INTERNATIONAL TAX REVIEW

The 21 biggest influences in tax today

01 November 2010

To mark the 21st birthday of International Tax Review in November 2010, the editorial staff of the magazine decided to choose the 21 most influential people or organisations in tax today.

The 21 people and organisations chosen as the biggest influences on tax today are personal choices. We used no criteria to make them, apart from importance and impact on the practice of tax. To make the task easier, we excluded private practitioners because we felt it would be too difficult to assess why one lawyer, accountant or adviser was more important than another.

So here are the 21 in alphabetical order. It is up to you to agree or disagree. Please let us know if we have got the list right or wrong. We hope to repeat the list annually, so your opinion might influence us for next time.

Aid and Development Agencies

Christian Aid, ActionAid

Christian Aid, ActionAid

Aid and development agencies have long been famous for their vital work on hunger and poverty in the developing world. In recent years, however, they have increasingly concentrated on tax justice campaigns, the focus not on charity, but helping poor nations stand on their own feet by gaining an equitable share of tax revenue.

Christian Aid operates on the belief that tax revenue has the potential to transform the lives of poor people in developing countries by providing long-term resources to develop essential public services such as education and healthcare, as well as tackling government corruption. As such, it is campaigning for country-by-country reporting standards to prevent companies shifting profits to tax havens and for developing countries to be included in information exchange agreements.

Christian Aid's David McNair sits on the OECD Taskforce on Tax and Development, which advises the Organisation on how to enhance developing countries' tax collection capacities and revenues.

ActionAid, which launched its tax justice campaign two years ago, has devoted much of its attention to the G20. When the G20 decided to tackle tax havens, ActionAid was keen to ensure that developing countries got their fair share.

Recently they have shifted the focus from countries and supranational bodies to the companies themselves and in the next phase of their campaign they will shine a spotlight on multinationals avoiding taxes.

"What's considered to be normal corporate practice is not acceptable," says Martin Hearson, tax policy analyst at ActionAid.

In actively trying to build the capacity of their colleagues in developing countries, ActionAid represents the spirit of the tax justice campaign itself: developing countries tackling poverty themselves through tax, not charity.

Christian Aid and ActionAid both estimate that developing countries lose more through tax evasion than they receive in aid. If this is the case, then the work of aid and development agencies on tax justice is la matter of life and death.

Max Baucus

Chairman, US Senate Finance Committee

Max Baucus

A Democrat from Montana, Baucus has fought diligently for tax reform, including bringing forward measures to close the tax gap in the US and preventing tax-exempt organisations to slip through the cracks.

On September 29 2010, Baucus, the chief writer of tax legislation in the Senate, firmly requested that the IRS investigate third-party groups that could be taking advantage of tax exemptions. Baucus' bold step is a first and his comments were accompanied by a forthright letter addressed to Douglas Shulman, the IRS commissioner, in which the Montana native requested that the IRS investigate if tax benefits applicable to 501(c)(4), (c)(5), or (c)(6) groups "are being used to advance private interests". Groups considered under the 501(c)(4) category can raise unlimited donations as a tax-exempt organisation, do not have to disclose who their donors are and can spend donations on political advertisements. Tax law prohibits tax exempt organisations from spending their donations primarily on such advertisements.

The senator's exercise of influence is expected to press the IRS to launch investigations.

Capital Markets Tax Committee of Asia

Capital Markets Tax Committee of Asia

The Capital Markets Tax Committee of Asia (CMTC) is a financial services industry body consisting of a number of banks, investment banks, securities firms and other diversified financial services institutions operating in Asia who are represented through their regional tax directors, most of whom work in Hong Kong.

CMTC's membership comprises the world's largest and most influential banks including ABN Amro, Bank of America Merrill Lynch, Bank of China International, Barclays Capital and Standard Chartered.

The CMTC's constitution states that its role is "to provide a forum for discussion by corporate tax managers responsible for the tax affairs of investment banks, securities firms, banks and other diversified financial services institutions of topical taxation issues in Asia affecting their capital and securities markets and similar activities". It also promises to keep members informed of up to date information on taxation matters affecting capital and securities markets, and to exchange views on the technical analysis and to represent the interests of its members through acting as the respected voice of the sector, and to participate in liaison or advocacy activities on tax matters either directly or indirectly through representation with other groups or societies concerned with or by fiscal matters.

