

The logo for XLNC, featuring the letters 'XLNC' in a bold, white, sans-serif font, enclosed within a white rectangular border with a slight 3D effect.

GLOBAL PROFESSIONAL  
EXCELLENCE



XLNC  
Autumn  
Conference  
Venice, Italy

Issue No. 04 | Autumn 2019 | © XLNC AG

MAGAZINE

# Editorial

## Dear XLNC Member,

Reading this, many of you are probably thinking: "How time flies!" And with good reason — it is already six months since we saw each other in Vienna at the last conference. So, time for an update and the new issue of the magazine, which aims to inform, inspire and keep readers abreast of all the latest developments within our network.

We provide you with more details on what to expect at the Autumn Conference in Venice, Italy, taking place from 15 – 17 November 2019. The Focus Group Chairs have included summaries for their Focus Group meetings at the Conference, in case you haven't decided yet which one to attend.

We are also giving you a little taster of the XLNC Spring Conference in Brussels, Belgium, next year.

Read the event review about the Conference in Vienna earlier this year and either enjoy reliving the memories of a wonderful

event or see what you missed. Of course, specialist articles written by our members are also featured:

Louis Sapi and Ronnie Vaknin (HS & Partners LLP, Chartered Professional Accountants, Canada) write about "Doing Business in Canada", Graham Busch (Gerald Edelman, UK) provides an update on "Tax and the Digital Economy", whilst Christian Bühlmann, Mehdi Ghassemi and Julien Machuca (TrustConsult Group, Luxembourg) keep you informed on the Luxembourg residential real estate market. Gerard P. Fox and Lauren M. Greene (Gerard Fox Law, P.C., USA) share their experiences with regards to large-scale international intellectual property litigation, and Dr Annette Zitzelsberger (Schlecht und Partner Wirtschaftsprüfer Steuerberater, Germany) reports on German Real Estate Transfer Tax Rules for Share Deals. Henrik Bartels and Morten Arnberg (ADVODAN, Denmark) introduce their platform testanemt.dk and explain the ideas behind the project. Jan Gerrand and Shie Yee Au Yeung (STP Tax Lawyers, The

Netherlands) keep you updated on the "Decree on New Ruling Practice" in the Netherlands, and Matthew E. Feinberg (PiliroMazza PLLC, USA) shares a "Cybersecurity False Claims Act Litigation" case. Albena Rasheva (Eurofast Global EOOD, Bulgaria) writes about amended VAT Legislation in Bulgaria and, last but not least, Marcus Wroe (UK) shares some "Top Tips for Investing in UK and European Property".

With this issue, we would also like to warmly welcome all our new members.

We are delighted that many of you will be attending the upcoming Autumn Conference in Venice in order to strengthen your international network of like-minded professionals. We look forward to seeing you there.

We wish you an enjoyable read and, if you are interested in having your voice heard or if you have some interesting company news and want to contribute, please get in touch.

**Your XLNC Team**

## Have you got news to share?

Keep us up-to-date with the latest happenings in your company or on any successful dealings you had with fellow XLNC members! In this magazine, you will be able to announce if your firm added a new partner, if your company won an award, if you moved offices, if you offer new additional services, etc. We invite you to share your views, thoughts and interests, and the

latest news from your profession with the entire XLNC magazine readership by contributing an article.

This is your magazine. All submissions are invited. The deadline for inclusion in the next issue is 31 March 2020. Please email Barbara Reiss at [b.reiss@xlnc.org](mailto:b.reiss@xlnc.org) with your contribution.

# Contents

■ EDITORIAL.....	02
■ CONTENTS, CONTACT, DISCLAIMER.....	03
■ XLNC EVENT PREVIEW	
→ XLNC Autumn Conference, Venice, Italy   15 – 17 November 2019.....	04
→ XLNC Spring Conference, Brussels, Belgium   08 – 10 May 2020.....	06
■ XLNC EVENT REVIEW	
→ XLNC Spring Conference, Vienna, Austria   17-19 May 2019.....	07
■ XLNC FOCUS GROUPS	
→ Legal Focus Group.....	10
→ M&A/Corporate Finance Focus Group.....	12
→ Marketing & Business Development Focus Group.....	13
→ Tax Focus Group.....	14
→ Technology Focus Group.....	15
→ Transfer Pricing.....	16
■ COMMON INTEREST	
→ Doing Business in Canada.....	17
→ Tax and the Digital Economy.....	20
→ The Bright Future of the Luxembourg Residential Real Estate Market.....	22
→ Litigating Across Boundaries: Practical Takeaways from Large-Scale International Intellectual Property Litigation.....	24
→ Tightening of German Real Estate Transfer Tax Rules for Share Deals.....	26
→ How to Commoditise Legal Products: A Case Story of Testanemt.dk.....	28
→ Decree on New Ruling Practice.....	31
→ Have the Floodgates Opened?: Cisco Settles First-of-Its-Kind Cybersecurity False Claims Act Litigation.....	33
→ Bulgaria amends VAT Legislation; Changes Affect a Wide Range of Sectors.....	35
→ Top Tips for Investing in UK and European Property.....	36
■ NEW XLNC MEMBER FIRMS.....	38

## Contact

### XLNC AG

Chamerstrasse 172  
6300 Zug  
Switzerland  
T: +41 41 911 22 77  
F: +41 41 911 22 88  
E: info@xlnc.org  
W: www.xlnc.org

## Disclaimer

The information provided in this XLNC magazine came from reliable sources and was prepared from data assumed to be correct; however, prior to making it the basis of a decision, it must be double checked. Ratings and assessments reflect the personal opinion of the respective author only. We neither accept liability for, nor are we able to guarantee, the content. This publication is for XLNC internal use only and intended solely and exclusively for XLNC members.

Venice, Italy | 15 – 17 November 2019

# XLNC Autumn Conference

There's no doubt about it. We are excited about going to Venice; even more so because it's for our third XLNC Conference! Seems like only yesterday that we were at the first one in Madrid, but in reality that was already more than a year ago.

This year's Conference will be held at the San Clemente Palace Kempinski, located on the private island of San Clemente, only minutes away by boat from the hustle and bustle of the Piazza San Marco. Our Conference coincides with the 58th Biennale in Venice, which transforms the city into a vibrant cultural metropolis. Make sure to see if you can spot any masterpieces on display throughout the city.



**William Johnson**

The keynote speaker William Johnson has been advising professional services firms on aligning behaviours with strategy for over 25 years. His

interest in learning theories and applications began when he was commissioned in the Fleet Air Arm of the Royal Navy, where after front line service he became involved in aircrew training. On leaving the Royal Navy he trained as an organisational psychologist and completed an MBA before joining a boutique strategy firm specialising in aligning strategy, structure and behaviours.

