IBFD Course
Programme
Current Issues in International Taxation – The Chinese Outbound Perspective

Shenzhen, 15 – 16 October 2019
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Summary

This is a 2-day advanced level course on international tax planning and structuring with a special focus on China. You can join this course if:

- your tax planning skills need a quick update on the latest global tax regulatory, legislative and case law developments in a short, practical and sometimes challenging manner;
- you just want to learn new tax planning-related skills at an advanced level to differentiate yourself in the market;
- you wish to obtain the latest know-how on international best practices concerning Chinese MNEs; or
- you simply want to be part of a reinvigorating professional experience.

Overview and Learning Objectives

The course will focus on how to utilize the remaining tax planning opportunities for Chinese outbound investments and spot potential safe harbours following the implementation of the OECD/G20 BEPS Project, the recently implemented and proposed EU direct tax initiatives and US tax reform including the following:

- PE tax planning in light of the latest international case law
- ensuring beneficial ownership status for passive income in Chinese outbound/inbound corporate structures
- successfully dealing with the impact of new EU/US anti-avoidance measures – how Chinese MNEs are affected
- managing substance to meet the requirements of anti-avoidance tools
- setting up structures to effectively plan indirect transfers of real estate
- recent case law and domestic law developments concerning anti-abuse measures from around the globe (from China, India, Korea and many more countries)
- update on the OECD’s work affecting Chinese MNEs
- what is new in South East Asia?

Field of Study

Taxes

Who Should Attend?

The course is suitable for Chinese and South East Asian tax practitioners in advisory firms, tax specialists in commerce and industry, and government officials with at least a few years of experience and cross-border responsibilities.

Course Level and Prerequisites

This is an advanced-level course. Participants will be expected to have a good understanding of the application of double tax treaties, transfer pricing issues and practical tax considerations that have an impact on international tax planning.
Day 1

08.30 - 09.00  Registration and IBFD Welcome

09.00 - 10.40  Avoidance of Permanent Establishment Risks in Light of Current International Case Law

- Opportunities and risks for Chinese MNEs
- The most recent international case law on
  - fixed place of business PEs
  - services PEs
  - the new concept of nexus
  - sales, marketing activities, entities and agents
  - e-commerce, digital economy and IT servers
  - preparatory and auxiliary activities such as
    - storage
    - delivery and distribution
    - cross-border workers
    - construction PEs

10.40 - 11.00  Break – Refreshments

11.00 - 12.45  Ensuring Beneficial Ownership Status

- Relevance of beneficial ownership for international tax structures
- Dividends, interest, royalties
- Who is the beneficial owner?
  - evolution of the concept
  - OECD view
  - UN view
  - Chinese approach and domestic examples
- Recent case law
  - key takeaways for tax professionals from international court cases

12.45 - 14.00  Lunch

14.00 - 15.40  The Extraterritorial Reach of EU and US Tax Law – The Inbound and Outbound Perspectives for Chinese MNEs

- The impact of EU tax laws on foreign companies
  - EU Anti-Tax Avoidance Directive
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- tax transparency within European Union
  - country-by-country reporting
  - common reporting standards
  - EU Directive on mandatory disclosure of aggressive tax planning arrangements
  - when can taxpayers and advisers be caught?
- could EU law override tax treaties?
- Court of Justice of the European Union: case law developments concerning third countries
- EU digital taxation proposals – similarities and differences with the OECD’s view

Upcoming developments
- EU blacklisting
- EU investment screening mechanism
- The international tax elements of US tax reform
  - what non-US tax practitioners need to know
    - US outbound investments – using intermediaries
    - the new US GILTI regime and its relevance for structures
    - the BEAT – why foreign companies should be aware
    - FDII – impact on IP location?

15.40 - 16.00  Break – Refreshments

16.00 - 17.00  Recent Global Tax Developments
  - Digital economy
  - BEPS implementation around the globe
  - OECD Inclusive Framework news and the peer review process

Day 2

09.00 - 10.40  Tax Treaty and Transfer Pricing Case Law from around the Globe
  - Advanced-level tax treaty case law
    - entity and income classification, anti-abuse measures: GAARs and SAARs in practice
  - Transfer pricing cases around the globe including
    - Amazon, Starbucks, Altera, Microsoft, Coca Cola, Zinc

10.40 - 11.00  Break – Refreshments

11.00 - 12.00  International Tax Law Developments in South East Asia
  - Recent news concerning Chinese outbound investments in South East Asia
  - What’s new in the region, e.g. in Hong Kong, Singapore, Macau, Indonesia, Malaysia, Vietnam?
12.00 - 12.45  Tax Planning Concerning Immovable Property – Taxation of Capital Gains, Shares and Offshore Indirect Transfers (OITs) – What Opportunities Remain?

- Context and background
  - taxation of capital gains under article 13 of the OECD and UN Models
- What is an offshore indirect transfer?
  - objectives pursued
  - allocation of taxing rights to OITs
- The impact of the OECD BEPS Project, the OECD MLI and the 2017 update to the OECD/UN Models
- Specific examples from practice, rulings and court cases from
  - China
  - India
  - African countries

12.45 - 14.00  Lunch

14.00 - 15.00  Tax Planning Concerning Immovable Property – Taxation of Capital Gains, Shares and Offshore Indirect Transfers (OITs) – What Opportunities Remain?
(Continued)

15.00 - 15.20  Break – Refreshments

15.20 - 17.00  Cross-Border Intra-Group Holding, Financing and IP Structures in a Post-BEPS Environment

- The use of holding, finance and IP companies in tax planning by Chinese MNEs
- Popular intermediate jurisdictions for investments (e.g. Singapore, Hong Kong, Dubai, Mauritius, Luxembourg, Netherlands)
- Meaning and impact of various domestic and treaty-related anti-avoidance measures on outbound and inbound structures
  - domestic Chinese GAARs/SAARs
  - PPT/(S)LOB and substance
  - dividend transfer transactions
  - PEs in third states
  - dual resident entities
  - transparent entities
- Selected examples of domestic law measures potentially affecting investments