International Association
of Drilling Contractors
3657 Briarpark Dr., Suite 200
Houston, Texas 77042

P +1.713.292.1945
F +1.713.292.1946
www.iadc.org

IADC Tax Committee Meeting Minutes

10 September 2020 @ 7:30 a.m. CT – via Zoom

I. Welcome, Opening Remarks, IADC Antitrust Guidelines:

Tax Committee Chairman, Linda Ibrahim, opened the meeting welcoming everyone, followed by Liz Craddock, IADC Tax Committee staff liaison, reviewing the Antitrust Guidelines.

II. Country by county updates:

Linda moved on to the next agenda item – roundtable discussion of various matters happening around the world. (These minutes reflect the comments made by participants in the room.)

<u>**Middle East**</u>:

Saudi Arabia—Question was asked how companies are handling the 15% increased VAT rate. No members are anticipating to undertake any planning to avoid the additional cash outflow.

Oman – potential to delay in VAT implementation until 2021 – but the Kingdom is needing revenues. The expected rate is likely to stay at 5%.

UAE—the UAE government recently (2-3 weeks ago) issued Economic Substance Regulations clarifications. Companies are encouraged to filter through the new rules and ensure that the initial classifications and filings remain valid (companies providing services are likely affected). Companies that omit or make classification mistakes in the filings may find themselves with severe penalties.

Qatar – Contracts reporting requirement is quite difficult exercise. The regulations are very brief and do not provide enough guidance as to how the reporting should be done. Many companies are finding it difficult to complete the form because the law is a short paragraph with no regulations or other guidance. Tax advisors were making educated guesses about what to report and how. It is believed that the contracts reporting requirement will delve into withholding tax issues.

<u>**Asia**</u>:

India: One member company has been successful in receiving cash refunds for the tax deducted at source (TDS) GST excess withholding performed by the customers. The refund process took a relatively a short period given that the law only passed in 2017.

Malaysia: Most members have not seen a tax audit in several years. The authorities tend to consolidate a few years together in one audit and the tax audits are found to be fair in Malaysia. The auditors bring up technical issues – they are well versed in the law. Therefore, audits in Malaysia tend to be more about the technical issues, vs. administrative or documentation issues.

One of the member company's Labuan structure was challenged by the Malaysian Inland Revenue. The main issue was the substance in Labuan and the authorities have reached out directly to the individuals working in Labuan. The Labuan authorities are not actively challenging but there is a requirement to obtain approval and a stamped and once you get it stamped you are fine.

LFSA—they are not keen on all these rules being placed upon them, but they are bound by the higher authority in Malaysia. Companies wanting to utilize the Labuan structure should analyze and monitor substance and b ready to be challenged. The Malaysian authorities wants to deny the reduced withholding tax rate.

The authorities are looking at substance very academically and business is practical and not academic. Companies are encouraged to keep good documentation of the facts throughout the periods and not solely as of a specific date.

Thailand/Indonesia: The audits are time consuming and very difficult. Both of these jurisdictions saw a pause in the audits due to COVID-19; however, as of late July, the authorities have been aggressively pushing the audits to continue and to close out audit issues. These are jurisdictions where very document intensive and its very laborious work for tax and finance departments. It is very common to start off with a VAT audit that quickly evolves into PIT and CIT issues (audits tend to look at all tax spectrums). Watch out for transactions that don't require transfer pricing documentation; however, tax authorities still require it.

Australia: No further change on the Practical Compliance Guideline, PCG2019/D5 entitled "ATO compliance approach to transfer pricing issues related to projects involving the use in Australian waters of non-resident owned mobile offshore drilling units." From the meeting with the ATO their stance was that these are solely guidelines, and not law. However, the audit teams will be trained to use the PGC.

