

International TAX PANEL

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Given the complexity of today's international marketplace, business and tax planning for multinational corporations is of paramount importance. Heightened controls and other efforts to establish and enforce standards of conduct for these companies are on the rise. Mandates such as Sarbanes-Oxley, International Accounting Standards, audit committee oversight and other issues related to tax risk management are fundamental to the administration of international business.

McDermott Will & Emery is consistently ranked as one of the premier tax practices in the world because we provide our clients with the highest quality legal advice. We recognize the enormous burdens imposed on our multinational clients by the complex, confusing and sometimes contradictory legal and regulatory requirements they face while conducting business around the globe. McDermott is particularly well positioned to assist clients in dealing with such issues, both through our own tax professionals and our network—assembled after decades of collaborative efforts—of premier non-McDermott tax professionals around the world. Our goal is to provide clients with seamless innovative multi-jurisdictional tax solutions to the problems they encounter, wherever they operate.

The creation of the McDermott International Tax Panel (the McDermott ITP), managed by central contacts at McDermott, represents a further step in providing our clients with “best-in-field” tax

and transactional services in the major business and financial markets of the world in areas such as transfer pricing, mergers and acquisitions, jurisdictional restructuring, joint ventures, executive compensation, private client matters, risk assessment and tax controversy. When using the non-McDermott tax professionals involved in the McDermott ITP, clients will find a convenient, effective and confidential vehicle for addressing their multi-jurisdictional tax needs. We are committed to protecting and advancing the interests of our clients, and thus will continually refine the participants in the McDermott ITP in order to provide quality and performance on a local level that is consistent with the historically high standards provided by McDermott lawyers.

McDermott Will & Emery and all of our non-McDermott ITP members look forward to the opportunity to work with you. Feel free to contact me or any of the McDermott ITP members at any time.



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Our Experience

The broad international experience of McDermott lawyers, when combined with those of the members of the International Tax Panel in each of their respective jurisdictions, provides the perfect vehicle for servicing the international tax needs of clients. The following are examples of how McDermott and members of the McDermott ITP have worked together to address specific needs of clients:

Transfer Pricing

- Represented a major international pharmaceutical company in an audit settlement and bilateral Advanced Pricing Agreement (APA) agreement with the U.S. Internal Revenue Service (IRS) and the UK Inland Revenue of all transfer pricing-related tax liabilities, which the IRS initially alleged were very significant in amount that covered a period of 15 tax years. In the final negotiations, the IRS conceded almost all of the reallocations of income that it had initially proposed in audit years and agreed to the APA taking an acceptable compromise position on the client's inter-company pricing. McDermott represented the client throughout the IRS audit process, beginning at the field office level, into Appeals and Competent Authority and at the Advance Pricing Agreement Office and Competent Authority levels with respect to the tax years covered by the APA.
- Advised a French parent corporation with respect to transfer pricing issues in numerous jurisdictions regarding charges for intra-group services.
- Represented a U.S.-based computer manufacturer in a transfer pricing dispute with the Korean tax authorities. The successful resolution of the dispute involved the efforts of U.S. Competent Authority representatives, who worked closely with our lawyers to develop and support the case for minimizing the adjustment and avoiding double tax.
- Negotiated the renewal for a multinational pharmaceutical company of the first APA entered into in the United Kingdom under the new transfer pricing code introduced in 1998.
- Advised on past years' tax audit and restructuring for future years of UK

operational activities for one of the world's leading computer games developers.

Mergers, Acquisitions and Dispositions

- Represented a U.S. private equity fund in the acquisition of juice-based beverage businesses in the United States and Europe. The tax structure for the transaction was created by the members of the McDermott ITP.
- Planned for the disposition of the stock of a Swiss subsidiary by a U.S. company, where the Swiss subsidiary was a dual resident corporation that had incurred losses (DCLs) deducted on the consolidated returns of the U.S. parent. A solution was found to avoid recapture of the DCLs by structuring the transaction so that the purchaser of the Swiss target would not use the Swiss net operating losses.
- Established an acquisition structure for a German target company with subsidiaries in 13 countries, including a post-acquisition restructuring to

merge together existing investments already owned by the client in these countries with the local operations of the target.

Jurisdictional Restructuring

- Created a Bermuda and Luxembourg holding company structure for a U.S. client, which operates in numerous countries including Costa Rica, El Salvador, Brazil, the Netherlands and elsewhere, and as a result obtained favorable tax rulings and instituted a new holding company structure that produced optimum tax benefits for the client.
- Restructured operations of a German construction equipment manufacturer with global operations. Due to a partnership structure in Germany and sub-holdings in Switzerland for affiliates in more than 30 jurisdictions (including the United States), the overall tax rate exceeded 80 percent. On behalf of the client, members of the McDermott ITP obtained binding rulings in Germany and Switzerland that allowed a tax-free transformation of the German partnership structure

into a stock corporation and a liquidation of the holdings in Switzerland. Every step needed to be considered from a U.S. perspective because one of the owners was a U.S. citizen. This successful restructuring not only resulted in a significant reduction of the tax burden, it will also enable the company to go public in the future.