In 1990 William began training consultants in IBM in basic consultancy skills and behaviours and his clients now include some of the world's leading consulting and professional services firms and also global organisations (including telecoms, FMCG,



**Doges Palace**

technology and pharmaceutical companies) looking to adopt the best practices and behaviours from the world of professional services.

William is a Chartered Occupational Psychologist and an Associate Fellow of the British Psychological Society, with an MA in Psychology from The Queen's College Oxford, an MBA from Warwick Business School, and he is a graduate of Harvard's 'Leading Professional Service Firms' programme.

William will deliver the keynote speech on "Representing the Firm, Differentiation & Storytelling". The session is intended to enable the leaders of XLNC's member firms to define the core behaviours that differentiate their own firms and to develop and refine these behaviours, so they can model them in every interaction with the client.

The session will begin by exploring the many issues prospective clients consider when determining whether to buy or not to buy from a particular firm and identify the critical – but often hidden – factors that motivate their final purchasing decision.

Having gained a deeper understanding of the psychology behind the client's buying decision, participants will then examine the implications on their own behaviour during 'critical client conversations' and 'moments of truth' and determine the behavioural changes that could significantly improve their new client acquisition.

Participants will learn and practise the behaviours that will enable them to communicate more effectively, form relevant, challenging points of view, offer insight, create impact, generate status and above all, illustrate significant value in every single contact with the firm's prospective and current clients. In short, participants will define how



**Canal in Venice**

to 'live the firm's brand' in every interaction with prospective clients.

The session will also provide an introduction to storytelling and outline the key role that it can play to uniquely position each XLNC member firm in the mind of their clients. In the professional services sector, in which every firm can look very similar, and in which technical competence is now a prerequisite not a differentiator, being able to tell your firm's story effectively is more critical than ever.

Based on the unique 'DNA' of XLNC – the alliance's shared values, heritage and culture – participants will have the opportunity to develop, refine and practise the stories they will tell to validate and reinforce their own firm's position in the minds of their prospective clients.

After the plenary session on Saturday morning, six Focus Groups offer

interactive meetings. You can read what to expect from page 12 onwards.

As usual, we have organised a sightseeing programme to explore this charming city – so you may visit the Piazza San Marco, including an exclusive secret itineraries tour of the Doge's Palace – a masterpiece of Venetian Gothic style and one of the main landmarks of the city – and/ or explore the area around Rialto Bridge (one of the most famous bridges crossing the Grand Canal) and Le Scuole. Accompanying Persons will have the added benefit of a gastronomy cooking class, including a visit to the Rialto market.

This event is already fully booked but we might be able to fit one or two more in. If you would like to join us, please contact Aleksandra Jagiello (jagiello@xlnc.org) at your earliest convenience to double-check availability.

Brussels, Belgium | 08 – 10 May 2020

# XLNC Spring Conference

The XLNC Spring Conference 2020 will be held at The Hotel (yes, that is its name, and it is the same hotel that US President Barack Obama stayed in when he visited the city) on the Boulevard de Waterloo, the high-end fashion-shopping street of Brussels, close to the European Parliament and Commission.

Brussels, capital of Belgium, principal seat of the Belgian Royal Family, and capital of the European Union, is a remarkably small and easy-going city for all its importance. Its unique character comes from the coexistence of French and Flemish cultures. Now home to many different nationalities, this mix has added a cosmopolitan flavour to the urban atmosphere. The city's vibrant atmosphere is further enhanced by picturesque medieval streets, lively squares, stately boulevards,



**Prof Alexander Türk**

spacious parks, cozy cafes and a dynamic cultural life, as well as a clutch of world-class museums and art galleries, and quirkier sights, such as the Atomium. You will find here a city buzzing with life. A metropolitan with a historic heart.

For this event, we are delighted to have Prof Alexander Türk from King's College London as our keynote speaker. Prof Alexander Türk is Professor of Law and Vice-Dean for Education at the Dickson Poon School of Law at King's. In the US, Professor Türk is also a Visiting Professor of Georgetown University (Washington, DC), Pepperdine University (CA), and Iowa University (IA). He studied history (MA) and law (first and second state exams) in Augsburg, Germany. He obtained an LL.M. in European Law at the College of Europe in Bruges, Belgium (1994-95). He also holds a PhD from the University of London. Professor Türk's principal research interests are in the field of European Union Law, and in particular its constitutional and administrative law, on which he has published widely.

Given his expertise, we have asked him to provide some commentary on Brexit (although it is still difficult to tell at this stage if it will have happened by then or not).

We invite XLNC members from all over the world to join us and meet with one another, to exchange technical knowledge and expertise, while also exploring opportunities for future joint business projects. Besides, this might be an excellent opportunity to stock up on Brussels' famous chocolate and sample its world-famous beers.

Registrations will open shortly for this event and all members should receive an invitation directly. Benefit from the Early Bird Discount by registering prior to 31 January 2020.



**Brussels – Grand Place**

**Audience**

Vienna, Austria | 17 – 19 May 2019

# XLNC Spring Conference

7

This year's XLNC Spring Conference took place in Vienna during 17 – 19 May. Just over 70 participants from 37 different member firms, and representing 23 different countries, travelled to Austria to meet with fellow members

and get to know each other. The conference started on Friday afternoon with an optional "Historical Vienna Tour through Schloss Schönbrunn", including a Viennese Strudel Show, followed by a Welcome Reception and Dinner at the hotel.

On Saturday morning, Graham Busch (Gerald Edelman, UK) extended a warm welcome to everyone on behalf of his colleague and Chairman of the XLNC Steering Committee, Richard Kleiner, *...next page*

**Graham Busch (Gerald Edelman, UK)****Robert Haunschmidt (Haunschmidt & Partner, Austria) welcomed participants to his hometown**

and with the first contribution delivered by the guest keynote speaker, Prof Dr Thomas P. Müller.

Prof Dr Müller has a PhD in Criminal Psychology and Forensic Psychiatry from the University of Innsbruck in Austria. From 1982 to 1992, he trained at the Federal Police School in Innsbruck and, after serving in different police forces, he became a member of the SWAT team of the Federal Police Force. After taking a break to pursue further education, he became the Chief of the Criminal Psychology Service in the Federal Ministry of the Interior, Group D/INTERPOL. Since that time, he has routinely taught and researched in the areas of criminology, abnormal criminal psychology, hostage negotiation, threat assessment, criminal personality profiling, crime scene assessment and criminal investigation analysis. He has served as a Hostage Negotiation Coordinator and translator for the Austrian Secret Service Department, under the instruction of the CIA. He conceptualised and initiated the ViCLAS-System (Violent Crime Linkage Analysis System) for all law enforcement agencies in Austria and also initiated the ViCLAS-System in several states in Europe, including Germany, Norway, Sweden, Denmark, Portugal, the UK, Switzerland and Poland. He was also responsible for the



**Technology Focus Group meeting with Gerald Paolilli**

development of the National Center for the Analysis of Violent Crime / Criminal Psychology Service within the Federal Ministry of the Interior in Austria.

