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Department of the Treasury
Internal Revenue Service

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Large Business & International Division

INTERNATIONAL

*Deputy Commissioner (International), LB&I
Associate Chief Counsel (International)*

34th Annual Institute on Current Issues in International Taxation

December 14 & 15, 2023



34th ANNUAL INSTITUTE ON CURRENT ISSUES IN INTERNATIONAL TAXATION

The Institute will also address key practical issues faced by tax practitioners, corporate tax executives, and the Internal Revenue Service, with private sector and government panelists discussing, among other things, international dispute resolution and dispute prevention tools, current developments (including an update on worker mobility issues), PTEP, repatriation of earnings, and other anti-deferral issues, foreign tax credits, individual cross-border issues, foreign currency issues, partnership issues, tax treaties, cross-border financing, cross-border mergers & acquisitions, supply chain issues and ethics.

The Institute will conclude with a panel on “Views from the Government” that will include both Treasury and IRS officials and will involve a roundtable discussion of important topics from senior international tax government officials.

The program is designed to encourage an exchange of views between government and private sector panelists and to provide a forum for attendees to participate in the panel discussions by posing questions to the panelists.

Current Issues in International Taxation is designed for:

- Corporate tax executives responsible for international tax matters
- Law firm partners and associates working in the international tax area
- Accounting firm partners and managers working in the international tax area
- Members of the academic community interested in the latest technical developments in international taxation
- Internal Revenue Service and US Department of the Treasury personnel working in international tax

the Institute at a Glance

Thursday, December 14, 2023

7:15 am – 8:00 am	Breakfast
8:00 am – 8:15 am	Welcome and Introductions
8:15 am – 9:30 am	Global Trends: International Tax Certainty Toolkit
9:35 am – 10:35 am	Current Developments
10:35 am – 10:50 am	Break
10:50 am – 11:50 am	PTEP, Repatriation of Earnings, and Anti-Deferral (GILTI/Subpart F)
12:00 pm – 1:20 pm	Luncheon with Address
1:30 pm – 2:30 pm	Foreign Tax Credits (I) – “What is a Creditable Tax” and OECD Pillar 2
2:35 pm – 3:35 pm	Foreign Tax Credits (II) – “Can You Actually Get a Credit?”
3:35 pm – 3:50 pm	Break
3:50 pm – 4:50 pm	Concurrent Breakout Sessions (I) ***Individual Cross-Border Issues ***Section 987 and Other Foreign Currency Issues
4:55 pm – 5:55 pm	Concurrent Breakout Sessions (II) ***Partnership Issues ***Tax Treaties
6:00 pm – 7:00 pm	Reception

Friday, December 15, 2023

7:30 am – 8:30 am	Breakfast
8:30 am – 9:30 am	Supply Chain
9:35 am – 10:35 am	Ethics
10:35 am – 10:50 am	Break
10:50 am – 12:05 pm	Cross-Border M&A
12:15 pm – 1:30 pm	Luncheon with Address
1:40 pm – 2:25 pm	Cross-Border Finance
2:30 pm – 3:30 pm	Views from the Government

the Agenda

Thursday, December 14, 2023

7:15 am – 8:00 am

Breakfast

8:00 am – 8:15 am

Welcome and Introductions

8:15 am – 9:30 am

Global Trends: International Tax Certainty Toolkit

Subtopics:

Representatives from the Australian Tax Office, His Majesty's Revenue and Customs, the Netherlands Tax Administration, and the Internal Revenue Service will address their perspectives on dispute resolution and dispute prevention tools and tax certainty efforts in their tax administrations, potentially including discussion of MAPs, APAs, ICAP, and joint audits

The panel will also address the different approaches to risk assessment and how these approaches impact dispute resolution and prevention and tax certainty generally

Session Chairs:

Nicole L. Welch

Director of Treaty and Transfer Pricing Operations,
Internal Revenue Service

Thomas J. Roesser

Tax Policy Counsel, Microsoft Corporation

Panelists:

Hans J.H.A.M. Rijsbergen

Coordinating Specialist and Strategy Advisor, Netherlands Tax
Administration Large Business

Hector Thompson

Deputy Commissioner, International, Support and Programs, Australian
Taxation Office

Dominic Vines

Team Leader, Transfer Pricing (APA & MAP), HM Revenue & Customs

9:35 am – 10:35 am

Current Developments

Subtopics:

- The panel intends to update the presentation on mobile executives that was done at the 2022 Institute, focusing on the UN release on the taxation of nomads, the OECD rules that are expected to be issued before the conference, and CCA 202327014 (wage withholding on mobile employees)
- The panel will also cover a potpourri of cases, rulings, and regulations issued since last year, including *TBL Licensing LLC v/ka Timberland* (Section 367) and the "reverse hybrid blocker" guidance that is in the works

Session Chair:

Joan C. Arnold

Partner, Troutman Pepper Hamilton Sanders LLP

Panelists:

Karen B. Brown

Theodore Rinehart Professor of Business Law, The George Washington
University Law School

Mary E. Monahan

Partner, Eversheds Sutherland LLP

Josh D. Odintz

Partner, Holland & Knight LLP

Natalie Punchak

Attorney Advisor, Office of Tax Policy, US Department of the Treasury

Robert Scarborough

Special Counsel (International), Office of Chief Counsel, Internal
Revenue Service

10:35 am – 10:50 am

Break

10:50 am – 11:50 am

PTEP, Repatriation of Earnings, and Anti-Deferral (GILTI/Subpart F)

Subtopics:

- PTEP updates, including AM 2023-002
- GILTI & Subpart F current developments, including final Treasury Regulations Section 1.1502-80(j)
- Section 367(d) proposed regulations
- Selected Section 245A and CAMT issues
- Pillar 2 interactions with US anti-deferral regime and transitional safe harbor
- Selected PFIC issues

Session Chair:

Lori Hellkamp

Panelists:

Michael J. Caballero

Rocco V. Femia

Julia Skubis Weber

Chad Rowland

Jim Wang

Partner, Jones Day

Partner, Covington & Burling LLP

Member, Miller & Chevalier Chartered

Partner, Baker & McKenzie LLP

Tax Attorney (International), Branch 4, Internal Revenue Service

Deputy International Tax Counsel, Office of Tax Policy. US Department of the Treasury

12:00 pm – 1:20 pm

Luncheon with Interview of IRS Commissioner Daniel Werfel by Deputy Commissioner for Services and Enforcement Doug O'Donnell

1:30 pm – 2:30pm

Foreign Tax Credits (I) – “What is a Creditable Tax” and OECD Pillar 2

Subtopics:

- Notice 2023-55
 - Discussion of the reasons for the delay of portions of the final foreign tax credit regulations, and if there will be any other delays
 - Financial reporting in the wake of the Notice
 - How do the final foreign tax credit regulations apply following the Notice (e.g., DSTs are not creditable)?
- Update on major countries that changed their laws in response to the final foreign tax credit regulations (e.g., Brazil)
- Creditability of the Pillar 2 taxes
- Treatment of refundable credits
- Calculation of provisional foreign tax credits for contested taxes
- Compliance requirements for the treaty coordination rule

the Agenda

Session Chair:

Urvi Doshi Sood

Vice President of Taxes and General Tax Counsel, Lockheed Martin Corporation

Panelists:

David G. Noren

Partner, McDermott Will & Emery LLP

Gretchen Sierra

Principal, Deloitte Tax LLP

Moshe Spinowitz

Partner, Skadden, Arps, Slate, Meagher & Flom LLP

Deborah Tarwasokono

Attorney-Advisor, Office of Tax Policy, US Department of the Treasury

Tracy Villecco

Senior Technical Reviewer, Branch 3, Internal Revenue Service

2:35 pm – 3:35 pm

Foreign Tax Credits (II) – “Can You Actually Get a Credit?”

Subtopics:

- Treasury Regulations Sections 1.861-20 and 1.960-1, including the rules related to “contributions” to branches and a comparison of the treatment of taxes imposed on disregarded and regarded distributions, with the latter focusing on distortions caused by the asset method for assigning taxes imposed on disregarded distributions, the consequences of not linking disregarded distributions to PTEP, and complications caused by the proliferation of groupings
- CAMT and foreign tax credits, including under Notice 2023-64
- The *FedEx* case and *Sysco* petition

Session Chair:

Danielle E. Rolfes

Partner, Washington National Tax, KPMG

Panelists:

Layla J. Asali

Member, Miller & Chevalier Chartered

Lucas Giardelli

Partner, Mayer Brown LLP

Eric B. Sensenbrenner

Partner, Skadden, Arps, Slate, Meagher & Flom LLP

David Berke

Special Counsel (International), Office of Chief Counsel, Internal Revenue Service

