THE CORIT POINT OF VIEW

Volume 5 November 2016



Editorial

Dear reader,

Welcome to the 2016 edition of The CORIT Point of View. For the newcomers, the publication is not a newsletter in its traditional sense, but contains technical and academic information produced in the past year as well as other information about the many activities of CORIT. Producing research based knowledge is deeply rooted in our corporate values.

The ambition of *The CORIT Point of View* is to keep you informed on recent and future activities by providing overview and easy access to a selection of recent publications and presentations. You can find the articles and presentations simply by clicking the below titles. The content is made available on an ongoing basis via our webpages:

www.corit-advisory.com and via our LinkedIn groups CORIT Academic and CORIT Advisory.

Before we present the production of the CORIT network, we find it relevant to take a glance at the current international tax landscape.

We live in a time where the media, politicians, NGOs and activists increasingly are preoccupied with international tax matters. A simultaneous preoccupation is observed among the OECD, G20, EU countries and most other developed countries alike. This has led to continuously increasing regulatory requirements and strengthened legislation towards companies. The tendency is clear – we are moving towards full transparency in tax matters, including information on taxes paid. Moreover, fairness in taxation or fair share taxation has become the buzzword of current times among certain policy makers. In sum, taxes are moving up the political and soci-etal agenda. International business has become increasingly exposed towards this tendency, where coun-tries around the globe for some time now have been fighting over declining tax revenues.

Following the OECD BEPS finalization, the actual implementation measures continue to receive a lot of attention globally. We are still certain that the BEPS project will ultimately lead to increased burdens in terms of compliance, increased risk of double taxation and increased legal uncertainty of which we are only just witnessing the first results.

Some may think that the rapid developments in international tax are bewildering and frustrating. At CORIT we consider ourselves lucky to live in such times, where international tax is moving up the global agenda,

Upcoming events

CORIT Seminar on International Group Taxation for in-house tax teams, CFOs etc.:

19 January 2017, 9-12
24 January 2017, 9-12
8 February 2017, 9-12

NB: Limited seats are available and the seminar includes a fee of DKK 3,000.

Sign up by contacting Louise Fjord Kjærsgaard: lfk@corit.dk



since international tax happens to be our passion and livelihood.

The below selection of our activities, demonstrates that we continue to experience an increased focus on tax risk management, tax policy and tax strategy initiatives within MNE's. Similarly, we continue to see that our transfer pricing efforts take up more and more time in light of tightened legislation in several jurisdictions.

Moreover, we have been involved as consultants for the European Commission regarding the January 2016 Anti Tax Avoidance Package.

With the re-launch of the C(C)CTB Directives and the Tax Dispute Settlement Directive, we foresee that EU law inevitably will move further up the tax agenda and we maintain our dedication to EU law issues.

In order to be a knowledgeable advisor also in the future, we at CORIT are fully embracing the technological age. We are witnessing new business models that challenge the existing tax system and may cause opportunities as well as risks and uncertainties for companies engaging in digital activities. In light of this, CORIT has launched an ambitious project to understand the tax challenges of the digital age and to provide clever solutions.

As always, we welcome any comments and business proposals.

Without further ado, please enjoy the CORIT Point of View.

Team developments

We are very proud that CORIT has been strengthened in 2016 with the appointment of Karin Skov Nilausen and Louise Fjord Kjærsgaard.

Karin Skov Nilausen

Karin has obtained extensive experience working as a lawyer, tax consultant, tax director and tax official for more than 20 years and is widely considered a capacity within a number of important and complex areas of tax law. In 2005 she succesfully defended her Ph.D., on international dispute resolution. Further, her areas of expertise include international tax, EU law, and transfer pricing. She has i.a. taken part in the negotiations regarding the transfer pricing related BEPS reports and have handled large transfer pricing cases.

Louise Fjord Kjærsgaard

Louise holds a master degree in commercial law and business administration. Louise is specializing in international tax, corporate tax and

the tax consequences of the digital economy.

We consider the advent of Karin Skov Nilausen and Louise Fjord Kjærsgaard to be a perfect match and foresee great results from our cooperation.

News

2017 Ranking in World Tax and World Transfer Pricing

Although often asked, CORIT Advisory has decided not to pursue company listings in the broad range of directories offered to the market by firms aggressively benefitting from the vanity of fellow advisors. However, we do find the International Tax Review directory (World Tax – The Comprehensive Guide to the World's leading tax firms) to be sufficiently serious and thorough and have pursued a listing in this directory.

In the recently released 2017 raking, we have made it to Tier 2 for Tax as well as Transfer Pricing as the only boutique firm.

Although we mainly provide services to Tier 1 companies, we are satisfied with this ranking, in light of our young age and small size. We are accompanied in this Tier by firms 50 times our size with decades in the market. However, we are determined to achieve a Tier 1 ranking through hard and dedicated work in the coming years.