Prof Dr Müller has taught many courses to law enforcement agencies, universities, within the Ministry of the Interior, and the Department of Justice. He has also lectured to professional groups such as judges and public prosecutors throughout Austria, Germany, England, Italy, Scotland, Poland, Canada, Australia, the USA and South Africa.

His speech on "Crisis situations and the power of psychology" explored how crisis and complex challenges,

especially if they last for a while, have specific ways of playing out, and how those who recognise these patterns and can deal with them have an opportunity to grow with them, whilst those who find themselves trapped by a crisis will no doubt fail. One of the recognisable patterns is the distribution of one's own self-esteem through feedback in the job, in the private environment in particular, but also through actions and decisions, which may be referred to as one's "ego". How much "ego" do we need in normal situations and how much "ego" do we need, once we have tumbled into personal, content-related, emotional or psychological crisis.

8



**Austrian Heurigen-Abend**

During this session, participants learnt that there are many lessons to be taken from failure. Additionally, there is a clear indication that higher levels of unnecessary occupational stress also affect our private and personal lives. The laws of criminal psychology help to provide clear guidelines, and looking back at history helps to show examples of what should be done but, also importantly, what should be avoided.

The plenary session proceeded with an introduction of the new XLNC member firms participating in the event in Vienna, as well as of candidate firms. Closing off the morning session, an open discussion took place, highlighting information about the structure and functioning of XLNC as well as opening the conversation to comments and questions from participants. Some time was also dedicated to the various XLNC tools and platforms available to all members.

In the afternoon, four different Focus Group meetings took place: Tax, chaired by Graham Busch (Gerald Edelman, UK) and Dr Benjamin Cortez (Schlecht und Partner, Germany); M&A / Corporate Finance, chaired by Carl Lundberg (Gerald Edelman, UK); Legal, chaired by Enrique Brat and Michiel van Haelst (Vestius Attorneys at Law, The Netherlands); and Technology, chaired by Gerald Paolilli (Paolilli, Jarek & Der Ananian, LLC, USA). After a very interactive day, the closing dinner was a very typical Austrian Heurigen-Abend, taking



**Dr Benjamin Cortez at the Tax Focus Group meeting**



**Networking**

place in a tavern owned by a local winemaker featuring young wine, simple homemade food, and a live music show.

For those who planned to stay longer, an additional day-trip was organised on Sunday, through the Danube Valley “Wachau”, an area just west of Vienna, known for its romantic rolling hills, vineyards and fortresses.

We look forward to seeing many of our members once again at the next XLNC event. Keep an eye on our list of upcoming events at [www.xlnc.org/events!](http://www.xlnc.org/events!)



**Trip to Danube Valley “Wachau”**



**Strudel Show at Schönbrunn castle**

Alongside some general updates from Focus Groups, we also invite you to read the meeting summaries of the Focus Group meetings, which will be held in Venice, Italy, during the XLNC Autumn Conference in November.

# Legal Focus Group Update

■ **By Enrique Brat, Markus Leitner & Prof Matteo Ludovico Vitali**

The Legal Focus Group is looking forward to meeting with many members at the XLNC Autumn Conference in Venice. It will once again be the perfect opportunity for all members to get to know one other and keep them excited about joining the Legal Focus Group. This Focus Group is open to all members, regardless of profession, who have a profound interest in any legal matters, so please take note that the Legal Focus Group is not just for lawyers (does the world really need more lawyers?!).

Being involved in this Focus Group will enable the members of XLNC to provide their clients with a global background of professionals who have similar practice focuses and interests, through which it is possible to:

- 1) exchange information to find better approaches and solutions to clients' needs;
- 2) stay internationally connected and updated about information and issues that are relevant to the respective professional areas;
- 3) exchange ideas, experiences and views to further strengthen communication among fellow members; and
- 4) develop relationships and generate business opportunities through

networking with like-minded individuals from all over the world.

In the run-up to the Legal Focus Group meeting at the Autumn Conference, we would like to provide an update on the Legal Focus Group's objectives, referring to the business plan.

## Appointment of Regional Chairpersons for the Legal Focus Group

In due time, when the Legal Focus Group has expanded and more members have joined, a Regional Chairperson and one or two Regional Vice Chairpersons for other continents will be appointed (in consultation with XLNC Head Office). At this moment, 21 members (including three Chairpersons) and 11 firms from ten countries have joined our Focus Group.

## Subdivisions within the Legal Focus Group: Practice Groups

The Chairpersons wish to subdivide the Legal Focus Group into areas

of expertise and sectors (Practice Groups) in order to be able to provide their clients better services. This list of Practice Groups should primarily distinguish matters with an international character, such as cross-border M&A, employment/expatriates, litigation between international parties, competition law, international commercial agreement, etc.

## Publications in the XLNC Newsletters

As stipulated in the business plan, the Legal Focus Group wants to encourage everyone to send in articles of legal matters to be published in the XLNC Magazine. The Legal Focus Group would also like to encourage different firms to write articles jointly. The editorial guidelines will be sent by XLNC Head Office upon request. Previous publications can be viewed at News & Updates.

## Profile Members of the Legal Focus Group on the XLNC Website

The Legal Focus Group will use its best efforts to enhance the profile of each member on the XLNC website

and to request all the members to send in a short summary of the legal services they provide, together with a short summary of their firm, details of the contact persons, fields of expertise, sector focus, fees/fees policy etc., for a consistent approach among members.

## Onboarding of New Members

The main goal for 2019 and 2020 is to attract at least one new member each month for the Legal Focus Group (in consultation with XLNC Head Office). For now, onboarding new members is mainly the responsibility of XLNC Head office. Members are also encouraged to introduce new members, such as (law) firms that they have worked with in the past and have shown to be of good quality.

## To Guarantee Quality of the Legal Focus Group

1. Hold periodic intra-group discussions, during which we will aboard topics such as:
  - competition, economic conditions and market trends,
  - targeting new clients, and
  - workload distribution.
2. Develop and implement professional ethical standards, international legal requirements and regulations within the Group, such as setting up a standard procedure for compliance purposes.
3. Strive for high quality of new members (covered in the previous paragraph, 'onboarding new members').

