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GLOBAL TAX WEEKLY
a closer look

ISSUE 252 | SEPTEMBER 9, 2017

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a closer look

Global Tax Weekly – A Closer Look

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Grecian Magnesite Mining v. Commissioner: Foreign Investor Not Subject To US Tax On Sale Of Partnership Interest

by Kristen E. Hazel, Sandra P. McGill and Susan O'Banion, McDermott Will & Emery

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Summary

In a long-awaited decision, the US Tax Court recently held that gain realized by a foreign taxpayer on the sale of an interest in a partnership engaged in a US trade or business was a sale of a capital asset not subject to US tax. The court declined to follow administrative guidance, Revenue Ruling 91-32, that had been in place for over twenty years. The Government has yet to comment regarding its intentions to appeal.

In Depth

On July 13, 2017, the US Tax Court issued its opinion in *Grecian Magnesite Mining v. Commissioner*, 149 TC 3, holding that a foreign corporation was not subject to US federal income tax on gain from the sale of a partnership engaged in a US trade or business. Taxpayers had been anxiously awaiting the court's decision in this case. Taxpayers were particularly interested to learn how the court would resolve what appeared to be a conflict among tax authorities. In reaching its decision, the court resolved the conflict, criticizing and declining to follow a 25-year-old revenue ruling, Revenue Ruling (Rev. Rul.) 91-32, in which the Internal Revenue Service (IRS) considered analogous fact patterns and reached a contrary conclusion.

Background

In 1991, the IRS issued Rev. Rul. 91-32, in which it took the position that a foreign partner's gain on the disposition of an interest in a partnership that conducted a US trade or business and had a permanent establishment (PE) in the United States, constituted effectively connected income (ECI) and gain attributable to the PE (under the 1981 US Model Income Tax Treaty), to the extent that such would have been the case if the partnership itself had disposed of all of its US assets at fair market value. The IRS reasoned that since the foreign partner had a US trade or business by reason of Section 875(1) (which attributes the US trade or business of a partnership to its partner), the partner's gain on the sale of the partnership interest was attributable to the foreign partner's trade or business in the United States and therefore was US-source income under Section 865(e)(2). The IRS further asserted that the partner's US-source gain on the sale of its partnership interest constituted ECI because the partnership interest was an asset used or held for use in the partner's US trade or business (within the meaning of the asset-use test of Section 864(c)(2) and Treas. Reg. § 1.864-4(c)(2)). The IRS provided very little authority for this position, simply stating that "the value of the trade or business activity of the partnership affects the value of the foreign partner's interest in the partnership."

For years, taxpayers questioned the reasoning and conclusions reached in Rev. Rul. 91-32. Nevertheless, the Obama Administration proposed codifying the principles of Rev. Rul. 91-32, and the IRS and the US Department of the Treasury included guidance under Section 864 implementing Rev. Rul. 91-32 relating to sales of certain partnership interests in its Priority Guidance Plan.

Grecian Magnesite Mining Decision

Against this backdrop, the Tax Court considered the *Grecian Magnesite Mining* case. The taxpayer, Grecian Magnesite Mining (GMM), a Greek corporation, was a partner in Premier Magnesia, LLC (Premier), a US partnership. Premier was engaged in a US trade or business, and GMM paid US federal income tax on its allocable share of income from Premier's US trade or business.

In 2008 and 2009, Premier redeemed GMM's entire interest for USD10.6m and GMM realized USD6.2m of gain. On the advice of its accountant, GMM did not pay US federal income tax on the gain. The IRS issued a notice of deficiency, taking the position that the entire USD6.2m was subject to US federal income tax. At trial, the parties agreed that USD2.2m of the gain was due to US real property interests (USRPI) held by GMM, and was thus subject to US federal income tax under Section 897(g) which expressly provides that gain from the sale of a partnership interest that is attributable to USRPI held by the partnership is subject to US tax. Thus, the issue at trial was whether the remaining USD4m of gain attributable to US trade or business assets, other than US real property, was subject to US federal income tax.

To determine whether the redemption consideration was subject to tax in the United States, the Tax Court first analyzed whether the partnership should be treated as an aggregate or as an entity. Under an aggregate theory, which the IRS advanced consistent with its ruling in Rev. Rul. 91-32, the transaction would be treated as a disposition of an aggregate interest in the partnership's underlying property. Under an entity theory, which GMM advanced, GMM would be treated as selling the partnership interest itself.

The Tax Court agreed with GMM that an entity theory should prevail based on the plain language of the partnership provisions of the Internal Revenue Code and thus, GMM should be treated as having disposed of its partnership interest which is a capital asset. In reaching this conclusion, the Tax Court first referred to Section 736(b)(1), which provides that payments made in liquidation of the interest of a retiring partner in exchange for that partner's interest in partnership property are treated as a distribution by the partnership to the partner. The Tax Court next referred to Section 731(a), which provides that gain or loss recognized on the distribution by a partnership to a partner is treated as gain or loss from the sale or exchange of the partnership interest of the distributee partner. Finally, the Tax Court referred to Section 741, which provides that gain or loss recognized on the sale or exchange of a partnership interest is considered as gain or loss from the sale or exchange of a capital asset. Based on this analysis, the Tax Court determined that the complete redemption of a partner's interest in a partnership (such as the redemption by Premier of GMM's partnership interest in Premier) is treated as a sale of a capital asset, except to the extent an exception applies. An example of an exception to this general rule, Section 897(g) discussed above, applies an aggregate approach to that portion of the partner's interest in the partnership attributable to USRPI. Pursuant to Section 897(g), the USD2.2m of gain allocable to the USRPI was taxable. To the extent of the gain realized by GMM in excess of the gain attributable to GMM's proportionate share of Premier's USRPI, however, the court held that GMM sold a singular capital asset – the partnership interest – rather than GMM's proportionate share of the underlying assets of the partnership.

Having determined how to treat the sale, the Tax Court then addressed whether the sale was subject to US federal income tax. Under the facts of the case, the gain from the sale of GMM would be subject to US federal income tax if it was attributable to Premier's US office. Under Section 864, the income would be attributable to Premier's US office if:

(1) The US office was a material factor in the production of the income, and
(2) If the US office regularly carried on activities of the type from which the income was derived.

The Tax Court determined that neither of these conditions were met, and thus the USD4m of gain was not subject to US federal income tax.

The Tax Court's decision was in conflict with the conclusions reached in Rev. Rul. 91-32. Thus, the Tax Court analyzed the level of deference that should be afforded to the revenue ruling. The Tax Court was highly critical of the ruling, noting that "[i]ts treatment of the partnership provisions … is cursory in the extreme." The Tax Court also criticized other parts of the ruling. Thus, the Tax Court afforded the ruling no deference.

The decision confirms the general rule of Section 741: disposition of a partnership interest is treated as the disposition of a capital asset; thus, the entity theory applies. The decision also confirms that the principles that apply to tax a non-US person on the disposition of a capital asset apply to the disposition of a partnership interest just as those principles apply to the disposition of any other capital asset.

Practice Note

The IRS has yet to acquiesce with respect to the *Grecian Magnesite Mining* decision.

Taxpayers who followed the guidance of Rev. Rul. 91-32 in an open tax year might consider whether to file an amended return following the Tax Court's guidance.

Australia's Approach To Tackling Multinational Tax Avoidance

by Stuart Gray, Senior Editor, Global Tax Weekly

Despite already being at the forefront of international efforts to curb tax avoidance by multinational companies, Australia has stressed that it will continue to take steps to tackle corporate tax avoidance by large businesses. This article looks at some of the principle measures introduced over the past couple of years to deal with such avoidance, and the effects that they are having on revenue and corporate tax planning behavior.

BEPS Above And Beyond – Closing The Corporate Tax Gap

It could be argued that Australia has gone above and beyond the requirements of the OECD's base erosion and profit shifting (BEPS) project by introducing the Multinational Anti-Avoidance Law (MAAL) and a diverted profits tax (DPT), but it is an approach to the issue that appears to be paying dividends for the Government. As Kelly O'Dwyer, Australia's Minister for Revenue and Financial Services, observed in a recent interview with Sunrise's David Koch, the Government has "over 1,000 audits that are being conducted already, [and] a number of these companies have admitted that they have had to restructure their affairs to pay back taxes to the Government." [1]

Australia's aggressive focus on corporate tax avoidance is all the more noteworthy given that its corporate "tax gap" is already small by international comparison. Commenting on the issue at a National Press Club meeting, Chris Jordan, Australian Tax Office (ATO) Commissioner, said that, based on 2014/15 data, the "large market" corporate tax gap is approximately AUD2.5bn (USD2bn) – about 6 percent of the collections for that market.[2] Jordan observed:

> "The gap tells us that we are getting around 94 percent of the corporate tax we should from this market – approximately 91 percent coming in voluntarily and 3 percent through compliance interventions. From all indications, 94 percent is around global best practice, and many countries aspire to this level of compliance."

Nevertheless, he added that the ATO is now better placed to "ensure that what is earned here is taxed here," following the introduction of the MAAL, the DPT, and Anti-Hybrid Rules. These measures are summarized in the following sections.

The Multinational Anti-Avoidance Law

The Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015, otherwise known as the MAAL, came into effect on December 11, 2015,[3] and applies to certain tax avoidance schemes on or after January 1, 2016, irrespective of when the scheme commenced. The law is designed to counter the erosion of the Australian tax base by multinational entities (MNEs) using artificial and contrived arrangements to avoid attributing profits to a permanent establishment in Australia. The legislation applies when the principal purpose, or one of the principal purposes, of the arrangement was to obtain an Australian tax benefit, or to secure both an Australian and a foreign tax benefit. The measures give the Tax Commissioner powers to disregard a tax benefit obtained by a scheme that is captured by the law.

A taxpayer may have such a tax benefit cancelled by the Commissioner if they are a significant global entity (SGE). This is defined as an entity with an annual global income, or annual global income of the group in which the entity is a member, of AUD1bn (USD794m) or more. SGEs are also subject to increased penalties for tax shortfalls arising from the application of the MAAL. These penalties are equal to double the amount of the tax adjudged to have been avoided.

The Government has also been seeking to update the MAAL to bring additional tax avoidance strategies into its ambit, including through new measures announced in the 2017 Budget in May 2017. In particular, these would negate the use of foreign trusts and partnerships in corporate structures to circumvent the law.

The Budget proposed that, effective from January 1, 2016, the MAAL may apply to:

- Corporate structures that involve the interposition of partnerships that have any foreign resident partners;
- Trusts that have any foreign resident trustees; and
- Foreign trusts that temporarily have their central management and control in Australia.

Hybrid Mismatches

The 2017 Budget also included provisions intended to counter hybrid mismatch arrangements,[4] which were the subject of Action 2 of the OECD's base erosion and profit shifting Action Plan.

The Government explained that the new provisions are intended to clamp down on aggressive tax avoidance structures used by banks and financial institutions. Specifically, they will prevent hybrid mismatches that can occur in cross-border transactions relating to regulatory capital known as Additional Tier 1 (AT1).

Such "hybrid mismatches" can result in either double deductions for the same expense, or deductions for an expense without the corresponding receipt being fully taxed. Their use can result in double non-taxation.

The measure announced in the Budget would specifically prevent returns on AT1 capital from carrying franking credits where such returns are tax deductible in a foreign jurisdiction. Further, where the AT1 capital is not wholly used in the offshore operations of the issuer, the new provisions would require the franking account of the issuer to be debited as if the returns were to be franked. This is intended to prevent such mismatches.

Subject to transitional arrangements, the measure will apply to returns on AT1 instruments paid from the later of January 1, 2018, or six months after Royal Assent. The Government said transitional arrangements will apply to AT1 instruments issued before May 8, 2017, such that the measure will not apply to returns paid before the next call date of the instrument occurring after May 8, 2017.

Diverted Profits Tax

Australia bolstered its anti-avoidance defenses this year when it joined the United Kingdom in becoming one of the few countries to introduce a tax on diverted profits. The DPT, introduced on July 1, 2017,[5] seeks to discourage large companies from shifting profits to low-tax jurisdictions. Under Australia's DPT, multinationals found to have artificially shifted profits overseas face a 40 percent tax on the diverted profits – a substantially higher penalty that the 25 percent DPT rate faced by companies in the UK.

The DPT applies to multinationals with an annual global income of AUD1bn or more, and Australian income of more than AUD25m a year. Broadly, the DPT operates on the basis of three tests, as follows:

- *The AUD25m income test* – this test will apply if it is reasonable to conclude that, broadly, the sum of the assessable income, exempt income and non-assessable non-exempt income of the relevant taxpayer, the assessable income of any other associated entities that are members of the same global group and, if the DPT tax benefit relates to an amount not being included in assessable income, the amount of the DPT tax benefit, does not exceed AUD25m.

