

PROGRAMME

PUBLIC CONSULTATION ON TRANSFER PRICING DISCUSSION DRAFTS

12-14 NOVEMBER 2012

OECD CONFERENCE CENTRE
2 RUE ANDRÉ PASCAL, PARIS 16TH, FRANCE

MONDAY 12 NOVEMBER

08:30-09:30 **REGISTRATION**

09:30-10:00 **OPENING REMARKS AND GROUND RULES**

Speakers:

Michelle LEVAC, Chair of Working Party N. 6

William MORRIS, BIAC

10:00-11:00 **I: DISCUSSION DRAFT ON TRANSFER PRICING SAFE HARBOURS**

Speakers:

Patricia LEWIS, Caplin & Drysdale

- *The general approach of the Discussion Draft*
- *The usefulness of bilateral safe harbours*

Michael HECKEL, True Partners Consulting

- *The optional nature of safe harbours for taxpayers and the provisions on rebuttable presumptions;*
- *The specific OECD proposals for bilateral MOUs*

An THEEUWES, Tax Executives Institute

- *The usefulness of bilateral safe harbours; and*
- *The proposed guidance on unilateral safe harbours*

11:00-11:30 **Refreshment Break**

11:30-13:00 **II: SECRETARIAT REQUEST FOR COMMENTS ON TIMING ISSUES**

Speakers:

Duncan NOTT, BDO

- *The arm's length price-setting and the arm's length outcome-testing approaches;*
- *The need for further direction on year-end adjustments or "true ups"*

Brigitte BAUMGARTNER, Plansee Group Services GmbH

- *The relative merits of the arm's length price-setting and the arm's length outcome-testing approaches*

Matthew WALL, MDW Consulting Inc.

- *The determination of transfer prices when valuation is uncertain*
- *Paragraphs 171 – 178 of the Discussion Draft and Examples 20 – 22*

Jutta MENNINGER, BSH/PwC

- *The determination of transfer prices when valuation is uncertain*

13:00-14:30 **Lunch break**

MONDAY 12 NOVEMBER (CONT'D)

14:30-15:15 III: GENERAL DEFINITIONAL APPROACH FOR INTANGIBLES

Speakers:

Jennifer RHEE, Richter Consulting

- *The definition of intangibles in Section A of the Discussion Draft*

Vanessa DE SAINT BLANQUAT, MEDEF

- *General definitional approach for intangibles*

Anne QUENEDEY, SALANS

- *Intangibles: the relevance of property law definitions, accounting definitions and separate transferability*

15:15-16:00 IV: CATEGORIES OF INTANGIBLES

Ronald VAN DEN BREKEL, Ernst & Young

- *The usefulness of the concept defined as "D.1. (vi) Intangibles"*

Wendy NICHOLLS, Grant Thornton UK

- *Should the Discussion Draft distinguish between Routine vs. Unique and Valuable Intangibles?*

16:00-16:30 Refreshment Break

16:30-18:00 V: TREATMENT OF GOODWILL AND WORKFORCE IN PLACE

Speakers:

Caroline SILBERZTEIN, Baker & McKenzie

- *The treatment of goodwill (and related examples in the Annex)*

Agata UCEDA, International Tax Centre, Leiden

- *The treatment of goodwill (and related examples in the Annex)*

Laurence DELORME, A3F

- *The Discussion Draft provisions on assembled workforce*

TUESDAY 13 NOVEMBER

09:30-10:15 VI. DOES THE DISCUSSION DRAFT FOCUS TOO HEAVILY ON RESTRAINING ABUSIVE BEHAVIOUR?

Speakers:

Georg GEBERTH, BIAC

- Does the Discussion Draft focus too heavily on restraining abusive behaviour?

James PHILLIPS, BIAC

- Does the Discussion Draft focus too heavily on restraining abusive behaviour?

10:15-11:00 VII: DOES THE DISCUSSION DRAFT PLACE TOO MUCH EMPHASIS ON PROFIT SPLIT APPROACHES?

Speakers:

Gary SPRAGUE, Treaty Policy Working Group

- Does the Discussion Draft place too much emphasis on profit split approaches?

Arnaud LE BOULANGER, CMS Bureau Francis Lefebvre

- Does the Discussion Draft place too much emphasis on profit split approaches?

11:00-11:30 Refreshment Break

11:30-13:00 VIII: INTANGIBLES: ENTITLEMENT TO INTANGIBLE RELATED RETURNS

Speakers:

Alison LOBB, Deloitte

- The treatment of risk and control of risk, including the consistency of the draft with Chapter IX of the TPG

Linda FERNANDEZ, Transfer Pricing Discussion Group

- The general usefulness of the intangible related return concept and its definition

13:00-14:30 Lunch

14:30-16:00 IX: INTANGIBLES: ENTITLEMENT TO INTANGIBLE RELATED RETURNS (CONTINUED)

Speakers:

Catherine SCHULTZ, National Foreign Trade Council

- The role of registrations and contractual arrangements;

- Disregard of transactions, registrations and contracts

Kate NOAKES, Fidal International Direction

- Compensation for marketing activities performed by associated enterprises related to the development, enhancement, maintenance or protection of Intangibles, including examples 3 through 8

Ian BRIMICOMBE, AstraZeneca

- Entitlement to intangible related returns: The importance of performance of important functions and control

16:00-16:30 Refreshment Break

TUESDAY 13 NOVEMBER (CONT'D)

16:30-18:00 X: OPTIONS REALISTICALLY AVAILABLE AND PERSPECTIVES OF THE PARTIES

Speakers:

Isabel VERLINDEN, PriceWaterhouseCoopers

- *Options realistically available and perspectives of the parties and example 19*

Carol Doran KLEIN, USCIB

- *Options realistically available and perspectives of the parties and example 19*

Patrick BRESLIN, Bates White, LLC

- *Options realistically available and perspectives of the parties and example 19*

WEDNESDAY 14 NOVEMBER

9:30-11:00 XI: INTANGIBLES: USE OF FINANCIAL VALUATION TECHNIQUES

Speakers:

Jochem QAAK and Dick DE BOER, Duff & Phelps

- *The relevance of accounting valuations and purchase price allocations for transfer pricing purposes*

Richard GINSBERG, Canadian Institute of Chartered Business Valuators

- *Use of financial valuation techniques and expressly adopting a standard of value*

Emmanuel LLINARES, NERA Economic Consulting

- *Use of financial valuation techniques for transfer pricing purposes*

11:00-11:30 Refreshment Break

11:30-12:45 XII: DETERMINING ARM'S LENGTH ROYALTY RATES FOR LICENSING TRANSACTIONS

Speakers:

Brian CODY, KPMG

- *Determining arm's length royalty rates for licensing transactions and comparability standards for intangibles*

Ednaldo SILVA, RoyaltyStat LLC

- *Use of information from databases*

David JARCZYK, ktMINE

- *Intangibles: comparability standards and use of information from databases*

12:45-13:00 CONCLUDING REMARKS

Speakers:

Michelle LEVAC, Chair of Working Party No. 6

William MORRIS, BIAC

13:00 ADJOURN