THE CORIT POINT OF VIEW

Volume 6 December 2017



Editorial

Dear reader,

Welcome to the 2017 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* or (*CPOV* as we call it ourselves) 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 most relevant to take a glance at the current international tax landscape and the most recent developments.

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 UN countries alike. This has led to continuously increasing regulatory requirements and strengthened legislation. 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 have become the buzzwords of current times among certain policy makers. In sum, taxes are moving up the politi-cal and societal agenda. Interna-tional business has become increas-ingly exposed towards this tendency, where countries around the globe for some time now have been fighting over declining tax revenues.

The pace of changes in the international tax landscape has been incredible and has resulted in significant reforms. Possibly, also the US will now finally follow suit with an ambitious international tax reform, which may impact the global economy.

Since the publication of OECD BEPS reports, the Multilateral Instrument (MLI) has been signed. This is by all measures a big thing in international tax and a first of its kind, which we expect will be of great importance in the years to come.

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. The most recent adoption of the EU Tax Dispute



Settlement Directive may sooth this to some extent if it becomes an efficient MAP tool.

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 since international tax happens to be our passion and livelihood.

Yet another year has passed and we have had a successful and busy year according to all standards. At CORIT Advisory, we experienced the privilege of celebrating our 5-year anniversary in 2017, with clients and friends as well as internally. We feel humble and grateful and are ready to work even harder to continue our success.

Our professional efforts continue to lie within international tax in a broad sense. This continues to include EU tax law, tax treaty issues, tax risk management, tax policy and tax strategy initiatives within MNEs. Similarly, we continue to see that our transfer pricing efforts take up more and more time in light of tightened legislation and increased activity in several jurisdictions.

Last year we announced our increased focus on the digitalization of the economy and digital business models. Such business models challenge the existing tax system and may cause opportunities as well as risks and un-certainties for compa-nies engaging in digital activities. At the same time, the digitalization of the economy is turning into the lat-est front in the international tax bat-tle, where populistic rhetoric is used among policymakers around the globe, which is not evidence based and not in accordance with tax policy standards. Our commitment to this agenda has grown even stronger in 2017 and will continue to do so, in order to understand the tax challenges of the digital age and to provide clever solutions. Consequently, we are advising, lecturing, publicly speaking, writing and researching on this topic.

Without further ado, please enjoy the newsletter.

Team Developments

We are very proud that CORIT Advisory has been strengthened in 2017 with the appointment of:

Lars Bo Aarup

Lars specializes on corporate tax and international tax and works with a wide range of our clients.

Rasmus Tjørneskov Jensen

Rasmus assists on corporate tax and international tax and works with a wide range of our clients while also providing internal service.

Amanda Emilie Matthiesen

Amanda assists on corporate tax and international tax and works with a wide range of our clients while also providing internal service.

Manfred Sjö

Manfred specializes in transfer pricing and works with a wide range of our clients while also providing internal service.

Louise Fjord Kjærsgaard

In addition, our associate Louise has been enrolled as a Ph.D.-scholar at Copenhagen Business School. Louise's research topic is the digitalization of the economy with a specific bearing on blockchain technology and qualification of international transactions regarding cloud computing and 3D printing.

Upcoming events

CORIT Seminar on:

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

Covers the latest tendencies and developments within international taxation of relevance to MNE's.

31 January 2018, 2-5 pm
7 February 2018, 9-12 am
27 February 2018, 2-5 pm

See the program here.

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

Sign up by contacting Rasmus Tjørneskov Jensen (rtj@corit.dk)



News

2018 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. How-ever, 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 list-ing in this directory.

In the recently released 2018 ranking, we have maintained our Tier 2 rank for both Tax and 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 very large firms 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 2018 ranking is found here: www.itrworldtax.com

CORIT received the following analysis:

"[...] The firm is fully independent and offers a wide range of advice, with strengths in complex cases and international tax matters. The practice increasingly advises multinational companies from key sectors.

*Another prominent partner is **Katja Dyppel Weber**, one of the leading experts on derivatives and tax matters, who has been engaged by banks in major tax disputes. Recently, CORIT Advisory conducted a study on aggressive tax planning for the European Commission. Bundgaard is a permanent member of the Danish tax law council.*

CORIT [professionals] *love what they do and it shows both in the technical level of their advice and the desire to deliver an outstanding service every time," said one client. "They are very flexible and nimble and can adapt to the specific needs of any company in a specific case. And it is obviously always nice not to have to deal with all the compliance hassle and formalities."*

Similarly, we maintained our transfer pricing ranking as a leading firm in the World Transfer Pricing directory: www.worldtransferpricing.com

CORIT received the following analysis:

"[...]*CORIT is fully independent and relies on the team's strong technical and academic expertise to provide advice on TP* [...]"

"[...]CORIT advises clients on pricing of inter-company transactions, implementation of strategies, formulation of multinational policies, documentation, dispute resolution and APA negotiations. The firm also offers advice on tax structuring to help clients prevent and resolve disputes and optimize their value chain in a cost-efficient manner."

Publications

Books

In 2017, the following books have been published by team members:

- Hybrid Financial Instruments (Ex tuto publishing, 2017, Bundgaard) as a promotional version. For those interested in receiving a complimentary copy please contact Jakob Bundgaard (jb@corit.dk).
- Lærebog om indkomstskat, 17. ed., 2017 (Nørgaard Laursen, in Michelsen et al.).

