

Practical Corporate International Tax Compliance

an Exclusive Interview with

Dr. George L. Salis

With Your Host,
Peter J. Loughlin, Esq.

Transcript of July 14, 2008 Teleseminar / Interview

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About Dr. George L. Salis

Dr. George L. Salis is a well-known economist and lawyer, specializing in the area of international economic law, including trade, taxation and transfer pricing. Currently, he is Principal Income Tax Analyst (International) at Vertex, Inc., one of the largest tax software development companies in the world. He is also Adjunct Professor of Tax Law at Thomas Jefferson School of Law International LLM programme in San Diego, California, and Adjunct Professor of Economics at Webster University's MBA program, in Florida. Prior to his position at Vertex, he was engaged as international tax and economic advisor to various firms such as St. Abbays Group, (UK), The Quantum Group, LLC, Butterfields, The Europa Group, Juris Consults International Group LLC, The Scottish Rite Foundation, Inc., to name a few.

He formerly served as the Program Director for the Legal Studies Department at Keiser University, having taught, designed and revised the Department's curricula several times during his tenure. He also served as Dean of Academic Affairs from 1999 - 2002. He has taught Economics, Law, Business and International Trade related courses at several colleges in the US and abroad at the graduate and undergraduate level, and he is frequently a guest lecturer at various colleges and universities in the US, UK, and Europe. Originating from his graduate dissertations, he authored of two books on international law and policy, as well as numerous articles related to international economic law, taxation, global investments, trade, and compliance for various professional journals and trade magazines.

A frequent speaker in the international conference circuit in the areas of international trade, tax and economic law, Dr. Salis was the 1991 recipient of the Excellence in Teaching Award at Franklin Pierce College in New Hampshire, with other nominations later at New England College, Rollins College, and at Keiser University. He is a Distinguished Fellow in the Royal Society of Fellows, an international society of lawyers, bankers, and investment, compliance and tax professionals from around the globe and a Distinguished Fellow of the American Academy of Financial Management (AAFM), where he is a member of its Faculty Board of Standards. From 2003- 2005, he also served as Director of the Global Wealth Commission for the AAFM.

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Peter Loughlin: Hello, this is Peter Loughlin with 'SpeakingofTaxes.com'. Today, it is my distinct pleasure to welcome our distinguished guest, Dr. George L. Salis. Dr. Salis is a well-known author, speaker, and professor of economics and an adjunct professor of law with Thomas Jefferson School of Law in San Diego, California. And, Dr. Salis is the principle income tax analyst with the Vertex Corporation, an international tax software powerhouse. If you would like to know more about Dr. Salis, please visit our website, SpeakingofTaxes.com to view his complete bio.

Please join me now in welcoming Dr. George L. Salis.

Dr. George L. Salis: Good morning, Peter. Good morning, audience. It's a pleasure to be here.

Peter: As you all already know, we have received quite a number of questions in advance, and there are many more coming in as we speak. So, let's get started. Dr. Salis, can you give the audience a brief statement of the current status of corporate international tax compliance?

Dr. Salis: We should start by saying that the audience will benefit greatly by actually sending in questions, not only to this one, but to future seminars, and taking notes and submitting their questions online or by email. And I would be, and I'm sure most of our other guests would be more than happy to address them.

Peter: May I just interject? During this broadcast, please use the form that is on the web page that you're looking at now, to post your questions so that we can get them in and ask Dr. Salis as we move on during the show. However, at the end of this broadcast, I'm going to be giving you a special email address that you can reach Dr. Salis at, only for the next 30 days, if you have follow-up questions. I'll give that to you at the end of this broadcast.

Dr. Salis: Thank you again, Peter. First of all, let's talk about global taxation as a whole, as opposed to merely and only international tax matters from the U.S. perspective. Global taxation is absolutely changing. The rules are becoming more strict. The thin line between tax compliance, in the past, for example, you could demarcate easily the difference between tax avoidance and tax evasion.

Nowadays, between those two definitions, there's a lot of gray area. Particularly because, nowadays, any small violation towards compliance may actually bring you to a consideration of audits, within the different tax authorities around the United States and the world. And, when I say different tax authorities within the United States, the audience and listeners probably understand that we have multiple Departments of Revenue with all the different states and territories of the United States.

Peter: Yes, that's a good point to keep in mind.