- *The sufficient foreign tax test* – this test will apply if, broadly, the increase in the foreign tax liabilities of foreign entities resulting from the scheme is 80 percent or more of the reduction in the Australian tax liability of the relevant taxpayer.
- *The sufficient economic substance test* – this test will apply if, broadly, the profit made as a result of the scheme by the relevant taxpayer and by each entity that is an associate of the relevant taxpayer and entered into or carried out the scheme or any part of the scheme, or is otherwise connected with the scheme or any part of the scheme, reasonably reflects the economic substance of the entity's activities in connection with the scheme.

The Government expects the tax to raise AUD100m a year from 2018/19.

Tax Avoidance Taskforce

Underlining how seriously the Turnbull administration takes the issue of tax avoidance and evasion, a tax avoidance taskforce was set up in May 2016 and handed considerable resources by the Government.[6]

The four-year funding package, worth AUD679m, was announced as part of Treasurer Scott Morrison's 2016 Budget. The Taskforce is led by the Commissioner of Taxation, Chris Jordan, and external experts will be appointed to review any proposed settlement arrangements, to ensure that they are "fair and appropriate." In total, around 1,300 ATO staff have been assigned to the project, including 390 new specialized officers.

The Commissioner is required to provide regular progress reports to the Government, and according to Morrison, these reports "will give confidence to the public that the work underway in Australia is ensuring multinationals and high wealth individuals are paying the right amount of tax."

The Taskforce will also work closely with government partner agencies, including the Australian Crime Commission, the Australian Federal Police, and the Australian Transaction Reports and Analysis Centre (AUSTRAC). Legislation will be introduced to enable the ATO to improve information sharing with the Australian Securities and Investments Commission (ASIC).

The Taskforce is expected to raise more than AUD3.7bn in tax liabilities by July 2020.

In a joint media release, Assistant Treasurer Kelly O'Dwyer and Morrison said: [7]

> "Those seeking to do the wrong thing will be left with no doubt that deliberate tax avoidance and evasion will not be tolerated. Tax cheats will be tracked down and will face the full force of the law. It will put money back into the system and into the community while also deterring people from entering into aggressive tax planning arrangements. …
>
> The Taskforce gives the Commissioner even more capacity to secure more revenue for the Australian community and ensure individuals and companies are paying the right amount of tax to support the services Australians need."

The ATO's Role

Added to this is the ATO's targeted audit strategy, which has focused on well-known multinationals and large Australian groups, especially in the digital economy. This raised over AUD4bn in assessments in the last financial year, according to evidence submitted by Tax Commissioner Jordan to the Senate Economics Reference Committee.[8]

Jordan told the Committee at a hearing last month that the tax authority levied nearly AUD3bn of this amount on seven very large multinationals in the e-commerce and energy and resources sectors. He revealed that part of the AUD4bn extra tax raised last year was AUD1bn in assessments on e-commerce companies and that AUD800m has already been received.

Few large companies established in Australia would appear to be safe from the ATO's attentions. The Government revealed in a media statement issued in April 2017 that it was auditing 59 multinational corporations and hundreds of other companies to determine whether they were compliant with Australia's taxation laws, including the MAAL.[9] Furthermore, the ATO recently met with 175 affected taxpayers or their advisors regarding their structures and compliance with the requirements of the MAAL.

A "Step Change" In Compliance Culture?

As stated by O'Dwyer, it is a compliance strategy that is paying dividends, not only in terms of the additional revenue it is generating, but also in the way that it is changing attitudes to tax planning. This was confirmed by the Government's April media statement, which claimed that "the

ATO is aware of 25 taxpayers who have restructured or intend to restructure their arrangements in response to the MAAL and make payments to the ATO." [10]

Indeed, Tax Commissioner Jordan has suggested that there has been a step change in how MNEs interact with the ATO on their tax affairs and a considerable improvement in voluntary compliance rates.[11]

Discussing Australia's response to BEPS at the Tax Institute's 32nd National Convention, Jordan said MNEs "are changing transfer pricing methodology and amounts to better reflect the value creation within Australia, recognizing a taxable presence here, and removing shell entities and long term foreign agency arrangements."

Jordan drew attention to the work of the Tax Avoidance Taskforce, explaining that the ATO is "working with hundreds of multinationals potentially in the scope of the MAAL to provide greater certainty on its application and, as appropriate, to help them to transition with some certainty into compliant arrangements." He added:

> "We are also working to help control tax avoidance by supporting clients to voluntarily get it right. We have done this through releasing a series of guidance products to provide early warning of areas of concern about higher risk tax arrangements and behaviors. Through this work we are noticing an encouraging change in approach with clients reaching out to us to make changes to be more compliant. We have also worked with them to develop new transfer pricing safe harbors which have been very useful in reducing the compliance cost for those smaller scale foreign companies restructuring to comply with the MAAL."

Conclusion

While we have no official data yet to assess the effectiveness of the DPT, there appears to be growing evidence that the MAAL, and other anti-avoidance initiatives such as the Tax Avoidance Taskforce, are having the desired effect. And this is demonstrated not only in the considerable amount of additional tax collected from the ATO's audits of large MNEs, but also the reputed change in the tax planning culture among multinationals operating in Australia.

Nevertheless, all the indications are that the Government does not intend to rest on its laurels. Even though the corporate tax gap among MNEs is relatively low, it seems the Government is determined to reduce it further, with O'Dwyer stressing in her recent interview that it will continue to take steps to tackle corporate tax avoidance by large businesses.

What's more, the recent formation of the Tax Avoidance Taskforce and the ATO's proactive audit strategy suggests that there will be no let-up in the pursuit of tax from multinational taxpayers for the foreseeable future, and that therefore taxpayers in Australia should be prepared for their tax positions to be rigorously challenged.

Endnotes

1 http://kmo.ministers.treasury.gov.au/transcript/025-2017/

2 https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-s-address-to-the-National-Press-Club/

3 https://www.legislation.gov.au/Details/C2015A00170

4 http://www.budget.gov.au/2017-18/content/bp2/download/bp2_revenue.pdf, at pp. 34–35.

5 https://www.legislation.gov.au/Details/C2017A00021 and https://www.legislation.gov.au/Details/C2017A00027

6 http://kmo.ministers.treasury.gov.au/media-release/051-2016/

7 *Id*.

8 http://kmo.ministers.treasury.gov.au/media-release/083-2017/

9 http://sjm.ministers.treasury.gov.au/media-release/030-2017/

10 *Id*.

11 https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-addresses-the-Tax-Institute---2017/

Lower Tax Rates For The UK Post Brexit?

by Chas Roy-Chowdhury, Head of Taxation, ACCA

This article was first published in 'Accountancy Magazine', September 1, 2017. For further information, please see https://www.cchdaily.co.uk

Given the uncertainty which currently surrounds the timing and likelihood of achieving a final Brexit deal, it is difficult to make strong predictions about the future of taxation and regulation in the UK. It is also difficult to confidently assume what the make-up of a post-Brexit government will look like. Yet let us assume, as the Chancellor Philip Hammond has in recent comments rejecting the 'Singapore model', that there is a Conservative government leading the UK into a post-Brexit future.

I am a member of two European Commission expert groups on VAT and have sat on an advisory panel looking at direct tax and exchange of financial information across EU states. What I have come to recognize through this engagement is that the UK is highly influential in the EU. English is the main and quite often the only language used in meetings and for written comments, which gives us an immediate advantage.

The UK has always offered a relatively low regulation environment for business and, since the 1980s, low taxes by European standards. EU dynamics over the last 40 years have often seen tensions between those member states seeking to impose quite burdensome business regulations through the Commission and those taking a more liberalized approach.

The UK has played a leading role in watering down the proposals to something much more business friendly. A case in point was the Working Time Directive: the UK successfully lobbied for a loosening of the overall requirements and negotiated a three-year opt-out period.

Unless other states assume the UK's liberalized approach to finance and business legislation, future regulations may start diverging from what the UK implements from outside the EU. So there is likely to be a divergence over time.

The Chancellor was just stating the blindingly obvious. The UK has a National Health Service, it has a social security safety net, it has free education up to the age of 18, and for the financial year to the end of March 2017, the deficit was GBP52bn (USD66.9bn), or 2.6 percent of GDP.

The Singapore Example

So how do we get our tax rates down to the same level as Singapore at 17 percent? Would we be happy to dispense with any of these public services or let the level of borrowing get bigger in order to cut corporation tax, income tax, or VAT?

There are some taxes, regardless of our final relationship with the EU, that we could consider reducing. The corporation tax rate has fallen from 30 percent in 2008 to 19 percent this financial year. Yet the corporation tax take has risen by 21 percent in 2016/17 from the previous year to GBP56bn. This yield could drop in coming periods due to the Brexit impact, but cutting the tax rate and broadening its base can help increase yield.

Take Ireland with its globally very low level of corporation tax at 12.5 percent. Even though the Irish economy went through some really painful cuts in government spending after the 2008 financial crisis, Ireland persisted in retaining that rate of corporation tax as it considered that it kept Ireland open to global business and investment.

The UK Government has said it intends to reduce corporation tax to 17 percent by 2020. It should adhere to this manifesto promise. Conservative pledges to increase the personal allowance to GBP12,500 and raise the upper threshold for the basic rate of income tax to GBP50,000 will be hard to backtrack from. Both measures will boost consumer spending, but whether corporation tax yields will bridge the revenue gap created will remain to be seen.

A "global Britain" may be forced to reduce corporation tax further in order to compete alone on the world stage. For example, if the US administration cut its corporation tax rate to 15 percent, the UK may be left with no option but to follow suit. The potential losses to the financial sector, particularly given the threat to London's global status, would be too great.

So while Hammond maintains that the UK will not emulate Singapore any time soon, the Brexit process may inadvertently result in a more deregulated approach and low tax rate in future.

Tax Equalization On Equity Awards

by Brett Sipes, Branch Director, GTN Pacific, and Geoff Hamell, Managing Director, ISP Advisors

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Introduction

The typical responsibilities of a global mobility manager are both complex and varied. They handle unusual requests from demanding mobile employees while enabling the movement of talent within the company. Nowhere in the job description does it read "collection agent," although it is this exact role that many play when a US outbound mobile employee has a large restricted stock unit (RSU) award that vests.

The tax equalization settlement amounts at issue can be significant. In this article, we explain why these situations occur and solutions that may be available to mitigate having the employee owe the company.

Before we discuss the tax issues surrounding mobile employees and tax equalization settlements, we would first like to explain two myths.

Myth 1: The amounts withheld through the US payroll system are intended to match the individual US tax liabilities.

Reality: The amounts withheld through the US payroll system are based on a complex set of requirements and payroll regulations. Although the amounts withheld for US federal and state income taxes from the payroll system are ***reported*** on the US individual income tax return, the ***withholding*** amount is based on the mandates of the payroll regulations, not the individual's actual tax liability.

The discrepancy between amounts withheld and an individual's actual tax liability can be problematic. In some cases, the required withholding under payroll law will result in a large overpayment of tax on the annual tax return. In other cases, the required withholding will result in a large balance due on the annual tax return.

Myth 2: Complying with the global payroll reporting and withholding obligations on equity awards will also help to ensure proper implementation of a company's tax equalization policy.

Reality: Complying with the global payroll reporting and withholding obligations on equity awards can be mutually exclusive from properly executing a company's tax equalization policy. Specifically, most companies' tax equalization policies include guidelines on how to minimize a large balance due to the company on the equalization calculation. However, complying with the global payroll reporting and withholding obligations on equity awards can often result in the employee owing the company on the tax equalization unless specific measures are taken to avoid this situation.

Why is this important? For an employee that is tax equalized, having a large tax equalization settlement due to the company can lead to many challenging situations including:

- A large write-off for the company if they are unable to collect from the mobile employee. This often occurs if the employee leaves the company before the annual tax equalization calculation is prepared;
- Awkwardness within the organization while the HR, payroll, and business units wait for the employee to repay the company;
- The tax issues for a mobile employee are often quite confusing even in the best of circumstances, so owing a large amount to the company (either as an out-of-pocket payment or with actual tax refunds) can be alarming and frustrating.

To illustrate the issue and possible solutions, we will use a fact pattern that is common for many US employees that go on assignment and are tax equalized.

Fact Pattern

- US employee
- On three-year assignment in the UK
- On US actual payroll
- On UK shadow payroll
- Tax equalized, and company agrees to fund all UK taxes

- Married
- Base salary of USD250,000, bonus of USD150,000, and spouse has wages of USD100,000
- Equity income is sourced 100 percent to the UK
- Employee has a single RSU vesting event that generates USD1m of compensation income
- Employee's UK marginal tax rate is 45 percent
- Employee's US hypothetical marginal rate is 40 percent
- Employer's equity policy requires mandatory net settlement of the award (*i.e.*, withholding shares to cover the taxes due)
- Employer uses the "flat" rate (*i.e.*, supplemental rate) withholding method on equity awards.

