EBIT - European Business Initiative on Taxation

2013 EBIT “Light” - Annual Work Programme

As EBIT's Secretariat, PwC is pleased to present the EBIT “Light” Work Programme & budget for 2013.

INTRODUCTION

In 2012, the pressure for more coordination and harmonization in the area of direct taxation within Europe increased even further.

The European Commission held a “fact-finding” consultation on double non-taxation/‘aggressive tax planning’ in spring 2012. This was followed by the adoption on 6 December 2012 of two Recommendations to EU Member States, one on ‘aggressive tax planning’ and one on ‘measures intended to encourage third countries to apply minimum standards of good governance in tax matters’, as part of a wider EC Action Plan to strengthen the fight against tax fraud and evasion in the EU and in its relations with non-EU third countries.

The Commission also announced the need for ex officio State aid reviews of EU Member States’ tax systems and introduction of an EU-wide financial transactions tax - if need be through Enhanced Cooperation. Technical work on the Common Consolidated Corporate Tax Base (CCCTB) in the Council’s tax working group was finalized so that CCCTB/CCTB will rise to the political level again in 2013. EU case law continued to re-shape the direct tax landscape, sometimes to the benefit and sometimes to the detriment of taxpayers. In the EU’s Code of Conduct Group on Business Taxation Member States continued to focus on mismatches, administrative practices and persuade Switzerland into adopting Code Group principles.

A new trend in 2012 was the increased publicity surrounding the tax planning of well-known multinationals, in the UK and other countries, which is part of a trend towards increased scrutiny of international tax planning. The OECD has put it as follows: while these corporate tax planning strategies may be technically legal and rely on carefully planned interactions of a variety of tax rules and principles, the overall effect of this type of tax planning is to erode the corporate tax base of many countries in a manner that is not intended by domestic policy. In November 2012, the OECD promised to deliver a progress report to the G-20 summit by February 2013, on actions to tackle the issue of “Base Erosion and Profit Shifting” (BEPS), including strategies to detect and respond to aggressive tax planning and ensure better tax compliance. The OECD apparently aims to develop a new “Code of Conduct” on so-called BEPS strategies comprising existing OECD member countries, emerging and developing countries, and also based on dialogue with business and a thorough reflection on the very fundamentals of the current rules of international taxation in the context of globalisation.

Separately, the OECD consulted with business on the meaning of beneficial ownership, definition of a PE and transfer pricing aspects of intangibles, and it is trying to facilitate a move away from a confrontational dialogue to more constructive engagement with taxpayers aka “cooperative compliance”.

Direct tax policy-making has become extremely politicized in these times of budgetary constraint and economic crisis. Cross-border businesses are therefore strongly advised to monitor, manage and actively influence where required, the politically-driven direct tax related activities of the European Commission, Council and European Parliament, as well as the OECD.
**EBIT’S MISSION**

Established by PwC in 2001 at the request of a number of companies, EBIT is a business group consisting of VPs of Tax and Tax Directors from European-based companies. EBIT’s mission is to eliminate remaining tax barriers for businesses in Europe’s Internal Market, modernise Europe’s direct tax framework and promote business friendly solutions. To achieve its mission, EBIT engages in ongoing technical “Dialogue & Cooperation” with the European Commission and the OECD. This is done through regular round table meetings in Brussels, submitting targeted EBIT Position Papers, and representation and participation in public consultations, seminars and workshops organised by the EU and OECD. EBIT has been acknowledged throughout the past ten years by policy-makers as a very useful and effective contributor to the debate on Europe’s direct tax policy framework.

**EBIT WAYS OF WORKING**

EBIT works on the basis of a proposed annual Work Programme and budget which is prepared by the Secretariat and agreed ex ante by the Member companies.

EBIT operates on a consensus basis. The Members remain at all times in full control of the project. PwC is not a Member of EBIT but only its secretariat. EBIT output reflects the collective views of EBIT only and cannot be construed as an opinion or point of view of any individual Member of EBIT or PwC.

EBIT is kept time and cost efficient and highly flexible and informal - hence the name “EBIT Light”. EBIT operates through regular e-mail communication and correspondence and two round table meetings in Spring and Fall in Brussels at PwC’s offices. The meetings are held from 10.00 am – 15.30 pm (CET) to allow participants to efficiently travel in-and-out on the same day. Each Member contributes to EBIT as a function of their availability. The Secretariat sets the agenda, invites guests, and drafts papers, and manages relations with external parties. What is required from Member companies in practice is providing comments on any draft position papers prepared by the Secretariat, co-representation of EBIT at EU/OECD workshops (on a voluntary basis) and participation in the meetings. If the designated EBIT Member(s) cannot attend a meeting themselves, they should try to send alternates. This is crucial for meeting the high expectations of EU and OECD tax policy officials, and optimising on your EBIT Membership. EBIT membership is a corporate membership, and EBIT is open to other interested companies who can join at any given time (see p. 4 below).