Dr. Salis: As well as the different tax authorities around the world. Right now, between the United States and its treaty partners around the world, many international tax treaties are being remodeled and some are brand new, literally have been issued from the very start. And, more importantly, the OECD is literally bringing about more changes, more revamping of their own international model tax treaties and the treaties of its undersigners and executors such as the United States and most countries around the world. So, compliance, the information of exchange between governments and tax authorities, and the information of exchange between law enforcement authorities, and the information of exchange material between tax authorities around the world is increasingly evermore.

But, more importantly, Peter and audience, you should understand that now something very important is happening. What has happened is that the accounting rules and tax rules are becoming commingled to a great extent. So, the way companies make and keep their books in separate jurisdictions is very important. The way that they're keeping their tax books is very important. And they way that they're submitting that information to the various governments is being closely looked at. And, we'll discuss this more, I believe and hopefully not only in a number of these series but even within this particular session.

Compliance vs. Reporting

Also, I should tell you that many people confuse compliance and reporting. And, although reporting is a part of compliance, compliance entails a broader

spectrum of what governments want to see from corporations. And I may say that, although we are focusing on corporations, individuals as well. So, for example, you will see that different corporations, as well as individuals, again, need to file particular forms that are necessary for foreign entities. For example, Form 5471, Form 1120, Form 5413 and other forms, which is part of that compliance. But, I should tell you that compliance does not stop or begin only with reporting forms.

You should understand the purpose of these forms, the tremendous work that goes into preparing these forms, the kind of data exchange and technology necessary to prepare these forms. And each year, or for some corporations bi-annually, and others, yet still, quarterly, there's tremendous amount of work that needs to be put together by tax departments in conjunction with their accounting and legal departments.

Form 5471 – Check the Box Regulations

Peter: Dr. Salis, naturally, taxation is a very forms-driven field, whether it's domestic or international. And, being that you touched on that, can you just tell us a little bit about what is required? You mentioned Form 5471. What suggestions would you have to deal with Form 5471, for example?

Dr. Salis: Well, thank you, that's an excellent question, Peter. Let me say that, today, to get more in depth, and I noticed that this is a seminar or conference that is marked more of the medium, so if anyone has any questions out there of something more in depth, please don't hesitate to call us. But, what is very, very important here is to understand that this is all tax law driven; what we call in the industry code driven. Not only in the United States, but code driven in treaty partner countries around the world, as well. So, what happens is that each one of these particular forms merely denotes the kind of information that governments would like to see in each company's or corporation's operation, both domestically in the home country of reporting, for us, in the United States, and for foreign source income and other types of income abroad, the same thing occurs. Each corporation, called the parent legal, will have their own particular reporting center and, therefore, they have to report according to their own competent tax authority. Now, coming back to 5471, it's an information return of U.S. persons; and when we say U.S. persons, we mean companies, partnerships etc, with respect to their operations abroad. More particularly, in this area, it talks about what we call subpart F income, or CFC - Control Foreign Corporations.

This is very important, Peter, particularly because many companies in the United States do business abroad with other entities, not necessarily with other corporations, but other minority-holding groups; minority-holdings LLCs, minority-holdings partnerships, or majority-holding corporations that are owned by a majority group of U.S. taxpayers. So 5471, particularly, is very, very important for information return in which the tax aspects of a foreign entity could be well distinguished. We should talk about this and, perhaps, somebody else may have a question on this. But, we should talk about that effective January 1997, the United States IRS put in place what is known as the 'check the box' regulation, as you may know.

Peter: Yes, the check the box regs.

Dr. Salis: So, an entity can elect how they want to be taxed for U.S. purposes. So, a foreign business entity can be listed as a corporation or another type of eligible type entity and, therefore, they would be a type of a company that would have to file a 5471 outside of the United States so long as that entity would be approved. We call this Qualified Business Units.

Form 1120

Peter: Just to move on to the 1120, we have a question in from Greg Lomus from Washington, DC. He wants to know if you have any suggestions in dealing with the complexities involving the 1120 and reporting requirements.

Dr. Salis: [laughs] Oh. Thank you very much.

Peter: And by the way, there was several others on that same line as well. [1120 and 5471]

Dr. Salis: Yes. Well, everyone wants to know about 5471. And everyone wants to know about the 1120(m)(3). Now, let me, that's an excellent question. I thank you and Mr. Lomus in DC for saying that, but what a coincidence that Mr. Lomus is in DC. Of course, being the center of US taxation.

Peter: Absolutely.

Dr. Salis: And where all the major big four accounting and tax companies also have their centers. I want to mention something very, very important. What I want to make certain is that the United States, corporations file their income tax return, of course, in what is known as Form 1120. Now, I want to mention

two things in regards to this since Mr. Lomus apparently knows his business. And that is that when business in the United States, companies in the United States, whose parent legals are located in the United States are doing business abroad or what we would call in the profession "outbound", outbound transactions. You require a regular 1120.