Issue

Based on the facts above, the common approach would be to withhold US federal tax at a rate of only 25 percent. However, this would result in the following issues when the tax return and tax equalization are prepared:

1. The employee would receive a US federal tax refund of USD250,000 because claiming a foreign tax credit would eliminate all US tax on the equity income;
2. The employee would owe USD400,000 to the company on the tax equalization calculation. This is comprised of:
    a. The USD250,000 federal refund that belongs back to the company (since the company paid the UK taxes that generated this refund);
    b. The USD150,000 in under-withholding on the equity income, since the employee's incremental tax rate is 40 percent.

In summary, the employee would need to have funds available to pay the employer for the USD150,000 tax equalization settlement, as well as pass along the federal refund of USD250,000 to the employer. To avoid the challenges noted above, the company should avoid having an employee owe it USD400,000.

Potential Solutions

Solution 1 – Remove tax equalized employees from the net settlement requirement; instead, allow them to "sell to cover"

Industry data consistently shows that net settlement is – by far – the most popular tax settlement methodology for full-value awards, such as RSUs. This should come as no surprise since finance teams tend to prefer the anti-dilutive impact of this approach.

However, this favorable balance sheet result comes at a cost – *i.e.*, reduced flexibility when selecting your tax rate. Specifically, the US Generally Accepted Accounting Principles (GAAP) governing net settlement (ASC 718 – and its latest guidance under ASU 2016-09) state that "good" accounting (*i.e.*, fixed accounting) is preserved for a net settled award if withholding occurs at a rate that is less than or equal to the maximum statutory rate. Stated another way, you trigger "bad" accounting (*i.e.*, liability accounting) and its market-to-market requirement if you withhold at a rate that exceeds the maximum statutory rate.

Though withholding at the hypothetical rate would provide a good tax answer (since there would be a close approximation of the mobile employee's actual tax liability), doing so via share withholding runs the risk of triggering liability accounting. The US Financial Accounting Standards Board (FASB) has, on multiple occasions, considered and rejected a specific exemption for hypothetical tax. Thus, we must assume the risk is real.

A straightforward solution to this problem exists if your plan allows participants to sell shares to cover the taxes due (*i.e.*, "sell to cover"). This is because market-based transactions such as "sell to cover" are not subject to the same maximum statutory rate requirement. Rather, the accounting guidance places no rate setting restrictions on these market-based tax settlement transactions. If no restrictions exist, you can choose the rate that provides you the best estimate of the actual tax liability, generates cash at the point of transaction, and sends the payment directly to the employer.

If you are considering switching from net settlement to sell to cover, we recommend you consult with three critical stakeholders:

1. Your legal team to ensure this tax settlement method is permitted under your plan;
2. Your finance team to ensure they're comfortable with the less desirable dilution impact;
3. Your plan administrator/broker to ensure "sell to cover" functionality can be supported.

Solution 2 – Continue to net settle, but do so based on the maximum host country rates

If the employee is subject to mandatory foreign withholding on the equity income, the company can withhold tax at rates up to the maximum applicable foreign tax-withholding rate. This option is a new alternative that has emerged pursuant to ASU 2016-09. Previously, withholding of shares to cover tax obligations at a rate above the *minimum* statutory tax rate generally resulted in liability accounting. However, where the US GAAP-imposed ceiling was once a country's minimum statutory rate, it is now that country's maximum rate.

In addition, since the equity income is subject to mandatory foreign withholding, the company is not required to withhold US federal income tax (although the wages would be reportable for federal tax purposes and subject to Medicare tax withholding).

To implement this solution, the company should consider having the employee sign a statement indicating that under IRC 3401, any items of income that are subject to mandatory withholding are exempt from US federal income tax withholding (even if the wages are supplemental wages that exceed USD1m). Even if the employee has not signed such a statement, if the company can ensure that there will be tax withholding in another country on that income, then the income can be exempt from US federal income tax withholding.

The process might look like the following on an equity transaction:

1. Amount withheld from employee at a rate of 45 percent (*i.e.*, maximum tax rate in the UK) and reported as "hypothetical tax";
2. Actual UK tax withholding required for UK payroll reporting is 40 percent, which the company will pay via a gross-up from the funds withheld from the employee in Step 1;
3. For the employee's taxable income purposes, the amount in Steps 1 and 2 are netted, resulting a net decrease to taxable compensation of 5 percent of the equity transaction.

Solution 3 – Reduce US federal withholding, and collect hypothetical taxes as a separate transaction

To illustrate this solution, we will use the same facts as above, but assume that the employee has been on assignment to Japan, not the UK, and is therefore **not** subject to mandatory withholding on the equity income (as Japan does not typically require mandatory withholding for employees working on assignment in Japan). For this scenario, the solution to avoid a large balance due to the company on the tax equalization would be the following:

1. Have the payroll department utilize the aggregate withholding method, rather than the supplemental withholding method;
2. Have the employee complete a W-4 with hundreds or even thousands of withholding exemptions to ensure no federal tax withheld on the equity income;
3. After the employee receives equity income, request that the employee write a separate check to the company to pay hypothetical tax. Note that in this scenario, the hypothetical tax rate could be any rate the company would like, since it is a separate transaction.

Other Related Issues

Issue: Equity income is not 100 percent foreign source

In the original fact pattern above, we assumed that the equity income was 100 percent UK source. In many cases, the equity income for a mobile employee is considered earned in multiple countries. In scenarios like this, then Solutions 1 through 3 can still be implemented, but only on the portion of income that is foreign sourced.

For the US source income, there is still an obligation to withhold US actual tax. If the company uses the flat withholding method, there is still the issue that the US sourced income may have taxes withheld at less than the employee's incremental tax rate (refer to Myth 1 above). Therefore, the company may want to implement a different approach that is similar to Solution 3, using the aggregate withholding method (explained below).

Solution: Withhold actual US tax on US source income using the aggregate withholding method

For employees that have US source equity income that would be subject to 25 percent federal tax withholding under the flat withholding method, the company might want to consider implementing the aggregate withholding method.

However, instead of completing a W-4 with a large amount of withholding allowances as described in Solution 3, the employee would instead complete the W-4 with the "Single" status and claim zero exemptions. The result of this action is that the actual US tax withholding would quickly rise to the highest marginal tax rate, which would help to minimize the chance that the employee would owe additional tax later when the tax return and tax equalizations are prepared.

Issue: State income tax

If the employee has broken state residence, then the company cannot withhold hypothetical state tax on equity income not sourced to a state (if withholding of shares to cover tax), since there is no minimum required state withholding.

Solution 1 is generally the preferred method, as that type of structure would allow the company to withhold hypothetical state taxes as needed. The format for Solution 3 could also be beneficial, in that the company could request that the employee send a check for the hypothetical state tax withholding on the non-state source income.

However, if the company is utilizing Solution 2 for federal taxes, then a modified approach could apply for state taxes.

Solution: Withhold hypothetical tax at a higher rate than the hypothetical federal rate and apply to state taxes

If the foreign maximum rate is higher than the US hypothetical rate, the excess above the US hypothetical rate could be considered hypothetical state tax. For example, based on the facts above, the UK marginal rate is 45 percent. Therefore, the employer could withhold hypothetical tax at 45 percent, of which 40 percent would be for federal hypothetical tax, and 5 percent would be for state hypothetical tax.

If the approach above does not result in withholding of actual US tax and hypothetical tax at the employee's incremental hypothetical tax rate, then Solution 3 could be applied on the remaining tax due (*i.e.*, having the employee write a check to the company for the under-withheld amount).

Summary

As explained above, there are potential solutions for avoiding large tax equalization settlements from mobile employees. Although it will require some work to implement these solutions, the payoff from not having to collect from mobile employees may well be worth the effort.

Topical News Briefing: A Great Leap Forward On Tax

by the Global Tax Weekly Editorial Team

Since China's rulers decided to liberalize the economy, the country's rapidly growing economic fortunes have been based largely on low-value manufacturing and exports. Now, the Government is bringing about a transition towards a more consumer-oriented, high-value economy, and this transformation seems to be going hand in hand with modernization of the tax regime.

Recent developments show how the Government is attempting to reduce the tax burden on enterprises, attract foreign investors, and simplify the tax regime.

According to Chinese Premier Li Keqiang, recent tax cuts have reduced the corporate tax burden by CNY1 trillion (USD153bn) this year alone, and businesses saw savings worth CNY2 trillion during the four years between 2013 and 2016.

Perhaps the greatest contributor to these tax cuts was the expansion of the value-added tax (VAT) regime, which has replaced the business tax regime, a revenue-based tax which added considerably to businesses' tax burdens, both in terms of administrative complexity and in the amount of tax paid.

China has now extended VAT to all areas of the economy, having first launched a pilot program in Shanghai in 2012, and has fully phased out business tax. What's more, in July 2017, China reduced the number of tax rates from four to three, installing rates of 6, 11, and 17 percent, and reducing the tax rate from 13 to 11 percent for farm produce, tap water, and books.

Li stated that the Government would continue to fine-tune the system, to ensure that it continues to provide benefits for businesses. "The VAT reform program is a strong measure of administration to boost proactive fiscal policies and supply-side structural reform," said Li. "One year on, the reform is paying off. Sectors across the board have seen their tax burden reduced."

In addition, China recently introduced tax breaks for small and micro-enterprises, increased tax relief for innovation, and last month announced proposals to improve tax incentives for scientific research.

China is also looking to rekindle foreign direct investment after a slight drop, as reported in this week's issue of *Global Tax Weekly*. Alongside an increase in the areas of the economy that foreign investors can participate in, through a reduction in the industries covered in China's "negative list" of precluded investments and its use nationwide, the Government hopes that a new tax concession, announced in August 2017, will encourage more foreign investment. This measure will allow foreign investors to defer tax on dividend income if it is reinvested into approved projects.

Indeed, the announcement that the Government is studying how blockchain technology could be used to improve tax administration and collection is an indication of how forward-looking it has become in terms of tax reform.

However, while substantial progress has been made recently towards improving China's tax regime, there is much more progress to be made. In TMF Group's inaugural tax complexity survey, China's was named as the second-most complex tax system in Asia, being only marginally less complicated than Vietnam's, in first place. And in PwC's 2017 Paying Taxes index, China was ranked 131st, indicating that there remain significant weaknesses in its tax regime.

Therefore, complying with China's taxes remains a challenge for many foreign enterprises, and this is a state of affairs which is unlikely to change overnight. But recent developments show that the Government is making a concerted effort to improve the tax system, which suggest that as time goes by, taxes will become lower and tax rules simpler to follow.

On-Boarding A New Transfer Pricing Client

by Angela Sadang, Marks Paneth LLP, independent member of Morison KSi

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One of the fundamental challenges when starting a transfer pricing engagement with a new client is acquiring a good general understanding of their business – and securing sufficient details about their operations – in order to develop the appropriate transfer pricing policy and methodology.

Many micro-multinational small and medium-sized enterprises (SMEs) are generally unfamiliar with the technical language customarily used by the tax organizations of large multinationals. In other words, the tax departments for large multinationals are the ones who usually deal with these issues via their accounting firms. In micro-multinationals, on the other hand, there are seldom accounting departments, so their COOs or CEOs must deal with these tax matters.

In order to enable communication and employ language that is familiar to business owners and entrepreneurs, tools are required that speak the language of business rather than that of tax regulations. One such tool that we have found particularly useful is the business model template devised by Alex Osterwalder,[1] the Swiss business theorist.

Based on his PhD thesis in Management Information Systems from the University of Lausanne, Osterwalder's business model was designed to help entrepreneurs who are starting a new business to describe, design, challenge, as well as document and reinvent, existing business models. The model[2] is essentially a visual chart that describes a firm's or product's value proposition, its infrastructure, customers, and finances. Its aim is to help companies align their actions by indicating possible trade-offs. As a bonus, Osterwalder's model also serves as a good foundation for understanding a business for the purpose of transactions taxes – evaluating "nexus" for state and local tax (SALT) purposes in the US. Nexus is defined as "sufficient physical presence" or connection with a state that would allow such state to impose taxes on the out-of-state company. Through Osterwalder's model, connections become visible. Performing both exercises – transfer pricing and SALT evaluation – together allows a client to see the total picture and make suitable trade-offs.

