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TAX MANAGEMENT INTERNATIONAL FORUM

Comparative Tax Law for the International Practitioner

VOLUME 37, NUMBER 1 >>> MARCH 2016

www.bna.com

Taxation of Inbound Investments by a Foreign Partnership

FACTS

FCo, which consists of one or more business entities, was created under the law of Foreign Country (FC), is an FC partnership for FC income tax purposes, and is owned directly by three persons. FCo is engaged in a trade or business in Host Country (HC) through a permanent establishment located therein. FCo also receives HC-source dividends from HCorp that are not connected with FCo's trade or business in HC.

With respect to the income it derives from its trade or business in HC and with respect to the HC-source dividends it receives, FCo must determine who is the "taxpayer" for HC income tax purposes, i.e., what person (or persons) owes HC income tax on the income. In addition, HCorp must determine if and to what extent it must withhold HC income tax from the dividends it pays to FCo.

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THE TAX MANAGEMENT INTERNATIONAL FORUM is designed to present a comparative study of typical international tax law problems by FORUM members who are distinguished practitioners in major industrial countries. Their scholarly discussions focus on the operational questions posed by a fact pattern under the statutory and decisional laws of their respective FORUM country, with practical recommendations whenever appropriate.

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Facts

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With respect to the income it derives from its trade or business in HC and with respect to the HC-source dividends it receives, FCo must determine who is the "taxpayer" for HC income tax purposes, i.e., what person (or persons) owes HC income tax on the income. In addition, HCorp must determine if and to what extent it must withhold HC income tax from the dividends it pays to FCo.

Questions

I. With respect to the income FCo is realizing, how does FCo determine what person (or persons) is realizing the income for HC income tax purposes? In particular, for HC income tax purposes:

A. What is the basic concept of a person?
B. What is the basic concept of an entity?
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B. In what way, if any, does HC tax a partner of FCo on gain realized on the sale of its partnership interest in FCo?
C. What is HCorp's obligation to withhold tax on the dividends it pays to FCo, assuming alternatively:
   1. No income tax treaty between HC and FC; and
   2. An income tax treaty between HC and FC with provisions typical of an HC income tax treaty?
   (If HC does not impose withholding tax on dividends, assume HCorp makes some other type of payment on which HC imposes withholding tax.)
D. How would your answers in C. above differ if FCo had 3,000 partners instead of only three?

IV. Assuming FCo is an FC corporation for HC income tax purposes:

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B. In what way, if any, does HC tax a partner of FCo on gain realized on the sale of its partnership interest in FCo?
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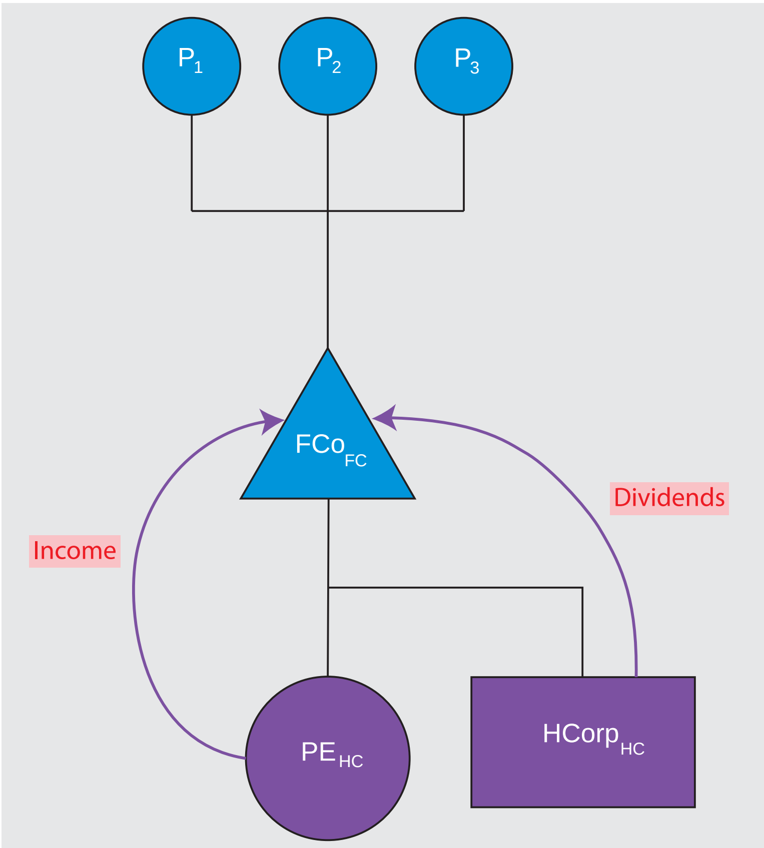
TM FORUM ISSN 0143-7941

dividends, assume HCorp makes some other type of payment on which HC imposes withholding tax.)

D. How would your answers in C. above differ if FCo had 3,000 partners instead of only three?

V. As a withholding agent, what steps can HCorp take to protect itself from liability for failure to withhold and remit any required withholding taxes?

