



**CAN YOUR
VALUE CHAIN
TAKE THE
BEAT?**

Your global tax partner

SESSION OVERVIEW



CAN YOUR VALUE CHAIN TAKE THE BEAT?

Jill Harding (USA), Xaver Ditz (Germany), Rohit Jain (India), Mark Stott (Alvarez & Marsal, CPI), Marc Alms (USA)

The US Tax Cuts Act introduced the “Base Erosion and Anti-Abuse Tax” or “BEAT”, effectively a form of minimum tax that can be triggered by transactions between US and non US affiliates in a multinational group, whether the group parent is within or outside the US. The BEAT will potentially impact any value chain that begins, ends or passes through the US. This panel describes the BEAT and then examine its potential impact and structuring considerations in the context of relevant case studies.

PANEL INTRODUCTIONS



Panelists

Jill Harding

Alvarez and Marsal,
Taxand USA

Xaver Ditz

FGS, Taxand Germany

Rohit Jain

ELP, Taxand India

Mark Stott

Alvarez and Marsal, CPI


Marc Alms

Alvarez and Marsal,
Taxand USA

SESSION OVERVIEW



1. Base erosion and anti-abuse tax – new minimum tax regime
2. Global reaction?
3. Impact on supply chain and business operations
4. Taxand's take



**BASE
EROSION &
ANTI-ABUSE
TAX**

BEAT: WHAT IS IT?



- ❖ A minimum tax imposed on certain US corporations that make payments to foreign related parties
- ❖ The term related parties is broadly defined
- ❖ The minimum tax applies if the US tax liability, computed without regard to BEAT, is below a minimum amount
- ❖ Aimed at incentivizing US corporations to retain more functions and risks onshore.

BEAT: WHO DOES IT APPLY TO?



Applies to US corporations or corporate groups:

- (i) With at least **\$500m** in average annual gross receipts over the preceding three year period
- (ii) A 'base erosion percentage' of **3% or higher**.

BEAT: HOW IS IT COMPUTED?



Requires two sets of tax calculations:

- (i) Regular taxable income and resulting tax liability applying 21 percent corporate tax rate
- (ii) Modified taxable income multiplied by:

5%
for 2018



10%
for 2019 through 2025



12.5%
for 2026 onward



BEAT equals the excess, if any, of the amount in (ii) over the tax liability in (i).

POLLING QUESTION 1



Based upon your company's existing operating structure how concerned are you about BEAT?

A

⌘ Not at all concerned

B

⌘ Somewhat concerned

C

⌘ Extremely concerned

D

⌘ Hoping to BEAT it with tax planning

BEAT: HOW IS IT COMPUTED?



Modified taxable income is computed by adding back to regular taxable income any base erosion payments.

Base erosion payments include:

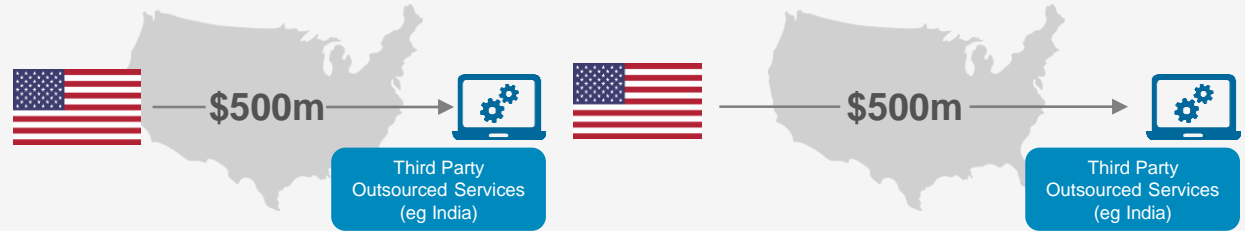
- ❖ Deductible payments made or accrued to a foreign related party
- ❖ Payments for the purchase of depreciable property
- ❖ Certain reinsurance payments by insurance companies
- ❖ Certain payments to inverted corporations and their affiliates
- ❖ Base erosion component of net operating loss deduction
- ❖ Interest payments not otherwise limited under § 163(j).

❖ TAXAND

BASE EROSION AND ANTI-ABUSE TAX



Eg Technology, Engineering, Pharmaceutical, and Customer Support Companies



Compared to related party outsourced services, third party outsourced services create a tax benefit of \$39m.

*Only applies to US corporate taxpayers with annual gross receipts in excess of \$500m (computed using a three-year average). Only applies to payments that are not classified as COGS.

THIRD PARTY OUTSOURCED SERVICES	
Revenue	\$1bn
Services deduction	\$500m
Other deductions	\$400m
Net income	\$100m
US Income Taxes Paid	\$100m x 21% = \$21m

RELATED PARTY OUTSOURCED SERVICES*	
US Income Taxes Paid (same facts)	\$21m
Base Erosion and Anti-Abuse Tax	
Modified Taxable Income	\$600 (\$100 + \$500)
Base Erosion Tax	\$39m (\$60-\$21m)
Total taxes paid	\$60m

BEAT: WHEN IS IT COMPUTED?



- ❖ Estimates of base erosion tax expense are required for financial statement reporting starting in Q1, 2018
- ❖ Tax reporting must be done annually
- ❖ Treasury authority to require specific information reporting related to BEAT in connection with Form 5472
- ❖ Penalty for failure to furnish any Form 5472 information increased from \$10,000 to \$25,000.