Additional meetings and conference calls may be organised, which will be charged separately on an hours spent basis. The same applies to the coordination, drafting and submission of Position Papers.

**BENEFITS OF JOINING EBIT**

- Being part of a reputed business group helping large corporate taxpayers across industry sectors to monitor, manage and influence the politically-driven activities of the EU and the OECD in the area of direct tax;
- Having easy, regular and direct access to key EU and OECD tax policy-makers;
- Minimal time involvement required from Member companies and informal and cost-efficient approach, quality control by PwC as Secretariat;
- Regular networking with business peers;
- Easy access to PwC technical specialists and networks.

**PwC’s ROLE**

- Organising, preparing and coordinating all activities in connection with and on behalf of EBIT, ensuring that objectives and deliverables set in the Work Programme are met;
- Relationship management with the EU and the OECD, and all other relevant parties;
- Providing tax technical and EU public affairs advice, as well as quality control & assurance;
- Marketing, representation and promotion of EBIT (including EBIT website management);
- EBIT membership administration and targeting of interested companies.

**EBIT AREAS OF INTEREST**

- “Aggressive tax planning”/double (non)taxation, fight against tax fraud and evasion;
EBIT Work Programme 2013

- EU Code of Conduct on Business Taxation;
- EU direct tax Directives;
- EU case law and doctrine;
- CCCTB/CCTB;
- OECD’s work on Base Erosion and Profit Shifting and related initiatives;
- OECD’s Model Tax Convention;
- Dialogue between taxpayers & tax administrations;
- International tax restructuring issues and initiatives;
- Transfer pricing issues;
- Fiscal State aid issues;
- Financial Transaction Tax;
- EU tax policy political context and procedural processes; and
- Other: EU company law initiatives, EU tax Roadmaps, EU law infringements (...).

EBIT ACHIEVEMENTS 2012

- **EBIT Plenary Meeting held on 24 May 2012 - Topics & speakers:**
  - EBIT business and update - Chair: Bob van der Made, Senior Advisor EU Public Affairs, PwC EUDTG, Brussels & Amsterdam;
  - Update on EBIT draft submission to EC’s Consultation on double non-taxation – Dr. Sjoerd Douma, Senior Tax Manager, PwC EUDTG, Amsterdam;
  - ECJ case law update - Peter Cussons, Tax Partner, PwC EUDTG, London;
  - European Commission update on EC Consultation on double non-taxation - Philip Kermode, Director of Direct Taxation, DG TAXUD, European Commission;
    - Important scoop for EBIT: bringing together EC and OECD officials for first time in an external business forum on double non-taxation / “aggressive tax planning”;
- **EBIT Plenary Meeting held on 22 November 2012: Topics & speakers:**
  - EBIT business: project update and advise on EU & OECD policy influencing opportunities - Chair: Bob van der Made;
  - ECJ direct tax case law update - Peter Cussons;
  - EC’s new policy strategy towards Tax Havens and ”Aggressive Tax Planning” - Tom Neale, Head of Unit D1: Company Taxation Initiatives, DG TAXUD, European Commission;
  - Update on the OECD’s Forum on Tax Administration - Jonathan Leigh Pemberton, Deputy Head of International Cooperation and Tax Administration Division, Centre for Tax Policy and Administration, OECD;
  - Cooperative Compliance: towards a different relationship between taxpayers and tax administrations - Eelco van der Enden, Partner, PwC Global Tax Leader in Tax Effectiveness;
- EBIT participation in EC’s public consultation on factual examples and possible ways to tackle double non-taxation cases (February-May 2012) including EBIT Conference Calls held on 19 March and 11 May 2012 and submission of a Position Paper to the EC on 30 May 2012 (posted on EC’s website) which was referred to extensively in the EC’s Summary published on 4 July 2012;
- EBIT participation in the EC’s follow-up Seminar on the public consultation on factual examples and possible ways to tackle double non-taxation cases held on 17 July 2012 in Brussels;
- EBIT participation in the OECD’s consultation meeting on the “Interpretation and Application of Article 5 (PE) of the OECD Model Tax Convention” held on 7 September 2012 in Paris;
- EBIT Conference Call held on 6 December 2012 for an update on the EC’s Communication and Action Plan on tax havens and aggressive tax planning and fight against tax fraud and evasion, and to agree on response to revised OECD discussion drafts on the meaning of beneficial owner and the definition of PE;
- EBIT Position Paper on revised proposals concerning the meaning of Beneficial Owner in Articles 10, 11 and 12 of the OECD Model Tax Convention submitted to the OECD on 14 December 2012 (posted on the OECD’s website);
- EBIT participation in EC’s annual Brussels Tax Forum on 5-6 March 2012: “Tax Policy under a Common Currency”;
- EBIT Position Paper submitted on 15 May 2012 to the EC on the Future of EU Company Law;
• Renewal and updating of EBIT information on the EU’s register of interest representatives;
• Regular updating of the EBIT website (including position papers): www.pwc.com/ebit