Forum - Inbound investment fact pattern



Host Country FRANCE

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Fidal, Paris

I. With respect to the income FCo is realizing, how does FCo determine what person (or persons) is realizing the income for French income tax purposes?

A. What is the basic concept of a person or entity for French income tax purposes?

France has a specific regime applicable to partnerships, unlike the majority of countries, which generally treat partnerships as flow-through entities for tax purposes. The French partnership regime has evolved over time but still contains a number of relatively gray areas. The comments below are confined to the general principles applying to the situation defined in the case study (i.e., that of a foreign partnership having a permanent establishment ("PE") in France and also receiving French-source dividends not connected to the PE). Some of France's tax treaties provide specific rules applicable to partnerships, but the comments below address only the treatment under France's ordinary treaties, which seldom include such specific provisions.

As will be further explored below, the existence of an entity has more consequences in France than in most countries, because France uses a semi-transparency regime (known in some quarters as "translucency"). Consequently, the concept of a "person" or an "entity" is of critical importance. Except insofar as it concerns individuals, the concept of a "person" or an "entity" requires that an entity has a legal existence distinct from that of its partners or shareholders. Establishing whether an entity has such a legal existence requires a legal analysis of the structure concerned. There is no real difference between the tax concept of an "entity" and that of a "person."

Unlike in most countries, in France a partnership is, in principle, regarded as an entity/person distinct from its partners and tax liability is computed at the partnership level. Despite the recognition of a partnership as a separate entity for tax (and legal) purposes, it is the partnership's partners that remain liable to tax on their share in the partnership income, regardless of whether such income is distributed to the partners.

Unlike the United States, France does not use the concept of a "business entity." Some forms of contractual arrangement can be considered to constitute a company without resulting in the creation of a distinct legal entity (for example, the *Société en Participation* ("SEP") and the de facto company (*Société de fait*)). Unlike partnerships and corporations, such companies, in principle, do not have a legal and tax existence separate from that of their partners (but a SEP or a de facto company can be treated as a corporation if its partners are not disclosed—*see* II.A. below).

II. Assuming FCo is a person for French income tax purposes:

A. How does FCo determine if it is a flow-through (partnership) or a non-flow-through (corporation) for French income tax purposes?

From a French domestic law point of view, the rules applicable to partnerships are defined in Article 8 of the French Tax Code ("FTC"), which provides that the partners of a French partnership listed in the article are taxable on their share in the income of the partnership, unless the partnership elects to be treated as a corporation for tax purposes. Among the companies subject to this regime are *Sociétés en Nom Collectif* ("SNCs") and *Sociétés en Commandite Simple* ("SCSs"), In the case of SCSs, the semi-transparency regime applies only to the extent of the shares owned by unlimited partners, who are liable without limit.

Article 8 of the FTC also provides that some other forms of company may be subject to the same rules as partnerships even though they are not partnerships. One example is the SEP (which is a contractual arrangement that does not result in the formation of a separate legal and tax entity) to the extent of the shares held by partners that have unlimited liability. The semi-transparency regime provided for in Article 8 can also apply to corporate entities such as *Sociétés à Responsabilité Limitée* ("SARLs"), *Sociétés Anonymes* ("SAs") and *Sociétés par Actions Simplifiées* ("SASs"), which can elect to be treated as partnerships in some circumstances (these circumstances are not further discussed in this paper).

One of the consequences of the semi-transparency regime is that French partnerships, which are taxable persons, are generally regarded by the French Tax Administration as eligible for benefits under France's tax treaties.

The question that arises in relation to foreign partnerships is whether such partnerships should be taxed in France as corporations or whether the tax on any French-source income they may derive is payable by their partners as in the case of French partnerships. If a foreign entity is not subject to tax in its country of residence (because that country treats the entity as a look-through partnership), this also raises the question of whether it is a resident of that country for tax treaty purposes.

In determining whether a foreign entity should be treated as a partnership or as a corporation (assuming it is a distinct legal entity, which is a principal requirement for qualifying as a partnership for French tax purposes), the French tax analysis focuses on comparing the legal and contractual organization of the foreign entity, as derived from its legal status under the relevant foreign law and in its own bylaws, with comparable French legal partnerships referred to in Article 8 of the FTC (excluding the companies referred to above that can be subject to the semi-transparency regime only on making an election in specific circumstances, such as SARLs).

The main criteria taken into account in equating a foreign entity with either a French partnership or a French corporation will essentially be related to the liability of the members of the entity (the liability of the partners of a partnership is unlimited) and the capacity to sell interests in the entity freely (the transfer of interests in partnerships is generally subject to *intuitu personae*, requiring conditions and the agreement of the other partners).

Whether the existence of an entity's members is disclosed or undisclosed is also an element taken into account in determining whether a foreign entity can be equated with an SEP or a de facto company, neither of which is a legal entity, but both of which are treated as partnerships under Article 8 if their partners are disclosed and have unlimited liability. Where the partners are not disclosed (or their liability is limited), an SEP/de facto company (or its foreign equivalent) is taxed as a corporation.