The 2017 ranking is found here: http://www.itrworldtax.com/countries/denmark/dk#/rankings

CORIT received the following analysis: *[...] The team offers consulting services in a wide range of tax areas, although the main focus is on complex and international tax matters.*

The firm provides strategic advice to multinational enterprises in the offshore, extractive, financial, energy and software industry sectors and prioritises technical competence. Another key branch of work is reviewing work for Big 4 firms and giving second opinions.

[...] Clients and peers spoke highly of the team for its high technical level and strong focus on quality. One client said: "CORIT has a special position in the Danish tax advisory market. They are independent and they have a strong focus on high quality from an academic perspective. Furthermore, they have a flexible delivery model enabling both high quality and speed.
on your internal analysis.

Consequently, CORIT is my preferred provider on second opinions, typically on your internal analysis.

Similarly we maintained our transfer pricing ranking as a leading firm in Tier 2 of the World transfer pricing directory:http://www.worldtransferpricing.com/Denmark/CORIT-Advisory.html

CORIT received the following analysis: *The team of nine dedicated professionals assists clients on classic transfer pricing matters including identification and pricing of intercompany transactions, implementation of strategies, formulation of official multinational policies, documentation, dispute resolution and APA filing and negotiations.*

[...] The firm is unique as it is fully independent and is not part of a law or accounting firm. It relies on aca-demia and the team's strong technical expertise, as well as running a think-tank on international tax matters, which publishes articles and books as well as offers training courses.

Member of the Danish Tax Law Council

Jakob Bundgaard has been appointed member of the Tax Law Council (Skattelovra det) set up by the Danish Minister of Taxation for four years.

The members of the council are leading financial and legal experts who have been asked to assess whether the current tax law is timely and simple.

Member of the editorial board of Nordic Tax Journal

Michael Tell has become a member of the editorial board for the Nordic Tax Journal, which is ranked as a top journal within the Nordic countries. The content of the journal is high-quality research on topical tax -related issues, from both legal and economic perspectives.

Publications

Books

Hybrid Financial Instruments in International Tax Law (The book is available on Wolters Kluwer's wepage.)

Articles

Taxation of Controlled Foreign Companies in Context of the OECD/G20 Project on Base Erosion and Profit Shifting as well as the EU Proposal for the Anti-Tax Avoidance Directive - An Interim Nordic Assessment

Screening of the corporate income tax systems of EU member states for aggressive tax planning

Kommissionens forslag til et Anti-Tax Avoidance Directive



Tax Avoidance Revisited: Exploring the Boundaries of Anti-Avoidance Rules in the EU BEPS Context

Taxation of Income in Foreign Trusts: Denmark Introduces a New Anti-avoidance Rule Targeting the Use of Foreign Trusts

Study on Strucures of Aggressive Tax Planning and Indicators

Proactive Public Disclosure: A new regulatory strategy for creating tax compliance?

Tilknytning til erhvervsmæssig virksomhed eller ej? – Fradrag for fysiske personers tab pa finansielle kontrakter

Strategic Control of Transfer Pricing in a BEPS Context

Kommentarer til udvalgte afgørelser SKM2015.634.SR og SKM2015.644.SR – fast driftssted

International skatteret 2015 - 2016

Kommenterede udvalgte afgørelser SKM2016.281.HR – Rette indkomstmodtager og udbytte

Løsning af internationale skattetvister

Kvalifikation af betaling for cloud computing efter OECD's Modeloverenskomst

Kluwer International Tax Blog

CORIT Advisory has been blogging on international tax law at Kluwer International Tax Blog. In 2016 we have published the below blog posts:

When Tax Matters Affect Corporate Reputation – Tax Strategy as a Relevant Tool for the Era of Transparency and "fair" Taxation

Understanding the EU Anti Tax Avoidance Package – Study on Structures of Aggressive Tax Planning and Indicators

Uncertainties Following the Final EU Anti-Tax Avoidance Directive

Presentations

The EU Anti Tax Avoidance Directive

Aktuelle skattesager ved EU-domstolen

EU-rettens pa virkning af skatteretten

Ledelsens sæde og fast driftssted

The EU's Common Framework for Implementing the OECD/G20's BEPS Recommendations

Skattenyheder fra Danmark: Dansk-Svensk Skattenetværk

Afgørelse vedr. nettolempelsesprincippet i LL § 33 F (Vestas)

Hvordan undgas tvister og dobbeltbeskatning?

Særlige krav til revision og skattera dgivning af virksomheder af interesse for offentligheden

International Dispute Resolution

EU Initiatives Regarding Aggressive Tax Planning

BEPS Tax Dialouge

LES IP Rights and Tax

Proposal for the EU Anti Tax Avoidance Directive

Danish Transfer Pricing Rules in an International Context

The BEPS Aftermath – IFA Nordic Conference, Berlin

Tax Residence – IFA Nordic Conference, Berlin

Koncernseminar 2016

International Tax Planning

Skatteverket – International Tax Planning



EU-skatteretten i en dansk kontekst – Erfaringer fra de første 30 a r

Det indre marked og de direkte skatter – en illusion?