DELIVERABLES - 2013

- Building on EBIT’s reputation and credibility as a leading business direct tax representative;
- Raising EU and OECD policymakers’ awareness and understanding of potential technical and legislative issues from the perspective of large corporate taxpayers on a cross-industry basis;
- Facilitating at least two productive round table meetings with key EU and OECD policymakers and officials; tentative dates: Thursday 2 May 2013 and Thursday 21 November 2013;
- Submission of an EBIT Position Paper to the OECD on the revised Discussion Draft on the definition of PE (before 31 January 2013);”;
- Monitoring and regularly reporting on all relevant EU and OECD policy initiatives and developments in the area of direct taxation;
- Effective and satisfactory project coordination and communication;
- Proactive targeting by the Secretariat with a view to expanding EBIT’s membership;
- Leveraging on PwC expertise: EU tax law technical advice, transfer pricing and EU public affairs.

EBIT LIGHT – PAYMENT TERMS & CONDITIONS

Joining EBIT is very easy. Interested companies can join EBIT at all times. It suffices to send a confirmation email to the Secretariat (see below address) with the name and job title of the designated EBIT contact(s), name of the company/group, the invoicing address plus VAT number.

Interested companies can opt for a trial membership of 3 months which consists of having your email address added to the EBIT email alert service. The first EBIT Meeting is free of charge for aspiring Members. However, interested companies/groups may of course decide to join EBIT immediately without having first attended a round table meeting or opting for the trial membership.

EBIT works on the basis of quarterly payments. If a company for instance joins today, the first payment will be due for the present Quarter.

To discontinue the EBIT corporate Membership it suffices to a) send an email to the Secretariat to this effect and b) pay the last Quarterly membership fee and any other outstanding bills due.

The EBIT Membership fee has a fixed and a variable part:
- A fixed annual Membership fee, estimated ex-ante based on the time likely to be spent by the Secretariat for running EBIT;
  - For 2013 the annual budget is estimated at 145,500 EURO. Indicative fee per Quarter/Member: € 1,881 if 20 Members, and € 2,425 if 15 Members;
- A variable fee: the Secretariat’s expenses reasonably incurred in connection with achieving EBIT’s objectives as set out in the present Work Programme (e.g. travel and accommodation of guest speakers, relationship management (EU, OECD, national Perm Reps...) and regular EU networking lunches, ...);
- Additional expertise commissioned to the Secretariat by EBIT’s Members outside the Annual Work Programme is budgeted separately on a case-by-case and real-time spent basis (e.g. Position Papers, EBIT representation at EU/OECD conferences, EBIT Targeting).

This type of project needs to be flexible and is partly driven by external factors (e.g. changing policy agenda, availability of officials...). There can be no guarantee of the final result. PwC accepts no liability in connection with EBIT. PwC will carry out this project to the best of its ability and strive to achieve the desired outcome in collaboration with you. In doing so, the following is assumed:
- The full commitment and cooperation of EBIT Members;
- If the real-time spent by the Secretariat is likely to exceed the budgeted fee significantly, PwC will inform Members timely and propose additional budget. Members can at all times comment on the use of the budget;
- Additional expertise commissioned by EBIT to the Secretariat outside of the present annual Work Programme is budgeted separately, and on a Quarterly basis.
It is our current understanding of the SEC’s rules that PwC’s services performed through EBIT do not fall within the prohibited non-audit services identified by the SEC. This is PwC’s current understanding (January 2013) of present SEC rules and not a legal opinion on this matter. PwC will certainly notify audit clients who are a Member of EBIT immediately, if it feels that this relationship is no longer compatible with our position as their auditor.

The EBIT Secretariat can be contacted via: Bob van der Made, Tel: +31 6 130 96 296; or: +32 477 78 79 36; Email: bob.van.der.made@nl.pwc.com.

