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Questions and Answers

Questions

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Questions and Answers

MR. KING: We have heard our three speakers, and I'll throw the meeting open to questions. I had a question I wanted to ask Bob Brown in terms of forecasts in the dividend withholding area. Do you have any forecast as to how this might turn out?

BOB BROWN: No. I would never put my speculations with a strong word like forecast around them. It's possible to speculate.

Canada has never agreed to withholding tax on dividends of less than 15 percent. It's equally possible to speculate that Canada isn't going to get a new tax treaty with the United States unless there is a little bit of give on that issue.

One can speculate that the likely dimensions would be restricted to U.S. direct investors, and it's possible to get either a five or ten percent rate. This is pure conjecture on my part.

It seems to me this is one of the big stumbling blocks in the association, and unless there is a little bit of give or take on Canada's part, I would not think you would get a new treaty.

MR. KING: Would you forecast something in the area of compromise?

MR. BROWN: Yes.

MR. KING: I had a question of Peter on this business of how far you go out to tax. I was curious as to the North Sea setup. Are you familiar with that, and I'd like to know whether you saw some parallels that were usable there in terms of the United Kingdom, attempting to tax operations out there and what precedent you see with the United Kingdom treaty network there. Do you see any message there?

MR. CUMYN: I haven't heard anything concrete in Canada about a special taxation regime for oil that is brought out of that shelf, and I just don't know whether they have gotten that far yet, because it's still quite a few years from production. The United Kingdom tax gets quite far away from an income tax.

MR. KING: I was curious in terms of the joint audits, George, on these multilateral audits, do you see any new ingredients? As I look on the multilateral audits, I would see three or four countries involved, with a very strong possibility of disagreement between one or more of them. I think that's a pretty big step.

You mentioned that these were a possibility, and I would say that it was a pretty big step for the two countries.

MR. GOODRICH: I suspect you'll see more bilateral audits before you will see multilateral audits involving the United States and Canada. With both countries apparently focusing on the tax-haven countries, I think you will get more exchange of information about tax-haven coun-

tries, but I am not sure it will proceed to a full-scale multilateral audit for some time.

I agree that it would be such a monumental step it will probably not happen for a considerable period of time until the procedures are well established.

QUESTION: This is a question for Mr. Brown. You mentioned that probably the new treaty would not extend to exemptions on the sale of real property. I have also heard some speculation that there may be an evaluation provision in the new treaty, and I wonder if any of my unreliable sources were correct.

MR. BROWN: I think we may have similar unreliable sources. I don't know quite whether to believe it because another evaluation day would introduce a lot of administrative complexities.

On the other hand, I have heard that the treaty does include that there would be a new evaluation date, and there would be some gains from here on what would be subject to a tax.

QUESTION: A question for Mr. Goodrich on that joint audit; have you had any dealings with the area of individual audits rather than corporation audits?

MR. GOODRICH: Not under a formal program. In the original agreement to proceed back in 1977 between the United States and Canada, the question came up particularly relating to individuals who may be conducting business operations in both countries. The quick answer from governmental sources was, no, it won't affect them, and then upon reflecting, "we may have to give that further consideration."

QUESTION: You also made a comment before about revenue agents from the other countries not going cross-border, and I know for a fact in Canada, in both Ottawa and Toronto, there are offices of the IRS, and I wondered if there was an office of the IRS of the United States in Canada.

MR. GOODRICH: Yes, there is an office in Ottawa. Focusing on your particular question relating to joint audits, it was established back in 1977 under the joint audit program that the IRS in Ottawa would be the focal point for commencing the joint program. They would meet in Ottawa to develop the program, target the companies and the like. That is one of the purposes of that particular office.

MR. BROWN: One offhand comment is that there is clear evidence because of the joint treaty, or other factors, there is a fair amount of informational consultation between the two revenue authorities at the working level, and this is not under any program or any authority whatsoever.

An agent in Toronto gets a bit of information and says, that's interesting. I wonder if that guy in San Francisco is paying tax. He sends it to San Francisco IRS or a man in Phoenix has a question of a Canadian taxpayer and he phones Sioux St. Marie and gets the answer. This is a total extra. It may even be illegal, but it's going on.

MR. KING: I have one comment on this joint audit, that big refund that you mentioned, George.

MR. GOODRICH: I'll give credit where it belongs. Mr. Brown wrote an article back in 1977 about joint audit programs perhaps being a witch-hunt, and the concern about the lack of sophistication among the Canadian agents, which might result in draining revenue from Canada. There is some confusion about the reporting of that particular case.

One source apparently came from a meeting in which Mr. Gourley was present, where it was allegedly reported that it was an inter-company pricing issue, but it involved a haven country. It involved pricing both with the United States and Canada, and they were uncertain as to who lost the revenue.

Another unconfirmed source says that Canada lost all of the revenue. That was supported by another informational publication and comments by the competent authority representative in Washington during a luncheon, so I relied on the competent authority people in Washington. Perhaps they were closer to the truth.

I think with Canada undertaking these industry-wide programs and, therefore, developing a greater degree of sophistication, perhaps the concern is not there any longer, as much as it was two years ago. But there is still a problem. Are they going to go after each other or are they going to go after the haven countries?

QUESTION: One of the most difficult, lucid concepts in the treaty is the concept of permanent establishment. Is the definition any clearer under the new draft and along what lines does the permanent establishment definition take?

ROBERT BROWN: To the best of my knowledge, the new definition will be in accordance with the 1977 OECD draft which incorporates the uncertainties that that incorporates.

MR. KING: Any other questions? If not, our time is running out anyway. We want to thank our speakers for a very fine presentation.

I think it will make very, very good reading. Some of this particularly in Peter's area, we are getting for the first time and it's good that we are being exposed to it.

Also, I think that both in terms of the treaty we will look at Bob Brown's forecast and so far as I have been able to pin him down, when the treaty is finally announced and we will look for some happy experience from the five lucky people that have chosen George for the next joint audit program.

Without further ado, I think we deserve a round of applause, and thank you all.