Recently, the CMTC offered opinions to the OECD's Informal Consultative Group on the taxation of collective investment vehicles and the procedures for tax relief for cross-border investors. The committee also offered advice and opinions on India's DTC and GST and made a submission to the Chinese government over plans to introduce a VAT in the country.

The CMTC was also successful in pushing the Korean government to open negotiations with Hong Kong on a double taxation agreement. Negotiations begin this month.

"We need to be proactive in voicing our opinions and the Korea/Hong Kong DTA is just one example of that," said James Badenach, president of the CMTC. "We [the CMTC] just want certainty across the region from a tax perspective."

Paul Caron

Blogger at TaxProf Blog

Paul Caron

When US tax professionals want to learn about tax news, they turn to Paul Caron's TaxProf blog. Caron, a professor of tax law at the University of Cincinnati College of Law, has been blogging since 2004 and in that time has turned his site into the most popular tax blog on the internet. The success of the TaxProf blog is because of the variety of topics that readers can find there. The blog not only discusses new tax legislation, court decisions, and other tax headlines, but also follows developments in academia, think tanks, and public policy groups. This has made the blog an invaluable resource for the tax community and especially his fellow law professors. The American Bar Association Journal awarded TaxProf Blog a Bronze Medal in its Blawg 100 Legal Theory category this year.

Caron's other internet resources for tax professionals include the TaxProf email discussion group and TaxProf exam bank.

Otacilio Dantas Cartaxo

Secretary of the Federal Revenue of Brazil

Otacilio Dantas Cartaxo

At the fast rate that Brazil is progressing, the importance of the role of Otacílio Dantas Cartaxo as the secretary of the Federal Revenue of Brazil is growing just as rapidly. The *Secretaria de Receita Federal do Brazil*, which belongs to the larger Ministry of Finance, is responsible for the administration of federal taxes in Latin America's leading emerging market. Dantas Cartaxo oversees all of this.

As one of the so-called Bric countries, that, if you believe the commentaries, are about to swallow the rest of the world whole, Brazil and its economic development is being closely watched. It gives the top tax official a key role to play in administering a system designed to recover the taxes that are due and, at the same time, incentivise local and foreign multinationals to invest. Measures such as the financial transactions tax and reforms to transfer pricing rules mean that investors need to stay on top of tax news in Latin America's biggest country. The staging in Brazil of the Fifa World Cup in 2014 and the Summer Olympic Games two years later will throw an even fiercer spotlight on the jurisdiction and generate substantial revenues. It will be up to Cartaxo to make sure the tax system is fit to take the strain.

Establishing sound tax policy with the executive branch, combating tax evasion, simplifying taxes for small and medium enterprises (SMEs), social security contributions, commercial fraud and even drug trafficking and the trade of endangered species is on Dantas Cartaxo's to-do-list each day. The Federal Revenue of Brazil is responsible for anything that can be categorised as an unlawful act related to international trade. For some countries, this list might be shorter. For Brazil, a country with abundant natural resources such as pre-salt and oil, the economy and tax market right now is a goldmine. With Brazilian federal tax revenue reaching consecutive record highs and rising $37.75 billion in the last year alone, Dantas Cartaxo keeps busy.

Alfredo Gutierrez Ortiz-Mena

Head of Servicio Administración Tributaria

Alfredo Gutierrez Ortiz-Mena

As head of the *Servicio Administración Tributaria* (SAT), the Mexican tax authority, Alfredo Gutierrez Ortiz-Mena has been in charge of implementing some important reforms. For example, in June 2010, Mexican president Felipe Calderon issued a decree to simplify the tax code and ease the compliance burden on taxpayers. Gutierrez Ortiz Mena presided over a difficult 2009 for SAT, when the global financial crisis and its attendant decline in economic activity led to a severe decline in tax collection in Mexico. Despite this setback, SAT has been one of the most progressive tax authorities on a number of fronts.

For example, SAT has issued the highest number of advance pricing agreements in Latin America. The Mexican authorities also perform audits extensively and often, especially compared to most jurisdictions in the region.