You are also required to file the corporate income tax return in the country of residence of the foreign owner as well. So the 1120, it's very important because the 1120, all domestic and US companies doing business abroad are required to file the 1120. However, for businesses doing business in the United States, which are foreign owned and which have foreign owners and are located outside of the United States or what we call "inbound", that's what is called an 1120(f) as in frank. The 1120(f) or for foreign companies is what you would file on the way in. The reason I'm saying that, Peter, is because both regular outbound 1120's and inbound 1120(f)'s do have their own M-3.

Schedule M and Sarbanes-Oxley Act

Dr. Salis: Form M-3. Now Schedule or Form M-3, it's a very important form that really started approximately three and a half years ago by the IRS. It should also be noted that inland revenue in the UK as well as various European Union countries have similar forms although, of course, not necessarily termed the M-3. The M-3, whereas before the 1120 would have Schedule M-1 and M-2. Nowadays, you have M-1, M-2, and M-3.

The M-3 is a creature of what we call the "Sarbanes-Oxley Act", abuses by corporations in the past. Now the IRS has an M-3, which is a form that truly increases the transparency of corporations doing business abroad. The M-3 is extremely complex. The M-3 requires preparation in conjunction with the 1120, M-1, and M-2 on its own merit. It places great emphasis on the operations or the foreign operations of American companies doing business abroad.

Reporting requirements and burdens are increasingly each year being more in depth. Required to be more in depth. So, in other words, each company, Peter, would have to file the regular 1120. It would have to file a Schedule M-1 and M-2 within the 1120. It's also now required to file the M-3 so that the IRS can actually and others, by the way since today were in information sharing so that the IRS could actually take a look at a more in depth and more detailed manner, the transparency of that company's reporting abroad.

Peter: OK. I hope that answers Greg's question. Agreed that the IRS forms irrespective of 1120 or any other forms, they tend to be quite complex. I have another question in from Jeremy Sales, if I'm correctly pronouncing your name, from Toledo, Ohio. Jeremy wants to know, what are the top areas of US tax issues that tax professionals should be aware of, and on the lookout for when they're structuring foreign corporations? So he's touching on what you just mentioned about foreign corporations.

Dr. Salis: That's a loaded question, Peter. That question alone would be the topic of an entire new seminar or conference. Probably one and a half hours. I'll try to, how can I say, I'll try to summarize that to some degree. Particularly when companies are doing business abroad, and they're structuring for an operations abroad.

The first thing that they, there are many things, but the first thing that they want to take a look at once again would be the 'check the box' regulation. What are the US tax aspects of any entities doing business abroad, and the conversion? By the way, may I say that your next, Peter, a very good colleague of mine, Shawn King, will be touching later on, I believe, on international tax planning, would probably touch upon this more. 'check the box' regulation would be is an excellent strategy, an excellent tool for international tax planning. I'm sure that perhaps he will mention it more.

Peter: That's coming up in August, by the way. – [August 14, 2008 on www.SpeakingofTaxes.com]

Dr. Salis: Well, thank you very much. Yes, and I noticed that he's one of the experts you have coming on together with others in the future. The 'check the box' regulation is an excellent strategy for international tax planning. International tax professionals should be looking at. Also, may I add the inter, how can I say this, the international and intercorporate relationship that companies would have with any subpart f income, particularly again issues brought about Form 5471 on control foreign corporations.

It's another one. Another one that you want to strategize about would be not only foreign tax credits, but how to recapture any foreign tax losses. To that, I would add for tax, international tax planning, again, looking at dual consolidated losses both domestic as well foreign. Again, keeping in mind that this is a medium-level type conference. I would be speaking more on that.

Something else that is very, very important is looking at flow-through entities. How can businesses use an LLC or a partnership abroad when it comes to CFC's and 5471 issues? I may also, as a matter of fact, I may also say that sometimes one has to look at what is called 5472 issues, which that would be information returns of certain foreign-owned US companies or a corporation that is only engaged in 25 percent foreign ownership. So aside from having 5471 issues you would have 5472 issues if the company, once again, as I mentioned before, it's a minority holder for about 25 percent or less.

These are transactions that occur between large foreign-owned domestic corporations and other related foreign corporations with US entities. So that's very, very, very important. By the way, the 'check the box' regulations are usually, as you already know, are what we call 8832 type regulations. 8832 is the form in which you would elect that 'check the box'.