## Know Your Customer

Most of the members of the Legal Focus Group (and some other members of other Focus Groups) will be subject to regulations concerning anti-money laundering and/or anti-terrorist financing (which may include identifying the UBO's). The Legal Focus Group will need to set up a standard procedure for compliancy purposes so that it is easy for members to do business with each other.

## Recent Activities of the Legal Focus Group

During the Spring Conference in Vienna in May this year, the Legal Focus Group held a meeting during which its draft business plan was presented and discussed, after which the business plan was updated and shared with all members.

Furthermore, the Legal Focus Group set up a separate private LinkedIn group which is used to communicate on various legal subjects that might be of interest to all of us or on exciting matters concerning the members themselves (such as expansion of the firm, additional fields of expertise, etc.)

In September this year, some partners of Vestius Attorneys from Amsterdam, the Netherlands, paid a visit to FRANZ Rechtsanwälte in Dusseldorf, Germany, after having been cordially invited by them to attend their late summer BBQ.

Although it was indeed late in the summer (it actually rained), it was a very warm welcome and a nice BBQ. As specialities, Bratwürste

...next page



**Enrique Brat**



**Markus Leitner**



**Prof Matteo Ludovico Vitali**

(no relatives of the Chairman of the Legal Focus Group) and Alt (traditional German Beer – its name comes from it being top-fermented, an older method than the bottom fermentation of other lagered beers) were served. More importantly, it strengthened the ties between the two law firms.

## Legal Focus Group Meeting Summary

**Saturday, 16 November 2019,  
14:00–15:30 hrs  
Chairperson: Enrique Brat**

During the Autumn Conference in Venice, the Legal Focus Group will address the above-mentioned issues and give each member the opportunity to present themselves and share any ideas they may have. Dr Christian Franz and Dr Udo von Fragstein (FRANZ Rechtsanwälte, Dusseldorf, Germany) have expressed their wish to set up the first Practice Group of the Legal Focus Group, the Commercial Law Practice Group. They will give a presentation in Venice and explain in more detail how this Practice Group will work.

According to the experience of FRANZ Rechtsanwälte, the main goal of clients is to get advice on all legal questions related to their business operations. This is where commercial law comes into play. For XLNC it is worth considering establishing a respective 'Commercial Law' Practice Group as this is one of the key fields where member firms need international support and assistance for the clients from other XLNC member firms.

Hope to see you in Venice!

XLNC member firm  
**Greco Vitali Associati**  
Legal  
Milan, Italy  
T: +39 02 9439 1800  
W: www.gvalex.it

**Prof Matteo Ludovico Vitali**  
Global Co-Vice Chairperson  
of the Legal Focus Group  
E: matteo.vitali@gvalex.it

XLNC member firm  
**Vestius Attorneys at Law**  
Legal  
Amsterdam, The Netherlands  
T: +31 20 521 0690  
W: www.vestius.com

**Enrique Brat**  
Global Chairperson  
of the Legal Focus Group  
E: h.brat@vestius.com

XLNC member firm  
**Leitner Hirth**  
**Rechtsanwälte GmbH**  
Legal, Corporate Finance,  
Strategy, Management Consulting  
Graz, Austria  
T: +43 316 710 111  
W: www.lhra.at

**Markus Leitner**  
Global Co-Vice Chairperson  
of the Legal Focus Group  
E: leitner@lhra.at

# M&A / Corporate Finance Focus Group Meeting

**Saturday, 16 November 2019,  
16:00–17:30 hrs  
Chairperson: Carl Lundberg**

Repercussions from the uncertainty around the 'B-word' and what it will mean for the UK economy

are beginning to show in the UK business world and, in the USA, there have been strong indicators that the economy is heading for recession. To add to our woes, Mark Zandi, the chief economist of Moody's Analytics,

has recently stated that there is an "uncomfortably high" chance of a global recession coming in the short to medium term. Working together to continue to drive international business is therefore paramount to our continued operational successes

and must be the overarching objective of our Focus Groups.

At our forthcoming Conference in Venice, the M&A / Corporate Finance Focus Group will continue its push to drive M&A and other corporate finance activity between member firms by discussing the industries and geographical regions currently being targeted by the clients of member firms.

By way of a roundtable discussion, the group's aim is to identify common ground where introductions can be made and opportunities created.



**Carl Lundberg**

XLNC member firm

**Gerald Edelman**

Audit, Accounting, Tax,  
Corporate Finance, Strategy,  
Management Consulting  
London, UK

T: +44 20 7299 1400

W: [www.geraldedelman.com](http://www.geraldedelman.com)

**Carl Lundberg**

Global Co-Chairperson  
of the M&A / Corporate Finance  
Focus Group

E: [clundberg@geraldedelman.com](mailto:clundberg@geraldedelman.com)

# Marketing & Business Development Focus Group Meeting

13

**Saturday, 16 November 2019, 16:00–17:30 hrs**

**Guest Speaker: William Johnson**

## Representing the Firm, Differentiation and Storytelling: Putting It All into Practice

During this session, based on the morning's programme around "Representing the Firm, Differentiation and Storytelling", William Johnson will work with participants on their specific firms and the stories they want to tell. Those attending should bring some of their firm's marketing and

business development materials with them in electronic format (e.g. on a USB memory stick) so that the group can work together on 'before' and 'after' scenarios.



**William Johnson**

# Tax Focus Group Update

## ■ By Dr Benjamin Cortez and Graham Busch

The Tax Focus Group (TFG) is the key Focus Group for the development of expertise in international taxation within XLNC. With its bi-annual meetings, regular WebEx Conference Calls and an active LinkedIn group, the TFG offers various ways of connecting member firms and their tax experts and jointly addressing current matters of international taxation.

At the TFG meeting at the XLNC Spring Conference in Vienna in May 2019, we identified the taxation on digital services as a prime focus area.

This focus will be complemented by current issues, such as the taxation of permanent establishments, the taxation of High Net Worth Individuals (HNWIs) and issues resulting from the broader BEPS discussions such as CFCs/Economic substance.

In addition to content driven matters, the TFG also continues to address



**Graham Busch**

issues relating to best practices in international taxation with the goal of sharing experiences in how to efficiently and successfully address client topics working with fellow member firms.

Tools and technology uniquely suited for practitioners in international taxation are regularly identified and shared amongst members. The future goal of the TFG is to continue



**Dr Benjamin Cortez**

to increase its active membership and establish regional sub groups to increase a more frequent interaction amongst members in similar time zones and business areas.

Any XLNC member is welcome to join the TFG or attend a meeting or WebEx call. Feel free to contact Graham or Ben if you are interested in the TFG or have any questions.

