



The 2012 OECD International Tax Conference:

OECD-U.S. Business Dialogue on International Tax

Agenda–Day One, June 4, 2012

1:00 – 1:30 p.m. Registration

I. Welcome

- 1:30 – 2:00 p.m.
- Peter Robinson, President & CEO, USCIB
 - Pascal Saint-Amans, Director of OECD Centre for Tax Policy & Administration

II. OECD's Work on Transfer Pricing

2:00 – 3:15 p.m. **A. Intangibles: Definitional Issues and Issues of Legal Versus Economic Ownership**

The OECD project on transfer pricing aspects of intangibles has now been underway for a little more than a year. After three public consultations with business, it is clear that issues related to the definition of intangibles and to the determination of which member of a multinational group of companies is entitled to intangible related returns are the source of significant controversy. Taxpayers worry that too broad a definition will cause governments to find a transfer of intangibles in every fact pattern and lead to too much reliance on profit split methods. They also think that reliance on rather vague notions of economic ownership would multiply the number of controversies. Governments worry that too narrow a definition will suggest to taxpayers that they are free to transfer something for nothing and that too heavy reliance on notions of legal ownership will allow taxpayers to separate income from the entities that really earn it. The panel will explore whether answers can be found to these central questions.

- Joe Andrus, Head of Transfer Pricing Unit, OECD
- David Ernick, Associate International Tax Counsel, U.S. Treasury
- Krister Andersson, Chairman of the Tax Policy Group, BUSINESSEUROPE
- Janice McCart, Partner, Blake, Cassels & Graydon LLP
- Lynne Sullivan, Vice President, Tax, Biogen Idec

3:15 – 3:35 p.m. **Break Sponsor:**

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3:35 – 4:35 p.m. **B. Transfer Pricing and Administration**

Taxpayers and governments agree that transfer pricing is too complex and consumes far too many resources. The question is what to do about it. The OECD has undertaken a project on simplifying transfer pricing administration. It will focus on using safe harbor provisions to create certainty, streamlining documentation requirements, and doing something about the never-ending controversies around charges for home office and regional overhead expense. The panelists will discuss whether transfer pricing can be simplified and will examine the OECD's progress to date on its simplification agenda.

- Joe Andrus, Head of Transfer Pricing Unit, OECD
- Sam Maruca, Director, Transfer Pricing Operations, IRS
- Katherine Amos, Senior Director, Transfer Pricing, Tyco International
- Patricia Lewis, Member, Caplin & Drysdale, Chartered

III. Cross-Border Compliance

4:35 – 6:00 p.m. The OECD, through its Treaty Relief and Compliance Enhancement (TRACE) project, is developing a standardized system through which countries could offer streamlined procedures for claiming reduced treaty rates of withholding tax on portfolio investment income and could obtain improved information reporting about the recipients of that income. What are the implications of the proposed system for investors, financial intermediaries and governments? How will it change the landscape for obtaining treaty relief internationally? At the same time, the FATCA regulations and a recent joint statement by the U.S. and five European countries suggest that intergovernmental solutions involving a common reporting standard will be further explored for the implementation of FATCA. How will this be achieved? How do these initiatives interact?

- Philip Kerfs, Advisor, International Cooperation and Tax Administration Division, OECD
- Manal Corwin, Deputy Assistant Secretary (International Tax Affairs), U.S. Treasury
- Martin Kreienbaum, Director General – International Taxation, Ministry of Finance, Germany
- Mary Bennett, Partner, Baker & McKenzie LLP
- Keith Lawson, Senior Counsel – Tax Law, Investment Company Institute

6:00 – 7:30 p.m. **Reception Sponsor:**





Agenda–Day Two, June 5, 2012

8:00 – 8:30 a.m. **Continental Breakfast Sponsor:**

ExxonMobil

IV. Keynote Address

8:30 – 8:50 a.m. **Keynote Speaker:**

Masatsugu Asakawa, Deputy Vice Minister for International Affairs,
Ministry of Finance, Japan and Chair, OECD Committee on Fiscal Affairs

V. International Tax Issues and Developing Countries

8:50 – 10:20 a.m. Simplicity, global solutions to global problems, fast and targeted problem solving projects, fit for purpose tools for countries in different stages of development, quick and easy implementation of policy. Even though these goals set by the OECD are diverse and challenging, the OECD believes that it is possible to achieve them, without the one goal excluding the other. Not by retreating in an ivory tower. But by having an open and inclusive dialogue with other international organizations, with member and non member economies and with business. By being involved in the UN work on tax and inviting the UN to be part of the dialogue at the OECD. By tax and development work, by organizing yearly global events on Transfer Pricing and Tax Treaty issues and through the work of the Forum on Tax Administration on Transfer Pricing and developing economies. But do all these activities mean that the OECD is achieving its goals? What could or should it do better? The panel members will give their opinion on these questions, and will also invite yours.