B. Is it relevant that FCo is treated as a partnership for FC income tax purposes?

It is the characterization of FCo under French rules that will be significant for determining the rules applicable to FCo's French PE and who the taxable person is (i.e., FCo or its partners). The nature of the FC regime will, however, be relevant in answering the question of whether FCo, as an FC partnership, is a resident of FC under an applicable tax treaty (*see* III.C.2., below).

C. If France does not use the partnership/corporation distinction, what type of tax regime does it apply to persons that consist of one or more business entities?

This question is not relevant in a French context, since France uses the partnership/corporation distinction for business organizations.

III. Assuming FCo is a partnership for French income tax purposes:

A. What are the reporting requirements imposed on FCo and its partners with respect to the trade or business income realized by FCo in France and with respect to the French-source dividends realized by FCo?

A foreign partnership that has gross income connected with the conduct of a trade or business constituting a PE in France must file a tax return stating its income.

Under article 238 *bis* K of the FTC, the income of a partnership is determined and taxed in accordance with the rules applicable to the nature of the income concerned (i.e., as business income, professional income, income from real property, etc.). However, the portion of the income attributed to corporate partners, which are subject to corporate income tax ("CIT"), and partners deriving business income is always computed in accordance with the rules applicable to business income, whatever the nature of the partnership income. In principle, a branch tax can apply to the share of the income attributed to the corporate partners, but most tax treaties allow such tax to be avoided.

The tax return is filed by the partnership, but the tax on the income reported on the return is payable by the partners (who are the effective taxpayers). Foreign partners are liable to tax on their shares of the partnership income and must also file French income tax returns reporting their distributive shares of that income. As a consequence of Article 238 *bis* K of the FTC (see above), where the partner concerned is a corporation, the computation of the income attributed to it may follow different rules from those used to compute the foreign partnership's income in the partnership return (i.e., a new computation in accordance with the CIT rules may be required).

According to well-established case law,[1] the fact that a foreign partner does not itself have a PE in France is irrelevant, even where a tax treaty applies (subject to the specific rules in the treaty concerned). A foreign partner can be taxed on its share of the partnership income taxable in France if the partnership itself has a PE in France.

The French-source dividends distributed to the foreign partnership, FCo, would not automatically be deemed attributable to FCo's French PE. However, if the shares are recognized by the PE as French assets and the dividends are ancillary to the business income, the dividends could be taxed as part of the income of the PE. If the shares are not treated as business assets of the French PE, the dividends will be regarded as paid to the foreign head office of FCo or FCo's partners and does not have to be reported as income of the PE (the question is then if and how any applicable tax treaty limits the withholding tax potentially due on these dividends—*see* III.C., below).

B. In what way, if any, does France tax a partner of FCo on gain realized on the sale of its partnership interest in FCo?

Article 244 *bis* C of the FTC provides a wide-ranging exemption for gains realized by nonresidents. Article

244 *bis* B provides that the only gains realized by nonresidents that can be subject to withholding tax are gains on the disposal of shares/partnership interests, and then only where the disposing shareholder or partner holds a substantial stake (more than 25%) in the entity (corporation or partnership) concerned. However, this withholding tax only applies to the disposal of shares/interests in French corporations or partnerships (i.e., it would not apply to the disposal of shares in FCo). Besides, France's tax treaties in most cases provide that gains are taxable only in the country of residence of the seller.

C. What is FrenchCorp's obligation to withhold tax on the dividends it pays to FCo, assuming alternatively:

1. No income tax treaty between France and FC

Since it is assumed here that, for French income tax purposes, FCo is a partnership and, therefore, a distinct entity, FrenchCorp would, in principle, have to withhold tax at the standard domestic rate of 30%. It is possible to conclude that this obligation could apply even with respect to the portion of the dividends attributable to a French partner of FCo, although there are arguments against this conclusion.

2. An income tax treaty between France and FC with provisions typical of a French income tax treaty?

In the situation in which FCo is a partnership for both FC and French income tax purposes, the first issue that needs to be examined is whether the tax treaty between France and FC is applicable. The difficulty this issue raises, as already noted, is that, even if a foreign partnership is regarded as a person, it may not itself be liable to tax in its home country, so potentially losing its status as a tax resident under most tax treaties, which rarely address the treatment of partnerships (although most recent treaties do in fact address such treatment).

In a landmark 1999 case,[2] the French High Court accepted that a foreign partnership (in the case concerned, a Dutch CV, which is only an agreement with no distinct legal personality) could be looked through so as to allow benefits under the France-Netherlands tax treaty to be granted directly to the CV's partners, who were residents of the same country as the CV itself (i.e., the Netherlands).

