

International Taxation of Intellectual Property

Date: 12/13 May 2014
Location: Doubletree by Hilton Amsterdam Centraal Station
Amsterdam, The Netherlands

Co-chairs: Machiel Lambooj, Freshfields Bruckhaus Deringer LLP, Amsterdam
Paulus Merks, DLA Piper, Amsterdam

Day One

8:00 **Registration & Continental Breakfast**

8:30 **Co-chairs Opening Remarks**

8:45 **General Introduction to Taxation of Intellectual Property**

- How and why IP Planning optimises effective tax rate
- What are IP and intangible assets and how are they different
- Hard & soft IP Innovation boxes
- Importance of integrating IP planning with global tax planning
- Importance of integrating IP tax planning with non-tax IP policies/working practices
- Battle for R&D centres continues
- Specific regimes for offshore IP asset holding companies, but also on-shoring back with step up
- Impact of BEPS and other international challenges to tax planning
- Specific challenges by tax authorities

Machiel Lambooj, Freshfields Bruckhaus Deringer LLP, Amsterdam
Paulus Merks, DLA Piper, Amsterdam

9:30 **Restructuring and Migration of IP Assets to Tax Advantaged Jurisdictions**

- What's possible from US perspective
- European tax strategies in regard to IP
- Making effective use of IP restructuring
- Examples of effective IP restructuring
- Types of IP migration possible
- Tax authority challenges to IP migrations

Jan van Tilburg, Fisconti Tax Consulting, The Hague

10:30 **Tea/coffee break**

10:45 **European Jurisdictions with Favorable IP Tax Regimes – What they offer to attract IP assets (Countries covered include: Ireland, Luxembourg, Malta and The Netherlands)**

- Definition of IP that qualifies—patents, brands, brand names, trade names, copyrights, etc as well as associated rights and goodwill
- Applicable corporate tax rates
- Interest and tax depreciation issues

- Achieving tax free exit
- Tax benefits available for R&D activities and expenditures
- Legal requirements to qualify

Willem Bongaerts, Loyens & Loeff, Rotterdam

Joe Duffy, Matheson, Dublin

James O'Neal, AMMC Lax, Luxembourg

Conrad Cassar Torregiani, Deloitte, Malta

12:30 Focus on UK: Patent Box Regime
Anne Fairpo, Thirteen Old Square, London

12:45 Lunch

13:45 IP Licensing and International Transfer Pricing Issues

- US transfer pricing rules and practice compared to EU & OECD rules in regard to IP licensing revenues
- Find the “best method” in regard to IP fees and revenues
- The latest on the OECD intangibles project
- Creative use of comparable profits method (CPM)
- Transfer pricing strategies in US versus EU and under OECD guidelines
- Review of tax cases in US and in Europe in regard to IP & transfer pricing

Antonio Russo, Baker & McKenzie, Amsterdam

15:00 Tea/coffee break

15:15 IP Legal Considerations to IP Tax Planning

- Identifying critical and overlapping IP legal considerations
- Protection of IP rights, copyrights, software, patents, trademarks, brand names, etc- US versus EU protections and legal issues
- Litigation issues in protecting IP values in the international context
- Recovering lost profits when IP ownership is separated from sales
- Balancing IP law and tax planning: avoid damaging IP protection
- Improving communications to avoid problems between tax and IP departments

Severin de Wit, IPEG Consultancy, The Hague

16:15 Tax Planning Considerations: the OECD/Base Erosion and Profit Shifting
Jan Brinkmann, Freshfields Bruckhaus Deringer LLP, Frankfurt

17:15 Summary and Q&A

17:30 Conference Adjourns for the Day

Day Two

- 8:00 Continental Breakfast**
- 8:30 Co-Chair's Opening Remarks**
- 8:45 Focus on OECD Revised Discussion Draft on Transfer Pricing Aspects of Intangibles**
- Location savings, synergies and assembled workforce
 - Identification of intangibles
 - Legal ownership versus control
 - Transfers of intangibles
 - Valuation methods
 - What is next on intangibles?
Agata Uceda, DLA Piper, Amsterdam
- 10:00 Tea/coffee break**
- 10:15 Preventing and Handling of IP Transfer Pricing Issues**
- Your controversy toolbox
 - What battle to choose?
 - IP: a moving target!
 - Transparency towards tax authorities?
 - Tax authorities mind-set
 - Mutual Agreement Procedure (MAP)
 - Advance Pricing Agreement (APA)
 - Theory versus Practice
Richard Slimmen, Quantero Global, Amsterdam
- 11:30 The Future of Cost Sharing After BEPS and U.S. Tax Reform**
Michael Lebovitz, DLA Piper, London
Margreet Nijhoff, Baker & McKenzie, Amsterdam
- 12:30 Lunch**
- 13:30 R&D FRS & US GAAP Tax Accounting Issues in Relation to Software, Intangibles and**
- Overview of relevant accounting standards (IFRS / US GAAP)
 - Deductibility of IP and R&D in selected jurisdictions
 - IP and R&D in business combination
 - DTA recognition associated with IP migration
 - Considerations regarding tax reserves
 - Other financial reporting and accounting developments
Tjeerd van den Berg, Deloitte, Amsterdam
- 14:30 Tea/coffee break**
- 15:00 IP Tax Consequences When Structuring Joint Ventures and M&A Transactions**
- Joint venture formation –US tax consequences of transferring IA/IP to a JV entity

- EU tax issues in relation to IA/IP transfers to joint ventures and in M&A transactions
- IP transfer and valuation/value allocation issues
- Special issues relating to IP and joint venture structuring: traps for the unwary
Michael Lebovitz, DLA Piper, London

16:00 **IP Planning - Practical Examples**
Speaker Panel

17:00 **Summary & Q&A**

17:15 **Conference ends**