

□ FACULTÉ DE DROIT, D'ÉCONOMIE ET DE FINANCE

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Date of the Seminar:

Thursday, 28 June 2012
From 2.30 pm until 6.00 pm

Place of the Seminar:

University of Luxembourg - Campus Limpertsberg
Bâtiment de Recherche C
Room 2.01 (2nd floor)
148, avenue de la Faïencerie
L-1511 Luxembourg

Language:

English

Registrations:

- Registration is free.
- Seats are limited.
- By email only at fdef-colloques@uni.lu
(Last name, first name, institution)

Information:

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□ FACULTÉ DE DROIT, D'ÉCONOMIE ET DE FINANCE

The ATOZ Chair for European and
International Taxation presents

a seminar on

Profit Attribution to Permanent Establishments

The New Authorized OECD Approach

By

Andrey Afanasiev, ArcelorMittal
Werner Haslehner, LSE
Philippe Neefs, KPMG
Elmar Schwickerath, E&Y

Moderator: *Alexander Rust*



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PROGRAMME

2.30 pm Welcome Address and Introduction into the Topic

- *Prof. Dr. Alexander Rust*, LL.M. (NYU), ATOZ Chair for European and International Taxation, University of Luxembourg

2.45 pm Implications of the new AOA

- *Elmar Schwickerath*, Partner, Business Tax Advisory Team, Ernst & Young

3.15 pm Case Studies

- *Dr. Andrey Afanasiev*, Transfer Pricing Manager, ArcelorMittal Group

3.45 pm Question and Answers

4.15 pm Coffee Break

4.30 pm The AOA and the Banking Sector

- *Philippe Neefs*, Partner, Head of Transfer Pricing, KPMG

5.00 pm EU law implications of the AOA

- *Dr. Werner Haslehner*, LL.M. (LSE), London School of Economics

5.30 pm Questions and Answers

CONTENT

In 2010, the OECD changed Art. 7 of its Model Convention. From now on a permanent establishment has to be regarded as a “functionally separate entity”. This new approach has fundamental consequences for the attribution of profits between the head office and the permanent establishment. In particular, dealings between the permanent establishment and the rest of the enterprise are recognized. Free capital can be attributed to a permanent establishment. Profits will now also be attributable to a permanent establishment by reason of the mere purchase of goods. The indirect method for profit allocation is no longer allowed. Double taxation will be eliminated by a specific procedure.

Luxembourg has already adopted the modified version of Art. 7 in its new tax treaty with Germany which will probably enter into force in 2013. Other treaties will follow. The seminar will analyze the changes Luxembourg enterprises will have to face due to the new Authorized OECD Approach (AOA).

The seminar gives an introduction into the new rules, describes the situation before and after the AOA and also compares investments through subsidiaries with investments through branches. Several problematic issues will be illustrated in case studies.

Particular emphasis is put on the tax consequences of the AOA for the banking sector. The 2010 Report on the Attribution of Profits to Permanent Establishments dedicates an entire chapter to the particularities of profit attribution to permanent establishments of banks.

The last part of the seminar focuses on the question whether the recommendations of the AOA are in line with EU law. Especially the realization of profits as a consequence of “internal dealings” might conflict with the freedom of establishment.