In 2007, the French Tax Administration issued regulations allowing a partnership to be looked through, so that the partners of the partnership can enjoy benefits under an applicable tax treaty. The availability of this transparency regime, which applies only to dividend, interest and royalty income, is subject to specific cumulative conditions:

- the partnership must be located in a country that has a tax treaty with France that provides for administrative assistance;
- the partners of the partnership must be resident in France or another country that has a tax treaty with France that provides for administrative assistance;
- the income flowing through the partnership must be treated as income of the partners in both the country in which the partnership is located and the country of residence of the partner concerned and the partner must be subject to tax in its country of residence; and
- the partner concerned must not itself be a look-through partnership.

If all these conditions are fulfilled, the rules under the tax treaty between France and the country of residence of the partner concerned can be applied, allowing the paying agent with respect to the dividends, interest or royalties to apply the reduced withholding tax rates provided for the relevant income under the treaty.

D. How would your answers in C. above differ if FCo had 3,000 partners instead of only three?

In theory, the answers would be the same.

IV. Assuming FCo is an FC corporation for French income tax purposes:

A. What are the reporting requirements imposed on FCo and its partners with respect to the trade or business income realized by FCo in France and with respect to the French-source dividends realized by FCo?

As a foreign corporation, FCo would be required to file a normal corporate tax return in its own name and would be subject in the normal manner to French CIT (i.e., the CIT would be payable by FCo, not by FCo's partners).

With respect to the French-source dividends paid to FCo, the treatment would in principle depend on whether the corresponding shares are recorded as assets of FCo's French PE (in which case, the normal CIT rules would apply) or are attributed to FCo's foreign head office (in which case withholding tax might have to be withheld by the paying agent with respect to the dividends, subject to the rules discussed in III.C., above on the application of France's tax treaties to entities treated as partnerships in their home countries).

B. In what way, if any, does France tax a partner of FCo on gain realized on the sale of its partnership interest in FCo?

Gains on shares realized by nonresidents are taxed only in the case of the disposal of a substantial shareholding in a French entity (*see* II.B., above). A French partner could, however, be taxed on any gain arising on the disposal of its partnership interest in FCo.

C. What is FrenchCorp's obligation to withhold tax on the dividends it pays to FCo, assuming alternatively:

1. No income tax treaty between France and FC

Because FCo is viewed as a foreign corporation from a French perspective, FrenchCorp would be required to withhold tax at the rate of 30% on the dividends it pays to FCo (unless the corresponding shares were attributed to FCo's French PE).

2. An income tax treaty between France and FC with provisions typical of a French income tax treaty?

In the situation in which FCo is treated as a partnership in FC (thus giving rise to the question of whether FCo is a resident of FC under the France-FC tax treaty), the regime described in III.C., above, that applies to passive income paid to entities treated as partnerships in their home countries logically should allow FCo's partners to claim treaty benefits, even where the application of the relevant tests under the French rules lead to FCo being equated with a corporation for French tax purposes (there is, however, no clear guidance on this matter).

D. How would your answers in C. above differ if FCo had 3,000 partners instead of only three?

In theory, the answers would be the same.

V. As a withholding agent, what steps can FrenchCorp take to protect itself from liability for failure to withhold and remit any required withholding taxes?

In theory, FrenchCorp could simply withhold tax at the rate of 30% on the dividend payments it makes and let FCo and/or the partners file for refunds. Obviously, FCo and the partners would resist this approach. Perhaps the best approach FrenchCorp could take would be to: (1) get as much information as possible from FCo about the nature of FCo and its partners; (2) determine its withholding responsibilities under French law in light of that information; (3) get FCo and its partners to agree in writing to FrenchCorp's determination of its withholding responsibilities under French law; and (4) obtain a tax indemnification agreement from FCo and its partners to protect FrenchCorp in the event the French Tax Administration were to assess additional tax, interest and penalties against FrenchCorp for failure to comply with its withholding responsibilities under French law.

NOTES

[1] High Court, CE April 4, 1997 *Kingroup* and, more recently CE July 11, 2011 317024 *Quality Invest*.

[2] CE October 13, 1999, *Diebold*.

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Danielle Lewchuk is an associate in the tax group in the Vancouver office of Borden Ladner Gervais LLP. Danielle was admitted to the British Columbia bar in 2014, graduated from the University of British Columbia Faculty of Law in 2013, and holds a Bachelor of Science (Honours) from McGill University. Danielle practices in the area of income tax planning with an emphasis on corporate reorganizations, mergers and acquisitions, and international taxation.

PEOPLE'S REPUBLIC OF CHINA

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Peng Tao is of counsel in DLA Piper's Hong Kong office. He focuses his practice on PRC tax and transfer pricing, mergers and acquisitions, foreign direct investment, and general corporate and commercial issues in China and cross-border transactions. Before entering private practice, he worked for the Bureau of Legislative Affairs of the State Council of the People's Republic of China from 1992 to 1997. His main responsibilities were to draft and review tax and banking laws and regulations that were applicable nationwide. He graduated from New York University with an LLM in Tax.

