IBFD Course Programme
Offshore Entities – Past, Present and Future

Johannesburg, 15 – 17 March 2017
Summary
“Offshore tax evasion is a serious problem for jurisdictions all over the world”
Source: OECD report for the G20 meeting in Sydney on February 2014

In practice, offshore companies are widely used for international tax planning, tax avoidance and tax evasion, as well as for illicit activities and money laundering. So it is very important to understand more of the offshore world and how and when offshore vehicles are (mis)used.

This intermediate-level course provides participants with an in-depth understanding of the current discussions around the use of offshore companies and other entities in the light of global developments on exchange of information (on demand and automatic), anti-money laundering initiatives, post-BEPS changes in international tax principles and as a result of recent leaks such as UBS, Offshore Leaks, Lux Leaks and the Panama Papers.

Overview and Learning Objectives
The G20 economies, through the work of the OECD as well as the European Union, have identified base erosion and profit shifting (BEPS) as a serious risk to tax revenues, tax sovereignty and tax fairness internationally. One of the main resolutions that countries have adopted in response is increased transparency in different forms – exchange of information (on demand and automatic), anti-money laundering initiatives, exchange of rulings, country-by-country (CbC) reporting, etc.

The role of offshore entities is also evolving in the face of post-BEPS changes in international tax principles and as a result of recent leaks such as Lux Leaks and the Panama Papers. Countries are increasingly scrutinizing tax structures of multinational enterprises (MNEs), in particular in relation to the use of cash boxes in offshore locations and in response to information in Lux Leaks and the Panama Papers. Participants will have an opportunity to discuss how these developments are changing the role of offshore entities in (il)legitimate international tax planning.

This is an interactive course with a maximum of 40 participants. Prior to the course, participants will be given access to online supplementary materials (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, tax specialists in commerce and industry, compliance officers of banks, trust and company service providers and government officials.

Course Level and Prerequisites
This is an intermediate-level course. Participants will be expected to have a basic knowledge of the tax system of at least one country.
Day 1

09.00 Start of course day
10.45 - 11.00 Break – Refreshments
12.45 - 13.45 Lunch
15.30 - 15.45 Break – Refreshments
17.00 End of course day

The Offshore World – What Do We Know?

- Definition problems: Tax haven & offshore companies
- The concept of an offshore company
- The offshore market: Parties on the supply (tax havens, TCSP) and demand side (HNWI, MNEs, tax evaders and money launderers)
- Key players in the offshore world
- Scale of the offshore industry
- How to get information of offshore companies?

Use and Role of Offshore Companies and Other Entities

- Different types of offshore activities
  - holding and financing activities
  - intangibles and licensing activities
  - wealth/asset protection vehicles
  - tax evasion and tax avoidance
  - money laundering
  - proceeds from illicit activities
- When is the use of offshore entities (il)legitimate?
- What are the risks in the use of offshore vehicle?

Practical Aspects of Offshore Companies

- Where to set them up
- How to set them up
- Legal and regulatory requirements
- Choice of entities – Companies, trusts, foundations, other
- BVI: case study of the world leader in offshore companies
- What are changing, if any?
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Day 2

09.00 Start of course day
10.45 - 11.00 Break – Refreshments
12.45 - 13.45 Lunch
15.30 - 15.45 Break – Refreshments
17.00 End of course day

Impact of Global (Transparency) Initiatives on Use of Offshore Entities

- OECD/G20 transparency initiatives
- EU work on transparency
- What offshore activities are being targeted by transparency initiatives?
- Impact of transparency initiatives on the use of offshore entities
- Cases and examples

Exchange of Information and Use of Offshore Entities

- TIEAs and exchange of information (EOI) on request
  - legal and practical aspects
  - what is covered and what is not?
  - expected impact of EOI on requests
- FATCA and common reporting standards
  - how does automatic exchange of information work?
  - what is covered and what is not?
  - expected impact of such exchanges

Anti-Money Laundering Initiatives and Their Impact on Use of Offshore Entities

- The new money laundering model
- Differences and similarities between tax evasion and money laundering
- Anti-money laundering initiatives
- The hunt for the ultimate beneficial owner (UBO)
  - ultimate beneficial owner register: effective or not?
- The most important know-your-client (KYC) issues for banks
  - how to identify the main risks
- Red flags of fiscal risks, corruption and money laundering
- Case studies and practical examples
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Day 3

09.00       Start of course day
10.45 - 11.00  Break – Refreshments
12.45 - 13.45  Lunch
15.30 - 15.45  Break – Refreshments
17.00       End of course day

Use of Holding/Financing/IP Companies in the Post-BEPS Environment

- Examples of common holding/financing/IP structures
- The traditional role of offshore entities in holding/financing/IP activities
- Substance requirements in post-BEPS environment
  - beneficial ownership requirements
  - principal purpose test and other anti-avoidance rules
  - harmful tax competition and substance requirements under BEPS Action 5
- When is the use of an offshore holding/finance/IP company unacceptable in the post-BEPS era?
- Spontaneous exchange of information on preferential regime – What does it mean?
- Impact on use of offshore entities

Post-BEPS OECD Transfer Pricing Guidelines and Offshore Entities

- Use of offshore entities as cash boxes
- Use of “off balance sheet” offshore entities
- Substance requirements in the Post-BEPS OECD Transfer Pricing Guidelines
  - reallocation of risks
  - non-recognition
  - important functions related to intangibles
- Impact of the revised OECD Guidelines on the use of offshore entities
- Post-BEPS Transfer Pricing Documentation
- Country-by-country reporting
- Automatic exchange of CbC reports
- Impact of CbC reports on the use of offshore entities

Future of Offshore World

- Impact of recent initiatives on the offshore world
- Is the offshore world disappearing?
- Some early indicators of the future
- Dealing with offshore entities in the future