The Osterwalder model contains nine elements which, taken together, provide a coherent view of the business along with the key drivers. First is the "value proposition," which identifies:

- The problem you are solving, or the needs you have identified:
- Why you are uniquely positioned to solve the problem or satisfy the needs;
- Why your customers prefer your solutions to those of your competitors.

On the customer revenue side, there are four components:

- Customer segment;
- Customer relationships;
- Business channels;
- Revenue streams.

In discussing these variables, one can discover how a business defines and acquires its clients. Is the customer acquired remotely, from outside the country? Is there a very long sales cycle with many "hands" involved in the process? Are business partners used as agents to drive sales?

Such discussions will create a profile of whether "comparable uncontrolled transactions" exist; how much value is generated by the sales organization; and whether connections for SALT purposes are being created by the sales process and sales support functions. Finally, what are the tax consequences of various revenue streams (services, sales or royalties)?

On the cost side, there are also four components:

- Key activities;
- Key resources;
- Key partnerships;
- Cost structure.

Which activities are the most important in delivering the value proposition to the customer and which resources will be required? Distribution? Ongoing customer support? Acquisition or use of intellectual property? Existence of legacy relationships generated by a related party? Role of partners in assisting you to deliver the solutions to your customer?

These discussions will familiarize the client with the key elements of transfer pricing and will illustrate how various related parties will work together to contribute to the success of the global enterprise. Many of the important "covered transactions" that will have to be evaluated in order to establish "arm's length" prices will begin to be revealed.

Having established the necessary communication framework, it is then appropriate to begin the systematic task of defining each legal entity in terms of the criteria:

1. The functions undertaken by employees or contractors – sales, business development, research and development (R&D), software development, services, customer support;
2. The risks incurred – R&D, product development, long-term contracts, supply chain, market risks, credit and bad debt risks, foreign exchange risks;
3. Functions performed by one legal entity for another – fundraising, provision of loans, strategic directives, administrative services, customer referrals, lists;
4. The intangible and tangible assets deployed – technology, know-how, trademarks and trade names, corporate reputation, inventory, warehouse goods, real property assets, leaseholds;
5. The competitive landscape and how one's business is similar to or different from competitors.

For SMEs that are micro-multinationals, painting the "business picture" is the first step in the transfer pricing exercise. This process will become a "rite of passage" into the global game where tax authorities stake out their claim and exert their taxing rights over multinational companies in order to properly divide the global tax "pie."

Endnotes

1 *See* http://alexosterwalder.com/

2 *See* https://strategyzer.com/books/business-model-generation

Topical News Briefing: Who'll Rule The Roost After Brexit?

by the Global Tax Weekly Editorial Team

As reported in this week's issue of *Global Tax Weekly*, UK Chancellor of the Exchequer Philip Hammond has pledged to ease the concerns of those taxpayers challenged by Brexit-fueled uncertainty. However, despite his promise to provide tax stability, in reality, there would appear little the Chancellor can do to answer fundamental questions about the interaction of UK and EU law after Brexit.

While EU law is complex in many areas, the premise on which it rests is simple. EU law, including in the area of taxation, has supremacy over a member state's law, and the European Court of Justice (ECJ) has jurisdiction in all member states, including the United Kingdom. Therefore, national courts are bound to follow the ECJ's rulings, not only on tax but on all other matters.

However, despite the UK Government's attempts to bring about an orderly transition when Brexit takes place with the Great Repeal Bill, the post-Brexit legal landscape looks to be far more complex, uncertain, and unpredictable than it appears to be letting on.

As the Government noted in a recent paper on enforcement and dispute resolution post-Brexit, the Great Repeal Bill, set to be debated in parliament, ensures that pre-exit ECJ case law will have the same binding, or precedent, status in UK courts as decisions of the UK Supreme Court. Furthermore, all EU laws and regulations, including in the area of taxation, will continue to stand on day one after Brexit, and will remain in place until such time as parliament decides to amend or repeal them.

It follows from this, therefore, that a great deal of EU law, in the form of legal precedent and legislation, will continue to apply for a long period of time after the UK's EU withdrawal agreement has effect. However, what is much more uncertain is the role the European courts will play in relation to this legacy EU law after Brexit, if any.

In the paper, the UK Government was clear that Brexit "will bring about an end to the direct jurisdiction of the [ECJ]." But it then contradicts this somewhat with its observation that a dispute in UK–EU matters which requires an interpretation of EU law may still be referred to the ECJ after the UK is no longer a member state.

Unfortunately for those hoping for more post-Brexit legal clarity, the Government is unable to say under which circumstances the ECJ would have jurisdiction. It is observed in the paper that a number of precedents exist where the EU has reached agreements with third countries which provide for a close cooperative relationship without the ECJ having direct jurisdiction over those countries. But it is not guaranteed that this would be the case under an eventual EU–UK legal and economic treaty. All that can be concluded is that the Government is aiming for such an outcome.

For taxpayers, the legal terms and conditions of the withdrawal agreement and the treaties that will determine future bilateral relations will only become clearer as the negotiations progress. And, as things stand, there is a very long way to go before anything approaching progress can be claimed by either side.

WTO Reverses Decision On US Boeing Subsidies

The EU has said it disagrees with the decision made by the World Trade Organization's (WTO's) Appellate Body to reverse a previous panel ruling that a tax break provided by Washington State to Boeing is a prohibited subsidy.

A WTO panel was set up in September 2015 in response to an EU allegation that a number of "conditional tax incentives" established by the US state of Washington in relation to the development, manufacture, and sale of large civil aircraft are prohibited subsidies. The panel's final report was published in November 2016, after which the US appealed to the WTO's Appellate Body and the EU cross-appealed.

The Appellate Body released its report on September 4, 2017. It reversed the panel's finding that a reduced business and occupation tax rate for the manufacturing or sale of commercial airplanes under the Boeing 777X program is a prohibited subsidy.

The dispute concerns legislation that amended and extended various tax incentives for the aerospace industry in the US state. In particular, the EU raised objections to seven separate incentives, including the reduced business and occupation tax rate, credits against business taxation, and exemptions from various other taxes.

While the original panel did not rule in favor of the EU on all arguments, it did conclude that "in each of the contested measures, there is a financial contribution by the Washington state government, and that a benefit is thereby conferred. As a result, the measures are deemed to constitute subsidies" under the WTO's Subsidies and Countervailing Measures (SCM) Agreement.

The panel found that although the EU had not demonstrated that the measures are *de jure* (by right) contingent upon the use of domestic, rather than imported, goods, the reduced business and occupation tax rate was deemed *de facto* contingent upon the use of domestic over imported goods and therefore inconsistent with the SCM Agreement.

The US appealed the finding that the measure is a subsidy *de facto* contingent upon the use of domestic over imported goods, and the EU appealed the finding that it had failed to demonstrate the *de jure* contingency of the measures.

The Appellate Body rejected the EU's claim that the panel had erred in its interpretation of the SCM Agreement in the context of its *de jure* contingency analyses.

It also found that the panel had not properly established that the lower business and occupation tax rate was *de facto* contingent upon the use of domestic over imported goods. It therefore reversed the panel's finding that the measure constituted a prohibited subsidy.

EU, Ukraine Trade Agreement In Force

The EU–Ukraine Association Agreement (AA), which includes a Deep and Comprehensive Free Trade Area (DCFTA), entered fully into force on September 1, after a period of provisional application.

The DCFTA provides for the mutual opening of markets for goods and services, although the EU reduces and abolishes duties at a faster rate. Ukraine will gradually adopt EU laws and standards in production and services.

The DCFTA has been provisionally applied since January 2016. According to the EU, trade between the EU and Ukraine increased by around 25 percent in the first four months of 2017 compared to the same period in 2016. The EU is Ukraine's number one trading partner.

In July, the European Parliament agreed to the introduction of additional trade concessions which will top up the quantities of agricultural products Ukraine can export to the EU under the AA/DCFTA without paying customs duties, and accelerate the elimination of customs tariffs for several industrial products.

Federica Mogherini, High Representative of the EU for Foreign Affairs, commented: "Today we finally achieve what we have been working on in the last years: a closer association between the European Union and Ukraine. This means closer ties between our citizens, bigger markets and more opportunities for businesses and entrepreneurs, increased sharing of experience, information, and expertise."

EU Commissioner for European Neighbourhood Policy, Johannes Hahn, added: "The first concrete results of implementation of the [AA] can already be seen: Ukraine's exports to the EU have increased and the EU has confirmed its position as Ukraine's first trading partner."

Under the broader AA, Ukraine has committed to structural reforms in the areas of democracy, human rights, the rule of law, good governance, trade, and sustainable development. The AA was negotiated between 2007 and 2011, and signed in 2014.

EU Hails WTO Win In Brazil Subsidy Case

The EU has welcomed what it said was a full victory in its World Trade Organization (WTO) challenge against Brazil's tax subsidies in the ICT, electronics, and automotive sectors.

It said the ruling confirms that the tax advantages offered by Brazil to these sectors favor domestic over imported goods, and are illegal under WTO law.

The EU had alleged that "many products, ranging from computers and smartphones to motor vehicles are the object of tailor-made discriminatory tax programs," and that the tax benefits are "reserved for goods produced in certain areas in Brazil, whatever the sector."

It claimed that these tax measures have "a negative impact on EU exporters, whose products face higher taxes than domestic competitors," and that the measures therefore "restrict trade by favoring the localization of production and supplies, and give an advantage to Brazilian exporters."

The EU initiated the dispute in December 2013. In July 2015, Japan launched a parallel dispute against the same Brazilian programs, and the two cases were merged.

In its report, the WTO recommended that Brazil should withdraw the subsidies within 90 days. Brazil has 30 days to appeal the decision.

Trump Says Republicans Moving Forward On Tax Reform

Leading Republicans have come out in support of President Donald Trump's latest speech on tax reform, which called for a simplification of the US tax code and a reduction in regulations.

Speaking at an event in Springfield, Missouri, on August 30, Trump criticized the "crushing tax burden" on companies and on workers and the "enormous complexity" of the current tax code. He committed to reforms that are "simple, fair, and easy to understand" and said his administration is pursuing a pro-growth, pro-job agenda with a "competitive tax code" that would "create more jobs and higher wages".

He also suggested a 15 percent corporate tax rate and measures to encourage the repatriation of overseas capital holdings, and committed to removing "loopholes and complexities" that benefit wealthy taxpayers and special interests.

Treasury Secretary Steven Mnuchin added: "At the Treasury Department, we are committed to continuing to advance the President's vision on tax reform while working with Congress to pass a plan that will lead to economic growth and job creation."

Senate Finance Committee Chairman Orrin Hatch (R – Utah) emphasized the importance of bipartisan participation in the tax reform process. "As the Senate Finance Committee moves forward with additional hearings and a markup this fall, I hope we will be able to find consensus and unite behind pro-growth policies," he said.

Meanwhile, Democrat Congressman Richard Neal (D – Massachusetts) criticized Trump's speech, accusing the Republicans of failing to take "bold action."

Neal, who is a ranking member of the Ways and Means Committee, said on August 30: "President Trump's speech … underscores the fundamental problems Republicans are facing when it comes to tax reform: they're trying to do it alone, seemingly can't agree on any specific policies, and time and again continue to resort to vague, decades-old talking points – like the President did today – instead of taking bold action."

He suggested that wealthy Americans and big corporations would be the ultimate winners at the expense of the middle class, and criticized the promise of a corporate tax rate cut from 35 percent to 15 percent suggested by Trump, calling the plan "pure folly."

He confirmed his party's commitment to working with Republicans on "real tax reform that provides tax relief and expands opportunities for middle-class families, closes the skills gap, and promotes middle-class job growth."

State Governors Call For US Health Insurance Tax Reforms

A bipartisan group of US state governors has called on Congress to consider a number of state-level health care reforms, including tax exemptions for some health insurers and an improved tax credit system.

In an open letter to Speaker of the House Paul Ryan (R – Wisconsin), House Minority Leader Nancy Pelosi (D – California), Senate Majority Leader Mitch McConnell (R – Kentucky), and Senate Minority Leader Charles E. Schumer (D – New York) dated August 30, eight state governors laid out a "blueprint for stronger health insurance markets" with the aim of making coverage "more stable and affordable."

On the tax front, they called on Congress to foster competition and choice in counties where consumers lack options because there is only one carrier on the exchange. They said: "We ask Congress to encourage insurance companies to enter underserved counties by exempting these insurers from the federal health insurance tax on their exchange plans in those counties."

In addition, as part of their proposed reforms to maximize market participation, they noted that current law includes a glitch that makes some families who cannot afford insurance through their employer ineligible for tax credits on the exchange. "Congress should fix the 'family glitch' and give more working families access to affordable coverage," they recommended.