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Jason Wen is a senior tax adviser at Baker & McKenzie LLP. Mr. Wen's practice focuses on PRC business and tax law related to foreign investment, tax disputes, transfer pricing, mergers and acquisitions. He has over 14 years of experience advising clients on a wide range of issues relating to PRC tax and legal implication of investments in China. These issues include: entry strategies, holding structures, regional planning, repatriation concerns, employment and remuneration packages, tax audit defense with PRC tax authorities, mergers and acquisitions, tax diligence, and deal negotiation support for foreign investors in China. He graduated from Beijing University with a Masters of Business Administration. Mr. Wen worked in an international accounting firm prior to joining Baker & McKenzie.

DENMARK

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Nikolaj Bjørnholm is a partner with Plesner. He concentrates his practice in the area of corporate taxation, focusing on mergers, acquisitions, restructurings and international/EU taxation. He represents U.S., Danish and other multinational groups and high net worth individuals investing or conducting business in Denmark and abroad. He is an experienced tax litigator and has appeared before the Supreme Court more than 10 times since 2000. He is ranked as a leading tax lawyer in Chambers, Legal 500, Who's Who Legal, Which Lawyer and Tax Directors Handbook among others. He is a member of the International Bar Association and was an officer of the Taxation Committee in 2009 and 2010, the American Bar Association, IFA, the Danish Bar Association and the Danish Tax Lawyers' Association. He is the author of several tax articles and publications. He graduated from the University of Copenhagen in 1991 (LLM) and the Copenhagen Business School in 1996 (Diploma in Economics) and spent six months with the EU Commission (Directorate General IV (competition)) in 1991/1992. He was with Bech-Bruun from 1992-2010, and with Hannes Snellman from 2011-2013.

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Christian Emmeluth obtained an LLBM from Copenhagen University in 1977 and became a member of the Danish Bar Association in 1980. During 1980-81, he studied at the New York University Institute of Comparative Law and obtained a Master's degree in Comparative Jurisprudence. Having practiced Danish law in London for a period of four years, he is now based in Copenhagen.

FRANCE

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Stéphane Gelin is an attorney, tax partner with CMS Bureau Francis Lefebvre. He specializes in international tax and transfer pricing. He heads the CMS Tax Practice Group.

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Thierry Pons is a partner with FIDAL in Paris. He is an expert in French and international taxation. Thierry covers all tax issues mainly in the banking, finance and capital market industries, concerning both corporate and indirect taxes. He has wide experience in advising corporate clients on international tax issues.

GERMANY

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Dr. Jörg-Dietrich Kramer studied law in Freiburg (Breisgau), Aix-en-Provence, Göttingen, and Cambridge (Massachusetts). He passed his two legal state examinations in 1963 and 1969 in Lower Saxony and took his LLM Degree (Harvard) in 1965 and his Dr.Jur. Degree (Göttingen) in 1967. He was an attorney in Stuttgart in 1970-71 and during 1972-77 he was with the Berlin tax administration. From 1977 until his retirement in 2003 he was on the staff of the Federal Academy of Finance, where he became vice-president in 1986. He has continued to lecture at the academy since his retirement. He was also a lecturer in tax law at the University of Giessen from 1984 to 1991. He is the commentator of the Foreign Relations Tax Act (Auszensteuergesetz) in Lippross, BasiskommentarSteuerrecht, and of the German tax treaties with France, Morocco and Tunisia in Debatin/Wassermeyer, DBA.

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Before joining private practice as a lawyer and tax adviser in 1993, Dr. Rosemarie Portner, LLM, worked as a civil servant for several State and Federal tax authorities, including in the Tax Counsel International's office of the Federal Ministry of Finance. Her areas of practice are employee benefits and pensions with a focus on cross-border transactions, and international taxation (at the time she worked as a civil servant she was member of the German delegation which negotiated the German/U.S. Treaty of 1989). She is member of the Practice Counsel of New York University's International Tax Programme and a frequent writer and lecturer in her practice area.

INDIA

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Kanwal Gupta is a director in Deloitte's Mumbai office. He is a member of the Institute of Chartered Accountants of India and has experience in cross-border tax issues and investment structuring including mergers and acquisitions. He is engaged in the tax knowledge management and litigation practice of the firm and advises clients on various tax and regulatory matters.

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Mr. Ravishankar Raghavan, Principal of the Tax Group at Majmudar & Partners, International Lawyers, has more than 18 years of experience in corporate tax advisory work, international taxation (investment and fund structuring, repatriation techniques, treaty analysis, advance rulings, exchange control regulations, FII taxation, etc.), and tax litigation services. Mr. Raghavan has a postgraduate degree in law and has also completed his management studies from Mumbai University. Prior to joining the firm, Mr. Raghavan was associated with Ernst & Young and PWC in their respective tax practice groups in India. He has advised Deutsche Bank, Axis Bank, Future Group, Bank Muscat, State Street Funds, Engelhard Corporation, AT&T, Adecco N.A., Varian Medical Systems, Ion Exchange India Limited, Dun & Bradstreet, Barber Ship Management, Dalton Capital UK, Ward Ferry, Gerifonds, Instanex Capital, Congest Funds, Lloyd George Funds and several others on diverse tax matters. Mr. Raghavan is a frequent speaker on tax matters.

