THE CORIT POINT OF VIEW

Volume 9 November 2020



Editorial

Dear reader,

Welcome to the 2020 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 activities of CORIT.

The ambition of The CORIT Point of View – or CPOW as we call it our-selves – is to keep you informed on recent and future activities by provid-ing 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 webpage with the kind con-sent of our publishers. Visit www.corit-advisory.com and our LinkedIn group CORIT Advisory to explore the sources. Producing and communicating research-based knowledge is deeply rooted in our corporate values.

Once again let us take a glance at the current international tax landscape and the most recent developments.

In 2020, we have faced a new challenge in the form of a pandemic – COVID-19. Most areas of life as we know it have been affected, and the world still awaits the breakthrough in fighting the virus. We sympathize with those having been affected the most, families and individuals but also the business owners having to shut down their businesses and potentially see their livelihood perish.

On the global tax scene, 2020 has been an unparalleled year. All conferences and travel activities have been banned and the venues we usually attend to meet and greet our colleagues have not taken place. This is clearly reflected in our annu-al production in terms of conference papers and lectures, which is lower compared to a normal year at CORIT. We have seen a rise in online meetings and online conferences. Albeit, we find this a tolerable substitute, we surely miss the real thing.

Amidst the pandemic, taxes can also play a crucial role in the well-being of global businesses. Significant potential tax consequences from the changed travel patterns and people being trapped under lock-downs, have caused tax issues to arise. To mitigate this, the OECD Secretariat stepped up and released their - to some extend - business friendly interpretation of tax treaty provisions, which advocate that force majeure conditions should not change the tax treatment in certain scenarios.

In addition to this, rest assured that many other tax issues will occur in the years to come, as a direct or indirect consequence of the pandemic.

Currently, countries and supranational bodies must attract al their attention to the recovery of the global economy. This require tax incentives to spur the economy to get back on track. Caution should be



taken so that the pandemic will not cause a rise in unilateralism and the introduction of multiple creative revenue generating proposals designed by finance ministers around the globe. This is not what the world needs.

We understand that the international tax reform discussions are still on track despite the changed circumstances and thus there is hope for increased multilateralism.

Jakob Bundgaard

Team Developments

In August 2020, we proudly announced the addition of a new partner to the CORIT team. We managed to attract Professor dr.jur. Niels Winther-Sørensen to the team.

Niels has been a leading figure on the Danish tax scene for some 30 years, and has an impressive production in terms of publications, presentations and handling of complicated tax cases. His interests have been centered around international tax law, where he - among other things - has authored the leading treatise on allocation of profits to permanent establishments as well as a leading contribution to EU tax law. Moreover, Niels brings with him extensive experience as a Big 4 international tax partner, as a law professor and as the chairman of several committees etc.

During the summer 2020, CORIT welcomed Michelle Dupont Astrupgaard who was appointed as office assistance. Michelle works with a wide range of our clients while also providing internal service.

In November 2020, we also welcomed Anna Sofie Burmeister-Sørensen also as office assistant. Anna Sofie will work alongside Michelle.

News

In June 2020, Managing director Jakob Bundgaard has been appointed Chairman of the Danish Tax Scientific Association (Dansk Skattevidenskabelig Forening), which is also the Danish Branch of the International Fiscal Association (IFA). Prior to this, he has served on the Board for 6 years .

In the 2021-edition of World Tax by International Tax Review, CORIT is once again ranked as a Tier 1 firm. CORIT is ranked Tier 1 as the only boutique firm and above all (but one) of the big full service law firms.

Being a tax only firm, for us, this is an important confirmation of our commitment to technical capabilities and quality.

General corporate tax

Tier 1
CORIT Advisory
Deloitte
EY
KPMG Acor Tax
Plesner
PwC

We are thankful and honored to be recognized once again as one of the elite tax firms in Denmark.

Moreover, we have managed to be included in the ranking as a leading firm within Transfer Pricing and tax controversy as well, which reflects the increase in mandates within the area.