**RESOURCES AND BUDGET BREAKDOWN – EBIT LIGHT 2013**

<table>
<thead>
<tr>
<th>Resources</th>
<th>Project Management</th>
<th>Suggested activity /days</th>
<th>Fees /days</th>
<th>Total /days</th>
<th>Total / Euro</th>
</tr>
</thead>
</table>
| Bob van der Made, PwC Netherlands, head of the EBIT Secretariat | Responsible for:  
- EBIT Secretariat day-to day coordination, organising the work program, setting the agenda  
- Policy monitoring and reporting  
- Hosting Meetings and Conference Calls  
- Leveraging on PwC’s leading experts and networks  
- Public affairs/ relationship management with EU and OECD  
- Strategic communication advice  
- Quality control and assurance  
- EBIT Marketing and Targeting  
- EBIT website management | • Project management and coordination (13)  
• Monitoring and reporting on EU and OECD developments (3)  
• Organising , preparing and chairing 2 Plenary Meetings (5)  
• Drafting Annual Work Programme and Budget (2)  
• Drafting meeting notes (1)  
• EU and OECD relationship management and networking (5)  
• EBIT Marketing and Website Management (1)  
• Membership administration (2) | 3250 | 32 | 104000 |
| Peter Cussons, PwC United Kingdom, Tax Partner | Responsible for:  
- Specialist EU direct tax Law analysis and tax technical support and advice  
- Quality control and assurance | • Preparation and participation in 2 Plenary Meetings (4)  
• Regular ECJ case law updates (2)  
• Specialist tax advice (1)  
• Quality control and assurance (2) | 3500 | 9 | 31500 |
| Sjoerd Douma, PwC Netherlands, Senior Tax Manager | Responsible for:  
- Specialist EU direct tax Law analysis and tax technical support and advice  
- Quality control and assurance | • Preparing for and participation in 2 Plenary Meetings (1)  
• Specialist tax advice, Quality control and assurance (2) | 3250 | 3 | 9750 |
| With additional support from other PwC Tax Partners and senior experts from PwC specialist networks, including a.o. Frank Engelen, Emmanuel Rainard de la Blétière, Eelco van der Enden, Axel Smits, Isabel Verlinden and others. | | | | | 145500 |

Total: 145500
**ANNEX: EBIT MEMBERS Q1 2013:**

EBIT’s Members currently span the following business sectors: aerospace and defence, aircraft engine manufacturers, airlines, conference organisers, earth moving equipment, electronics, food, food containers, healthcare equipment, oil and publishing (see annex below for membership overview).

<table>
<thead>
<tr>
<th>MEMBER COMPANY</th>
<th>NAME</th>
<th>POSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIRBUS</td>
<td>Guillaume de la Villeguerin</td>
<td>Head of Tax &amp; Customs</td>
</tr>
<tr>
<td>AIRBUS</td>
<td>Keith Philpott</td>
<td>International Tax Manager</td>
</tr>
<tr>
<td>BP</td>
<td>Paul D Allsop</td>
<td>Regional Head of Tax, Europe &amp; Tax Director R&amp;M</td>
</tr>
<tr>
<td>BP</td>
<td>Harry Milde</td>
<td>European Tax Planning &amp; Advocacy Manager</td>
</tr>
<tr>
<td>CATERPILLAR</td>
<td>Giles A Parsons</td>
<td>Director, European Tax Services</td>
</tr>
<tr>
<td>DEUTSCHE LUFTHANSA</td>
<td>Christian Lehmann</td>
<td>Director Tax Policy and Procedural Law</td>
</tr>
<tr>
<td>EADS</td>
<td>Axel Thiele</td>
<td>VP, Head of Tax</td>
</tr>
<tr>
<td>EADS</td>
<td>Sonja Hoelzel</td>
<td>Head, International Tax Affairs</td>
</tr>
<tr>
<td>GE</td>
<td>Will Morris</td>
<td>Director European Tax Policy</td>
</tr>
<tr>
<td>GE</td>
<td>Anne Fitzgerald</td>
<td>Country Tax Leader Ireland</td>
</tr>
<tr>
<td>GE</td>
<td>Hayley Book</td>
<td>Tax Director</td>
</tr>
<tr>
<td>GE HEALTHCARE</td>
<td>Huib Brouwer</td>
<td>Tax Director</td>
</tr>
<tr>
<td>INFORMA</td>
<td>Glyn Fullelove</td>
<td>Group Tax Director</td>
</tr>
<tr>
<td>MTU</td>
<td>Udo Sommerfeld</td>
<td>Tax Director</td>
</tr>
<tr>
<td>MTU</td>
<td>Bettina Czenia</td>
<td>Senior Tax Manager</td>
</tr>
<tr>
<td>NUTRECO</td>
<td>Jacques van Hooij</td>
<td>Head of Tax</td>
</tr>
<tr>
<td>REED ELSEVIER</td>
<td>Paul Morton</td>
<td>Head of Group Tax</td>
</tr>
<tr>
<td>REED ELSEVIER</td>
<td>Jules Genee</td>
<td>Tax Director</td>
</tr>
<tr>
<td>ROLLS ROYCE</td>
<td>Jason H. Luke</td>
<td>Director of Tax</td>
</tr>
<tr>
<td>SAMSUNG ELECTRONICS</td>
<td>Simon Schofield</td>
<td>European Tax Director</td>
</tr>
<tr>
<td>TUPPERWARE</td>
<td>Josef Hajek</td>
<td>Senior VP, Tax &amp; Government Affairs</td>
</tr>
</tbody>
</table>