The International Accounting Standards Board (IASB)

A private, London-based independent non-profit organisation, the IASB has set the accounting-bar high for multinationals around the world for almost 10 years. Since its founding in April 1 2001, the relatively new board has made great strides in developing and advocating the International Financial Reporting Standards.

IASB operates under the International Financial Reporting Standards Foundation (IFRS), which until May 2010, was known as the International Accounting Standards Committee Foundation. The IASB also frequently works in conjunction with Financial Accounting Standards Board (FASB), its US counterpart, to harmonise global activities.

The particular demands of the public interest, small and medium-sized entities (SMEs) and emerging markets are all carefully incorporated when the IASB is formulating its accounting standards. The highest quality, yet accessible and clear standards remain the board's end product. Universal financial statements and other financial reporting are achieved in an effort to provide companies with sound accounting standards that interact harmoniously with the demands of tax reporting.

In September of this year, the IASB advised the Ministry of Finance in India on reforming accounting standards for its SMEs. Adopting the board's simplified version of standards in India is expected to cut compliance costs for smaller companies. IFRS is due to take effect there from April 1 next year.

This October, the IASB encouraged several African countries to make progress on a groundbreaking adoption of IASB standards. At an IFRS conference, hosted by the South African Institute of Chartered Accountants (SAICA), South Africa and other countries in Africa announced their plans to implement the trusted IASB standards.

"To bring about convergence of national accounting standards and International Accounting Standards and International Financial Reporting Standards to high quality solutions" is the IASB's formal constitution. In layman's terms, the IASB creates high quality accounting standards that where possible conform with the structures of tax reporting.

Christine Lagarde

Minister of the Economy, Industry and Employment, France

Christine Lagarde

Christine Lagarde is the first woman to reach the position of finance minister in a G8 economy. That's not why she has earned herself a place on this list, however. Nor is the fact that *Forbes* magazine ranked her number 42 in this year's list of the world's most powerful women, or that she topped the *Financial Times's* list of EU finance ministers last year. Lagarde takes her place in this ranking because, as France prepares to run the G20 for the next year, all eyes will be on the country and its minister of the economy.

Born in Paris in 1956 and educated in law, Lagarde joined Baker & McKenzie in 1981. Lagarde climbed the ranks to become chairperson of the firm's executive committee in 1999 and in 2004 she took the same role with its global strategic committee. She did not stop there, however. The following year she joined the group of lawyers who have successfully crossed over into politics when she was appointed trade minister, turning her attention to expanding markets for France's technology sector. After a brief stint at the Ministry of Agriculture, she became minister of the economy, industry and employment in 2008.

A former member of the national synchronised swimming team, Lagarde faces some stormy waters ahead as she finds herself at forefront of France's global push for a Tobin tax on financial transactions. It is a divisive issue, and she is unlikely to find all of her fellow G20 finance ministers swimming alongside her, but Lagarde's talents leave her well positioned to make the strongest case for it.

Michelle Levac

Transfer Pricing Specialist, International Tax Division, Canada Revenue Agency; Chairperson, OECD Working Party 6 on Transfer Pricing

Michelle Levac

Michelle Levac has fine-tuned her already sharp tax skills for more than 15 years without limiting herself to just one area of international tax law. Not only is she a transfer pricing specialist for the International Tax Division of the Canada Revenue Agency, but she also chairs the OECD's Working Party 6 on transfer pricing and is a director of the Canadian Institute of Chartered Business Valuators. Levac specialises in analysing the arm's-length process for business equity evaluation and transfer pricing.

Other tax specialists and government officials in a variety of jurisdictions seek out her expertise when clarification is needed. Levac is a household name at the most prestigious tax conferences and forums in Canada and abroad.

Levac spoke at IECanada's [Canada's association of importers and exporters] Transfer Pricing Forum in May this year in Toronto and *International Tax Review*'s Global Transfer Pricing Forum in Amsterdam in September. She is close to the answers to many of the international tax market's most vital questions, such as what are the new transfer pricing aspects of business restructuring and what is deemed an acceptable comparability analyses practice?