Another thing that you would be on the lookout for, Peter, would be treaty status. Whether the jurisdiction selected to put this flow-through companies or any international operation at a corporate level has favorable tax treaties with the United States.

Peter: Yes, tax treaties and foreign tax credits, yes?

Dr. Salis: As you well know, treaty status can encompass, it's a large part of creditable tax issues that could be used here for either losses or credit or deductions within the scope of those treaties are very important. Particularly, when you're company's going to make use of either deductions or foreign tax credits and whether they're going to make use of any other treaty status. Not only necessarily, I should say, related to the tax code, but to international trade as a whole. For example, the United States have extensive treaties that can be used together with US international tax treaties and OECD type models which has to do with the United States having international trade treaties.

For example, with Caribbean countries or certain Asian countries or certain other type of NAFTA-style trade treaties are advantageous to multiple parties.

May I also add before I go; and on top of that you should also be looking at, if you are a manufacturer or a distributor for possible transfer-pricing models that can use pricing methods that can be used advantageously within those tax treaties as well; and use collectively with you as tax strategy in the mitigation of

US taxes here as well.

Peter: Sound advice. Can I redirect here for a moment; I just want to ask you to briefly touch on, or elaborate if you will, the 'check the box' regulation, and how they interact with subpart f income.

Dr. Salis: Well, that's a very good question. .

Peter: So, it's an answer in itself (laughingly).

Dr. Salis: Well, the good part here as far as compliance is concerned, Peter, is that the 'check the box' regulations are very important, first and foremost in electing the kind of entity that you want to conduct business under together venture-wise part of the United States. So, separate income, which of course again is controlled-for in corporations which is by some sort of majority stock-holding in a majority-owned interest US persons, without going in to the most - the fifty rules and the other type of rules. Let's say, how can I say this without going in to a schematic of questions. Suffice it to say, Peter, the 'check the box' election, particularly with the sales of certain-use assets, and for the use of trader businesses, it's very important to the 'check the box' regulations, particularly when the United States is a party to a great interest to one of those entities. I hope that I'm making myself, in a very introductory matter, making myself clear. Because there are many ways which the CFC and the ADA32 can give rises to both tax benefits, and advantages as well as disadvantages.

Peter: Maybe we could have you back on if you would indulge us in the future and we could use that as a specific topic because it's quite broad in itself.

Dr. Salis: Well, thank you very much, I would. And particularly again, as I said earlier, with the recapture of overall of foreign losses that would be very advantageous; especially if you are going to have certain deductions and particularly again when you have hybrid entities and you have US partners doing business with a foreign corporation or a US branch or I should say a US foreign branch with a foreign corporation, or intermediates doing business with US and foreign corporations. So, there are many scenarios that you can touch upon, which would trigger separate incomes and the CFC rules - not only in the United States but US treaty partners.

GAAP and International Accounting Standards

Peter: OK. I got a question in from Atlanta, Georgia. This is from Kenneth Barry. This sort of brings us in to another area, but he wants to see if you can discuss global tax provisions and how it's affecting taxation worldwide.

Dr. Salis: Wow!

Peter: - Another loaded question!

George: Another loaded question! But that's a very good question, and I'm going to mention this right away for all the listeners, Peter, this is a very important question because as I often tell my colleagues in my own office, this is where legal taxation or juridical taxation - or I should say tax law meets tax accounting. Nowadays, once again as I've said, the rules of accounting - US GAAP and International Accounting Standards (IAS) are converging with American standards, also known as US GAAP. And, of course, there is European GAAP Standards as well.

Well, first, let me start by saying quickly what tax provisions are, and exactly what it implies. Corporations are now compelled to make provisions for their tax expense. Tax expense of any corporation is probably its largest expense. The more business and operations worldwide and domestically a corporation has, the more income it creates. Therefore, the income will be given the proper planning expenses etc. It will create more tax obligations. Therefore you have to make provisions to pay that tax expense - which is again if not the largest, one of the largest in a company's balance sheet.

And so, the tax provision, it's what today - and has been for the last five to ten years - the most important part of a tax accounting in any corporation. Even the debt's tax provision - if a company is doing business in the United States, if it has domestic, state and federal provisions; but if it's doing international provisions, you have to add the federal tax and multi-state obligation of any corporation to its international operation - that is what's known as 'global tax provision'. Now, of course, that affects the bottom line of a company, particularly because a company will have in accounting what is known as 'temporary and permanent differences' between its income statement and any tax expenditure. So, literally when you use provision when you delineate and define for tax purposes those obligations later on, the difference is called a 'book and tax difference'. Again, most people in the audience and yourself will

be very familiar with this.