We would like to express our gratitude to our clients and business partners. We promise to keep up the efforts and strive to improve in order to live up to the trust shown to us. The full 2021 ranking can be seen here and the World Transfer Pricing can be found here.

In October 2020, CORIT Academic Advisor Peter Koerver Schmidt has taken on a new position as Adjunct Professor (Professor II) in tax law at Norwegian School of Economics, Department of Accounting, Auditing and Law. Peter's main task will be to facilitate the research cooperation between tax law scholars at Norwegian School of Economics and University of Bergen.



In September 2020, Peter Koerver Schmidt, Michael Tell and Katja Dyppel Weber have, as a team, been nominated for the DSEB Education Award 2020 on their textbook, teaching and development of the master course on international tax. The prize is given to permanent and part-time academic staff at Copenhagen Business School for extraordinary contributions to program development and teaching through courses which are innovative in their educational approach, organization and realization and which emphasize the students' learning processes.

We are pleased and proud to announce that Jakob Bundgaard has accepted the appointment as Tribute Expert under the Tribute Foundation where he shall work with distinguished colleagues from all over the world to solve international tax disputes.

We are also honored to announce that CORIT members Katja Dyppel Weber, Louise Fjord Kjærsgaard, Michael Tell and Jakob Bundgaard have all been appointed national branch reporters at the annual IFA congress in Berlin 2021. Katja and Michael will prepare the report on Subject 1: Group approach and separate entity approach in domestic and international tax law. Louise and Jakob will prepare the report on Subject 2: Big data and tax – domestic and international taxation of data driven business. You can read more about the congress in Berlin here.

Impact

Publications

- Implementing Key BEPS Actions: Where Do We Stand? Danish report (Bundgaard & Koerver Schmidt)
- Corporate Taxation, Group Debt Funding and Base Erosion in The Preference of Debt over Equity for Tax Purposes (Bundgaard & Tell)
- The Role of the Anti-Tax Avoidance Directive in Restoring Fairness and Ensuring Sustainability of the International Tax Framework – A Legal Assessment in Tax Sustainability in an EU and International Context (Koerver Schmidt)
- Controlled Foreign Corporation Legislation (Koerver Schmidt)
- International skatteret I et dansk perspektiv (Koerver Schmidt, Tell & Dyppel Weber)
- Skatteret - Grundlæggende principper (Nørgaard Laursen)
- Tax Risk Management (Guldhammer Nielsen)
- Udviklingen vedrørende den generelle omgaelsesklausul (Bundgaard)
- Underleverandører og fast driftssted: nogle kritiske bemærkninger til SKM2019.334.VLR (Nørgaard Laursen)
- International Skatteret (1) 2019-2020 (Nørgaard Laursen)
- International skatteret 2019-2020 (2) (Nørgaard Laursen)
- Præcedens: California Kleindienst (Nørgaard Laursen)
- Gevinst pa gæld og den retskildemæssige værdi af den juridiske vejledning - nogle kritiske bemærkninger til SKM2020.64.LSR (Nørgaard Laursen)
- Aktieombytning: udbytte eller aktieavance? - nogle bemærkninger om omga else mv. (Nørgaard Laursen)
- Playboy-dommen – selskabers skatteretlige nationalitet (Nørgaard Laursen)
- Udvidet genoptagelsesfrist for alle skatteretlige spørgsma l i kontrollerede miljøer? (Bundgaard)
- Hvor mange gange skal man gentage noget tvivlsomt, før det bliver rigtigt? (Bundgaard)
- Ansvarlig skat er ga et fra niche til et must, og det er godt (Bundgaard)
- A General Income Inclusion Rule as a Tool for Improving the Interna-tional Tax Regime – Challenges Aris-ing from EU Primary Law (Koerver Schmidt)
- Om den ufattelige langsommelighed, na r Danmark skal rette ind efter EU-retten (Bundgaard)
- Blockchain Technology and the Allo-



cation of Taxing Rights to Payments Related to Initial Coin Offerings (Fjord Kjærsgaard)
- Reconstructing the Treaty Network– Danish Branch Report (Koerver Schmidt)
- Sandheden er det første offer (Bundgaard)
- Afsagt – Omga elsesklausulen & de nervøse ra dgivere (Bundgaard)
- Taxable Presence and Highly Digitalized Business Models (Bundgaard & Fjord Kjærsgaard)
- Funktionsflytninger & kompensationsbetalinger (Bundgaard)
- Responsible Tax in Multinational Enterprises – Why and How? (Koerver Schmidt)