Lobby group Americans for Tax Reform has criticized the proposal to exempt insurers entering underserved counties from the health insurance tax, saying: "Congress should ensure that everyone is protected from the higher costs. [The] relief should be offered to all, not a select few."

Hatch Explains Need For US Estate Tax Repeal

Senate Finance Committee Chairman Orrin Hatch (R – Utah) has released a statement explaining why the US Administration is pushing for repeal of the estate tax.

In a post on the Committee's website on August 31, Hatch highlighted that the tax is "arcane," dating back to 1797, when revenues were primarily used to finance wars or prepare for the threat of wars. Now, he claimed, it disrupts financial planning for families, farmers, and small businesses.

The federal wealth transfer tax system is made up of the federal estate tax (a tax on the right to transfer property after death); the gift tax (a tax on the transfer of property and assets in return for no or less than equal consideration); and generation-skipping transfer tax (a tax applied in addition to estate and/or gift taxes where assets bequeathed skip one or more generations).

Hatch noted that the levies contribute about 0.5 percent of total federal tax revenues but create large distortions for taxpayers. For instance, small businesses and farmers are often forced to buy insurance to cover possible tax liabilities that would arise from the owner's death. In other cases, businesses may have to be divided upon an owner's death, or considerable loans taken, to settle tax liabilities. Hatch also noted avoidance rates, noting the perception that wealthy taxpayers seldom pay high rates of tax of up to 40 percent.

"As Congress works toward a united approach for comprehensive tax reform, its members will continue to explore the most effective ways to mitigate the negative impact of the estate, gift, and generation-skipping transfer taxes," he said.

Le Maire Outlines French Corporate Tax Cut Plans

French Finance Minister Bruno Le Maire has confirmed that the Government will legislate for several tax measures designed to increase France's tax competitiveness in the upcoming Budget for 2018.

In a speech to France's main employers' union, MEDEF, on August 30, Le Maire said the Government would proceed with several major tax proposals, including a corporate tax cut, the abolition of the ISF wealth tax, the replacement of the competitiveness and employment (CICE) tax credit with cuts in compulsory levies, and the simplification of capital gains tax.

"Our tax system must be simple and stable. It must promote risk and reward work," he said.

Under the plans, the corporate income tax rate will be reduced to 28 percent on profits up to EUR500,000 (USD600,000) per year in 2018, with the headline rate, currently 33.33 percent, lowered to 31 percent in 2019 on profits in excess of EUR500,000 (and the 28 percent lower rate maintained).

Corporate profits will then be taxed at a single rate of 28 percent from 2020, before corporate tax is cut to 26.5 percent in 2021, and again to 25 percent in 2022.

Le Maire also told the audience that the Government will "remove the ISF."

"With the abolition of the ISF, we want to attract the investors needed to grow your business. We want to stop the flight of talent, we want to reward risk taking," he said.

In another significant measure, Le Maire confirmed that the CICE tax credit will be eliminated and replaced with additional tax cuts.

The CICE tax credit was former President François Hollande's flagship pro-business tax measure, and was intended to reduce the cost of employing workers. The tax credit amounts to 7 percent (6 percent prior to January 1, 2017) of gross payroll for remuneration equal to or below 2.5 times the minimum wage. However, in July 2017, Prime Minister Edouard Philippe announced that the CICE tax credit will be converted into a reduction in payroll charges beginning on January 1, 2019.

In addition, Le Maire said that capital gains will be taxed at a single rate of 30 percent from 2018.

Microsoft Facing EUR600m Back Tax Bill In France

The French tax authorities are reportedly preparing to hit Microsoft's French subsidiary with a tax assessment worth EUR600m in unpaid taxes, in a case with similarities to Google's ongoing tax dispute in France.

According to a report published by French magazine *L'Express* on August 30, the sum relates to income earned by Microsoft from its advertising services in France, but which were attributed to the company's subsidiary in Ireland, where corporate tax is substantially lower.

In a statement given to AFP, Microsoft said that it "acts in compliance with the laws and regulations of all the countries in which it operates, working closely with the local tax administrations [to] ensure full compliance with local legislation."

The case bears similarities to Google's French tax dispute, which has been contested through the courts.

The basis of the French Government's challenge to Google's tax position was that it paid minimal corporate tax in France despite deriving substantial revenues in the country during the period in question. It said that Google's French income was routed to Ireland, where the corporate income tax rate is 12.5 percent, to avoid France's higher current rate of 33 percent.

However, in July 2017, an administrative court in Paris ruled that Google was not liable for the EUR1.1bn in back tax being sought by the French tax authority because Google's Irish unit did not have a permanent establishment in France.

Hammond Promises British Firms Stable Tax Policies

UK Chancellor Philip Hammond has pledged to "promote taxpayer certainty," in response to the recommendations of the Office of Tax Simplification (OTS).

The body, set up specifically to make recommendations on how to alleviate the compliance burden for businesses, said in a July report that, among other things, the UK should make fewer changes to corporate tax legislation.

Responding to the report, Hammond said: "With regards to large business taxation, I encourage the OTS to engage with the consultation announced at Spring Budget 2017 on the risk profiles of large business and promoting stronger compliance."

"As part of that, my officials will explore fully potential opportunities to promote taxpayer certainty."

Hammond said he agreed in principle with recommendations to simplify the tax code for smaller businesses and align accounting rules and corporate tax rules.

He also appeared to back proposals to allow smaller companies to calculate their profit using the accounting standard FRS105 with no adjustments, and for the number of tax adjustments for larger companies to be reduced. The OTS suggested in its recommendations that, should the EU Accounting Directive cease to apply post-Brexit, "in due course the UK could take unilateral action to introduce a cash basis for the smallest companies."

Hammond said, however, that any regulatory changes would need to be considered for their potential impact on the exchequer and whether they could be aligned with tax simplification plans for unincorporated businesses.

He also welcomed further input from the OTS, which in June had said that it is increasingly seeking to engage with the UK Government early on in the tax policy decision-making process.

Barnier Defends EU's Position On Brexit

The EU's chief Brexit negotiator has said that his team is far from being able to recommend that sufficient progress has been made to merit the focus of talks turning to the future EU–UK relationship.

Michel Barnier made the comments during a press conference following the third round of Article 50 negotiations. The EU's position is that sufficient progress must be made on citizens' rights, financial settlement from the UK (often referred to as the "divorce bill"), and Republic of Ireland/Northern Ireland border issues before the two sides can move on to discussing their future relationship, including trade arrangements. The European Council will meet in October to make a decision on the state of the talks.

Barnier said: "Time is passing quickly for us to reach a global agreement. At the current speed, we are far from being able to recommend to the European Council that there has been sufficient progress in order to start discussions on the future relationship, while we are finalizing the withdrawal agreement throughout 2018."

He said that although "real progress" has been made on the Irish Republic/Northern Ireland issues, the two sides still need to "build trust" on the financial settlement and citizens' rights. He stressed that "EU taxpayers should not pay at 27 for the obligations undertaken at 28," and that negotiators must go further to reassure citizens of their rights.

Barnier added that while the EU respects the UK's decision to leave the EU, the single market, and the customs union, "the single market, the EU's capacity to regulate, to supervise, to enforce our laws, must not and will not be undermined by Brexit." He said that the UK cannot expect to have its new standards and regulations recognized automatically in the EU, because "you cannot be outside the single market and shape its legal order."

China Confirms New Tax Relief For Foreign Investors

China's State Council has confirmed its intention to relax tax rules to encourage foreign investment, with further details to be released by end September.

In a State Council Policy Briefing on August 25, Wang Shouwen, Vice Minister of Commerce, confirmed that 22 new measures in five areas would be implemented.

The new measures include reducing market access restrictions for foreign capital, cutting down the list of projects banned to foreign investors from 190 to 95, and the extension of trials already rolled out in a number of pilot free trade zones across the country.

It was also suggested that the government may further streamline the complexity of the tax system for foreign firms operating in China, including an exemption from the current 10 percent withholding tax for foreign enterprises that reinvest their profits into China.

In addition, the 15 percent preferential tax rate for advanced service enterprises will be rolled out nationwide, the Government said. The policy, designed to encourage the service outsourcing industry, is currently operating in 31 pilot cities.

Irish Audiovisual Sector Calls For Tax Break Extension

Ireland's Audiovisual Federation has called on the Government to extend the film tax incentive beyond 2020, when it is due to expire.

Launching the industry group's pre-Budget submission, Director Torlach Denihan said: "It is essential that the Minister for Finance confirms the extension of the Section 481 film tax incentive in its current form beyond 2020 in Budget 2018, in order to allow for film and television productions to plan accordingly."

"The industry now employs 7,000 people in Ireland, with a multiplier of 15,000 indirect jobs across the country. In 2016 alone the industry attracted EUR150m (USD178.2m) in inward investment, firmly placing the audiovisual sector as a net positive contributor to the Irish economy."

Under the Section 481 relief, production companies can claim a payable tax credit of up to 32 percent on eligible expenditure. The payable tax credit is based on the cost of all cast and crew working in Ireland, as well as goods, services, and facilities purchased in Ireland.

Argentina To Look To VAT To Fund Income Tax Cuts

Argentina is reportedly considering shifting the burden of tax towards consumption, to bring the country's corporate tax rate down to a competitive level.

Specific measures are expected to be tabled before lawmakers soon. It is anticipated that there could be a 10 percent cut to the corporate income tax rate, to bring it down to 25 percent, which would be closer to regional competitors.

To fund the changes, Argentina is expected to comprehensively reform value-added tax (VAT), in particular by removing several tax breaks and exemptions.

The changes would be in line with recommendations from the OECD in its report for the country in June. The OECD had said that Argentina should introduce wide-ranging tax reforms, including reducing its corporate tax and broadening the VAT base. It noted that the tax burden has increased by over 7 percent of GDP over the past decade, and the country now has a relatively high corporate income tax rate. In addition, "a complex and inefficient tax system is hampering productivity, investment, and the competitiveness of firms," it said.

The OECD recommended that Argentina should shift the tax burden away from corporation tax towards indirect taxes such as VAT, and environmental and property taxes. It also recommended that Argentina broaden its base for personal income taxes, as they are paid by just 10 percent of the population.

Trudeau Holds Ground On Controversial Tax Changes

Canadian Prime Minister Justin Trudeau has said he will "make no apologies" for the Government's approach to taxation, following a backlash against proposed changes to tax planning rules.

In July, the Government launched a 75-day consultation on how best to crack down on three tax planning practices it believes are being used to gain unfair tax advantages. The consultation focuses on so-called income sprinkling, the retention of passive investments in a private corporation, and the conversion of the surplus income of a private corporation to a lower-taxed capital gain.

Speaking in Saskatoon, Trudeau said: "We are doing more for the people who need it, less for the people who don't. I will make no apologies for this approach. It's what Canadians expect of us when we say we are going to grow the middle class and those working hard to join it."

Trudeau did however note that the Government is currently engaged in a consultation on the proposals. He said the Government is "hearing feedback from Canadians that want to make sure that this does help the middle class and that is what we are very much focused on."

He stressed that he is "happy to have discussions and feedback from interested Canadians who want to make our tax code fairer and we're going to take all of those reflections into account."

Last week, 35 business organizations wrote to Finance Minister Bill Morneau to ask that he scrap the proposals. Forming themselves into a Coalition for Small Business Tax Fairness, the groups criticized what they said were "sweeping changes that will affect all sectors of Canada's business community."

The letter said that small businesses felt they are being "unfairly targeted, intentionally or not, by the changes and painted as 'tax cheats' by the federal Government simply for accessing tax planning tools that they have been encouraged to use for decades."

According to reports, Morneau held an hour-long conference call with Liberal MPs concerned about the impact of the plans. A spokesperson for Morneau told the *Financial Post* that the purpose of the call was for the Minister "to listen to his colleagues, to dispel some myths and clearly state why the notion of tax fairness and our promise to the middle class are really at the heart of what we're proposing here."

India Hails 'Demonetization' Drive For Tax Compliance Boost

The Indian Government's 2016 decision to "demonetize" INR500 and INR1,000 notes in late 2016 has had the desired effect of increasing tax compliance and reducing money laundering activity in the country, the Ministry of Finance announced in a statement on August 30.

The cancelling of the legal tender status of the banknotes was intended to crack down on fake currency and money laundering, reducing terrorist financing streams, and formalizing the informal economy, with a view to expanding the tax base.

The Finance Ministry said: "As a result of demonetization drive, there is a substantial increase in the number of Income Tax Returns filed. The number of returns filed as on August 5 registered an increase of 24.7 percent compared to a growth rate of 9.9 percent in the previous year."