Sander Levin

Chairman of the US House of Representatives' Committee on Ways and Means

Sander Levin

Sander Levin, a Michigan Democrat, of the US House of Representatives chairs the Ways and Means Committee, the House tax writing committee, during what have been some of the largest steps taken to reform US tax law to expedite economic recovery. The top Democrat has been one of the spearheads of the US's efforts to overhaul its economy. He has tackled tax reform head on, voicing strong stances on the proposed extension of George Bush's tax cuts, which primarily benefit the wealthy, the Creating American Jobs and End Offshore Act, which grants corporations significant tax relief if jobs are created in the US, and the American Recovery and Reinvestment Act of February 2009.

The Recovery Act reportedly salvaged or created up to 3.3 million jobs and garnered $243 million toward tax cuts, according to a Congressional Budget Office report.

On September 29 2010, Levin promoted and helped pass HR 2378, The Currency Reform for Fair Trade Act, in an effort to dismantle unfair currency exchange rate effects for small US businesses, such as those between the US dollar and Chinese yuan. By levelling the playing field, Levin is working diligently to put the US economy and tax market back on the map.

Levin was up for re-election on November 2.

Bob McDonald

Chairman, Fiscal Policy, Business Roundtable; Chief Executive Officer and Chairman, Procter & Gamble

Bob McDonald

As chairman of fiscal policy at the Business Roundtable, a group of chief executive officers of US corporations, Bob McDonald is a voice for the corporate community on significant tax policy matters. As chairman and chief executive officer of Procter & Gamble, the consumer goods company, he experiences their concerns firsthand.

McDonald is responsible for furthering the Business Roundtable's agenda by advocating for policies that will enhance US companies' competitiveness around the world. Naturally, a large component of these efforts includes arguing for a full and comprehensive overhaul of the international tax regime.

Procter & Gamble has publicly opposed President Obama's plans to lower corporate tax rates, as the loss in federal tax revenue would be need to be offset by increases in overseas taxes, which would cost companies billions. McDonald will be under pressure to deliver good news to Procter & Gamble shareholders as well: last year the company's sales rose less than expected, and McDonald will need to find a way to get boost the company's share price.

Oupa Magashula

Commissioner, South African Revenue Service; Chairman, African Tax Administration Forum

If you thought becoming commissioner of the South African Revenue Service in August last year would be enough for Oupa Magashula, then think again. Three months later he was elected as the chairperson of the African Tax Administration Forum (ATAF), during its inaugural conference.

With support from the OECD's Forum on Tax Administration, ATAF has brought together 30 tax administrations from across the African continent and seeks to provide skills training and to create a platform for African tax and customs administration to develop and share expertise and experience.

Oupa Magashula

Born in 1962, Magashula gained a BSc in Chemistry and Oceanography at the University of Cape Town and studied business management at UCT Business School. He began his career working for a trade union and gained extensive experience in the private sector, both in operations and human resources, having worked for Nampak, Sun International and Anglo Vaal Industries. Before joining SARS, he was human resources director at Telkom.

SARS is responsible for collecting revenue and ensuring compliance with tax law. Its stated goal is to be an innovative revenue and customs agency that enhances economic growth and social development, and supports South Africa's integration into the global economy in a way that benefits all citizens.

Magashula was promoted to the role of commissioner when his predecessor, Pravin Gordhan, became minister of finance. Now, heading the revenue service of Africa's largest economy, Magashula's place as one of the world's most influential people in tax is assured.

SSN Moorthy

Chairman, Central Board of Direct Taxes, India

SSN Moorthy

SSN Moorthy has been chairman of India's tax authority, the Central Board of Direct Taxes, since January 2009. After a series of interim chairmen, Moorthy took the helm of a department that was about to dramatically overhaul the country's entire tax system by introducing the Direct Taxes Code (DTC). The DTC replaces the country's old 1961 tax law and promises to make the system simpler, fairer and more efficient. The first draft of the DTC was released for public consultation last August and received much criticism. A second draft, issued in June, addressed a number of areas including the treatment of the minimum alternate tax (MAT), taxation of long-term savings, capital gains and general anti-avoidance rules. The MAT rate is, however, proposed to be increased from 18% to 20%. A new addition in the second draft was controlled foreign company (CFC) provisions. These will provide that passive income earned by a foreign company which is controlled directly or indirectly by a resident in India, and where such income is not distributed to shareholders resulting in deferral of taxes, shall be deemed to have been distributed. The document also confirmed that the MAT will be computed with reference to book profit instead of gross assets, the original proposal. An MAT credit has been reinstated and allowed to be carried forward for up to 15 years. The withholding tax rate has increased from 10% to 20%, both for royalty and fees for technical services.

