Andrew O'Brien-Penney

PRINCIPAL

Practice Co-Leader: Tax Controversy and Transfer Pricing

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Mr. O'Brien-Penney is an economic expert who specializes in transfer pricing, intellectual property (IP) valuations, and related issues.

He has nearly two decades of experience providing economic and financial analyses in large tax controversies, including multi-billion-dollar disputes. Working closely with tax controversy lawyers and corporate tax professionals, Mr. O'Brien-Penney helps clients defend transfer pricing positions in interactions with US and foreign tax authorities. He has experience in all stages of tax controversies, from audit to administrative appeals to litigation, as well as with alternative dispute resolution proceedings, such as advance pricing agreements and mutual agreement procedures.

Mr. O'Brien-Penney has provided expert reports on transfer pricing issues and supported testifying experts in complex tax controversy and tax fraud matters. He has worked across a variety of sectors, with particular emphasis on technology, financial services, and healthcare. In addition to transfer pricing and corporate finance, his expertise includes financial modeling, large data analysis, and valuation of intellectual property and intangible assets. He is a Certified Fraud Examiner (CFE).

Prior to joining Brattle, Mr. O'Brien-Penney was a Principal Economist at an international law firm, where he led the firm's North American transfer pricing subpractice. He previously worked in the transfer pricing practice at a Big Four accounting firm and taught transfer pricing at the Northwestern University Pritzker School of Law.

AREAS OF EXPERTISE

- Transfer Pricing
- Valuation
- Tax and Customs
- Corporate Finance
- Large Data Analysis

EDUCATION

- **The University of Chicago Booth School of Business,** Chicago, IL
  Master of Business Administration (MBA), 2012. Concentrations in finance, accounting, entrepreneurship, and general management.
- **Georgetown University,** Walsh School of Foreign Service, Washington, DC
  BS in International Economics, 2007. Concentration in finance and commerce with certificates in Asian studies and Japanese language.

PROFESSIONAL EXPERIENCE

- **The Brattle Group**, Chicago, IL

Principal	2025–Present
Co-Leader, Tax Controversy & Transfer Pricing Practice	

- **Baker & McKenzie Consulting LLC**, Chicago, IL

Principal Economist	2023–2025
Chair, North America Transfer Pricing Subpractice	
Director of Economics	2018–2023
Senior Economist	2016–2017
Economist	2014–2015

- **Deloitte Tax LLP**, Chicago, IL
  Transfer Pricing Practice

Manager	2011–2014
Senior Consultant	2009–2011
Consultant	2007–2009

TEACHING EXPERIENCE

- **Northwestern University Pritzker School of Law,** Chicago, IL

  Adjunct Professor, Transfer Pricing course in Tax LLM program (2018–2023)

- **The University of Chicago Booth School of Business,** Chicago, IL

  Teaching Assistant, graduate-level accounting course (Summer and Fall 2010)

SELECTED CONSULTING EXPERIENCE

Consulting in Anticipation of Litigation

- Appeared before the New York Attorney General's office to provide an assessment of a bank's transfer pricing policies and procedures in a *qui tam* investigation.
- Appeared before the Illinois Attorney General's office to provide a forensic accounting assessment in a state tax fraud *qui tam* investigation.
- Provided economic advisory and modeling expertise in a multi-issue, years-long IRS audit of a technology company.
- Provided taxpayer support in a Canada Revenue Agency (CRA) case about the appropriate delineation of transactions related to ongoing royalty payments and contract R&D services.
- Provided advice regarding discounts for lack of marketability and control for real estate holdings in an estate tax case.

Litigation

- Supported a testifying expert in a shareholder lawsuit involving the appropriate quantum of management fees and intercompany interest payable by a US subsidiary to a foreign parent.
- Supported the preparation of expert reports in a bankruptcy case regarding whether certain debt instruments should be valued with an original issue discount (OID).
- Provided IP licensing and profit split economic advisory and modeling expertise in several pharmaceutical companies' preparation for tax court litigation.
- Provided IP valuation, economic advisory, and modeling expertise in several technology companies' preparation for tax court litigation.

Non-Public Second Opinions Submitted in Audits or Regulatory Proceedings

- Prepared transfer pricing analyses quantifying an appropriate return for an Irish entity to earn in Ireland's Office of Revenue Commissioners' audit of a technology company.
- Prepared a second opinion transfer pricing analysis submitted in an EU State Aid case.
- Quantified the appropriate resale margins, accepted by IRS Exam in resolution discussions, for a US retailer to earn on thousands of product SKUs.
- Drafted critiques of South Carolina's Department of Revenue's positions in a transfer pricing audit of a retailer.