"Advance tax collections of personal income tax (*i.e.*, [taxes] other than corporate tax) as on August 5, 2017, showed a growth of about 41.79 percent over the corresponding period in fiscal year 2016/17. Personal income tax under self-assessment tax grew at 34.25 percent over the corresponding period in fiscal year 2016/17."

It continued: "Transactions of more than 300,000 registered companies are under the radar of suspicion while 100,000 companies were struck off the list. The Government has already identified more than 37,000 shell companies which were engaged in hiding black money and hawala [transfer] transactions. Around 163 companies which were listed on the exchange platforms were suspended from trading, pending submission of proof documents."

Denmark To Invest In Tax Administration Overhaul

The Danish Government will spend DKK10.5bn (USD1.68bn) in reforming Denmark's tax administration, the SKAT, over the next few years, according to the Tax Ministry.

SKAT will be replaced by seven independent management boards on July 1, 2018, in an attempt to introduce more specialization across a wide area of tax administration.

Last year, parliament approved DKK5bn of additional funding for the tax authority. However, in order to ensure that the new administrative system is properly resourced, a further DKK5.5bn has been allocated to the tax authority in the 2018 Finance Act, the Tax Ministry said.

"When we build a whole new tax administration, it is crucial that we do not repeat the mistakes of the past. Therefore, the seven new boards that replace SKAT must not be born with savings. They are to be born with investments. And the Government is doing so with a historically large supply of resources," said Tax Minister Karsten Lauritzen.

The Government plans to hire an additional 1,800 tax authority staff by 2021 and investment in new information technology systems.

The additional investment will also help it to target areas of the tax regime which are prone to avoidance and evasion, particularly in the area value-added tax.

IRS Negotiating More CbC Report Exchange Agreements

The US Internal Revenue Service (IRS) is negotiating bilateral arrangements with a further 20 nations to share country-by-country (CbC) reports on an annual basis.

CbC reporting data will be exchanged pursuant to bilateral Competent Authority Arrangements (CAAs), which rely on Double Taxation Conventions, Tax Information Exchange Agreements, or the Convention on Mutual Administrative Assistance in Tax Matters that permit automatic exchanges of information.

The US is engaged in negotiations with: Colombia, the Czech Republic, Finland, France, Germany, Hungary, India, Israel, Italy, Jersey, Liechtenstein, Lithuania, Luxembourg, Mauritius, Mexico, Poland, Portugal, Slovenia, Spain, and Sweden.

The IRS said that these 20 jurisdictions have satisfied the US bilateral data safeguards and infrastructure review and have consented to be listed. The IRS warned taxpayers that CAAs may not be signed with these territories by the end of this year.

So far, the IRS has concluded CAAs with Australia, Belgium, Brazil, Canada, Denmark, Estonia, Guernsey, Iceland, Ireland, the Isle of Man, Jamaica, Latvia, Malta, the Netherlands, New Zealand, Norway, the Republic of Korea, Slovakia, South Africa, and the UK.

India Signs Another Bilateral APA With UK

India's Central Board of Direct Taxes (CBDT) entered into a new bilateral advance pricing agreement (APA) and three new unilateral APAs in August 2017.

The APAs cover the tax affairs of companies engaged in the telecoms, banking, manufacturing, and education sectors. The international transactions covered in these agreements include payment of royalties, the provision of information technology-enabled services, the provision of software development services, the import of raw materials, the export of finished goods, and the provision of engineering design services.

The bilateral APA was concluded with the UK. So far, India has concluded eight bilateral APAs with the UK and five bilateral APAs with Japan. The first bilateral APA between India and the US has been "resolved" but not yet concluded.

India has concluded 162 unilateral APAs so far.

The APA Scheme was introduced in the Income-tax Act in 2012, and "rollback" provisions were introduced in 2014. The CBDT expects more APAs to be concluded and signed in the near future.

"The progress of the APA Scheme strengthens the Government's commitment to foster a non-adversarial tax regime," the CBDT said.

British Virgin Islands Tourism Levy Takes Effect

British Virgin Islands (BVI) visitors are now subject to a USD10 environmental and tourism levy, which was introduced on September 1, 2017.

The levy is being collected on arrival at all ports of entry, and the money raised will be used to fund protection of the territory's environment, including activities related to environmental protection and improvement, minimizing climate change, maintaining developing tourism sites, and other tourism activities.

On arrival at an air or sea port of entry, a visitor's Entry and Departure (ED) card will be stamped by an immigration officer. The visitor will present the stamped ED card to a customs officer who will collect the levy and issue an environmental and tourism levy ticket.

The levy applies to all visitors aged three years and older, with the following persons exempt: residents and belongers, non-residents aged two years or under, officers of the Eastern Caribbean Supreme Court, guests of the territory government, official representatives of the government of any country/territory, persons accorded diplomatic privileges in accordance with the Diplomatic Privileges Ordinance, and persons exempted by the Minister of Finance by order published in the government gazette.

Other exempt persons include visitors arriving in the BVI on a second or subsequent occasion in the course of the same visit, persons in transit who on arrival do not leave the airport or dock, and crew of vessels and cruise passengers arriving in the territory via cruise lines.

Belongers residing outside the territory are not required to pay the levy, but must provide the immigration officer with their Belongers Card or BVI passport as proof of their status.

Spanish Balearic Islands Hike Tourist Taxes

Visitors to Spain's Balearic Islands will have to pay higher levels of tourist tax for their stays from 2018, the region's Government has announced.

Since July 1, 2016, every tourist over the age of 14 visiting the region has had to pay the per-night tax on a sliding scale depending on the class of the accommodation.

The four largest islands are Majorca, Minorca, Ibiza, and Formentera.

Under the latest plans, the tax on stays in camp sites or hostels will be increased from EUR0.50 (USD0.6) per person per night, to EUR2.

Meanwhile, the tax on stays in four- and five-star hotels will rise from EUR2 per person per night, to EUR3 and EUR4, respectively. After nine nights, the rate of tax drops by 50 percent. The tax is also halved during the low season months, from November to March.

ARMENIA - ISRAEL

Signature

Armenia and Israel signed a DTA on July 25, 2017.

BRAZIL - PARAGUAY

Negotiations

Brazil and Paraguay agreed on the need to negotiate a DTA at a high-level meeting on August 21, 2017.

CAMBODIA - BRUNEI

Signature

Cambodia and Brunei signed a DTA on July 27, 2017.

CANADA - GRENADA

Signature

Canada and Grenada signed a TIEA on July 14, 2017.

CROATIA - UNITED ARAB EMIRATES

Signature

Croatia and the United Arab Emirates signed a DTA on July 13, 2017.

ESTONIA - JAPAN

Signature

According to preliminary media reports, Estonia on August 24, 2017, approved the signing of a DTA with Japan.

HONG KONG - SAUDI ARABIA

Signature

Hong Kong and Saudi Arabia signed a DTA on August 24, 2017.

LIECHTENSTEIN - MONACO

Forwarded

Liechtenstein's Government has approved a double taxation agreement with Monaco, according to an August 23 announcement.

MOLDOVA - UNITED ARAB EMIRATES

Signature

Moldova and the United Arab Emirates signed a DTA on July 10, 2017.

NEW ZEALAND - CHINA

Negotiations

New Zealand and China held a second round of DTA negotiations on August 14, 2017.

NEW ZEALAND - INDIA

Forwarded

New Zealand is taking the necessary steps to bring its new DTA Protocol with India into effect, the Government has announced.

SAUDI ARABIA - SWITZERLAND

Negotiations

Saudi Arabia and Switzerland discussed the possible signing of a DTA during two-day talks that ended on July 16, 2017.

SINGAPORE - NIGERIA

Signature

Singapore and Nigeria signed a DTA on August 2, 2017.

SOUTH AFRICA - CAMEROON

Into Force

South Africa on September 1 confirmed that a new DTA with Cameroon had entered into force on July 13, 2017.

SWITZERLAND - ZAMBIA

Signature

Switzerland and Zambia signed a DTA on August 29, 2017.

THAILAND - CAMBODIA

Signature

Thailand and Cambodia signed a DTA on September 7, 2017.

UNITED ARAB EMIRATES - CAMEROON

Signature

The United Arab Emirates and Cameroon signed a DTA on July 16, 2017.

A guide to the next few weeks of international tax gab-fests (we're just jealous - stuck in the office).

THE AMERICAS

International Tax Issues 2017

9/11/2017 - 9/11/2017

Practising Law Institute

Venue: University of Chicago Gleacher Center, 450 N. Cityfront Plaza Drive, Chicago, Il 60611. USA

Chair: Lowell D. Yoder (McDermott Will & Emery LLP)

http://www.pli.edu/Content/Seminar/International_Tax_Issues_2017/_/N-4kZ1z10p5l?ID=288689

STEP Wyoming Conference 2017

9/15/2017 - 9/16/2017

STEP

Venue: Four Seasons Resort Jackson Hole, Bridger-Teton National Forest, 7680 Granite Rd, Teton Village, WY 83025, USA

Key speakers: Jennifer McCall (Pillsbury Winthrop Shaw Pittman LLP), Simon Beck (Baker & McKenzie LLP), Elizabeth Bawden (Withers Bergman LLP), Michelle Graham (Withers Bergman LLP), among numerous others

http://www.step.org/events/step-wyoming-conference-2017

Basics of International Taxation 2017

9/18/2017 - 9/19/2017

Practising Law Institute

Venue: PLI California Center, 685 Market Street, San Francisco, California 94105, USA

Chairs: Linda E. Carlisle (Miller & Chevalier Chartered), John L. Harrington (Dentons US LLP)

http://www.pli.edu/Content/Seminar/Basics_of_International_Taxation_2017/_/N-4kZ1z10oie?ID=299003

2017 Tax and Accounting Conference

9/24/2017 - 9/27/2017

Investment Company Institute

Venue: JW Marriott San Antonio Hill Country, 23808 Resort Parkway, San Antonio, Texas 78261, USA

Chair: Jonathan G. Davis (Fidelity Investments)

https://www.ici.org/events/info/conf_17_tac_program

Energy Tax Conference: Maximizing Value

9/25/2017 - 9/26/2017

BNA

Venue: Four Seasons Hotel, 1300 Lamar Street, Houston, TX 77010, USA

Key speakers: TBC

https://www.bna.com/energy-tax-conference-2017/

Inaugural Excred New York: Insuring Structured Trade, Export & Project Finance

10/17/2017 - 10/18/2017

Informa

Venue: 3 West Club, 3 W 51st Street, New York, NY 10019, USA

Chair: Diana Smallridge (International Financial Consulting)

https://finance.knect365.com/excred-new-york-insuring-structured-trade-export-project-finance/

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations & Restructurings 2017

10/18/2017 - 10/20/2017

Practising Law Institute

Venue: The Roosevelt Hotel, 45 East 45th Street, New York, NY 10017, USA

Chairs: Linda E. Carlisle (Miller & Chevalier Chartered), Eric Solomon (EY)

http://www.pli.edu/Content/Seminar/Tax_Strategies_for_Corporate_Acquisitions/_/N-4kZ1z10oic?ID=306525

The 24th World Offshore Convention Cuba 2017

10/25/2017 - 10/26/2017

Offshore Investment

Venue: Meliá Cohiba Hotel, Calle 1ra, La Habana, Cuba

Key speakers: TBC

http://www.offshoreinvestment.com/event/24th-world-offshore-convention-cuba-2017/

110th Annual Conference on Taxation

11/9/2017 - 11/11/2017

National Tax Association

Venue: DoubleTree by Hilton, Philadelphia City Center, 237 South Broad Street, Philadelphia, Pennsylvania, 19107-5686, USA

Chair: Victoria Perry (National Tax Association)

https://www.ntanet.org/event/2017/05/110th-annual-conference-on-taxation-2/

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations & Restructurings 2017

11/15/2017 - 11/17/2017

Practising Law Institute

Venue: Hotel Allegro, 171 W. Randolph Street, Chicago, IL 60601, USA

Chairs: Linda E. Carlisle (Miller & Chevalier Chartered), Eric Solomon (EY)

http://www.pli.edu/Content/Seminar/Tax_Strategies_for_Corporate_Acquisitions/_/N-4kZ1z10oic?ID=306525

The New Era of Taxation: How to Remain on Top in a World of Constant Evolution

11/30/2017 - 12/1/2017

International Bar Association

Venue: International Bar Association TBC, Buenos Aires, Argentina

Key speakers: TBC

http://www.ibanet.org/Conferences/conf835.aspx

FATCA and CRS Boot Camp

12/4/2017 - 12/4/2017

Financial Research

Venue: The Harmonie Club, 4 E 60th St, New York, NY 10022, USA

Key Speakers: TBC

http://events.frallc.com/events/fatca-and-crs-boot-camp-b1064-/event-summary-5295ecd2e4384b04a418b935fe19d96f.aspx?dvce=1