FIN 48 – FAS 109

Now, quite honestly, I have to back up: US GAAP always provides for age and tax liability in the past that was known as FAS 5. Financial Accounting Standard five provided for contingent tax liability which was to be reported on financial statements for future events et cetera. Now this is very complex because then, Peter, we move in to what is called FAS 109. And FAS 109 rules which have become very prominent in the last six to eight years have now been re-interpreted in what was otherwise known as FIN 48. FIN 48 is a requirement that overrides the past FAS 5 rules. Let me say that the most crucial part of FIN 48 requirements, which apply to both domestic tax provisions and international, is the required disclosure of materials, financial statements; it affects the type of attributable tax position. Taking them both state and federal, as I said, and international income tax returns, in both the temporary and permanent differences of when you look at taxable income of any corporation. So, as a matter of international taxation, today, all US corporations have to start with multi-state or local tax obligations, then they have to make provisions for federal - or for foreign companies - a separate book of accounts that literally shows the book of tax differences having to do with contingent tax liabilities of events that will occur in the future and how you will touch that in order to have accurate financial statements, and to present the accurate income tax returns.

This is a very complex area, and what I usually say is 'fiscal accounting meets juridical or legal tax accounting'.

Peter: A gray area..

Dr. Salis: A very very extensive area and not easy to explain. Particularly since we are yet to see FIN 48 is about three to four years old. Four if you look at planning, three since it's been in effect. FAS109 extending the duties imposed by contingent tax liabilities as five in the past. This has been the province mostly of tax accountants in the United States which is now pouring over in to the 'Compulsory and Compelling Compliance of Corporations' and now even in to legal tax departments it's being looked at. So we have very few case law on the compulsory, compliance and how FAS 109 and FIN 48 is being implemented in the global arena.

Advanced Pricing Agreements (APAs) - Transfer Pricing

Peter Loughlin: While we're at it, I know I have a lot of questions, but this one came in a few minutes ago. It's from Scott Yates in London. Welcome all the way from London, Scott. And it's right on point that I wanted to ask you. He'd like to know how you feel FIN 48 is affecting transfer-pricing methods, and also APAs.

Dr. George L. Salis: Wow. [laughs]

Peter: And also, if you wouldn't mind - again, I know it's a medium-level course but if you could maybe just explain to some of our beginners who may be listening what an APA is as well, if you wouldn't mind just touching on that a little bit.

Dr. Salis: Yes. Well, thank you very much, Mr. Yates from London. Thank you very much.

Now, I'm going to tell you, first, let me start by saying something that the last questioner probably should also be aware of. All of these - FIN 48, FAS 109, et cetera, et cetera, M-3 and the transparency reports, adjoining both 1120-F and the regular 1120-C for the US corporations - all of this has been a creature of the corporate debacles in the late '90s and early 21st century that have occurred: Enron, Parmalat, WorldCom, and many others. So, again, both treasuries, the Securities and Exchange Commission and its counterparts across the world are looking for greater accuracy in tax and financial reporting.

And they're also looking to look through, and they're looking for transparency and methods of accountability. And so, all of this, in the United States, Japan, Europe, the UK, and many of the major - how can I say it - developing countries, as well as G8 countries have already raised certain legislation, like Sarbanes-Oxley Act in the United States and similarly. So, we should discuss that.

Hence, it is no accident, I should say, and highly intended, that we should also not only touch upon domestic taxation as well as international taxation. Right?

And FIN 48 is affecting transfer pricing. It's affecting international taxation for US, our companies doing business abroad, and foreign companies doing business and reporting in the United States inbound.

So, in transfer pricing, which is where... unlike before, where I said in the past question that that's where accounting and fiscal methodology touches theoretical taxation, this is more economics.

Transfer pricing is more the province of international economists through the last, let's say, 25 to 30 years. And therefore, both the United States has transfer-pricing agreements and treaties with major partners around the world, and the OECD model tax convention has its own transfer-pricing rules. Within those rules that you probably know, there are various transfer-pricing methodologies, which are numerous and outside of the province of the question being asked.

Peter: Sure. [laughs]

Dr. Salis: But, nevertheless, the transparency required into those pricing methodologies and how these companies are setting those relationships abroad is very important. That's where APAs come from.

When an American company sets up a transfer-pricing methodology - let me take you really quick through this, Peter, if I may...