Moorthy will oversee the implementation of the new tax code. Speaking exclusively to *International Tax Review* earlier this year, Moorthy said: "The 1961 law has become too cluttered and too many amendments were made. Business has changed significantly between now and then. The plan is that once the DTC is operational, then there will hopefully be no need to constantly adjust and update the law. This will improve taxpayer certainty."

Tom Neale

Head of unit, Company Taxation Initiatives, Taxation and Customs Union, Directorate General, European Commission

Tom Neale

Tom Neale leads the Company Taxation Initiatives unit in the Directorate General Taxation and Customs Union of the European Commission. His unit was formed in May this year when the former Analyses and Coordination of Tax Policies Unit was merged with the Common Consolidated Corporate Tax Base (CCCTB) Taskforce, which he led from its establishment in 2007.

Neale's unit now finds itself tasked with a daunting array of responsibilities including the Commission's work with the Joint Transfer Pricing Forum, the Code of Conduct Group, good governance with third countries, work on double taxation and EU company tax legislation. With Algirdas Semeta, the new commissioner for Taxation and Customs Union, Audit and Anti-Fraud, prioritising the development of a CCCTB, despite the scepticism of taxpayers and tax advisers about the feasibility of the project, Neale is set to be very busy indeed.

Neale joined DG Taxation & Customs Union in 2000 and worked on a range of internal market and company taxation issues including the Company Tax Report in 2001 and the initial work on the CCCTB.

In his past life, Neale spent close to a decade working in BP's tax department in London and Brussels, and before that trained as a chartered accountant with KPMG. Devoting a lifetime to tax may seem a strange career choice for someone who studied English literature at the University of Newcastle upon Tyne in the north-east of England. In the next few years, taxpayers will find out how influential Neale is to how they do business.

Jeffrey Owens

Director, OECD Centre for Tax Policy and Administration

Jeffrey Owens

When it comes to international tax policy, finance ministers and heads of state tend to grab all the attention. But behind the scenes, there is always a busy team of civil servants beavering away. Since completing his doctoral work at Cambridge University, Jeffrey Owens has spent 30 years as a civil servant, working with countries around the world to develop tax rules to encourage cross-border trade and investment.

As the director of the OECD's Centre for Tax Policy and Administration, a post he has held for more than 15 years, Owens finds himself hopping between international conferences and business seminars and providing technical expertise and support to the Organisation's Committee on Fiscal Affairs.

Double taxation, international tax ambiguities, unresolved tax disputes, high tax rates, narrowly defined tax bases and widespread non-compliance are just a few of the issues that Owens and his team deal with on a daily basis. As an international civil servant at the OECD in Paris where he has turned his attention to the ever more intricate tax implications of globalisation on national economies, Owens's expertise is crucial.

Having tutored at his former university and the American University of Paris, been a visiting fellow at Bocconi University in Italy and Queen Mary's College in London, published numerous books and articles, and led the OECD's attempts to take on tax havens and banking secrecy, the list of things Owens has not done for tax seems shorter than the things Meatloaf would not do for love.

But with the announcement that he is retiring as the OECD's tax director in January 2012, Owens will leave behind some big boots to fill.

Douglas Shulman

Commissioner, US Internal Revenue Service

Douglas Shulman

An early advocate of using international cooperation to fight tax evasion, Shulman has used his position as commissioner of the IRS and chairman of the OECD's Forum on Tax Administration to bring these issues to the forefront of the global tax community. Since he was sworn in to his position at the IRS in March 2008, Shulman has overseen some of the most far-reaching and controversial programmes that his organisation has undertaken in recent memory. In January 2010, Shulman unveiled Schedule UTP, the form that corporate taxpayers of a certain size must use to report their uncertain tax positions. Since that time, he has been defending the form as a tool for more effective tax enforcement and more efficient audits. He has also overseen the reorganisation of the IRS' Large and Midsize Business division into the Large Business and International Division (LB&I), which aims to focus on international issues that are regularly affecting multinational taxpayers, particularly transfer pricing.