## Tax Focus Group Meeting Summary

**Saturday, 16 November 2019,  
14:00–15:30 hrs  
Chairpersons: Graham Busch  
& Dr Benjamin Cortez**

At the forthcoming Autumn Conference in Venice, the TFG will hold its third overall meeting. Following our Vienna meeting in May 2019, the TFG will continue its focus on key topics of international taxation. The Autumn Conference

XLNC member firm  
**Gerald Edelman**  
Audit, Accounting, Tax,  
Corporate Finance, Strategy,  
Management Consulting  
London, UK  
T: +44 20 7299 1400  
W: www.geraldedelman.com

**Graham Busch**  
Global Co-Chairperson  
of the Tax Focus Group  
E: gbusch@geraldedelman.com

XLNC member firm  
**Schlecht und Partner**  
**Wirtschaftsprüfer Steuerberater**  
Audit, Accounting, Tax, Corporate  
Finance, Management Consulting  
Stuttgart, Germany  
T: +49 711 40 05 40 30  
W: www.schlecht-partner.de

**Dr Benjamin Cortez**  
Global Co-Chairperson  
of the Tax Focus Group  
E: b.cortez@schlecht-partner.de

will aim to foster connections between TFG members and intensify the content-driven discussions on key areas of international taxation.

In Venice, we will offer a new discussion structure whereby volunteers will chair small

discussion groups on current tax topics. The groups will focus on the following topics:

1. Permanent Establishments
2. Digital Tax – latest developments
3. CFC's/Economic substance
4. Tax breaks for internationally

mobile High Net Worth Individuals (“HNWIs”)/migrant workers  
5. Shared experiences on successful cross-border engagements

We welcome any interested members to join the TFG meeting.

# Technology Focus Group Meeting

**Saturday, 16 November 2019,  
14:00–15:30 hrs  
Chairpersons: Gerald F. Paolilli  
and Oscar Torres**

The Technology Focus Group meeting will focus on AI in the accounting industry, highlighted by a presentation from MindBridge Analytics Inc. on their AI Auditor platform.

AI is positioned to provide a significant opportunity to accountants, and promises to bring a new standard of accuracy and efficiency to both the profession and the specific tasks required to be an effective accountant. MindBridge will provide a high-level overview of their AI Auditor platform and detail how it can identify unusual transactions by looking at 100% of data across entire transactions to provide valuable and easy to use reports that identify potential issues.

Oscar Torres (Assurance and Advisory Partner at XLNC member Firm Bateman MacKay LLP, Canada) will provide information on how they have used the platform and the value it has provided clients.



**Gerald Paolilli**

XLNC member firm  
**Paolilli, Jarek & Der Ananian, LLC**  
Audit, Accounting, Tax,  
Corporate Finance, Strategy  
Boston (MA), USA  
T: +1 978 392 3400  
W: [www.pjcpa.com](http://www.pjcpa.com)

**Gerald Paolilli**  
Global Chairperson  
of the Technology Focus Group  
E: [gfp@pjcpa.com](mailto:gfp@pjcpa.com)



**Oscar Torres**

XLNC member firm  
**Bateman MacKay LLP**  
Audit, Accounting, Tax, Corporate  
Finance, Strategy, Management  
Consulting, Fiduciary  
Toronto (ON), Canada  
T: +1 905 593 8140  
W: [www.batemanmackay.com](http://www.batemanmackay.com)

**Oscar Torres**  
E: [otorres@batemanmackay.com](mailto:otorres@batemanmackay.com)

# New Transfer Pricing Focus Group – Kick-off meeting in Venice

**Saturday, 16 November 2019,  
16:00–17:30 hrs  
Chairperson: Pieter Drubbel**

During this initial meeting, we will have an open discussion to try to obtain a clearer view of the thoughts

XLNC member firm  
**STP Tax Lawyers**  
Legal  
Amsterdam, The Netherlands  
T: +31 88 5060 600  
W: [www.stp.nl](http://www.stp.nl)

**Pieter Drubbel**  
Global Chairperson  
of the Transfer Pricing Focus Group  
E: [pieter.drubbel@stp.nl](mailto:pieter.drubbel@stp.nl)

on transfer pricing within our growing network and to see if we can create an increase of awareness on transfer pricing, as well as the possibilities to provide better services to our clients.

We would like to identify which expertise and experience we currently have available and gradually explore how all parties involved could benefit. We would also like to see if all corners of the world within our global network are indeed covered for transfer pricing services, and ensure that the network is able to quickly find the persons and expertise required. Eventually, we would like to ensure that all service providers within our network have access to professional transfer pricing services and are able to service their clients in line with XLNC standards.

Should you have an interest in Transfer Pricing, we invite you to



**Pieter Drubbel**

this kick-off session of our Focus Group. We welcome you to be part of the debate and together help to develop the fundamental principles and goals of our Focus Group.

## Follow us on social media!

Have you visited XLNC's social media sites? Go to **LinkedIn, Facebook, twitter** and **Instagram** and get connected – an easy way to share information and stay abreast of latest developments.





# Doing Business in Canada

■ By Louis Sapi and Ronnie Vaknin

Over the past several years, Canada has primed itself as a destination hub for foreign investment. With minimal market barriers, Canada has become one of the most lucrative direct investment destinations in the world.

Canada, the tenth-largest economy in the world and is growing, is highly ranked in many key categories important in choosing a foreign country to invest in. For instance, our banking system has been ranked first among the G7 nations, and second globally. Politically, Canada is considered an extremely stable and socially responsible country. It



ranks in the top ten of the Corruption Perception Index and number one for 'quality of life'. As a result of its

extensive government initiatives, incentives, and programmes promoting innovation, Canada is considered to be the fifth most attractive country for highly skilled labour. It is also considered to be one of the most educated countries in the world, boasting 55% of its population to have graduated from post-secondary institutions. This offers foreign companies immediate access to a highly skilled workforce.

Toronto also had the largest 'brain gain' of 2018, with approximately 55,000 highly skilled workers migrating in the tech space. This represents nearly 8,500 more workers added to the Toronto tech market,

...next page



Louis Sapi



Ronnie Vaknin

than the runner up – the Bay Area (Silicon Valley and surrounding areas). In fact, the Toronto/Waterloo/Ottawa/Montreal corridor is a world leader in Artificial Intelligence (AI) and quantum computing. AI was originally invented in Toronto.

Canada also has a strong presence in many other industries, including aerospace, agri-food, biopharmaceuticals, digital media, machinery and equipment, mining, renewable energy, financial services, and software. These industries benefit from Canada's multiple trade agreements.

