International Tax Bytes
by Steve Towers

"International tax news, explained"

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HAPPY FRIDAY!

Well, that worked – everyone's talking about **Greenland**, and not about **the economy** or those **pesky Democrats!**

Corporate America complains about the **DST**, but the **IRS** still gives credit to **France!**

Angela gives **Boris** 30 days, with a smile – **"see you in Biarritz!"**

The **Philippines** corporate tax reform glacier is still moving, **Burton's** glass is half-full, **New Jersey** feels **GILTI**, **India** tries for a third time, **Malta's** rules are patently clear, and McKee pulls a **Koolmove!**

We learn that **Amazon's** culture of innovation doesn't have to be counted, but it is counting the cost of **DST** compliance!

And while **Argentina** and **Hong Kong** face economic problems, all the **treaty negotiators** are at the beach!

Have a great weekend!
Steve

#AskSteve

Episode 6
How do you deal with difficult clients?

Episode 5
What type of education is required to be an international tax advisor?

Episode 4
What big changes have you seen in international tax practice over your career?

IN TODAY'S VIDEO PODCAST

(For ITB video subscribers, please log in to access the video and documents/reports)

1. Digital taxation
2. Amazon case
3. Asia Pacific
   - Australia, Hong Kong, India, Philippines, Vietnam
4. Europe
   - EU, Germany, Ireland, Malta, Norway, Russia, UK
5. Middle East & Central Asia
   - UAE
6. Americas
   - Argentina, US
7. Treaties
8. Worth reading

WORTH READING

Francois Chadwick
"International Tax Rules for the Digital Era"
Tax Notes Today International, Tax Analysts, August 19, 2019 (subscription service)

Aditya Pansé
"Cognitive Biases in Functional Analysis Interviews – Part 3: Biases Affecting Post-Interview Processing of Information and Concluding Remarks"
International Transfer Pricing Journal, IBFD, 2019 (Volume 26), No. 5 (subscription service)

INTERNATIONAL TAX QUIZ

XCO is a company which is resident in country X. XCO has a "fixed place of business" PE in country Y. The PE carries on an IP licensing business – it licenses IP to customers in various countries, in return for royalties. One of those customers is ZCO, which is a company resident in country Z. XCO is the beneficial owner of the royalties, and it does not have a PE in country Z. The X/Y, X/Z and Y/Z double tax treaties are identical to the 2014 OECD model treaty (with Art. 23B), except that the source country tax on royalties is limited by Art. 12 in each of the 3 treaties to: 15% (X/Y); 5% (X/Z); and 10% (Y/Z). The MLI does not apply to any of those 3 treaties. Under the domestic tax law of each of the 3 countries: (i) the corporate income tax rate is 30%, (ii) the worldwide income of residents is taxed, and (iii) the royalty withholding tax rate is 20%. In calculating foreign tax credits in each of the 3 countries, please disregard the allocation of deductions (or notional expenses) against foreign source income. If $100 of royalties are paid by ZCO to the PE, what amount of tax will be levied on that $100 in each of the 3 countries?

Answer in next week's ITB email alert!

Last week's question & solution

ACO is a company which is resident in country A. BCO is a company which is resident in country B. BCO has a fixed place of business PE in country C. ACO lends money to BCO to finance its country C PE. The interest on the loan is shown as an expense in the PE's financial statements. ACO is the beneficial owner of the interest, and it does not have a PE in either country B or country C. The A/B, A/C and B/C double tax treaties are identical to the 2014 OECD model treaty. The MLI does not apply to any of those 3 treaties. Under the domestic tax law of each of the 3 countries: (i) the corporate income tax rate is 30%, (ii) the worldwide income of residents is taxed, and (iii) the interest withholding tax rate is 20%. In calculating foreign tax credits, assume that ACO is not required to allocate any deductions against foreign source income. If the amount of interest which is paid by BCO to ACO is $100, what amount of tax will be levied on that $100 in each of the 3 countries?

Country B:

1. A/B treaty: Art. 11(5), 1st sentence applies (payer is resident in B); Art. 11(5), 2nd sentence does not apply (as the PE is not in a Contracting State). Thus, interest arises in B.
2. A/B treaty allows B to impose tax of 10% on gross interest : Art. 11(1) & (2).
3. Thus, $10 tax paid in B.

Country C:

1. A/C treaty: Art. 11(5), 1st sentence does not apply (payer is not resident in C); Art. 11(5), 2nd sentence applies (interest is relevantly connected with PE in C). Thus, interest arises in C.
2. A/C treaty allows C to impose tax of 10% on gross interest: Art. 11(1) & (2).
3. Thus, $10 tax paid in C.

Country A:

1. Under A/B treaty, A must allow credit for B tax of $10: Art. 23A(2) or Art. 23B(1).
2. Under A/C treaty, A must allow credit for C tax of $10: Art. 23A(2) or Art. 23B(1).
3. After gross-up and credit for the B and C taxes, A tax will be = ($100 x 30%) - $10 - $10 = $10.

Thus: $10 tax paid in each of A, B and C, giving total tax of $30.
Note: This "double foreign tax / double foreign tax credit" situation occurs because of the words, "in a Contracting State", in Art. 11(5), 2nd sentence. See paragraphs 28-31 in OECD Commentary.

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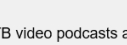

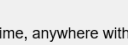

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