- Implemented a holding structure company for foreign affiliates of a German consumer products company. Different potential holding company locations were evaluated with a decision to set up a structure in the Netherlands. Foreign affiliates in seven jurisdictions were transferred from the German company to the new sub-holding, which was accomplished in a manner that avoided all stamp duties in all jurisdictions.
- Established a Luxembourg company for a Scandinavian conglomerate as a finance company in conjunction with a specific type of UK branch, which unlike other structures, was intended to be subject to UK taxation. This effort included negotiations of a tax ruling with the UK Inland Revenue.
- Created a unique structure using Singapore entities to restructure the operations of an Australian group company, permitting the Australian company to convert from a full manufacturing operation into a contract manufacturer for the Singapore company.
- Restructured the Irish operations of a U.S.-based software company. Under the restructuring transaction, the Irish subsidiary of the software company became resident in Bermuda, while its business assets were transferred to a new Irish resident subsidiary. As a result of this restructuring, the profit attributable to intellectual property rights was sheltered from tax, and the company's global effective tax rate was significantly lowered in a low cost and low risk manner.
- Restructured the Australian operations of a U.S. multinational to achieve a better foreign tax credit result and to simplify the Australian structure.
- Restructured the German operations of a U.S. multinational to bring their German debt structure in line with the

new German thin capitalization rules. The German group was reconfigured to create a holding company structure in Germany and to eliminate certain related party debt.

Joint Ventures, Investments and Product Launches

- Provided international tax planning and structuring related to the global commercialization of a famous liquor brand, including specific tax considerations associated with the country of incorporation.
- Utilized various companies organized in Bermuda and Australia as vehicles for a highly favorable financing arrangement that essentially permitted the client to “arbitrage” the tax laws of Australia and the United States in order to make the transaction economically viable.
- Advised a multinational client on a structure for investment in Brazilian export-related assets, which minimized U.S. income taxes and internal Brazilian taxes such as ICMS, PLS and CONFINS.

Executive Compensation

- Advised a major U.S. telecommunications company with operations throughout Latin America on incentive arrangements for U.S. executives employed by several Latin American subsidiaries.
- Advised the private owners of a major European industrial concern on how to structure family ownership, where some of the owners are taxpayers in the United States, while others are resident in Switzerland. This arrangement required addressing estate planning and family control issues through use of a novel trust arrangement.
- Created a limited risk entrepreneur arrangement between a Swiss principal and a related Brazilian manufacturing plant. Pursuant to this arrangement, the Swiss principal agreed to purchase all of the Brazilian manufacturer’s output at a set price intended to give the Brazilian manufacturer essentially a cost plus return.
- Advised a large U.S. multinational in conjunction with a member of the McDermott ITP on tax effective

structuring for a staged equity investment being made over several years into Brazil.

- Advised a U.S. manufacturer in conjunction with a member of the McDermott ITP on alternative structures for investment in sales and manufacturing operations in the People's Republic of China.

Risk Assessment

- Advised a U.S.-based life insurance company on a cross-border \$4 billion investment structure to achieve an increased rate of return by using the value of certain UK tax benefits available to the co-venturer. Related transactions have required U.S. and UK tax advice on complex issues regarding the restructuring of the life company's debt portfolio and its joint initiative with a leading investment bank.

Tax Controversy

- Advised clients on a regular basis at all levels of the UK Courts and Tribunals comprising the General/Special Commissioners, High Court, Court of Appeal and House of Lords.
- Advised clients on a range of disputes involving corporate residence, transfer pricing, double tax agreement nondiscrimination article providing relief for overriding UK domestic tax law, CFC legislation and interaction with double tax treaty provisions, trading/investment activity, basis for accounting for interest deductions, foreign exchange gains and losses, stock relief, capital allowances, VAT, bad debt relief and transfer of business, deduction of tax on payments between parties to the North Sea Oil Participation Agreement and taxation of offshore trusts.

Our Methodology

We are committed to creating a working partnership with our clients and their advisors and seek to build long-term relationships. We make it a priority to fully understand our clients' businesses and objectives so that we may draw on our strong knowledge base to find innovative solutions to complex issues.

When McDermott receives a project that it will direct in conjunction with members of the McDermott ITP, a McDermott team leader will manage the process and be responsible for the following:

- Selection, with the client, of the members of the team from the McDermott ITP
- Coordination of the retention of the members of the McDermott ITP
- Coordination with the McDermott client relationship partner
- Maintaining a thorough knowledge of the nature of the client's business and briefing all team members
- Finalizing the terms of a specific engagement letter with the client that outlines the responsibilities and obligations of each party
- Communication with the client
- Definition of the work product deliverables
- Management of the project timetable
- Maintenance of the budget agreed upon for the project
- Maintenance of the attorney-client privilege to the fullest extent possible

McDermott lawyers also often work in conjunction with other members of the McDermott ITP selected by the client (even if the project is not managed by a McDermott lawyer) with the scope of the engagement determined at that time.

Our Panel

McDermott Will & Emery is consistently listed as having one of the pre-eminent tax practices in the United States and in other jurisdictions where it operates. Our depth and resources enable us to serve all of the tax needs of our clients and provide service at the highest levels of practice.

McDermott has selected the members of the McDermott ITP with the intention of providing clients with service at a level consistent with its own when a project involves jurisdictions in which McDermott does not operate its own offices. Our panel consists of both McDermott and non-McDermott tax professionals in more than 20 jurisdictions throughout the world. The ITP members are regularly reviewed by McDermott to provide clients with access to the best tax professionals in each jurisdiction.

For a detailed list and information about the members on the McDermott ITP, including representative experience and contact information, visit our website:

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Users of this website are free to contact non-McDermott ITP members and directly engage them as service providers. The relationship created thereby will be directly between their individual law firm and the user and shall not create an attorney-client relationship between McDermott and the user in the absence of a written engagement letter between the user and McDermott. McDermott does not provide any assurances with respect to the services rendered directly by the individual members of the McDermott ITP, and all billing-related issues shall be directly between the user and the non-McDermott member of the McDermott ITP. The user shall not as a result be deemed to be a client of McDermott for ethical or conflict purposes.



McDermott Will & Emery International Tax Panel provides innovative cross-border tax solutions to multinational entities as a convenient, effective and confidential way to address current and future tax planning issues.

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