Canada's three major trade agreements are:

1. The Canada-United States-Mexico Agreement (CUSMA)

2. The Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

3. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

These agreements promote trade internationally and allow foreign investors to take advantage of our vast transport infrastructure and easy access to the US market. Canada arguably has the best



for advancement in the world economy.

## Young Canadians Are:

**Diverse, confident, creative, entrepreneurial individuals**

Canada can expect to remain highly competitive in the global talent pool this year. Looking forward, innovation and talent will be a major driving force

air transport infrastructure in the world, totalling 26 airports. It also has access to the Pacific Ocean on the west coast, the Atlantic on the east, and to the north, will eventually have access to the North West Passage. Together with the Great Lakes, Canada has 17 different ports. Having doorstep-access to the United States, with 117 different border crossings, the Great Lakes, and ocean routes, the possibilities of entering the United States are endless.

Canada has favourable privacy laws whereby the names of business 'owners/shareholders' are not disclosed in any public records. Only

### FACT

We will protect a small business's ability to do what they do best: **grow, invest, and create jobs.**



Department of Finance Canada / Ministère des Finances Canada

Canada

## Features of Banking in Canada for Newcomers

**COST** – Many banks offer no fee accounts for people new to Canada. So shop around for the package that best meets your needs. The Financial Consumer Agency of Canada offers an Account Selector Tool on their website at [www.fcac.gc.ca](http://www.fcac.gc.ca)

**ACCESS TO AN ACCOUNT** – Anyone can open a bank account in Canada if they meet the identification requirements set out in the Bank Act. Did you know? You can open an account even if you don't have a job or money to deposit, or if you've been bankrupt. Identification requirements are on the CBA website at [www.cba.ca/opening-a-bank-account](http://www.cba.ca/opening-a-bank-account).

**INTEREST RATES** – Interest rates for different products are set by each bank. The decision on how much interest to charge on a loan depends on how risky the loan is and the prices that banks and other lenders pay to raise funds in the broader marketplace. Canada has a very competitive banking industry, so shop around.

**DEPOSITS ARE SECURE** – In the unlikely event of bank failure, money in your Canadian dollar savings and chequing accounts is protected. The institution must be a member of the Canada Deposit Insurance Corporation (CDIC) and all Canadian banks that take retail deposits are members.

the company's directors are made public in the federal or provincial registry system. Anonymity may be important to certain investors who do not want their names to be publicly disclosed.

Three of Canada's cities are also ranked in the top ten as the 'most liveable' cities in the world, creating real estate opportunity in the surrounding areas, as well as the need to 'build upwards' with skyscrapers and multi-unit dwellings. The real estate market in the major cities offers tremendous opportunities to international investors as real estate is considered very cheap and a better investment as compared to other major metropolitan areas around the world.

Now is the perfect time to enter the Canadian market. There is a cost advantage as the Canadian dollar is relatively low compared to the US dollar and the corporate tax system for Small to Medium Businesses (SMBs) is the most advantageous among G7 nations. If a company is foreign-controlled, it will pay the 'general rate of tax' (around 26% in Ontario).

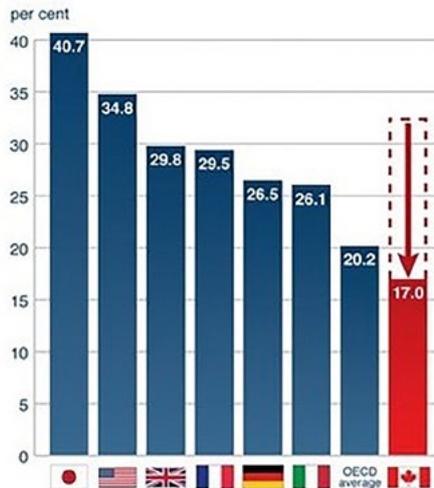
Establishing a business in Canada is relatively easy. You do not need to be a citizen or resident where becoming

### CANADA RANKS THE 7TH BEST COUNTRY IN THE WORLD TO DO BUSINESS

*IN (According to Forbes' Best Countries for Business 2017)*  
– Forbes' Best Countries for Business list ranked 144 countries in the world based on the following criteria: trade freedom, monetary freedom, property rights, innovation, technology, red tape, investor protection, corruption, personal freedom, and tax burden and market performance.

## Why Invest in Canada?

Canada leads the G-7 with the lowest overall tax rate on new business investment



a 'business immigrant' is welcomed. Certain provinces even allow you to incorporate a business without having a local, Canadian resident director.

The political stability, the strength of the Canadian dollar, global faith in its financial institutions, a favourable corporate tax regime, a highly educated population, and diversity of industries all make Canada one of the most attractive places in the world for foreign investors.

Look for our next article discussing taxation in Canada.

XLNC member firm  
**HS & Partners LLP**  
Audit, Accounting, Tax, Management Consulting  
Toronto (ON), Canada  
T: +1 905 678 2740  
W: www.hsp-ca.com

**Louis J. Sapi**  
E: lsapi@hsp-ca.com  
**Ronnie Vaknin**  
E: rvaknin@hsp-ca.com

### CANADA IS A FORWARD LOOKING COUNTRY

– The Bloomberg Innovation Index ranks the world's 50 most innovative countries based on R&D, manufacturing, hi-tech companies, education, research personnel and patents. Canada ranked as the 12th most innovative country with the 5<sup>th</sup> largest high tech sector.

### THE LOW CANADIAN DOLLAR HAS ATTRACTED INTEREST FROM FOREIGN INVESTORS

– The US, China and Europe have been the main sources of international investment activity, with the exchange rate being a significant advantage in boosting purchasing power.

### GREAT COMPANIES ARE ROOTED & HAVE GROWN IN CANADA

– Companies such as Molson, Coors, Imperial Oil, Tim Hortons, Husky Oil, Scotia Bank, Air Transat, TELUS, Canada Trust, Rogers, Bell Canada, Enbridge, Air Canada, Imax, Cineplex and McCain just to name a few were seeded & grown in Canada due to the stable economy, high standards of living, education & business culture.

### Three of the top 10 most livable cities in the world are Canadian cities:

Vancouver # 3  
Toronto # 4  
Calgary # 5

*According to: The Economist Intelligence Unit's Global Livability Ranking 2015*

# Tax and the Digital Economy

## ■ By Graham Busch

Identifying appropriate tax rules to deal with digital business has been designated the number one action in the Base Erosion and Profit Shifting (BEPS) Action Plan and is perhaps the hardest tax problem faced by the OECD.

Addressing the challenges posed by the digitalisation of the economy continues to be tackled on the one hand by countries on a unilateral basis, and on the other hand by the OECD on a global basis. Numerous countries have announced their own versions of a Digital Services Tax ('DST'), essentially a tax on revenues rather than on profits, which they perceive are being economically generated in their respective countries.

