Recent Developments in International Taxation: US, EU and Tax Treaty Aspects
Amsterdam, 25 – 27 March 2013

Summary
This 3-day intermediate level course provides participants - who deal with international taxation on a regular basis - with a comprehensive update on the recent developments in the field, with a particular focus on the US, EU and tax treaty aspects, including the changes to the OECD and UN Model Tax Conventions and Commentaries.

Overview and Learning Objectives
The course covers the current developments in international taxation, with a specific focus on US, EU and tax treaty aspects of corporate taxation. The topics covered include treaty corporate residence, recent OECD and UN developments on the permanent establishment (PE) concept and attribution of profits to PEs, treaty entitlement of investment vehicles and concept of beneficial owner. Other recent OECD and UN treaty developments are also discussed, including changes to the Model Tax Conventions and/or Commentaries on Articles 12 (royalties), 13 (capital gains), 15 (income from employment), 17 (artiste and sportsmen) and 24 (non-discrimination) and the addition of an arbitration provision to the Mutual Agreement Procedure (MAP) under Article 25 of the Model Conventions. Then the course deals with the latest developments in US international taxation, transfer pricing, tax treaty practice and current related issues on business restructuring. Finally, the course provides an update on EU corporate taxation, with a specific focus on the Common Consolidated Corporate Tax Base (CCCTB), and the recent case law of the EU Court of Justice.

This is an interactive course with a maximum of 30 participants. Participants will have a chance to discuss their questions with renowned experts in international taxation. Prior to the course, participants will be given access to a documentation platform which provides them with additional pre-reading material and supplementary material (e.g. legal documentation, case law and related articles/literature). During the course, participants will be provided with a course binder containing documents relevant to the course.

Who should attend?
The course is suitable for practitioners in tax advisory firms, in-house tax specialists in commerce and industry, tax authorities and government officials.

Course Level and Prerequisites
This is an intermediate level course. Participants taking this course will be expected to have a good understanding of the fundamentals of international tax law and tax treaties and be familiar with the issues that may arise from their application.
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Day 1
08.30 - 09.00 Registration
09.00 - 09.20 Welcome and IBFD Overview
09.20 - 10.40 Treaty Corporate Residence
  • Revisions to the Commentaries on Article 4 of the OECD and UN Model Conventions
    - Place of effective management tie-breaker rule
    - Optional alternative tie-breaker rule: mutual agreement procedure
  • Application of tie-breaker rule to dual resident companies
    - consequences on the application of treaties with third countries and EU Directives
10.40 - 11.00 Break – refreshments
11.00 - 12.45 (Re)shaping the Boundaries of the Permanent Establishment (PE) Concept
  • Electronic commerce and PE issues: revisions to the Commentary on Article 5 of the OECD Model Convention and UN developments
  • Services PE: OECD optional rule and UN approach
  • Telecommunications transactions and activities: OECD developments on related PE issues
  • Business restructuring and PE implications, including recent developments on agency PE: OECD and UN perspectives
  • Other recent OECD and UN developments: latest proposed changes to the Commentaries on Article 5 of the Model Conventions
12.45 - 14.00 Lunch
14.00 - 15.20 Treaty Rules for Taxing Business Profits
  • Allocation of taxing rights over business profits
    - OECD vs. UN approach
  • Attribution of profits to PEs
    - Single entity vs. functionally separate entity approach
    - Arm’s length principle: OECD two-step approach
    - Deductibility of expenses
  • Latest developments
    - New Article 7 of the OECD Model Convention
    - Update of the Commentary on Article 7 of the UN Model Convention
15.20 - 15.40 Break – refreshments
15.40 - 17.00 Treaty Rules for Taxing Business Profits (continued)
**Day 2**

09.00 - 10.20 **Concept of Beneficial Owner**
- Relevance of the concept of “beneficial owner”
- Meaning of “beneficial owner” for tax treaty purposes
- Case law on the concept of “beneficial owner”
- Recent OECD and UN developments

10.20 - 10.40 Break – refreshments

10.40 - 11.40 **Investment Vehicles and Treaty Entitlement**
- Collective investment vehicles (CIVs)
- Real estate investment trusts (REITs)
- Sovereign wealth funds (SWFs)

11.40 - 12.45 **Other OECD and UN Treaty Developments**
- Amendments to the Commentary on Article 9 of the UN Model Convention
- Definition of “royalties” for treaty purposes
- Gains from the indirect alienation of shares
- Income from employment: treaty concept of “employer”
- Taxation of artistes and sportsmen
- Non-discrimination principles
- Dispute resolution: mutual agreement procedure (MAP) and arbitration
- Improper use of tax treaties, harmful tax competition and exchange of information
- Assistance in the collection of taxes

12.45 - 14.00 Lunch

14.00 - 15.20 **Other OECD and UN Treaty Developments (continued)**

15.20 - 15.40 Break – refreshments

15.40 - 17.00 **US International Taxation and Recent Developments**
- Branch profits and interest tax
- Controlled foreign corporations and Subpart F income
- Foreign tax credit
  - Foreign tax credit splitting transactions
  - Proposed determination of the foreign tax credit on a pooling basis
- International tax reform: current proposals
  - Deferral of interest expenses related to foreign subsidiaries
  - Adoption of a territorial tax system
Day 3

09.00 - 10.20  
**US Transfer Pricing and Tax Treaty Practice: Latest Developments**
- **Transfer Pricing**
  - Regulations regarding the pricing of services
  - Cost sharing arrangements and the valuation of platform contributions
  - Proposals to tax excess returns and limit the shifting of income through the transfer of intangible property
- **Tax Treaties**
  - Limitation of benefits provisions
  - Recent case law involving attribution of profits to a permanent establishment
  - Statutory proposals to prevent treaty shopping

10.20 - 10.40  
Break – refreshments

10.40 - 12.45  
**Common Consolidated Corporate Tax Base (CCCTB) in the EU**
- The proposed Directive on a Common Consolidated Corporate Tax Base
  - The building blocks of the system
  - Computation of the tax base
  - The group - consolidation
  - Dealings between the group and entities outside the group
  - Anti-abuse
  - The formulary apportionment

12.45 - 14.00  
Lunch

14.00 - 15.10  
**Other Topical Developments in EU Tax Law**
- Policy objectives and instruments in EU tax law
- Coordination policy: corporate taxation aspects, harmful tax competition and good governance, double taxation & double non-taxation.
- Parent-Subsidiary and Interest & Royalties Directives: recent developments.
- Financial sector taxation: an overview.

15.10 - 15.30  
Break – refreshments

15.30 - 17.00  
**EU Case Law and Recent Developments**
- The Court of Justice of the European Union (ECJ)
  - Methods of interpretation employed by the ECJ and limits of the ECJ’s jurisdiction
  - National procedural autonomy v. equivalence and effectiveness
- Selected recent and pending ECJ cases on corporate taxation, including C-371/10 National Grid and C-591/10 Littlewoods