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations & Restructurings 2017

12/6/2017 - 12/8/2017

Practising Law Institute

Venue: Intercontinental Los Angeles Century City, 2151 Avenue of the Stars, Los Angeles, CA 90067, USA

Chairs: Linda E. Carlisle (Miller & Chevalier Chartered), Eric Solomon (EY)

http://www.pli.edu/Content/Seminar/Tax_Strategies_for_Corporate_Acquisitions/_/N-4kZ1z10oic?ID=306525

ASIA PACIFIC

Substance in International Tax Planning

9/11/2017 - 9/13/2017

IBFD

Venue: Conrad Centennial Singapore, Two Temasek Boulevard, 038982, Singapore

Key speakers: Premkumar Baldewsing (IBFD), Tamás Kulcsár (IBFD), Chris Finnerty (Ernst & Young LLP)

https://www.ibfd.org/Training/Substance-International-Tax-Planning-0

8th IBFD International Tax Conference

9/22/2017 - 9/22/2017

IBFD

Venue: TBC, Beijing, China

Key speakers: TBC

https://www.ibfd.org/IBFD-Tax-Portal/Events/8th-IBFD-International-Tax-Conference

STEP Asia Conference 2017

11/7/2017 - 11/8/2017

STEP

Venue: Marina Bay Sands Hotel, 10 Bayfront Avenue, Singapore

Chair: SeowChee Goh TEP (JP Morgan), Lionel Choi TEP (LGT Bank Ltd), Linda Wong TEP (Chair STEP Singapore), EeLin Chan TEP (Singapore Management University)

http://www.step.org/sites/default/files/Events/2017/Asia/Asia_Conference_Agenda_2017_160617.pdf

International Taxation Conference 2017

12/7/2017 - 12/9/2017

IBFD

Venue: ITC Maratha Hotel, Sahar Elevated Rd, Sahar, Airport Area, Andheri East, Mumbai, Maharashtra 400099, India

Chair: Pascal Saint-Amans (OECD)

https://www.ibfd.org/sites/ibfd.org/files/content/pdf/International-Taxation-Conference-2017.pdf

CENTRAL AND EASTERN EUROPE

8th Annual International Taxation in CEE, SEE & CIS

10/19/2017 - 10/20/2017

GCM Parker

Venue: TBC, Prague, Czech Republic

Key speakers: TBC

http://gcmparker.com/gcm-conference-listing?menuid=0&conferenceid=77

MIDDLE EAST AND AFRICA

IFRS Foundation Conference: Dubai 2017

10/4/2017 - 10/5/2017

Informa

Venue: Crowne Plaza Dubai, Sheikh Zayed Al Nahyan Road, P.O. 23215, Dubai, United Arab Emirates

Chair: Hans Hoogervorst (IASB)

http://www.ifrs-conference-dubai.org/

WESTERN EUROPE

STEP UK Annual Tax Conference 2017 – Newcastle

9/14/2017 - 9/14/2017

STEP

Venue: Marriott Hotel Gosforth Park, High Gosforth Park, B1318, Newcastle upon Tyne, NE3 5HN, UK

Key speakers: John Barnett TEP (Burges Salmon LLP), Emma Chamberlain OBE TEP (Pump Court Tax Chambers), Giles Clarke TEP (Giles Clarke International Limited), Andrew Hubbard (RSM), Robert Jamieson TEP MA FCA CTA (Fellow) (Mercer & Hole), Bob Trunchion MSc TEP FCA CTA (MacIntyre Hudson Advisory Services LLP), Chris Whitehouse TEP (5 Stone Buildings)

http://www.step.org/tax17

Complaw: State Aid and Taxation 2017

9/19/2017 - 9/19/2017

Comp Law

Venue: Hotel Le Plaza, Bld Adolphe Max, 118-126, 1000 Brussels, Belgium

Key Speakers: Max Lienemeyer (European Commission), Kelly Stricklin-Coutinho (Barrister, 39 Essex Chambers), Nicole Robins (Oxera), Jose Luis Buendia Sierra (Garrigues), François-Charles Laprévote (Cleary Gottlieb Steen & Hamilton LLP), Jan Weerth (Deutsche Bank AG), Hein Hobbelen (Bird and Bird)

https://law.knect365.com/state-aid/

Tax Congress for Financial Institutions: Tax Operations & Technology/Automatic Exchange of Information (AEoI)

9/19/2017 - 9/20/2017

TCFI

Venue: Millennium Gloucester Hotel, 4-18 Harrington Gardens, London, SW7 4LH, UK

Key speakers: John Staples (Ernst & Young), Christopher Craddock (Brown Brothers Harriman), Manja de Goede-Kisman (ABN AMRO Clearing), Stuart Gibson (Schiff Hardin), James Guthrie (Ernst & Young), Andrea Mrakic (Wells Fargo), among numerous others.

https://www.tax-congress.com/

STEP UK Annual Tax Conference 2017 – Manchester

9/21/2017 - 9/21/2017

STEP

Venue: Mercure Manchester Piccadilly Hotel, Portland St, Manchester, M1 4PH, UK

Key speakers: John Barnett TEP (Burges Salmon LLP), Emma Chamberlain OBE TEP (Pump Court Tax Chambers), Giles Clarke TEP (Giles Clarke International Limited), Andrew Hubbard (RSM), Robert Jamieson TEP MA FCA CTA (Fellow) (Mercer & Hole), Bob Trunchion MSc TEP FCA CTA (MacIntyre Hudson Advisory Services LLP), Chris Whitehouse TEP (5 Stone Buildings)

http://www.step.org/tax17

STEP Benelux Conference

9/25/2017 - 9/26/2017

STEP

Venue: Le Royal Hotels & Resorts Luxembourg, 12, Boulevard Royal - L - 2449, Luxembourg

Key Speakers: Xavier Bettel (Prime Minister of Luxembourg), H. E. Mr. John Marshall (British Ambassador to Luxembourg), Claude Marx TEP (Commission de Surveillance du Secteur Financier (CSSF)), Judge Christopher Vajda (Court of Justice of the EU), among numerous others

http://www.step.org/sites/default/files/Events/2017/Benelux/Documents/Benelux_2017_Programme_WEB_230617.PDF

STEP UK Annual Tax Conference 2017 – London

9/29/2017 - 9/29/2017

STEP

Venue: Westminster Park Plaza Hotel, 200 Westminster Bridge Rd, Lambeth, SE1 7UT, UK

Key speakers: John Barnett TEP (Burges Salmon LLP), Emma Chamberlain OBE TEP (Pump Court Tax Chambers), Giles Clarke TEP (Giles Clarke International Limited), Andrew Hubbard (RSM), Robert Jamieson TEP MA FCA CTA (Fellow) (Mercer & Hole), Bob Trunchion MSc TEP FCA CTA (MacIntyre Hudson Advisory Services LLP), Chris Whitehouse TEP (5 Stone Buildings)

http://www.step.org/tax17

Duets in International Taxation: Single Taxation?

10/5/2017 - 10/6/2017

IBFD

Venue: IBFD Head Office, Rietlandpark 301, 1019DW Amsterdam, The Netherlands

Chairs: Prof. Frans Vanistendael (KU Leuven), Prof. Pasquale Pistone (IBFD), Prof. Dennis Weber (ACTL, University of Amsterdam and Loyens & Loeff), Prof. Stef van Weeghel (University of Amsterdam, PWC Global Tax Policy Leader)

https://www.ibfd.org/IBFD-Tax-Portal/Events/Duets-International-Taxation-Single-Taxation#tab_program

STEP UK Annual Tax Conference 2017 – Belfast

10/12/2017 - 10/12/2017

STEP

Venue: Stormont Hotel, Upper Newtownards Rd, Belfast, BT4 3LP, UK

Key speakers: John Barnett TEP (Burges Salmon LLP), Emma Chamberlain OBE TEP (Pump Court Tax Chambers), Giles Clarke TEP (Giles Clarke International Limited), Andrew Hubbard (RSM), Robert Jamieson TEP MA FCA CTA (Fellow) (Mercer & Hole), Bob Trunchion MSc TEP FCA CTA (MacIntyre Hudson Advisory Services LLP), Chris Whitehouse TEP (5 Stone Buildings)

http://www.step.org/tax17

STEP UK Annual Tax Conference 2017 – Bristol

10/18/2017 - 10/18/2017

STEP

Venue: Bristol Marriott Royal Hotel, College Green, Bristol, BS1 5TA, UK

Key speakers: John Barnett TEP (Burges Salmon LLP), Emma Chamberlain OBE TEP (Pump Court Tax Chambers), Giles Clarke TEP (Giles Clarke International Limited), Andrew Hubbard (RSM), Robert Jamieson TEP MA FCA CTA (Fellow) (Mercer & Hole), Bob Trunchion MSc TEP FCA CTA (MacIntyre Hudson Advisory Services LLP), Chris Whitehouse TEP (5 Stone Buildings)

http://www.step.org/tax17

BEPS Country Implementation

10/19/2017 - 10/20/2017

IBFD

Venue: IBFD head office, Rietlandpark 301, 1019 DW Amsterdam, The Netherlands

Key speakers: Bart Kosters (IBFD), Tamás Kulcsár (IBFD), Emma Barrögård (IBFD)

https://www.ibfd.org/Training/BEPS-Country-Implementation

Principles of International Taxation

10/23/2017 - 10/27/2017

IBFD

Venue: IBFD head office, Rietlandpark 301, 1019 DW Amsterdam, The Netherlands

Key speakers: Andreas Perdelwitz (IBFD's European Knowledge Group), Premkumar Baldewsing (IBFD), Ruxandra Vlasceanu (IBFD), Laura Ambagtsheer-Pakarinen (IBFD), among numerous others

https://www.ibfd.org/Training/Principles-International-Taxation-1

OffshoreAlert Conference

11/13/2017 - 11/14/2017

OffshoreAlert

Venue: Grange St. Paul's Hotel, 10 Godliman St, London EC4V 5AJ, UK

Chair: David Marchant (Founder & CEO, OffshoreAlert)

https://www.offshorealert.com/conference/london/

Meet the Experts

11/20/2017 - 11/21/2017

Informa

Venue: Grange Tower Bridge Hotel, 45 Prescott Street, London, E1 8GP, UK

Chair: Dave Walters (Accounting Consulting Services Group, PwC)

https://finance.knect365.com/meet-the-experts-conference/agenda/1

STEP Europe Conference

11/24/2017 - 11/25/2017

STEP

Venue: The Westin Excelsior Rome, Via Vittorio Veneto, 125, 00187 Roma RM, Italy

Chairs: Gregorio De Felice (Intesa Sanpaolo), Enrico Deluchi (Atandia Srl.)

http://www.step.org/sites/default/files/ItalyEurope_Conference/Europe_Rome_2017_Programme_7.pdf

7th Annual IBA Tax Conference

1/29/2018 - 1/30/2018

International Bar Association

Venue: etc.venues, 8 Fenchurch Pl, London, EC3M 4PB, UK

Speakers: TBC

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ISSUE 252 | SEPTEMBER 9, 2017

THE AMERICAS

Canada

A listing of recent key international tax cases.

The Federal Court of Canada has ruled that the Canadian Revenue Agency (CRA) may not conduct further in-person interviews with representatives from a multinational corporation concerning its transfer pricing affairs, having already discussed earlier tax years.

Cameco Corporation declined to produce approximately 25 personnel for oral interviews in relation to an ongoing CRA audit regarding transfer payments for its 2010, 2011, and 2012 taxation years.

Ruling in favor of Cameco Corporation, the Federal Court noted that the Minister's power "is not so wide to compel an indeterminate number of people for oral interviews."

The Court observed that Cameco Corporation has provided the ministers with every opportunity to inspect, audit, and examine its books, records, documents, and inspect its property, and that the ministers while performing their audits cannot compel [Cameco Corporation] to reveal their "soft spots."

The Court rejected the Minister's argument that "inspect, audit, and examine" should include being able to conduct in-person interviews with taxpayers, as well as the right to inspect, audit, or examine books, records, documents, or property.

The Court concluded:

> "If the Minister's position is accepted, the CRA can compel oral interviews from as many persons as they see fit without any procedural limits. Oral interviews as sought on these facts at the audit stage would undermine procedural safeguards provided at the appeal stage. Furthermore, the Minister could use an isolated statement by an employee which the taxpayer would be forced to disprove at trial."

In the course of auditing Cameco's 2003 and prior taxation years, the Minister had interviewed – with consent – key personnel from Cameco in 2006, 2007, and 2008. The information obtained from these oral interviews formed part of the Minister's economic and functional analysis of Cameco and led to a reassessment of Cameco's 2003 taxation year.