The OECD meanwhile has published consultation documents to implement a global digital tax on nexus and profit allocation rules and set out the continuing work towards a consensus-based, long-term global solution.

## G20, OECD and EC

More than five years ago, the G20 and OECD identified the challenges of the digital economy as a key part of the action plan for the 'BEPS' project. So key, in fact, that it was labelled as Action 1. The issue was clear: our global tax system was designed with traditional business in mind. Today, many business models can operate with very little physical presence, and exponential growth in technology has left the traditional



**Graham Busch**

system of taxing profits according to jurisdictional splits of functions at best running to catch up, and at worst, no longer fit for purpose.

When the initial BEPS recommendations were published in October 2015, there was no specific policy recommended to deal with this 'digital' problem. At the time, the OECD suggested that changes to other action areas should be implemented first and it would then revisit the issue in 2020.

The EC has also published its findings. The EC proposed a new taxable presence threshold of Significant Digital Presence ('SDP') which would act as a new permanent establishment concept and allocate profits accordingly. However, the EC also noted the need for an interim measure — a DST. It recommended a 3% revenue-based DST, levied on the gross revenues of certain large digital businesses. The recommendations included thresholds to ensure that

only large businesses were impacted and several business models such as e-tailors, communication or payment services, and crowd funders, were excluded from their scope.

## UK

The UK Government, along with other countries, feel that progress at G20, OECD, and EC level has not been fast enough. As a result, unless international consensus can be reached before implementation date, the UK will introduce a DST from 01 April 2020. Here is an outline of how the DST is intended to apply. It closely follows the EC proposals in many ways, although appears to be narrower in scope:

- DST will be levied at 2% on gross revenues of specific digital activities, where these revenues are linked to the participation of UK users.
- The three business models that will be 'in scope' are: search engines, social media platforms, and online marketplaces. This seems to be purposefully narrower than EC proposals.
- DST is not intended to penalise the UK user, or be a tax on online business. The tax will apply to revenues earned from the intermediation of sales where UK users have driven the value allowing for those sales to take place.
- A 'double' threshold will be in place to ensure DST only impacts



the largest digital businesses. Only groups with global revenues from in-scope business models exceeding GBP 500 million (approx. EUR 550 million) will fall within scope, and the first GBP 25 million (approx. EUR 27.5 million) of relevant UK revenues will always be exempt.

- Safe harbours will be in place so that loss-making businesses do not suffer DST and low-profit-margin businesses will be charged at a reduced rate.
- DST is intended to be temporary, until international consensus is reached; and there is a commitment to review its necessity in 2025 if it is still inactive by then.

## More about DST

DST is a radical divergence from several well-established international tax principles. It is a tax on gross revenues (rather than profits). This completely disregards the overarching principle that tax follows profits, and that profits should be split on an arm's length basis between jurisdictions, based

on the activities carried out by the employees of the multinational enterprise. DST could apply where, under current traditional methods, profits are allocated outside of the relevant country to where they suffer less tax, and may not have a UK taxable presence, other than, critically, the customer base.

The overall aim of DST is to ensure that digital businesses pay tax reflecting the value they derive from the participation of local users. Analysis shows how interaction with users can create value for certain highly digitalised business and is a challenge to fairness and acceptability of the tax system. However, a revenue-based tax such as the DST is a blunt instrument that cannot accurately represent the tax on the profits related to user-based value on all businesses on which it is imposed and will inevitably over-tax some companies and under-tax others.

Practical difficulties will arise from the tax. In practice, governments will have to rely on companies to estimate the amount of the DST payable based on a just and reasonable estimate of relevant revenue. Problems also inevitably arise from unilateral actions: potential double taxation and significant

compliance burdens for businesses, which would stifle economic growth and innovation. Double taxation is a particular concern, as it is unlikely that cross-border tax credits will be granted in the 'other' country. There is also a negative impact on the competitiveness of countries introducing unilateral measures.

## Recent Developments: Update September 2019

It appears that the OECD may be moving faster in that discussions are already progressing around three ways of addressing their G20 mandate:

- A digital only solution;
  - A broader solution that might look to more market-based taxation (including allocation to marketing intangibles); and
  - A minimum tax (e.g., denial of deduction on outbound payments
- ...next page*

if a certain effective tax rate ('ETR') threshold of the payee is not met).

There may also be a more general study of PE concepts relating to each of these items. In addition, it is unclear what role the arm's length standard and traditional transfer pricing will play in this.

We have also witnessed the first salvo being fired in the digital tax war, in this case between France and

the United States. The large US tech companies were up in arms (so far only figuratively, thankfully) with the French government regarding their proposed 3% DST. President Trump himself flexed his muscles, threatening higher trade tariffs on French exports to the US. Whilst a temporary solution appears to have been found, it is likely this is only the first of many such disputes between multinationals and DST-introducing countries.

Understanding that different countries have different aims and objectives in relation to the digitalised economy, unilateral measures inevitably lead to less alignment of tax bases globally, resulting in double taxation and a significant compliance burden and, consequently, stifling economic growth and innovation. This may result in retaliatory measures (the US threatening increased tariffs against France, for one), and, perversely, the differences between tax systems resulting from unilateral actions are likely to give rise to arbitrage/tax-planning opportunities, thus increasing the problems caused.

## Conclusion

There is strong support for long-term reform of the international tax system to address the perceived challenges arising from the digitalisation of the economy. All those involved should be encouraged to re-double their efforts to achieve a consensus on the way forward because we are increasingly facing an international tax landscape of unilateral actions being taken independently by countries (including the UK).

Hopefully further consultations will mean that challenges regarding business models and revenue streams that should be in or out of scope can be well defined and due thought can be given to tax collection and logistics. Only time will tell whether it takes helpful steps toward tackling the challenges of the digital economy or distorts the tax system in an uncooperative way.

XLNC member firm

### Gerald Edelman

Audit, Accounting, Tax,  
Corporate Finance, Strategy,  
Management Consulting  
London, UK

T: +44 20 7299 1400

W: [www.geraldedelman.com](http://www.geraldedelman.com)

### Graham Busch

E: [gbusch@geraldedelman.com](mailto:gbusch@geraldedelman.com)

# The Bright Future of the Luxembourg Residential Real Estate Market

■ **By Christian Bühlmann,  
Mehdi Ghassemi and  
Julien Machuca**

It seems that the Luxembourg residential real estate market has a bright future ahead of it. This year, we expect residential property prices to rise once again by more

than 5%. By way of comparison, in 2018, prices increased about 2% in Zurich, were stable in Monaco and fell about 0.5% in London. The imbalance between housing supply and demand is expected to continue to increase. It is mainly due to the arrival of foreign workers on the Luxembourg market. The number

of foreigners in Luxembourg will keep increasing (expected growth between 25% and 33% until 2030).