Articles

In 2017, the following articles have been published:

- Convertible Debt Instruments in International Tax Law Part 1.
- Convertible Debt Instruments in International Tax Law Part 2.
- Kommentarer til den første afgørelse om den danske omga elsesklausul.
- Transfer pricing.
- International skatteret 2016-2017.
- Kommentarer til udvalgte afgørel-

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ser – Tilflytning og fuld skattepligt: hvad ligner egentlig ferie? (SKM2017.180.LSR) .

- Interest Limitation Rules in the Post-BEPS Era.
- Tynd kapitalisering – EU-retlig uforenelighed af danske regler i Masco C- 593/14.
- Innovation, entreprenørskab, vækst og kampen mod skatteundga else – justeret fokus i kommissionens harmoniseringsbestræbelser pa selskabsskatteomra det.
- Kommentarer til udvalgte afgørelser - Avancebeskatning ved afsta else af aktier i udenlandsk selskab, EU-retten og tredjelande (SKM2016.154.SR).

Blog posts

- The need for companies to have a tax strategy.

Presentations

- International Tax Planning.
- The ATA-Directive and the GAAR.
- Taxing Digital Business Activities.
- Hard to value intangibles, The Multilateral Instrument, and The EU Tax Dispute Resolution Directive.
- Transfer pricing afgørelser og den nye omga elsesklausul i LL § 3.
- Kontrol i dansk skatteret.
- UK Mandatory Disclosure of Tax Strategies and Hybrid Financial Instruments.
- A.P. Moeller-Maersk and CORIT Advisory's joint seminar on the C(C)CTB Directive.
- CFC Legislation – An EU, BEPS and Nordic Perspective.
- Introduktion til CCCTB-Direktivforslag 2016.
- Skatteudfordringer 2017 – Fast driftssted og BEPS.
- Timing of Taxable Events.
- Kulbrintebeskatningsloven kapitel 3 B.

Work in progress

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

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Books and reports

A monograph on Taxation of Oil & Gas in Denmark (Bundgaard, Dyppel Weber and Aarup).

International skatteret (Michelsen, Svendgaard Dalgas og Nørgaard Laursen).

CORIT team members have been appointed as national reporters for Denmark for the 2018 IFA conference on both congress topics; witholding taxes and anti avoidance measures as well as for the 2019 IFA congress on the topic; interest deduction limitation legislation.

Danish national report on "Corporate Tax Residence and mobility" for the 2017 EATLP congress in Lodz (Nørgaard Laursen and Schmidt).

Danish national report on "Tax Transparency" for the 2018 EATLP Congress in Zurich (Tell).

Articles

Skattemæssig behandling af bitcoins og bookcoins (Kjærsgaard and Dyppel Weber).

Afsta elsesbeskatning ved flytning af DEMPE-funktioner (Bundgaard and Kjærsgaard).

The recent ECJ Eqiom decision Case C -06/16 (Bundgaard, Tell, Schmidt, Aarup and Nørgaard Laursen).

Case law on the PSD GAAR (Bundgaard, Kjærsgaard and Aarup).

Digital Intermediary Platforms (Schmidt and Kjærsgaard).



Danmarks DBO'er i et historisk perspektiv (Schmidt).

Permanent Establishment for Private Equity Investors (Schmidt).

Mellem brug og misbrug: hvor GAAR grænsen – nogle kritiske bemærkninger til SKM2017.333.SR (Nørgaard Laursen).

Retserhvervelse (og afsta else) af aktiebaserede aftaler (Dyppel Weber).

Other activities

During the summer of 2017, we had the absolute pleasure of hosting the 5 year celebration of CORIT Advisory with a selected crowd of friends of the firm. We can honestly say that this evening was one to remember.

Thank you to all participants and other people who have contributed to realizing our ambition of being a top notch independent tax boutique firm.

On 23 January, Jakob Bundgaard participated in Doctoral defence of Jari Burmeister, Uppsala University on the topic of recharacterization within transfer pricing.

Peter Koerver Schmidt was a speaker and panelist at the IFA Congress in Rio (27 August - 1 September), on recent trends in the international tax law.

In the spring of 2017, Michael Tell carried out a research stay at University of British Columbia, Vancouver, and further in the fall of 2017 went on to carry out a research stay at New York University, School of Law (The International Tax Program). During his stay Michael mainly carried out research on interest limitation rules as well as exit taxation and the EU Anti-Tax Avoidance Directive.

On 27 April 2017, our managing director of CORIT Advisory, Jakob Bundgaard was awarded the prestigious Karnov Tax Prize. Read more about the Karnov Tax Prize here.

The prize is awarded to a specialist who has contributed significantly to the development of the field of tax law. The prize was publicly revealed at an event taking place at the Danish Natio-nal Museum, where the announcement and motivation was presented by Sup-reme Court Judge, Lars Apostoli and the prize was presented by the Danish Minister of Taxation, Karsten Laurit-zen. We are humbled of this recogniti-on, which clearly reflects our relentless focus on technical skills and the inter-action between academia and private practice. We are thankful and will work even harder to deserve the re-cognition.

On 30 August 2017, Karnov Gruop published a portrait of our managing director of CORIT Advisory, Jakob Bundgaard. Read the portrait here.

Thank you all for a splendid 2017!

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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, digitalization of the economy 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 in-ternational 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.