Taxpayers will continue to look to Shulman, especially as they begin to prepare for the implementation of the Foreign Account Tax Compliance Act (FATCA). In fact, Shulman has acknowledged that he hopes similar measures will catch on in other jurisdictions. His position as the chairman of the OECD's Forum on Tax Administration may help propel this from a hope into a reality.

Shulman will also be integral to any forthcoming OECD efforts to implement a programme for joint audits. Naturally, this will ensure Shulman's relevance for the international tax community for the foreseeable future.

Supreme Court of India

Supreme Court of India

Anyone involved in international tax would be lying if they said they had not been following the continued Vodafone India dispute. The case is well-known and revolves around the $2.5 billion tax bill the tax authorities insist Vodafone owes after buying a majority stake in a local company. At the time of going to press, the Supreme Court of India had just delayed hearing the final round of this much-argued debate. As India's final legal authority, much pressure has been placed on the court to make a decision that will satisfy the taxpayer or the authorities while also ensuring that its decision will not adversely affect investment into the country. The world is eagerly watching.

India is known around the world over as one of the most litigious countries to operate in and it would be hard to find any taxpayer in the country who has not had a run-in with the authorities over a tax dispute.

The decisions of the Supreme Court are binding on all lower courts and decisions act as precedents to all future cases. But with India about to experience a shift to a completely new tax system in the shape of the Direct Taxes Code (effective from April 2012), the decisions of the Supreme Court have brought about an extra importance as many are turning to it to act as an authority on certainty. The decision of the court has immediate and lasting effects on the way companies operate in India.

In September the court held that any payments made to non-residents will be subject to withholding tax only if such payments are chargeable to tax in India.

The case involved GE India and follows another Supreme Court decision in the Samsung case earlier that month.

GE imported, and paid for, pre-packaged shrink wrapped standardised software from Microsoft and other suppliers outside India.

The Indian tax authorities argued that the payments for supply of software were the same as licence fees and were in the nature of royalty. These royalty payments were deemed to accrue or arise in India, which made GE liable for withholding tax.

In the Samsung case, the Supreme Court overturned an earlier decision of the Karnataka High Court, ruling that withholding tax is applicable only where the income is chargeable to tax and not otherwise.

Tax Justice Network

Campaigner

Bruno Gurtner

Richard Murphy

Co-founded in 2003 by British accountant turned campaigner, Richard Murphy, and Bruno Gurtner, a Swiss economist, the Tax Justice Network brings together academics, accountants, economists, charities, non-governmental organisations (NGOs), faith groups, journalists, lawyers and trade unions from around the world, all united in the common cause of tackling tax havens and tax evasion.

Quick to criticise harmful tax practices and companies relocating for tax avoidance purposes, the Tax Justice Network pushes for reform at national and global levels to close tax loopholes.

The network aims to raise awareness about financial secrecy; promote links between interested parties around the world, particularly in developing countries; stimulate and organise research and debate; and encourage and support national and international campaigning on tax justice.

The Tax Justice Network is pushing for a simple, low-cost change in international financial reporting standards for corporations that would dramatically increase transparency in global finance. Key to this is their campaign for country-by-country reporting.

It is conducting a study, supported by the Ford Foundation, to map the mechanisms and jurisdictions facilitating flows of illicit money across borders, and has recently turned its attention to transfer pricing.

It has created a financial secrecy index which identifies the jurisdictions that are most aggressive in providing secrecy in international finance, and which most actively shun co-operation with other jurisdictions, weighting them according to the scale of cross-border financial services activity that it hosts.

"The OECD listing process has been a shambles for many years, which they should now abandon and replace with a financial secrecy index," says director John Christensen. "The latter is both more transparent and politically neutral, making it an altogether better tool for assessing and ranking these places."

Tax justice used to be the preserve of charities and hardened activists with beards. Now, after the economic turmoil, with national debts and deficits spiralling out of control, cracking down on financial secrecy and tax avoidance has entered the political mainstream. The Tax Justice network exists to ensure it stays there.