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Rakhi Agrawal is a manager with Deloitte Haskins & Sells LLP and based out of Mumbai, India. She is an Associate Member of the Institute of Chartered Accountants of India. She also has a Bachelor of Commerce degree from University of Mumbai. She has over seven years of experience in providing tax advisory and compliance services to various multinational and domestic clients in India.

IRELAND

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Peter Maher is a partner with A&L Goodbody and is head of the firm's tax department. He qualified as an Irish solicitor in 1990 and became a partner with the firm in 1998. He represents clients in every aspect of tax work, with particular emphasis on inbound investment, cross-border financings and structuring, capital market transactions and U.S. multinational tax planning and business restructurings. He is regularly listed as a leading adviser in Euromoney's Guide to the World's Leading Tax Lawyers, The Legal 500, Who's Who of International Tax Lawyers, Chambers Global and PLC Which Lawyer. He is a former co-chair of the Taxes Committee of the International Bar Association and of the Irish Chapter of IFA. He is currently a member of the Tax Committee of the American Chamber of Commerce in Ireland.

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Louise Kelly is a corporate and international tax director with Deloitte in Dublin. She joined Deloitte in 2001. She is an honours graduate of University College Cork, where she obtained an accounting degree. She is a Chartered Accountant and IATI Chartered Tax Adviser, having been placed in the final exams for both qualifications. Louise advises Irish and multinational companies over a wide variety of tax matters, with a particular focus on tax-aligned structures for both inbound and outbound transactions. She has extensive experience on advising on tax efficient financing and intellectual property planning structures. She has advised on many M&A transactions and structured finance transactions. She led Deloitte's Irish desk in New York during 2011 and 2012, where she advised multinationals on investing into Ireland. Louise is a regular author and speaker on international tax matters.

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Philip McQueston is a senior associate in the tax department of A&L Goodbody, Solicitors. He is a qualified solicitor in Ireland and an Associate of the Irish Taxation Institute. He practices all areas of Irish taxation law and tutors and lectures in tax and business law at the Law School of the Law Society of Ireland. He has had articles published in the Irish Tax Review and is a contributing author to Capital Taxation for Solicitors, an Oxford University Press/Law Society of Ireland publication. He is a frequent speaker on Irish tax issues and is a former Vice President of the Tax Law Commission of Association Internationale des Jeunes Avocats (AIJA).

ITALY

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Carlo Galli is a partner at Clifford Chance in Milan. He specializes in Italian tax law, including M&A, structured finance and capital markets.

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Giovanni Rolle is a partner of R&A Studio Tributario Associato, a member of WTS Alliance. He is a chartered accountant who has long focused exclusively on international and EU tax, corporate reorganization and transfer pricing, and thus has significant experience in international tax planning, cross-border restructuring, and supply chain projects for both Italian and foreign multinationals. He is a member of IFA, of the Executive Committee of the Chartered Institute of Taxation—European Branch, and of the International Tax Technical Committee of Bocconi University, Milan. A regular contributor to Italian and foreign tax law journals, he is also a frequent lecturer in the field of international, comparative, and European Community tax law.

JAPAN

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Yuko Miyazaki is a partner of Nagashima Ohno & Tsunematsu, a law firm in Tokyo, Japan. She holds an LLB degree from the University of Tokyo and an LLM degree from Harvard Law School. She was admitted to the Japanese Bar in 1979, and is a member of the Dai-ichi Tokyo Bar Association and IFA.

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MEXICO

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Terri Grosselin is a director in Ernst & Young LLP's Latin America Business Center in Miami. She transferred to Miami after working for three years in the New York office and five years in the Mexico City office of another Big Four professional services firm. She has been named one of the leading Latin American tax advisors in *International Tax Review*'s annual survey of Latin American advisors. Since graduating magna cum laude from West Virginia University, she has more than 15 years of advisory services in financial and strategic acquisitions and dispositions, particularly in the Latin America markets. She co-authored *Tax Management Portfolio—Doing Business in Mexico*, and is a frequent contributor to *Tax Notes International* and other major tax publications. She is fluent in both English and Spanish.

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José Carlos Silva is a partner in Chevez, Ruiz, Zamarripa y Cia., S.C., a tax firm based in Mexico. He is a graduate of the Instituto Tecnológico Autónomo de México (ITAM) where he obtained his degree in Public Accounting in 1990. He has taken graduate Diploma courses at ITAM in business law and international taxation. He is currently part of the faculty at ITAM. He is the author of numerous articles on taxation, including the General Report on the IFA's 2011 Paris Congress "Cross-Border Business Restructuring" published in Cahiers de Droit Fiscal International. He sits on the Board of Directors and is a member of the Executive Committee of IFA, Grupo Mexicano, A.C., an organization composed of Mexican experts in international taxation, the Mexican Branch of the International Fiscal Association (IFA). He presided over the Mexican Branch from 2002-2006 and has spoken at several IFA Annual Congresses. He is the Chairman of the Nominations Committee of IFA.