Peter: Certainly, I think the audience will find that quite helpful. Transfer pricing issues are always confusing and undergo frequent changes.

Dr. Salis: It's very important. When a company is proposing to do business abroad at what section 482 of the IRC, of the Internal Revenue Code, calls an arm's length, which is presumed by the code, it wants to see that arm's length relationship being above board, or above the line, as we would say. And therefore, what they want to see is that any transfer of monies, inventories, pricing arrangements are at an arm's length standards.

So, what happens is that the company submits a plan, after a careful transfer-pricing study that includes an economic analysis and a functional analysis of the industry and the pricing methodology involved, then they propose to the Internal Revenue if it's a US company, or the Inland Revenue if it's in the UK, or the Canada Revenue Agency if it's in Canada, to their particular tax authority, what is called an APA.

And the APA is an Advance Pricing Agreement that sets a transfer-pricing treatment prospectively as to how those relationships with foreign-related entities of that company would work. So, the Advance Pricing Agreement has to be submitted with all this, subscribed studies and pricing methods, to the

domestic tax authority, which, in turn, they take up with a treaty partner. They take that Advance Pricing Agreement with what is called the relevant tax authority in that jurisdiction, and they approve it, disapprove it, or it could be modified.

This is a process. It first has to be set up by what is called a preliminary conference. Then there might be a series of conversations and proposals to make adjustments to the Advance Pricing Agreement. In the United States, for example, there has been an APA program initiated since the early 1990s, and they're even allowed for small business taxpayers that is conducting business abroad.

So, the APA, the Advance Pricing Agreement, must be at arm's length, must be in conjunction and under the prescription of section 482 of the US code, must be in compliance with the foreign company's, or I should say the host company's, tax rules and tax treaties. And therefore, there has to be greater transparency. And this is where FIN 48 comes in.

Nowadays, the FIN 48 standard, also known as "Accounting for Uncertainties in Income Taxes," has to clarify the pricing methodology, has to be ready for any statutory financial auditing that the relevant taxing authorities in question and that transfer pricing might include.

So now, all that translation necessary needed in transfer-pricing rules between the host and the guest country, both inbound and outbound, has to be very transparent. And again, this is where FIN 48 comes in.

Now, the trick is making both the US tax authority aware of that when you propose your Advance Pricing Agreement. And particularly today, the examples have to be intangible-goods pricing, particularly in service, including certain centralized services, intangibles and intellectual property transfers and exchanges and the royalty due and, more importantly, the cost-sharing issues and allocation of certain methodology of cost bases and buying payments - and I can name you about a dozen more that are within the province of FIN 48.

Peter Loughlin: Excellent answer. Thank you again, Scott, for bringing that question to us. Dr. Salis, you had mentioned a couple of times now our own Sarbanes-Oxley Act, and similar regulations around the world. Can you tell us briefly how that affects global taxation, as a whole?

Dr. Salis: If I may say this, are you particularly referring about the US GAAP standards, versus foreign standards?

Peter: You can touch on both of them. But, Sarbanes-Oxley, although it's a domestic act, more interested in your elaborating on how this affects global taxation.

Dr. Salis: All of these fiscal and accounting reforms and reporting standards, being led, of course, by the OECD, is very important, because it has now translated - although the United States was among the first countries, due, again, to the corporate debacles of the '90s and early 2000s that occurred in the United States.

Parmalat was European - as a matter of fact, was Italian. And there's been so many debacles all over the world with the transparency of foreign and international operations that now several countries - Japan, France, Italy, the United Kingdom, Australia, and so many other countries, within the European Union and outside of it - have initiated similar transparency, SOX, or Sarbanes-Oxley, legislation.

First of all, let me say that Sarbanes-Oxley is legislation, here in the United States, and there is similar legislation abroad, intended to get into the boardroom of corporations, if I may. It seeks to increase transparency from the corporate boardrooms out, in the way that they prepare their financial statement and report their finances. And that of course includes, also, taxation. So, Sarbanes-Oxley and the similar legislations around the world have increased the policing of the boardroom.

And, I may add, that does not include executive salaries. A lot of people think that it affects executive salaries. No. It affects public corporations, the way they do business domestically and internationally. Who comprises the board of directors? Are there conflicts of interest with other ventures and other corporations? Are there violations, as we've seen lately, in the last two years, in the federal district courts in New York? Are there any violations, not only of ethics, but also, should we say, of antitrust rules or anti-competition rules, both in the United States and Europe? Etcetera.

