

Applying the TPSM in Canada

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Author: [Ilana Ludwin](#)

The discussion draft on the application of the Transactional Profit Split Method (TPSM) presents the TPSM as a multi-sided transfer pricing method. Recently released by the Organisation for Economic Co-operation and Development (OECD), it discusses how and why the TPSM might be useful for assessing complex transactions involving many components and interdependent players in the context of multinational enterprises. It does, however, also underline that it only considers the TPSM from a theoretical point and that using it as a primary transfer pricing method may not always be practical and/or applicable. In this article, Osler lawyer [Ilana Ludwin](#) in the [Taxation group](#) examines the discussion draft, highlighting the TPSM's different attributes and how and when they might be applied in the Canadian context. This article also sheds light on how the TPSM might affect the following key components and more:

- Global value chains
- Multisided business models
- Unique and valuable contributions
- Integration and sharing of risks
- Fragmentation
- Lack of comparables
- Aligning taxation with value creation
- Hard-to-value intangibles
- Ex ante vs. ex post results

Although use of the TPSM might be regarded as less effective than other transfer pricing methods, the draft suggests that the OECD does see potential value in its application to certain circumstances regarding global value chains and complex transactions.