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Lourdes Libreros is a senior manager in the international tax services group in Ernst & Young's Mexico City office. Lourdes spent three years with EY's Latin America Business Center in Chicago working with multinational companies on investments in Mexico and Latin America. Her focus is on planning and implementing tax structures, as well as assistance with tax controversy in Mexico. She holds a law degree from the Escuela Libre de Derecho in Mexico City.

THE NETHERLANDS

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Martijn Juddu is a senior associate at Loyens & Loeff based in their Amsterdam office. He graduated in tax law and notarial law at the University of Leiden and has a postgraduate degree in European tax law from the European Fiscal Studies Institute, Rotterdam. He has been practicing Dutch and international tax law since 1996 with Loyens & Loeff, concentrating on corporate and international taxation. He advises domestic businesses and multinationals on setting up and maintaining domestic structures and international inbound and outbound structures, mergers and acquisitions, group reorganizations and joint ventures. He also advises businesses in the structuring of international activities in the oil and gas industry. He is a contributing author to a Dutch weekly professional journal on topical tax matters and teaches tax law for the law firm school.

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Maarten J.C. Merkus is a tax partner at Meijburg & Co Amsterdam. He graduated in civil law and tax law at the University of Leiden, and has a European tax law degree from the European Fiscal Studies Institute, Rotterdam.

Before joining Meijburg & Co, Maarten taught commercial law at the University of Leiden.

Since 1996 Maarten has been practicing Dutch and international tax law at Meijburg & Co. Maarten serves a wide range of clients, from family-owned enterprises to multinationals, on the tax aspects attached to their operational activities as well as matters such as mergers, acquisitions and restructurings, domestically as well as cross-border. His clients are active in the consumer and industrial markets, travel leisure and tourism sector and the real estate sector.

In 2001 and 2002 Maarten worked in Spain. At present Maarten is the chairman of the Latam Tax Desk within Meijburg & Co, with a primary focus on Spain and Brazil.

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Anne H. Jorritsma is a tax director at Meijburg & Co Amsterdam. He graduated in economics and tax law at the University of Groningen, and has a European tax law degree from the European Fiscal Studies Institute, Rotterdam. Anne has worked at the New York office of KPMG US.

Anne advises several US clients and also focusses on clients in the Nordics and Brazil. Anne has hands-on experience in mergers & acquisitions, (vendor) due diligences and post-merger integration solutions as well as restructuring projects. He has full involvement in the current BEPS discussions and related tax policy considerations, especially regarding the hybrids and country by country reporting.

Anne runs a marathon in 3 hours and 8 minutes.

SPAIN

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Luis Briones is a tax partner with Baker & McKenzie, Madrid. He obtained a degree in law from Deusto University, Bilbao, Spain in 1976. He also holds a degree in business sciences from ICAI-ICADE (Madrid, Spain) and has completed the Master of Laws and the International Tax Programme at Harvard University. His previous professional posts in Spain include inspector of finances at the Ministry of Finance, and executive adviser for International Tax Affairs to the Secretary of State. He has been a member of the Taxpayer Defence Council (Ministry of Economy and Finance). A professor since 1981 at several public and private institutions, he has written numerous articles and addressed the subject of taxation at various seminars.

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Eduardo Martínez-Matosas is an attorney at Gómez-Acebo & Pombo, Barcelona. He obtained a Law Degree from ESADE and a master of Business Law (Taxation) from ESADE. He advises multinational, venture capital and private equity entities on their acquisitions, investments, divestitures or restructurings in Spain and abroad. He has wide experience in LBO and MBO transactions, his areas of expertise are international and EU tax, international mergers and acquisitions, cross border investments and M&A, financing and joint ventures, international corporate restructurings, transfer pricing, optimization of multinationals' global tax burden, tax controversy and litigation, and private equity. He is a frequent speaker for the IBA and other international forums and conferences, and regularly writes articles in specialized law journals and in major Spanish newspapers. He is a recommended tax lawyer by several international law directories and considered to be one of the key tax lawyers in Spain by Who's Who Legal. He is also a member of the tax advisory committee of the American Chamber of Commerce in Spain. He has taught international taxation for the LLM in International Law at the Superior Institute of Law and Economy (ISDE).

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Manuel graduated with a degree in Law and Business Administration and Management from the Madrid Autónoma University (Spain). In 2006, he received a Master's degree in Tax from the Centro de Estudios Financieros of Madrid (Spain).He has also completed a course on "Organization and Strategic Management" at the London School of Economics and Political Science (2003, London, UK). He is a member of the Madrid Bar Association since 2005 and undertakes pro bono work and community involvement. Manuel specializes in international taxation, corporate reorganizations and individual income tax and employee benefits. Manuel was seconded to Baker & McKenzie Palo Alto from 2012 to 2013. Before joining the Madrid office of Baker & McKenzie, he completed a traineeship program at the Spanish Ministry of Justice.

