THE SUMMER TAX PROGRAMME 2014: June 16th – June 20th

The Queen Mary University of London hosted from the 16th to the 20th of June 2014 the Summer Tax Programme in its main site at Lincoln’s Inn Fields.

These days have been intensive and provided a professional, both theoretical and practical education on hot topics from the world of taxation.

Each subject was deeply analyzed by experts that could discuss in detail peculiarities and news from the world of taxation with the professional public and in the meantime transmit their unique and well-established knowledge to some students that kept the opportunity to participate to this important event.

Monday, June 16th: “BEPS: Where are we now?”

The high-level conference was rich since the very beginning, with an entire day dedicated to the updated news of the Action Plan that OECD released in 2013 on BEPS.

The globalization has many consequences, both positive and negative. Because of this process of international integration, domestic economies could find new places where to grow because capital, ideas, citizens and workers move around Nations with very low barriers. On the other hand, when an individual or a MNE faces more than one tax authority some problems could arise, like double taxation and double non-taxation.

As we can read in the OECD’s Action Plan “International tax law is therefore a key pillar in supporting the growth of the global economy”, in fact an harmonized and coherent legal framework could resolve these issues.

Particularly, when tax payers try to pay less than what they should by mean of Base Erosion and Profit Shifting, many others are negatively hit: the Governments, the individuals that feel on their shoulders the burden of non-paid tax amounts and many correct businesses, that suffer because of unfair competition.

The overview given during the conference started from the main steps that OECD and G20 are following in order to implement the Action Plan. One of the most interesting and thorny cases that needs particular care is the one of Digital Economies. In fact these businesses are heavily involved in multiple or non-taxation issues, because their profits arise mainly from data and information, which are intangible assets. For this reason Governments without the lead of a specific and clear international set of rules find extremely difficult to identify where the profit actually arises and consequently where it becomes taxable.

The theme concerning the peculiar impact of BEPS and consequent actions on developing countries was extensively covered. Other realities were then presented, like the Belgian one, and also the topic of Transfer Pricing was mentioned because of its strict connection with BEPS.

One of the central issue of BEPS that has been highlighted many times is that:
“No or low taxation is not per se a cause of concern, but it becomes so when it is associated with practices that artificially segregate taxable income from the activities that generate it” (from OECD’s Action Plan on Base Erosion and Profit Shifting).

Tuesday, June 17th: US Tax Planning Course - “Introduction to United States Taxation of International Transactions”

The second day of the Summer Tax Programme gave an unique insight on the Taxation rules of United States of America as regards international transactions. The US are surely one of the biggest powers that rule the world and, such as it was in the past, nowadays they are seen as an incomparable place of work and trade opportunities. Today most of the people that are looking forward to an international job experience and professionals and businesses that deal with international commerce and cross-border operations get in touch with the United States of America, so it is really important to understand how deals, income and profits are taxed and to learn the different tax regulations for outbound and inbound transactions.

Wednesday, June 18th: International Tax Planning Course

Companies and individuals that live and/or operate in different countries feel the actual need to minimize their tax burden in order to avoid multiple or unfair high taxation on their income and profits, and to plan their operations accordingly. Tax Planning, whether executed inside the limits designed by law, is not only legal but also a right that taxpayers have. Indeed, multiple or too high taxation creates distortions as much as low or no taxation.

Mr. Allan Cinnamon, expert of this topic with a long-lasting practical experience in the field, provided a detailed and perfectly structured course on Tax Planning, describing first of all the complex legal framework that raises the barriers that separate possible and permitted operations from illegal ones (recalling the new regulations on BEPS). He gave then a practical Tax Planning course with explanations of many different scenarios, hindering the class with involving questions from real life experiences.

Thursday, June 19th: “Advanced EU Tax Issues”

The fourth day of the event was extremely dynamic and intriguing because of the multiplicity of the topics covered by the different speakers.

The European Union is involved in double taxation, tax avoidance and tax evasion matters, and it practically tries to avoid them issuing a series of regulations, directives and tax treaties with the significant purpose of eradicating any restriction or distortion from the Internal Market. The tax collection within Member States and also the mutual cross-border support and exchange of information must be improved. It is important to better use the existing legal instruments, to boost taxpayers’ compliance and to study, analyze and share with the other Tax Administrations the typical schemes of tax avoidance.

It is worth remembering that a Member state is strong as the weakest of the other Member States:
“[…]the overall protection of Member State’s tax revenues tends to be only as effective as the weakest response of any one Member State.[…]” (COM(2012) 722)

The main roles and future objectives of the Commission were then explained and discussed, followed by an overview of important decisions by the ECJ. The substantial advantages, drawbacks and limits of the National Procedural Autonomy in fields where the EU laws have not already ruled were examined, with the subsequent analysis of every important European principle, like that one of proportionality. The speakers gave also an insight of State Aid laws, Direct Taxation, Controlling Shareholding matters and Exit Tax issues, with specific regard to Danish cases.

At conclusion of the day, there was the presentation of a very interesting ECJ case concerning the Freedom of Establishment and its restrictions, with the discussion and analysis of the ideas that the Chairman Dr. Tom O’Shea described in his article of 2006 “Marks and Spencer v Halsey (HM Inspector of Taxes): restriction, justification and proportionality”.

**Friday, June 20th: “Tax Treaties around the globe”**

During the concluding day the span of attention shifted, or better, broadened, from the European dimension to a broader international one.

Actually the EU cannot protect itself from tax fraud in a proper way without dealing and cooperating with third countries, in order to promote EU standards at international level. It is essential to avoid all the frictions and restrictions deriving from conflicting legislations.

Starting from the Tax Treaties and Mutual Agreement procedures in Transfer Pricing that Member States have promulgated in order to rule cross-border transactions within and outside the Union, the issue of BRIC countries (Brazil, Russia, India, China) was introduced, given the fact that they are developing economically extremely fast and consequently becoming a central issue for the other States.

Other presentations provided the recent developments on the exchange of information in Luxembourg, the UN Model Convention and an interesting discussion on the actual situation and the possible issues in relation to tax rules and tax treaties in India and Africa.

In conclusion, the Summer Tax Programme has been intriguing, intense and up-to-date. It is specifically advised to professionals of the world of taxation and students that have a certain confidence with tax issues, who want to be aware of the news and of the practical application of their studies.

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