This ruling was delivered on August 10, 2017.

http://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/233609/index.do

Federal Court of Canada: *Cameco Corporation v. Canada (2017 FC 763)*

United States

The United States Court of Appeals for the Sixth Circuit has rejected a legal challenge brought by various parties against the Foreign Account Tax Compliance Act, including by Senator Rand Paul (R-KY).

Paul was joined by six overseas American taxpayers in bringing a legal challenge against FATCA in July 2015.

FATCA, enacted by the US Congress in 2010, requires all financial institutions (FIs) outside of the United States to submit regular information on financial accounts held by US persons to the IRS. Otherwise, certain payments of US-sourced income face a 30 percent withholding tax.

They had sought a preliminary injunction to stop the enforcement of both the intergovernmental agreements (IGAs) negotiated by the US Treasury Department under FATCA, typically providing for reciprocal information exchange with other foreign jurisictions, and also the account reporting requirements of FATCA and the Report of Foreign Bank and Financial Accounts (FBAR).

An FBAR must be filed with the Financial Crimes Enforcement Network (FinCEN) by American taxpayers who have one or more bank or financial accounts located outside the United States, or signature authority over such accounts, whose aggregate value exceeds USD10,000 at any time.

In the introduction to the case, it was stated that the FATCA and FBAR "laws and agreements impose unique and discriminatory burdens on US citizens living and working abroad," and that "the challenged provisions are unconstitutional and the defendants [the US Treasury, IRS, and FinCEN] should be enjoined from enforcing them."

The case calls IGAs unconstitutional, as they have not been submitted to the US Senate for its advice, consent, or approval, thereby violating the rights of Paul (and of all other senators). On the other hand, if they are meant to be considered as only executive agreements concluded by the US Administration, it is pointed out that President Obama had "lack[ed] any independent authority over such matters."

In addition, it was said the IGAs "nullify the right of individuals to refuse to waive foreign privacy laws that would otherwise prohibit their banks from disclosing their account information to the IRS. This second ground thus provides another independent reason that the IGAs are unconstitutional."

The information reporting provisions imposed on foreign FIs by FATCA also "permit the federal Government to conduct wide-ranging, indiscriminate searches of the private financial records of American citizens without providing any opportunity for judicial oversight. Such unbridled discretion to pry into the private financial information of American citizens violates the Fourth Amendment."

Furthermore, it is noted that the reporting requirements "require US citizens living abroad to report more detailed information about their local bank accounts than US citizens living in the United States."

Finally, it claimed that the 30 percent "tax" imposed by FATCA on payments to foreign FIs when they "choose not to help the IRS pry into the bank accounts of their US customers … is not a tax at all but rather a penalty designed to accomplish indirectly through financial coercion what the US government cannot mandate directly through regulation."

The Senator called FATCA "a sweeping financial surveillance program of unprecedented scope" and claimed that implementation has cost large banks around USD100m each to implement, and upwards of USD8bn system-wide.

The suit was dismissed by United States District Court for the Southern District of Ohio on April 26, 2016, after the judge ruled that the plaintiffs lacked standing to bring the claims, as none had been directly affected by FATCA.

On August 18, the US Court of Appeals for the Sixth Circuit upheld the District Court's decision. "No plaintiff can satisfy the Driehaus test for standing to bring a pre-enforcement challenge to FATCA because no plaintiff claims to hold enough foreign assets to be subject to the individual-reporting requirement," ruled Judge Danny Boggs.

https://www.courthousenews.com/wp-content/uploads/2017/08/SixthFATCA.pdf

US Court of Appeals For The Sixth Circuit: *Crawford, Paul, and others v. US Treasury and others (No. 16-3539)*

ASIA PACIFIC

India

India's Delhi High Court has issued an injunction restraining telecoms giant Vodafone Group Plc from proceeding with international arbitration in its USD2.2bn tax dispute with India.

Vodafone has long been locked in a dispute with the Indian tax authorities over its 2007 acquisition of Hutchison Essar. It has consistently maintained that it is not liable for a USD2.2bn bill in back taxes and penalties relating to the deal. Although the Supreme Court ruled in Vodafone's favor in January, 2012, retrospective changes to the tax laws were introduced just months later, casting the ruling into doubt.

In April 2014, Vodafone's subsidiary, Vodafone International Holdings BV, launched international arbitration proceedings under the bilateral investment treaty (BIT) between India and the Netherlands in an effort to bring its long-running dispute with the Indian tax authorities to a close. While the arbitration proceedings were still pending, Vodafone Group Plc (UK) launched arbitration proceedings under the India–UK BIT in respect of the same income tax demand in January 2017.

Subsequently, the Indian Government filed a suit in the Delhi High Court seeking to prevent Vodafone from continuing with international arbitration under the India–UK BIT.

Ruling in favor of the Government, the court said:

> "As the claimants in the two arbitral proceedings form part of the same corporate group [and are] being run, governed, and managed by the same set of shareholders, they cannot file two independent arbitral proceedings as that amounts to abuse of process of law. … There is a risk of parallel proceedings and inconsistent decisions by two separate arbitral tribunals in the present case. In the *prima facie* opinion of this court, it would be inequitable, unfair, and unjust to permit the defendants to prosecute the foreign arbitration."

The court granted Vodafone time until October 26 to respond to the Government's suit.

The injunction was granted on August 22, 2017.

http://lobis.nic.in/ddir/dhc/MMH/judgement/22-08-2017/MMH22082017S3832017.pdf

Delhi High Court: *Vodafone v. Union of India (CS(OS) 383/2017)*

WESTERN EUROPE

United Kingdom

The UK Government on August 23 released a new paper on enforcement and dispute resolution as part of the country's preparations to leave the EU, looking in particular at the role of the European Court of Justice (ECJ) and its rulings.

The paper concerns how the UK will administer and resolve disputes under international agreements that it has concluded or will conclude upon no longer being covered by EU agreements, repealing EU laws, and no longer falling under the jurisdiction of the ECJ, Europe's top court.

The paper notes, in leaving the EU, the UK "will bring about an end to the direct jurisdiction of the [ECJ]."

Among the important points for taxpayers from the report is confirmation that the Repeal Bill will give pre-exit ECJ case law the same binding, or precedent, status in UK courts as decisions of the UK's Supreme Court to ensure a smooth and orderly exit. This means that ECJ rulings on tax matters will continue to apply in the UK post-Brexit. In addition, the report notes that where a dispute requires an interpretation of EU law, a matter is often referred to the ECJ. It indicates this may continue to be the case also for the UK, as with other third countries currently, for UK–EU matters after the UK is no longer a member state.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639609/Enforcement_and_dispute_resolution.pdf

European Court of Justice: *United Kingdom (All Cases)*

Dateline September 7, 2017

Denmark is a benchmark country. It is the archetype of a **high-tax, high-spend** northern European economy. So, when politicians in various parts of the world debate fiscal policy, they sometimes ask the electorate if they would rather live in a country like Denmark in preference to their own (*i.e.*, would they be prepared to put up with high taxes in return for a welfare state in which nobody is left behind economically). Indeed, the small Scandinavian nation, barely twice the size of Massachusetts, became an unexpected focal point in the last election campaign, and was held up by Democratic candidate Bernie Sanders as a **model of social democracy**.

Those on the right tend to argue of course that prosperity and individual liberty go hand-in-hand with low taxes and a small government. **Singapore**, for example, would be much closer to their ideal of a classically liberal economy than Denmark.

However, as is usually the case in life, the answers aren't clear cut. Both countries (although Singapore is more akin to a city-state than a country), with their divergent economic models, are rich: Denmark's **GDP per capita** is well above the EU average; Singapore's is the best in Asia, and one of the highest in the world (although there is a separate debate to be had about how extensively that wealth is spread among the populace).

And, arguably, overall, the **inhabitants** of each place are happy: Singapore is frequently rated as one of the safest cities in the world in which to live; Denmark is famous for its contented, laid back approach to life, and they even have a word for it – *hygge*.

However – and serving to emphasize that we are living through strange, unpredictable times – **recent tax developments** in Denmark and Singapore should give politicians pause for thought when debating the merits of Singaporean dynamism and Danish *hygge*. For while the Danish Government is keen to cut taxes, Singapore is raising its level of taxation, largely to fund more comprehensive public services.

What this shows us, perhaps, is that no system is ever going to be perfect, and that change, both incremental and revolutionary, including in tax policy, is permanent. For its part, the **Danish Government** is aware that **high marginal tax rates**, combined with a **generous welfare state**, is a disincentive to work. Conversely, **Singapore** appears to have come to the realization that its

low-tax, low-spend paradigm cannot generate the revenues needed for high-quality education, health services, and infrastructure.

Ultimately, perhaps the question should be not how much a government can raise in tax, but how well it spends it. I have never lived in Denmark, but I must admit that the prospect of seeing over half my income taken in tax and my alcohol consumption drastically reduced due to eye-wateringly high prices (mainly due to tax) is not an attractive one.

But then, by all accounts, given what they get back in return – in a word, *hygge* – the Danes wouldn't have it any other way. So good luck to the Government if it can cut tax without also reducing rates of happiness. Similarly, it will be interesting to see if Singapore can maintain its position as one of the world's premier business and investment hubs, while asking those who run the businesses to pay more tax.

On a similar note, high taxes and high government spending doesn't seem to be working for **France** at the moment. However, things may be about to change. Following the recent announcement that France's **social security burden** will be reduced from next year, the French Government has followed up with confirmation that several important tax measures will be included in the upcoming Finance Bill for 2018. This caps off another good week in this ranking for France, which appears to be making good on its promises to liberalize aspects of a tightly regulated economy, a state of affairs which many agree has been responsible for low growth and periods of economic stagnation.

Of particular interest is the proposal to **cut France's corporate tax**, which at 33.33 percent is one of the highest in the developed world (in the OECD, only Belgium and the United States have higher corporate taxes), to 25 percent by 2022, and so bring France into the mainstream of countries with corporate taxes of 15 to 25 percent, or thereabouts.

Another notable policy is the dismantling of the **CICE tax credit for employment**, which was arguably former President Hollande's flagship tax measure following his tax policy epiphany, and could therefore be considered something of a risky move. Then again, the CICE tax credit always did feel like a complicated solution to a simple problem – that of France's **high payroll tax burden**. So perhaps business in France would welcome the prospect of lower payroll taxes, as President Macron's Government is promising, instead of going through the motions of applying for the CICE credit.

Indeed, in general, **tax credits** can be a lot more trouble than they're worth. Just look at the billions of dollars wasted in the United States due to erroneous and fraudulent tax credit claims, and the United Kingdom too, where the individual tax credit system has been beset by technical and administrative problems from day one. No wonder tax reformers in the US are so keen to get rid of most of them!

Turning to the **United Kingdom** now, and at least the Conservatives, the party of power since 2010, can blame the problems with the tax credit system on the Labour Party, this being one of former Chancellor and Prime Minister Gordon Brown's signature measures. But as far as the **last seven years** of tax policy are concerned, they've only got themselves to blame for the huge levels of **uncertainty** dogging the UK tax regime.

For business taxpayers in the UK, there has been plenty to cheer about tax-wise. This includes the **substantial cut in corporate tax**, which has fallen from 28 percent in 2010, to 19 percent this year, with yet more reductions to come.

But, undeniably, there has been much chopping and changing in tax legislation and regulations, thanks largely to the announcement of, in effect, **two Budgets per year**, and sometimes three. Most taxpayers would probably agree that keeping up with one annual budget's worth of changes is hard enough. And, of course, the decision to **leave the EU** was made on the Conservatives' watch, which is the elephant in the room that everybody wants to talks about. Under such circumstances, the UK needs a safe pair of hands in Number 11, the official home of the Chancellor of the Exchequer. Somebody who can keep the excitement level down, and who isn't afraid to be labeled as a bit dull. Enter "spreadsheet Phil" Hammond, who has promised to **bring tax stability** to a nation rocked to its political foundations by recent events.

But can he be trusted to deliver, or, more fittingly perhaps, to not deliver? Well, he doesn't possess an unblemished track record. His proposed National Insurance contribution hike for the self-employed was, appropriately enough given the Conservative Party's chosen color, a bolt from the blue. And the aftermath, when Prime Minister May pulled rank and had the measure shelved, was hardly Hammond's finest hour. But he has managed to dial back the razzmatazz and rabbit-out-of-hattery that accompanied many of the fiscal announcements of his predecessor, George Osborne.

We must wait for the **Autumn Budget** to find out. But for a historically sea-faring nation, perhaps maritime phraseology is appropriate here. Steady as she goes is what taxpayers want. Not tacking into the wind, first one way, then the another, only to end up in the middle of the storm.

The Jester