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Jaime Martínez-Iñiguez is a Partner at Baker & McKenzie. He obtained his law degree at the Universidad de la Rioja (Spain) in 1999. In 2000, he received his Master's in Tax Law from the Instituto de Empresa of Madrid (Spain). He specializes in corporation tax, the tax planning of cross-border investments and restructurings, real estate, as well as in tax advice concerning Mergers & Acquisitions and private equity.

SWITZERLAND

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Walter H. Boss is a graduate of the University of Bern and New York University School of Law with a Master of Laws (Tax) Degree. He was admitted to the bar in 1980. Until 1984 he served in the Federal Tax Administration (International Tax Law Division) as legal counsel; he was also a delegate at the OECD Committee on Fiscal Affairs. He was then an international tax attorney with major firms in Lugano and Zürich. In 1988, he became a partner at Ernst & Young's International Services Office in New York. After having joined a major law firm in Zürich in 1991, he headed the tax and corporate department of another well-known firm in Zürich from 2001 to 2008. On July 1, 2008 he became one of the founding partners of the law firm Poledna Boss Kurer AG, Zürich, where he was managing partner prior to joining Bratschi Wiederkehr & Buob.

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Silvia Zimmermann is a partner and member of Pestalozzi's Tax and Private Clients group in Zürich. Her practice area is tax law, mainly international taxation; inbound and outbound tax planning for multinationals, as well as for individuals; tax issues relating to reorganizations, mergers and acquisitions, financial structuring and the taxation of financial instruments. She graduated from the University of Zürich in 1976 and was admitted to the bar in Switzerland in 1978. In 1980, she earned a doctorate in law from the University of Zürich. In 1981-82, she held a scholarship at the International Law Institute of Georgetown University Law Center, studying at Georgetown University, where she obtained an LLM degree. She is Chair of the tax group of the Zürich Bar Association and Lex Mundi, and a member of other tax groups; a board member of some local companies which are members of foreign multinational groups; a member of the Swiss Bar Association, the International Bar Association, IFA, and the American Bar Association. She is fluent in German, English and French.

Jonas Sigrist

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Jonas Sigrist is an Associate at Pestalozzi Attorneys at Law Ltd, Zurich, Switzerland, where he is a member of the Tax, as well as the Corporate/M&A practice group. His main area of practice includes a wide range of international and domestic corporate tax matters such as acquisitions, mergers, spin-offs, reorganizations, relocations, tax reliefs, tax accounting, and charitable organizations. He has a particular focus on tax planning and structuring of international M&A transactions and corporate restructurings. Mr. Sigrist is a summa cum laude graduate of the University of Zürich, Master of Law (2009) and was admitted to the Swiss bar in 2012.

UNITED KINGDOM

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Charles Goddard is a partner with Rosetta Tax LLP, a U.K. law firm which specializes in providing "City" quality, cost-effective tax advice to businesses and professional services firms. Charles has wide experience of advising on a range of corporate and finance transactions. His clients range from multinational blue-chip institutions to private individuals. The transactions on which he has advised include corporate M&A deals, real estate transactions, joint ventures, financing transactions (including Islamic finance, structured finance and leasing), and insolvency and restructuring deals.

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James Ross is a partner in the law firm of McDermott Will & Emery UK LLP, based in its London office. His practice focuses on a broad range of international and domestic corporate/commercial tax issues, including corporate restructuring, transfer pricing and thin capitalization, double tax treaty issues, corporate and structured finance projects, mergers and acquisitions and management buyouts. He is a graduate of Jesus College, Oxford and the College of Law, London.

UNITED STATES

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Patricia R. Lesser is associated with the Washington, D.C. office of the law firm Buchanan Ingersoll & Rooney PC. She holds a licence en droit, a maitrise en droit, a DESS in European Community Law from the University of Paris, and an MCL from the George Washington University in Washington, D.C. She is a member of the District of Columbia Bar.

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Herman B. Bouma is Senior Tax Counsel with the Washington, D.C. office of Buchanan Ingersoll & Rooney PC. He has over 25 years' experience in U.S. taxation of income earned in international operations, assisting major U.S. companies and financial institutions with tax planning and analysis and advising on such matters as the structuring of billion-dollar international financial transactions, the creditability of foreign taxes, Subpart F issues, transfer pricing, and foreign acquisitions, reorganizations and restructurings. He was counsel to the taxpayer in *Exxon Corporation v. Comr.*, 113 T.C. 338 (1999) (creditability of the U.K. Petroleum Revenue Tax under sections 901/903), and in *The Coca-Cola Company v. Comr.*, 106 T.C. 1 (1996) (computation of combined taxable income for a possession product under section 936). He began his legal career as an attorney-advisor in the IRS Office of Chief Counsel, Legislation and Regulations Division (International Branch) in Washington, D.C. He was the principal author of the final foreign tax credit regulations under sections 901/903, and participated in income tax treaty negotiations with Sweden, Denmark, and the Netherlands Antilles. He is a graduate of Calvin College and the University of Texas at Austin School of Law.