<u>Africa</u>:

Angola: Over the summer, the Angolan government enacted a law withholding tax rate increase from 6.5 % to 15% for foreign service providers. The new WHT rate became effective on August 19th 2020. IADC has attended a couple of meetings with AECIPA, a trade association. AECIPA said that the more noise companies can make in the system, the better. If the authorities don't hear from companies, the authorities will assume that no need to change the law. IADC is not likely to do much more on this – but encourage companies to speak with their customers. Important for costumers to talk with authorities. Additionally, the IADC submitted a letter to the Ministry of Finance relating our position to the harmful

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effects to companies as well to the overall investment in Angola. AT- African Tax Group has identified this issue as one to build a coalition around, more to come later this year.

Seadrill will be drafting something given their partnership with the state-owned oil company.

A member company mentioned another law change -- asking expat employees to get paid locally into an Angolan bank account. There is a significant amount of uncertainty as to how this new requirement will pan out in the country; the first compliance is due in September.

Tanzania: Member companies should be aware that transfer pricing documentation is required even in a year where there were no transactions. Is this happening anywhere else in the world? No one else has experienced this. Transfer pricing issues are new in country.

Ghana: Ongoing audits. Being asked for the same info 2-6 times. Incredibly frustrating and the authorities are only granting 36 hours to produce information. The authorities are very aggressive.

In Congo, face requests for repeat information from various authorities. A year that has been audited, is never fully closed because another authority can come in and do another audit. Congo been a little better on timing—10 days and you can ask for extensions. Ghana is sticking to 36-hour timeframe with no extension.

Europe:

Norway: In June the IADC submitted a letter to Ministry of Finance to provide our views on the bareboat charter withholding tax rate. PwC assisted with submittal and they modeled financial data. Although the authorities believed rig owners to be extremely profitable, in reality over the rig's life cycle, the economics don't pan out that way. The NSA have met with the Finance Ministry –very short meeting. There is some degree of optimism that MoF would get a decision out by end of Aug, but likely not until Sept. 7. There appears to be a bit of disagreement within the Ministry as to the BBC withholding. Implementation of the law could be delayed. Norway has an election coming and the party that might win is more eager to raise taxes.

Americas:

Mexico: Company new to the jurisdiction and looking for input. All members agreed that the best advice – is to not lose any piece of original documentation. Because the Mexican authorities won't allow a CIT deduction if documents are not original. Missing original documents is the top reason why taxpayers lose deductions. It's important that all aspects of the documents are clearly legible, e.g. date, invoice number, customer and vendor names, etc.

The proposed legislation that came in trying to disallow payments to related parties if they lack substance or payee is in a low tax jurisdiction. IADC has been working with EY to try to obtain the issuance of a miscellaneous rule (regla miscellanea). No significant traction has been made with the authorities. Future audits will become even more difficult. Keep up with current audit trends.

Companies are encouraged to build good and strong relationships with the audit teams to make the process better.

Advice: Whoever is preparing the local general ledger needs to be in direct communication with the tax preparer.

Temporary import: no exemption of VAT? Advice given very comfortable that temporary equipment imports are eligible for VAT exemption.

Brazil: Going to actually join the OCED? Is it going to happen? Massive change to transfer pricing as a result? If they do join—don't expect major change in transfer pricing but have seen some guidance on fixed margins.

US: Some member companies want to revisit the split contract discussion. Anyone interested in the dialogue, please reach out to Linda Ibrahim.

Do we want to start thinking about future of US tax law in light of the upcoming elections? Comment made to round up ideas that we might want to see changed under current law.

IV. Tax Seminar: First virtual conference for tax seminar. IADC wants to continue to give value to its members. 15 hours of CPE which should make it easier to obtain budget approvals. Being a global organization, the significant number of time zones required to change the event into a 3-day conference. We have taken the two full days into three half day mornings. W-F—7 am CT until 11:45 CT. All sessions will be a panel discussion with one moderator. Program is online at IADC website. Content is very much the same as our in-person conference. Reduced registration fee: $300 which is half the normal cost. Nov. 11-13.

We will move our quarterly tax committee meeting that is normally held at conference to Dec.