Advisory and Alternative Dispute Resolution

- Successfully relieved double tax on almost all of a multi-billion-dollar US-Irish Mutual Agreement Procedure (MAP) related to intercompany management fees.
- Prepared economic analyses supporting the transfer pricing for a multi-year US-Canadian MAP and related Advance Pricing Agreement (APA) for a fertilizer manufacturer.
- Prepared economic analyses supporting the transfer pricing for an APA involving a multi-billion-dollar US-Ireland royalty and related transactions for a technology company.

ARTICLES & PUBLICATIONS

- Co-author, "Transfer Pricing Analyses May Apply to Tariff Refunds Claims," with Ara Stepanyan, *Law360* (October 2026).
- Co-author, "The Economics of Tariff Refunds," with Jan Jindra, *Tax Notes* (December 2025).
- Author, "The Changing Landscape of Tariffs and Taxation, and What Companies Can Do," *Tax Notes* (October 2025).
- Co-author, "Entity Segmentation in Pillar One Amount B: Potential Opportunities and Traps," with Imke Gerdes, Shane Koball, and Alejandro Zavala, *Tax Management International Journal* (October 2024).
- Co-author, 「米国における移転価格環境の変化と対応策」("Changes in the US Transfer Pricing Environment and Countermeasures"), with Gene Tien, *国際税務 (International Taxation)* (April 2024).
- Co-author, "United States: IRS unleashes transfer pricing audits on foreign companies with US distribution operations," with Gene Tien, *Tax News and Developments* (February 2024).
- Co-author, "A Brave New World: Transfer Pricing for Digital Transformation," with Carlos Linares et al., *Bloomberg Tax* (June 2021).
- Podcast guest, "Transfer Pricing: Digital Transformations and Transparency," with Tamara Levin, *Taxgirl Podcast* (June 2021).
- Co-author, "OECD Transfer Pricing Guidelines—A Practical Guide for Applying the Arm's-Length Principle During an Economic Crisis," with Mario D'Avossa et al., *Bloomberg Tax* (April 2020).

- Author, "What is the Effect of the Abundance of Natural Resources on Income Distribution?" *6th Annual Carroll Round Proceedings, Georgetown University* (2008).

PRESENTATIONS & SPEAKING ENGAGEMENTS

- "Periodic Adjustments and Transfer Pricing Controversy," National Association for Business Economics (NABE) Transfer Pricing Symposium (July 29, 2026).
- "Transfer Pricing Disputes: Lessons Learned from Litigious Jurisdictions," Tax Controversy Leaders Conference, London (November 6, 2025).
- "Go Big or Go Home: Periodic Adjustments after the 2025 GLAM and Facebook," NABE Transfer Pricing Symposium (July 17, 2025).
- "Transfer Pricing Audit and Alternative Dispute Resolution Trends" and "Common Transfer Pricing Models and Related Issues," Wall Street Tax Association (March 6, 2025).
- "The Latest Trends in Transfer Pricing," TEI Wisconsin (October 28, 2024).
- "Preparing for Challenges Based on the Economic Substance Doctrine (ESD), the General Anti-Avoidance Rule (GAAR) and Similar Rules," TEI Seattle (October 16, 2024).
- "Artificial Intelligence Transfer Pricing Considerations," Technology Client (September 9, 2024).
- "Discounting of Cash Flows," NABE (July 17, 2024).
- "Global Transfer Pricing Developments and the Evolution of International Tax Disputes," TEI Orange County (October 18, 2023).
- "Transfer Pricing Audit Trends and Strategies," TEI Region 10 (Southwest US) (April 27, 2023).
- "Transfer Pricing Controversy and Litigation," Mexico City Tax Association (April 25, 2023).
- "Transfer Pricing Update," TEI Austin (November 18, 2019).
- "The OECD and BEPS 2.0: Rewriting the Foundations of International Tax," Manufacturers Alliance for Productivity and Innovation (MAPI) Tax Council Meeting (November 15, 2019).
- "Managing Tax Audits and Disputes in the Financial Services Industry," New York Tax Breakfast Briefing (May 2, 2017).
- "Transfer Pricing Update," Bloomberg BNA (February 16, 2017).

- “BEPS Transfer Pricing Update and BEPS Risk Assessment,” Bloomberg BNA (September 27, 2016).
- “Overview of BEPS and BEPS Risk Assessment” and “Transfer Pricing Overview,” Bloomberg BNA (July 15, 2016).
- “Conducting a Base Erosion and Profit Shifting (BEPS) Risk Assessment” and “Transfer Pricing for Services,” Bloomberg BNA (June 17, 2016).
- “Transfer Pricing Developments and Trends,” Bloomberg BNA (December 15, 2015).
- “Intercompany Services Transactions,” Bloomberg BNA (October 30, 2015).

PROFESSIONAL ACCREDITATIONS

- Certified Fraud Examiner, 2026.