So, the standards in which they are reporting is what accountants and financial professionals call GAAP, generally accepted accounting provisions and standards.

Peter: Yes, and in my opinion GAAP has been sorely needed and will continue to expand in the United States and in Europe.

Dr. Salis: These exist all over the world, not just in the US and Europe. So, there is US and European GAAPs as well as Asian GAAPs.

But, we have also seen the emergence of what is called IAS, or International Accounting Standards. While the International Accounting Standards has also given rise, or given birth, to what is called the IFRS, International Financial Reporting Standards. And there has been, for the last three or four years, a tremendous movement, by both the tax and the financial communities around the world, in order to increase transparency and accountability, to unite them, to uniform them.

Today, this is almost a reality. The Securities and Exchange Commission in the United States and their counterparts around the world are trying to do what is called the IFRS-GAAP convergence, which means that it would relatively uniform accounting rules and financial statements and reporting rules to a great extent, also with with tax rules, the kind of financial standards that need to be uniform as to make sure that international tax and reporting standards are clear, easily interpreted by financially trained and fiscally trained personnel and legal-trained personnel around the world, and easily, should we say, reportable, with the kind of technology that you need today to report international operations across all borders.

So, there are some differences in the translation, at the moment, between US GAAP and IFRS and IAF, but those are quickly disappearing. And the United States has already made a very positive move to see that the United States GAAP, European GAAP, and the IFRS and IAS standards are becoming convergent all the time..

Peter: We have an on point question right here, from Lynn Tang. She's from Valley Forge, Pennsylvania. And in fact, she just wanted to know: do you honestly believe that it is possible US GAAP and IFRS will eventually merge and become uniform?

Dr. Salis: The answer is absolutely, positively, 100 percent yes. The question is not whether they become uniform. The deeper issue is not if they become convergent and uniform, but how uniform and convergent will they become. [laughs]

In other words, we know that currently there is a European GAAP equivalent to FAS 109 and to FIN 48. The question is do they mean the same thing? And between fiscal and accounting systems, do they translate to be the same, and can they be enforced the same by tax authorities and Securities and Exchange Commission and their counterparts around the world?

So, the question is not whether they will be. They are being uniformed, they are being united, and they are being converged, as we speak. The question is to what degree and what level? And I imagine that that will take several years, at least a good two to three years, before they are fully integrated. And that's the question that we really want to address. And my best guess is that that will take at least two to three, maybe even up to five, years to see a uniform, a convergent US GAAP, IFRS GAAP.

Now, the secondary question arising from that same premise, Peter, and Mrs. Tang, would be if that uniformity will be an exact uniformity or exact convergence, given the differences between several GAAP systems around the world and given the differences between the IAF, and whether there will eventually be a single system. Will it ever be the time that we will come to an IFRS system, period - an international financial reporting standard and accounting standard? And I would venture that, probably, one day, yes perhaps not in the very, very near future, but eventually, yes.

Peter Loughlin: Or certainly some form of adoption of those rules by the US.

Dr. Salis: Absolutely. Yes, absolutely. That is very important, Peter, to keep in mind. Yes. Absolutely.

Peter: Would you be interested in tackling an OECD question from a listener in Mexico City?

Dr. Salis: Oh, certainly, yes.

OECD: Control vs. Harmonization

Peter: This is from Claudio Melcor. I believe I'm pronouncing that correctly. I apologize if I'm not. But, Claudio wants to know: why do you think the OECD wants to control, harmonize, and uniform global taxation? That's probably a good assumption, but why do you think they'd want to do that?

Dr. Salis: That's an excellent question, Peter, given the preceding question.

First of all, let me go back and mention something that has been considered a lot in the last three revisions of the OECD Model Treaty. And what I wanted to say that I neglected to say in the last two very excellent questions is that the suspect areas that have given rise to all of this; one should look at and, again, given that this is an intermediate type of conference, look at Section 202, 404, and 303 of SOC so that you can look at the birth seed of all these accounting, fiscal, and tax reforms.

And, the reason I want to say that in answering this question is, that for the UK provisions, the Italian provisions, and the Canadian provisions, and the Australian provisions that have similar SOC legislation, you can find the relevant provisions that gave birth to these reforms.

So, I want to start by saying that because the OECD, lately, has been influenced greatly by this kind of transferability, the kind of information exchanged between tax authorities and treasuries, et cetera. So, that's the first thing we should start with. Therefore, that influenced greatly the OECD in its last two revisions. Now, let's come back to wanting to control. I really don't believe that the OECD wants to control financial markets, as many conspiracy theorists would have it around the globe, or wants to control the securities market around the world, or wants to control financial transactions, banking transactions.