GLOBAL
REACTION
TO BEAT

GLOBAL REACTION TO BEAT



“ BEAT is a one-sided rule which disadvantages legitimate cross-border payments within companies.”

Karoline Kampermann,
Deputy head of tax at the
BDI Federation of German Industries

POLLING QUESTION 2



Given early reaction to BEAT, how concerned are you about other jurisdictions responding with similar tax legislation?

A

⌘ Not at all concerned

B

⌘ Somewhat concerned

C

⌘ Extremely concerned

D

⌘ More concerned about Trump's trade war tactics and likely jurisdictional responses



**SUPPLY CHAIN
IMPLICATIONS**

BEAT: SUPPLY CHAIN CONSIDERATIONS



CUSTOMERS



OPERATIONS



LOCATION
OF ASSETS



LOCATION
OF IP



POLLING QUESTION 3



How engaged are finance, operations and supply chain colleagues when considering the impact of US tax reform on operations?

- A** ❖ Not engaged, eyes roll back upon hearing the word tax
- B** ❖ Could be engaged with better understanding of impact on the business
- C** ❖ Engaged but difficult to obtain buy-in for operational change
- D** ❖ Very engaged and understand the impact to cash-flows



**TAXAND'S
TAKE**

TAXAND'S TAKE



1

US multinationals and foreign multinationals may be significantly impacted by BEAT.

2

Proper analysis and modelling of BEAT is key to begin planning mitigation strategies.

3

A holistic approach to supply chain and operations planning is necessary to mitigate BEAT.



**SPEAKER
PROFILES**

SPEAKER PROFILE



Marc Alms

Alvarez & Marsal, Taxand USA

T: +1 (212) 763-1887 | E: malms@alvarezandmarsal.com

Marc Alms is a Managing Director with Alvarez & Marsal Taxand, LLC in New York, focusing on transfer pricing. He has more than 18 years of experience assisting both public and privately-held clients, leading engagements in the planning and documentation of transfer pricing policies, obtaining Advance Pricing Agreements and assisting with Competent Authority for multinational corporations across a broad range of industries.

He has significant experience providing clients practical advice in their transfer pricing arrangements and helping to resolve international tax controversy matters. He has worked extensively with the Internal Revenue Service (IRS), as well as the revenue authorities of other countries, including Canada, India, Japan, Australia, New Zealand, Ireland and the UK in representing clients.

SPEAKER PROFILE



Xaver Ditz

Flick Gocke Schaumburg, Taxand Germany

T: +49 (228) 9594-226 | E: xaver.ditz@fgs.de

Xaver Ditz is based in Bonn where he has been a partner at Flick Gocke Schaumburg, Taxand Germany, since 2005. His areas of specialisation include the taxation of corporate groups, international tax law, transfer pricing, tax audits and MAPs.

Xaver is a lecturer at the universities of Trier, Zurich and Lausanne and a guest lecturer at the German Federal Finance Academy. He regularly publishes books and articles on recent developments in transfer pricing.

SPEAKER PROFILE



Jill Harding

Alvarez & Marsal, Taxand USA

T: +1 (415) 490-2279 | E: jmharding@alvarezandmarsal.com

Jill Harding is a Managing Director for Alvarez & Marsal Taxand US' San Francisco Bay Area tax practice. She provides end-to-end buy-side and sell-side transaction tax service offerings focusing on acquisition structuring, tax due diligence, post-acquisition integration, legal entity rationalisation, consolidated return issues, internal restructuring, cash repatriation planning, IP migration, debt restructuring, supply chain planning, inversion transactions, spin-offs and carve-out planning. With more than 17 years of transactional tax experience serving mid-market corporations, Fortune 500 corporations and private equity funds, Ms. Harding has extensive experience addressing complex transaction tax issues for clients in a variety of industries with a focus on technology and life sciences industry sectors.

SPEAKER PROFILE



Rohit Jain

Economic Laws Practice, Taxand India

T: +91 90046 04350 | E: rohitjain@elp-in.com

Rohit is a senior partner at Economic Laws Practice, Taxand India. He specialises in international corporate tax and transfer pricing.

His clients include large Indian and multinational corporations across various industry sectors, including fortune 500 companies. Rohit has been involved in making representations to the Ministry of Finance and Ministry of Commerce on various tax policy matters.

Rohit has been recognised for his expertise in Tax by Chambers Asia-Pacific 2014 to 2018, has been recommended by the Tax Director's Handbook 2012 and has also featured in World Transfer Pricing 2015. Rohit is a law graduate from the University of Mumbai and a fellow member of the Institute of Chartered Accountants of India.

SPEAKER PROFILE



Mark Stott

Alvarez & Marsal, CPI US

T: +1 408 466 6312 | E: mstott@alvarezandmarsal.com

Mark Stott is a Managing Director with Alvarez & Marsal focused on improving supply chain and operational efficiency and customer experience.

He has significant experience in the healthcare and high tech industries. Before joining A&M, Mark served as a Director with Hitachi Consulting.

Previously, he was a senior manager with Arthur Andersen; General Manager of Automotive Products with Ameri-Forge; and Director of Strategy with Motorola.