or rights, and to determine the nature and extent of the interest of each participant in those assets, services, or rights” (OECD Guidelines definition).

- Cost-sharing agreement (CSA): expression used in some countries, most notably the United States. CSAs are defined by the US Regulations as: “an agreement under which the parties agree to share the costs of development of one or more intangibles in proportion to their shares of reasonably anticipated benefits from their individual exploitation of the interests in the intangibles assigned to them under the arrangement”.

- Differences between CCAs and CSAs:
  - A CCA is broader than a CSA (and can encompass other services, such as administrative services).
  - In a CCA, the contributing business enterprises share the risks of failure of the activity.
  - In a CCA it is not clear because the Regulations does not mention who shares the risks. But it should be accepted that the risks are likely to be commensurate with the costs, and thus a member contributing to costs under a CCA shares the risks as well.
  - The differences are theoretical because from a practical taxation point of view, the divergences in this respect may not be significant.

General features of a CCA:

- It is an agreed framework.
  - The contributing business enterprises share risks of failure of the activity. Each participant’s proportionate share of the contributions must be commensurate with that participant’s proportionate share of the expected benefits.

- Each participant is a direct, but separate, owner of the benefit arising from the CCA. The benefits are determined at the commencement of the CCA.

- The participant is not a licensee. He is an owner of the benefits, so he has an immediate right to access its share of the intangible property which results from the research program.

- A CCA is similar to a joint development project or a partnership. In a joint venture two or more parties set up to pursue a common business goal. In a joint development the R&D project is carried out jointly. And it involves sharing the costs of inputs and risks, and ownership of outputs. The CCA is more restricted than a joint venture or partnership arrangement. In a CCA, the parties develop the property of an intangible jointly; a joint venture or partnership arrangement usually involves exploiting the intangible jointly or a joint management of the business activities.

Bibliography:

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