- Pascal Saint-Amans, Director, OECD Centre for Tax Policy and Administration
- Mike McDonald, Financial Economist, U.S. Treasury
- Juan Ricardo Ortega López, Commissioner of the DIAN, Colombia's Customs and Tax Administration
- Stig Sollund, Director General, Tax Law Department, Ministry of Finance, Norway
- Carol Dunahoo, Partner, Baker & McKenzie LLP
- Alan McLean, Executive Vice President, Tax and Corporate Structure, Royal Dutch Shell
- Richard E. Stern, Program Manager, Global Tax Simplification, FIAS, World Bank Group



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10:20 – 10:40 a.m.

Break Sponsor:



VI. Tax Risk Management and Corporate Governance

10:40 a.m. – 12:00 p.m. The financial, economic and now debt crises mean that Governments around the world are engaged in fiscal consolidation, while corporate tax and tax avoidance have become the subject of public debate and occasionally dramatic protests. The amounts at stake in some major tax disputes are measured in billions of dollars. What are the implications for corporate risk management, good governance and for the relationships between businesses and tax administrations?

- Grace Perez-Navarro, Deputy Director, OECD Centre for Tax Policy & Administration
- Heather C. Maloy, LB&I Commissioner, IRS
- Timothy M. McDonald, Vice President-Finance & Accounting, Global Taxes, Procter & Gamble
- Deborah Nolan, Americas Director, TCRMS, Ernst & Young LLP

Luncheon and Keynote Address

12:00 – 1:30 p.m.

Luncheon Sponsor:



Keynote Speaker:

Jose W. Fernandez, Assistant Secretary, Economic and Business Affairs,
U.S. Department of State



Agenda–Day Two, June 5, 2012 continued

VII. Dispute Resolution

1:30 – 2:30 p.m. FTA work on improving MAP through training of auditors; outcomes/follow up from CTPA Roundtable on Avoiding and Solving Tax Disputes, risk management and the solution of controversies are high on the agenda of multinationals. Does this mean that Mutual Agreement Procedure and Arbitration are also being actively pursued by businesses? And are businesses satisfied with the results of these procedures? There are still important obstacles that prevent these dispute resolution mechanisms from functioning as they should. For this reason, the OECD revisited this subject during a Roundtable organised by the Centre for Tax Policy and Administration of the OECD early this year. What are the most important obstacles that can be identified? What are the follow up steps that should be taken, by the OECD, by businesses, by tax policy-makers and by tax administrations?

- Marlies de Ruiter, Head of Tax Treaty, Transfer Pricing and Financial Transactions Division, OECD
- Mike Danilack, Deputy Commissioner (International) LB&I, IRS
- Peter Barnes, Senior Tax Counsel – International, GE
- Michael Quigley, Partner, White & Case LLP

VIII. OECD's Work on Tax Treaties

2:30 – 3:15 p.m. **A. Beneficial Ownership**

The concept of beneficial owner was introduced in the OECD Model in 1977. The Commentary originally explained that it referred to “an intermediary such as an agent or nominee” but that was later extended to cover a “conduit company” acting as “a mere fiduciary or administrator”. Conflicting court decisions have shown that there was considerable uncertainty as to what “beneficial owner” means and the OECD bravely attempted to clarify the meaning of the concept. In April 2011, proposed draft changes to the Commentary of the OECD Model Tax Convention were released. Judging from the comments received on these proposed changes, however, not everyone agrees with the result. The panel will examine the proposed changes and some of the comments that were received; it will also attempt to determine a way forward.

- Jacques Sasseville, Head of Tax Treaty Unit, OECD
- Henry Louie, Deputy to the International Tax Counsel, U.S. Treasury
- Richard Collier, Partner, PricewaterhouseCoopers LLP
- Archie Parnell, Managing Director, Goldman Sachs



Agenda–Day Two, June 5, 2012 continued

3:15 – 3:35 p.m. **Break Sponsor:**



3:35 – 4:55 p.m. **B. Permanent Establishment**

The concept of permanent establishment is older and even more elusive than the concept of beneficial owner. In October 2011, the OECD released proposed draft changes to the Commentary that sought to address a number of interpretation issues. Some of the proposed changes relate to significant practical issues experienced by business. Not surprisingly, a lot of comments were received by the OECD on the proposed changes. The panel will discuss some of the more important proposals included in the OECD discussion draft and the comments that have been received on these proposals.

- Jacques Sasseville, Head of Tax Treaty Unit, OECD
- Jesse Eggert, Associate International Tax Counsel, U.S. Treasury
- Rafic Barrage, Partner, Mayer Brown
- Philip D. Morrison, Principal, Deloitte Tax LLP

VIII. Conclusions

4:55 – 5:00 p.m. **Summing Up**

- Pascal Saint-Amans, Director of OECD Centre for Tax Policy & Administration
- Carol Doran Klein, Vice President and International Tax Counsel, USCIB