UN Committee of Experts on International Cooperation in Tax Matters

Since 2005, the UN Committee of Experts on International Cooperation in Tax Matters has held a five-day annual meeting in Geneva to share and unify their global tax policy and tax administration expertise. Different governments nominate their brightest officials to serve on this committee. The secretary-general of the committee approves each representative as a member for a term of four years. In total, 25 tax officials make use of their government experience to collaborate and promote the common goal of a unified, world tax market.

The committee was founded on strong mandates that illustrate the group's goal to work as one. Less developed and developing countries are its great concern, not just superpowers. The group dedicates its brief, yet jam-packed five day session to discussion and decisions about the UN Model Double Taxation Convention between Developed and Developing Countries. Enhancing communication between a diverse range of tax systems is a priority. International cooperation between even polar opposite tax systems is key. Emerging issues in tax frame-works from one end of the globe to the other are considered in depth. Representatives from more developed countries willingly lend their technical and non-technical support to less developed countries, and countries in transition.

UN Committee of Experts on International Cooperation in Tax Matters

When the annual meeting concludes, the committee collectively submits a report on the work done to the Economic and Social Council (ECOSOC), the central organ created under the UN Charter to organise economic, social and related work.

The committee covers a laundry list of crucial tax issues in five days that others take years to even broach. Rather than self-promoting own jurisdictions, this committee tries to put into practice the realisation that unity will empower their individual countries more than anything.

Xiao Jie

Commissioner of the State Administration of Taxation, China

Xiao Jie

Xiao Jie has been the commissioner of the State Administration of Taxation (SAT) since August 2007. He joined the Ministry of Finance after graduation and had been working there for the previous 23 years. Formerly, he was the deputy minister of the Ministry of Finance before being appointed as the deputy governor of Hunan Province in July 2005.

As with his international counterparts, Xiao is responsible for draft tax laws and regulations, formulating detailed implementation rules for tax laws and regulations, putting forward suggestions on tax policies, and together with the Ministry of Finance, reviewing the suggestions and submitting them to the State Council.

One of the most controversial tax rules issued under the watch of Xiao has been the much-talked about circular 698. Released at the end of last December, circular 698 caused much debate as it gave the tax authorities the power to investigate transactions involving the indirect transfer of shares dating back to 2008 while requiring taxpayers to report any indirect transfers within 30 days of completion.

The SAT in June collected the largest single amount from an indirect transfer of a China enterprise since the controversial declaration was issued.

The case related to a globally-recognised multinational investment group paying Rmb173 million ($25.4 million) in taxes to the tax authority in the city of Jiangdu, in the eastern province of Jiangsu to the south of Shanghai. The payment is likely to make taxpayers start thinking twice about their tax planning strategies.

The investment group owned a subsidiary in Hong Kong known only as HoldCo which in turn owned a 49% interest in a joint venture in Jiangdu. In January 2010, the seller transferred its interest in HoldCo to the subsidiary of a US company. China tax was levied on the transfer.

The Xilinx Tax Department

The Xilinx Tax Department

The case of *Xilinx v Commissioner* was landmark transfer pricing litigation that changed the tax landscape for multinational corporations. The controversy produced a decision that many tax professionals feel considerably strengthens the arm's-length standard. At the centre of the case was the in-house tax counsel and the tax team for Xilinx, a technology company.

First, the Tax Court ruled that the company did not have to contribute to the costs of employee options in a cost-sharing arrangement with its Irish subsidiary, since parties operating at arm's-length would not have shared the amounts in question either.

The Ninth Circuit first issued an opinion, later withdrawn, that reversed the Tax Court. In a subsequent, *en banc* hearing however, the Ninth Circuit reversed itself and affirmed, in early 2010, the lower court's opinion in favour of Xilinx. The court agreed with the argument advanced by Xilinx, that "purpose is paramount" in interpreting the legislature's intent in drafting the statute. The case will have far-reaching implications, for example, for intercompany transfer pricing, FIN 48, and interpretation and application of the arm's-length standard, among other areas.

The Xilinx team received the in-house tax team award at the fifth annual *International Tax Review* Americas Awards in September 2010.

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