Kvalifikation af betalinger for cloud computing efter OECDs modeloverenskomst

Discussion Paper No. 17. 2016, Trends in Financial Market Innovations: The Role of Taxes

Discussion papers

CORIT has launched a comprehensive project in international tax law and the digital economy.

Work in progress

The focus will be on the various challenges that companies face in their daily business operations but in particular the following topics will be on the agenda;

- The importance of intangibles;
- Permanent establishments;
- The sharing economy;
- Transfer pricing, and
- Qualification of payments.

The project will among other things include seminars, work shops and academic articles on the various topics.

A monograph on Taxation of Oil & Gas in Denmark (Bundgaard & Dyppel Weber). Expected in 2017.

Tax-Avoidance Revisited: Exploring the Boundaries of Anti-Avoidance Rules in the EU-BEPS Context – Danish National Report, in "EATLP International Tax Series. (Eds. European Association of Tax Law Professors, International Bureau of Fiscal Documentation, Bundgaard & Schmidt).

Corporate Tax Residence and mobility - Danish National Report to the EATLP Conference 2017 (Schmidt & Laursen).

Anti-tax avoidance direktivet er nu en realitet – Nye værnsregler og flere tvister i vente i EU, SR-Skat, 2016 Karnov Group, Bundgaard & Schmidt).

Den digitale økonomi som skatteretlig udfordring, (Schmidt).

Interest Limitation Rules from a Global Perspective (Tell).

State Aid and Tax Law – A European Approach to Tackle Aggressive Tax Planning (Tell).

Internet advertisement and cloud computing as a business model and a challenge to the current tax system (Kjærsgaard & Jørnsga rd).

Upcoming seminars

CORIT is planning to arrange a number of seminars during 2017, including:

On 1 December 2016 Peter Koerver Schmidt will speak at the annual International Tax Conference at Copenhagen Business School. Peter's presentation is titled: "The Digital Economy and International Tax Law – Main Challenges and Possible Solutions".

Seminars on International Group Taxation in the beginning of 2017.

A seminar on the recently re-launched C(C)CTB Directives and the proposed Tax Dispute Settlement Directive co-arranged with A. P. Møller Mærsk in the spring.

A seminar on transfer pricing and the consequences for MNE's transfer pricing setup due to BEPS and the changes in the guidelines.

A seminar on the taxation of hybrid financial instruments.

Seminars on the tax aspect of the digital economy.

Information about the seminars will be available on our webpage.

Other activities

In winter/spring 2016 Peter Koerver Schmidt made a research stay at New York University, School of Law (The International Tax Program). During this stay Peter mainly carried out research on Nordic CFC taxation in context of the OECD BEPS project and the EU Anti- Tax Avoidance Directive. Moreover, Peter gave a guest lecture related to this topic.

In 2016 Michael Tell was part of a series of panel discussions on tax havens and the European Union. The panels consisted of MEP's and MP's as well as NGO's and economists.

Further, Michael Tell was part of the Tax Dialogue, which is a multi-stakeholder dialogue to understand the challenges and opportunities around tax and corporate responsibil-ity for the private sector.

Michael Tell gave a series of presentations on international tax trends for corporations and the public as part of the Danish Research Festival.

Thank you all for a splendid 2016!

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About CORIT Advisory and CORIT Academic

CORIT Advisory is a boutique firm specializing in international tax. Our finest ambition is to assist businesses address, manage and mitigate tax risks in a rapidly changing global environment. We offer a unique combination of practical and applicable tax advisory services with the knowledge and insight of academia. CORIT Advisory assists domestic and foreign corporations (including MNEs), private equity funds and investment banks.

CORIT Advisory provides high quality services within a specified area of expertise. Our areas of expertise fall within certain specified categories: international corporate tax, corporate finance & financial instruments, strategic tax advice and tax policy, tax controversy, private equity and energy (oil & gas). Our tax advisory services are based on a thorough business and framework understanding, a true advisory approach (Not a sales agenda), relentless focus on quality and technical competences, independence and a truly international perspective. Our services comprise: tax planning, tax policy & strategies, tax risk mitigation, day to day managing of uncertainties, project consultancy (short or long term), reviews, opinions, rulings, controversy and reputational issues.

CORIT Academic is an independent non-profit think tank in the northern part of Europe and has been admitted to the OECD Network for Tax Research. Members and the network of CORIT Academic include scholars and practitioners from different parts of the world. CORIT Academic is cross-disciplinary by nature and thus encompasses the research areas of international tax law, tax policy and tax management. The main objectives are to provide research of a high international standard which focuses on the problems and issues within the field of taxation faced by policymakers and businesses in an international setting.

The CORIT Group seeks to obtain impact on international matters through involvement at universities, in international organisations such as OECD, IFA and EATLP. Moreover, we aim at working with leading companies and organisations.