Lindsay Kitzinger

International Tax Counsel, Office of Tax Policy, US Department of the Treasury

3:35 pm – 3:50 pm

Break

3:50 pm – 4:50 pm

Breakout Sessions (I) Individual Cross-Border Issues

Subtopics:

- International compliance issues
 - International reporting penalty enforcement
 - General enforcement activity
 - *Farhy* case
 - FBAR cases (e.g., *Bittner*)
 - New supervisory approval proposed regulations
- Puerto Rico enforcement activity
- Malta pension proposed regulations
- *Aroeste* case and broader implications on information reporting requirements for treaty tie-breaker residents

- Individual foreign tax credit issues
- Structure of individual foreign tax credit regime
 - Business income of foreign entities
 - CFCs
 - Check-the-box entities
 - Partnerships
 - Disregarded entities
- Creditable versus non-creditable taxes
 - Pre-2022 regulations overview
 - January 2022 final regulations
 - November 2022 proposed regulations
 - Notice 2023-55

Session Chair:

Summer A. LePree

Partner, Winston & Strawn

Panelists:

Kirsten Burmester

Member, Caplin & Drysdale Chartered

Diana S. Doyle

Partner, Latham & Watkins LLP

Rosy Lor

Managing Director, BDO

Lara Banjanin

Senior Counsel (International), Office of Chief Counsel,
Internal Revenue Service

Section 987 and Other Foreign Currency Issues

Subtopics:

- Prospects for regulatory guidance under Section 987
- Practical considerations in navigating Section 987 in the absence of comprehensive regulations
- Notice 2019-1 and Section 986(c) post-TCJA
- Policy considerations and the prospects for a comprehensive approach to Subpart J

Session Chair:

Brian H. Jenn

Partner, McDermott Will & Emery

Panelists:

Rebecca Lee

Principal, PricewaterhouseCooper LLP

Colleen Zeller

Partner, Ernst & Young LLP

Raphael Cohen

Senior Counsel (International), Office of Chief Counsel,
Internal Revenue Service

Paul J. Crispino

Attorney-Advisor, Office of Tax Policy, US Department of the
Treasury

the Agenda

4:55 pm – 5:55 pm

Breakout Sessions (II) Partnership Issues

Subtopics:

- Pillar 2 issues involving partnerships
- Aggregate/entity analysis under AM 2023-003 (FIRPTA partnership GLAM)
- CAMT and cross-border partnerships

Session Chair:

Jason Smyczek

Principal, Washington National Tax, Deloitte

Panelists:

Morgan Klinzing

Partner, Troutman Pepper Hamilton Sanders LLP

Dan Luchsinger

Principal, Covington & Burling LLP

Monisha Santamaria

Principal, KPMG LLP

Sarah Ritchey Haradon

Attorney Advisor, Office of Tax Legislative Counsel,
US Department of the Treasury

Kenneth Jeruchim

Senior Technical Reviewer, Branch 4, Internal Revenue Service

Tax Treaties

Subtopics:

- US Tax Treaties – Changes in the landscape at last
- This panel will discuss recent developments involving US tax treaties, including:
 - The new US – Chile Treaty and the significance of the reservation language on double taxation
 - The new US – Croatia Treaty
 - The continued evolution of the 2016 US Model Treaty
 - Novel tax agreement approaches to Taiwan
 - Pillar 2 UTPRs and tax treaty interaction
 - Recent unilateral actions by treaty partner countries (the US – Hungary Treaty, the US – Russia Treaty)
- Update on current tax treaty negotiations

Session Chair:

Julia Tonkovich

Principal, International Tax Services, Ernst & Young LLP

Panelists:

J. Brian Davis

Partner, Baker & Hostetler LLP

Jeffrey S. Korenblatt

Partner, Holland & Knight LLP

Ricky Owens

Branch Chief, Branch 1, Internal Revenue Service

Elena Virgadamo

Deputy International Tax Counsel (Treaty Affairs), Office of Tax Policy, US Department of the Treasury

6:00 pm – 7:00 pm

Reception

Friday, December 15, 2023

7:30 am – 8:30 am

Breakfast

8:30 am – 9:30 am

Supply Chain

Subtopics:

- Primary drivers of supply chain change
- International agreements and treaties
- Tax incentives versus neutralizers
- On-shoring production and intellectual property
- Emerging markets: geopolitical and geoeconomic challenges

Session Chair:

Michael A. DiFronzo

Tax Principal, Washington National Tax Services, International Tax Leader, PwC

Panelists:

Rafic Barrage

Partner, Baker & McKenzie LLP

Tadd Fowler

Senior Vice President-Treasurer, Global Tax Operations, The Procter & Gamble Company

Caroline C. Setliffe

Partner, Eversheds Sutherland LLP

Christopher J. Bello

Senior Counsel, Office of Tax Policy, US Department of the Treasury

Dylan Steiner

Attorney, Office of Chief Counsel, Internal Revenue Service

9:35 am – 10:35 am

Ethics

Subtopics:

- Through interactive discussion of case studies and the lens of technology, this panel explores the range of ethical issues confronting government and private sector tax professionals in international tax practice and considers them against the ethical rules (including ABA Model Rules, AICPA Code and Statements, Circular 230, and Standards of Ethical Conduct for Employees of the Executive Branch)
- Topics may include ethical issues arising in
 - International tax controversies
 - International tax planning and transactions, including duties regarding foreign law and to foreign tax authorities
 - IRS and Treasury international tax rulemaking and policymaking

Session Chair:

Diane M. Ring

Professor of Law and the Dr. Thomas F. Carney Distinguished Scholar, Boston College Law School

Panelists:

Linda Galler

Schmertz Distinguished Professor of Law, Maurice A. Deane School of Law at Hofstra University

Christopher S. Rizek

Member, Caplin & Drysdale Chartered

Allison Baker

Attorney, Office of Chief Counsel, Internal Revenue Service

10:35 am – 10:50 am

Break

the Agenda

10:50 am – 12:05 pm

Cross-Border M&A

Subtopics:

- Pillar 2 impact on cross-border M&A
- CAMT and excise tax issues in M&A
- Other developments in taxable, tax-free, spins, bolt-on, and other acquisitions
- Group restructurings and post-acquisition integration

Session Chair:

Amanda P. Varma

Panelists:

Amie Colwell Breslow

Sam K. Kaywood, Jr.

Rachel D. Kleinberg

Brenda L. Zent

Andrew Wigmore

Partner, Steptoe & Johnson

Of Counsel, Jones Day

Partner, Alston & Bird LLP

Partner, Sidley Austin LLP

Special Advisor on International Taxation Policy, Office of Tax Policy, US Department of the Treasury

Senior Counsel (International), Office of Chief Counsel, Internal Revenue Service

12:15 pm – 1:30 pm

Luncheon with Address by Michael Plowgjan, Deputy Assistant Secretary for International Tax Affairs, Office of Tax Policy, US Department of the Treasury

1:40 pm – 2:25 pm

Cross-Border Finance

Subtopics:

- Potential impact of the “funding rule” under the excise tax
- Role of implicit support in determining guarantee fees or intercompany interest rates
- Section 163(j) limits on cross-border or other indebtedness involving CFC debtors
- Navigation of BEAT exposure arising from related party debt
- Continuing relevance of Section 956

Session Chair:

Gary Wilcox

Panelists:

Eileen Marshall

Elena Romanova

Paul McLaughlin

Erika W. Nijenhuis

Partner, Mayer Brown

Partner, Cooley LLP

Partner, Latham & Watkins LLP

Special Counsel (International), Office of Chief Counsel, Internal Revenue Service

Senior Counsel, Office of Tax Policy, US Department of the Treasury

2:30 pm – 3:30 pm

Views from the Government

Moderator:

Peter Blessing

Panelists:

Jennifer L. Best

Robin Greenhouse

Jared Hermann

Lindsay Kitzinger

Jorge Oben

Associate Chief Counsel (International), Internal Revenue Service

Deputy Commissioner, Large Business and International, Internal Revenue Service

Division Counsel, Large Business and International, Internal Revenue Service
Legislation Counsel, Joint Committee on Taxation, US Congress
International Tax Counsel, Office of Tax Policy, US Department of the Treasury

Attorney Office of Associate Chief Counsel (International), Internal Revenue Service (currently on detail to the US House Ways and Means Committee)

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The Institute gratefully recognizes the support and assistance of members of the Advisory Board in the selection of topics and speakers for this program.

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Washington National Tax Services

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Chief Counsel (International)

Internal Revenue Service

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Partner

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US Department of the Treasury

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Vice President of Taxes and General Tax

Counsel

Lockheed Martin Corporation

Moshe Spinowitz

Partner

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Managing Director

Washington National and International

Tax

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Philip R. West

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Brenda L. Zent

Special Advisor on International

Taxation, Office of Tax Policy,

US Department of the Treasury

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