The OECD, which of course, the United States and all major developed or developing economies are members of, seeks to - and I think that the question was framed correctly - seeks more to harmonize or uniform global capital markets, financial markets, taxation in order to give governments and investors and international traders more visibility, more uniformity of expectations of rules and enforcements and financial accountability for their sakes, protection and benefits as well as those of corporations.

That, of course, because of narcotics trafficking, illegal international criminalities in the last 30 years, anti-money laundering concerns and, of course, anti-terrorism concerns have given a tremendous credence to this move. But, more importantly, has to do with safeguarding the economic posture and economic conditions around the world.

So, they don't want to control it. I think they want to harmonize it. And thus, the OECD, which, by the way, we have not defined that, and although, again, this is intermediate material, the OECD, which, in case some listeners out there tuned in and may not know, the OECD stands for the Organization for Economic Cooperation and Development nations. It is an international convention. It is an international treaty with signatories all over the world, over 300 of them, and it has centers throughout the world.

The OECD seeks to uniform economic conditions, tries to keep everything on a level playing field, if I may, and allow countries to make sure that they safeguard their own internal economies, and also the global economy as a whole.

So, once again, I think it was a very good question, but I believe that they don't want to control it. Perhaps they want to harmonize it and uniform it to a great extent. And, by the way, that is one very, very hard task.

Peter Loughlin: Absolutely. So, it's not quite accomplished yet. And, I agree, it's not so much of an issue of trying to control a little too strong of a word. Although, some out there would probably disagree with us about this.

Dr. Salis: Absolutely, yes.

The Use of Tax Technology

Peter: I have time for one last question. This is from Steve Maurier from Montreal, Canada. Steve, apparently, is a tax director himself, and he wants to know; can you elaborate what a tax director of a mid-size international technology company can do to better manage his continually growing global tax departments?

Dr. Salis: Yeah, very, very good question. OK, I'm going to try to tackle this the most direct way possible. And, that is, given that Mr. Maurier is - I believe that was his name, right? Mr. Maurier?

Peter: Yes, that's correct.

Dr. Salis: Given that Mr. Maurier is a tax director of a technology company, maybe he wants to look right in his own backyard. By that I mean, all tax

departments worldwide, particularly mid to large companies, as I just heard you put it, need to have very good accounting and tax software technology, which is, of course, what I do professionally. In the old days, the tax department was nothing more than a small room with a few accountants or tax professionals doing taxation. But, in the modern global environment, that is not possible.

You need local expertise of whatever country you're in. You need international expertise, both from legal tax personnel and accounting tax personnel. But, the convergence point and the most crucial part is to have an excellent technology tool that allows you to do interactions and reporting and compliance between national and international level reporting, whether inbound or outbound to your particular jurisdiction. That allows you to do excellent tax planning. That allows you to do good international tax provision. And, even allows you to do good transfer pricing. And, all for the given reasons that most of these questions dealt with today.

So, get yourself excellent technology, if you don't have it. Get very good software that knows your particular code and your particular tax rules and obligations and tax requirements for compliance; nationally and internationally, as well as for good tax provision and international tax planning, which I hope people turn in because that's the, if I may say, if you want to get the most out of this particular session, you should listen to Sean King, an excellent international tax lawyer and a good friend, who will have very, very good advice on how to do effective international tax planning globally.

Peter: Absolutely. May I take the liberty of recommending that Mr. Maurier or some of our other listeners take a look at the Vertex website, I'll give the URL, if you don't mind?

Dr. Salis: No, please.

Peter: Correct me if I'm wrong, it's www.VertexInc.com.

Dr. Salis: Yes, please.

Peter: VERTEXINC dot com for all your tax software needs and a lot more. I think you'll be happy to take a look at that.

Well, we seem to be running out of time and we're just about near the very end. Again, may I invite you to come back in the future to speak on some of these other subtopics that came up today?

Dr. Salis: Well, thank you very much, Peter. And, as you said, if there are any additional questions or any other rebuttals or points that you may want to contribute, please send me an email.

Peter Loughlin: And that email address is just for the next 30 days, so you want to take advantage of this. Please email Dr. Salis at forums81472@mytax.net. And you can also go to our website, which is SpeakingOfTaxes.com and we will have that special email address posted there, as well, for all of you who want to ask Dr. Salis some follow-up questions.

OK? Thank you, Dr. Salis, very much. Thank you folks for listening. Bye, now.

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