Presentations

In 2020, the following presentations (+ many others) have been delivered by CORIT members:

- GAAR fagligt netværk
- Fagligt nyt af særlig relevans for investerings- og pensionsbranchen
- Den danske GAAR i LL § 3
- Fagligt netværk
- International tax training part I
- International tax training part II
- Reconstructing the Danish treaty network
- OECD and the EU – New Developments
- The GloBE Income Inclusion Rule – Challenges Arising from EU Law
- Refleksioner over GAAR efter de første 18 ma neder
- Transfer Pricing Guidelines on Financial Transactions
- Public Hearing on Danish implementation of the CFC rules in the ATA-directive

Work in progress

- Article on ansvarlig skat i multinationale koncerner – hvorfor og hvordan? (Koerver Schmidt)
- The Principle of Legality in the Context of Danish Tax Law (Koerver Schmidt)
- Danish CFC Legislation and the ATAD (Koerver Schmidt)
- Legal Pragmatism – A Useful and Adequate Explanatory Model for Danish Adjudication on Tax Avoidance? (Koerver Schmidt)
- Retspragmatisme og skatteundga - else (Koerver Schmidt)
- Skattemæssige implikationer ved aktiebaserede værdipapirer (Fjord Kjærsgaard and Dyppel Weber)
- Danish Branch Report in IFA Cahier de droit fiscal international, 2021 Congress in Berlin, Subject 1 - Group approach and separate entity approach in domestic and international tax law (Tell and Dyppel Weber)
- Danish Branch Report in IFA Cahier de droit fiscal international, 2021 Congress in Berlin, Subject 2 - Big Data and Tax – Domestic and International Tax-ation of Data Driven Business (Bundgaard and Fjord Kjærsgaard)
- New edition of the monograph on taxation of derivatives (Dyppel Weber)
- Monograph on the EU GAAR (Bundgaard, Fjord Kjærsgaard & Tell)
- Contribution to and editing of Tax Anthology (Nørgaard Laursen)
- Contribution to Tax Anthology with a chapter on the interaction between the EU GAAR and the EU law principle of abuse (Bundgaard and Tell)
- Taxation of Value Creation, country chapter for Denmark, EATLP series (Fjord Kjærsgaard, Guldhammer Nielsen and Dyppel Weber)
- Comments on selected decisi-ons. Article to Revision & Regnskabsvæsen (Winther-Sørensen)
- Interest on tax. Article to Revision & Regnskabsvæsen (Winther-Sørensen)

Other activities

CORIT team members continues to be represented in a number of tax associations including EATLP, IFA, DVCA, Danish Association of EU Tax Law and the Danish Tax Law Council.

Thank you all for a 2020 to remember!

Jakob Bundgaard	Katja Dyppel Weber	Niels Winther-Sørensen	Michael Tell
Henrik Guldhammer Nielsen	Louise Fjord Kjærsgaard	Peter Koerver Schmidt	Anders Nørgaard Laursen
Jens Bundgaard	Magnus Vagtborg	Michelle Dupont Astrupgaard	Anna Sofie Burmeister-Sørensen

Contact us:

Give us a call for further information about the CORIT Point of View or our tax consulting services.

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 financial institutions.

CORIT Advisory provides high quality services within a specified area of expertise. Our areas of expertise fall within certain specified categories, international corporate tax, transactions, structuring and corporate finance, digital busi-ness models, transfer pricing, strategic tax advice and tax controversy. Our tax advisory services are based on a thor-ough 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.