**Luxembourg has seen outstanding development over the last decades**, outperforming most other European countries. Property market growth is driven mainly by economic



**Christian Bühlmann**

development and macroeconomic aspects. The country is the second leading centre in the world for investment funds (after NYC) and the main jurisdiction for Chinese banks in Europe, with 14 banks.

Luxembourg is also a leading European hub from an institutional point of view, with many European institutions based in the country (Court of Justice of the European Union, European Investment Bank, European Statistical Office, Eurostat, etc.).



**Mehdi Ghassem**

These aspects are constantly driving new investors both institutional and private to come to Luxembourg.

This wave of migration is expected to become even more significant in the coming months due to Brexit. Negotiated or re-voted? In any case, many English companies have already confirmed their willingness to relocate in Luxembourg.

Luxembourg's population has risen from 364,000 in 1980 to more than



**Julien Machuca**

600,000 today and continues to grow up by up to 2.5% per year. By 2050, the population could reach one million inhabitants. Available data shows that **Luxembourg is one of the fastest growing populations in the European Union.**

However, the supply of new housing does not keep pace with this population growth which is constantly increasing the residential property prices. **Since 2010, average prices have grown by 50%** across all types of housing (apartments, houses, existing property, and newly built) (according to Eurostat and National Housing Institute of Luxembourg). **This exceptional price growth has put Luxembourg into the top five countries with the fastest rising housing prices.**

The most popular and therefore most expensive location in the country is Luxembourg City. Both the south and western side of the country are also accelerating their development supported by infrastructure projects. Besides that, we clearly feel a development of the north of the country which is the most affordable place at the moment. We noted a sharp increase in 2018 that is expected to increase further in the coming years, supported by the development of the road transport network.

*...next page*



Luxembourg, an attractive and dynamic market:

- 134 established banks
- Main jurisdiction for Chinese banks in Europe (14 banks)
- Second leading centre in the world for investment funds (after NYC). Total assets more than EUR 4,000 billion
- Prime beneficiaries of Brexit
- Open Economy: exports 80% of domestic production

- Social and political stability
- Heart of Europe: strategic position
- One of the highest standards of living in the world

**TC PROPERTY PARTNERS S.A.** is a Luxembourg-based independent property developer, also active in brokerage, property trading, and investment consulting. TC PROPERTY PARTNERS S.A. is member of XLNC member firm **TRUSTCONSULT GROUP**, a recognised corporate structuring group, established in Luxembourg in 2002.

XLNC member firm

**TC Property Partners S.A**

Member of TrustConsult Group  
Accounting, Tax, Legal, Fiduciary  
Luxembourg City, Luxembourg

T: +352 26 78 2626

W: [www.trustconsultgroup.com](http://www.trustconsultgroup.com)

**Christian Bühlmann**

E: [christian.buhlmann@trustconsultgroup.com](mailto:christian.buhlmann@trustconsultgroup.com)

@trustconsultgroup.com

**Mehdi Ghassemi**

E: [mehdi.ghassemi@tcpp.lu](mailto:mehdi.ghassemi@tcpp.lu)

**Julien Machuca**

E: [julien.machuca@tcpp.lu](mailto:julien.machuca@tcpp.lu)

## Litigating Across Boundaries:

# Practical Takeaways from Large-Scale International Intellectual Property Litigation

■ **By Gerard P. Fox  
and Lauren M. Green**

Many of today's companies are large global entities that hold intellectual property rights in several jurisdictions across the world. What happens when those rights, held by various subsidiaries in many jurisdictions, are being infringed in one particular jurisdiction? Our firm recently encountered that

situation in one of our intellectual property cases. We helped a global music publisher successfully enforce its internationally held copyrights in a litigation in Los Angeles, California.

The takeaways from that litigation shed light on how companies can ensure they are prepared to enforce their intellectual property rights and on how attorneys can help their clients navigate these complex situations.

## Maintain

## Organised Records

While not the most thrilling topic, proper record maintenance is the key to successful intellectual property litigation. In every case, the plaintiff will have to show that they actually own the rights that they are suing to enforce. However, for global businesses, these ownership records can be scattered

across offices, with only a few employees having access to them.

To remedy this, it is essential for every company to have a central database that houses all of its intellectual property ownership documentation. This database should be as detailed as possible and should be easily accessible for the company's in-house attorneys. Every time the company acquires new intellectual property, either through registration of new IP or acquisition of existing IP, the associated paperwork should be added into the database.

That said, in order for this to actually happen, employees tasked with obtaining intellectual property must be trained on the protocols for cataloguing the company's ownership documentation.



## Ensure Rights Across Separate Business Entities

What happens when the entity suing to enforce IP rights is not the entity that actually owns those rights? That plaintiff cannot win its case because it does not own the

intellectual property. For companies with numerous subsidiaries in different countries, it is imperative

to have intercompany agreements that allow each entity to enforce the rights owned by its sister entities. These agreements simplify the processes and allow for just one entity to be the named plaintiff in the litigation. Keeping the number of plaintiffs to one also limits the amount of discovery a defendant can pursue during the litigation.



**Gerard P. Fox**



**Lauren M. Green**

## Confirm Clients' Rights Early

Attorneys in these situations should ensure that their clients have all of the necessary ownership paperwork in order as early in the

*...next page*

representation as possible. The last thing an attorney wants is to start the process of verifying ownership rights only after receiving a discovery request from opposing counsel. To avoid this, the first step for an attorney is to determine what type of documentation and information is necessary for the client to prove the ownership aspect of their case.

With this knowledge in mind, the attorney can guide their client through the process of finding and properly documenting their rights. The attorney should work

directly with those employees responsible for maintaining and processing the company's records.

## Conclusion

Through proper preparation and attorney guidance, global companies can ensure that they are ready to pursue IP litigation in any jurisdiction. This upfront planning and organisation can help reduce litigation costs and increase a company's odds of successfully enforcing its IP rights.

XLNC member firm  
**Gerard Fox Law, P.C.**

Legal  
Los Angeles (CA), New York (NY),  
San Francisco (CA), USA  
T: +1 310 441 0500  
W: www.gerardfoxlaw.com

**Gerard P. Fox**  
E: gfox@gerardfoxlaw.com  
**Lauren M. Greene**  
E: lgreene@gerardfoxlaw.com

# Tightening of German Real Estate Transfer Tax Rules for Share Deals

## ■ By Dr Annette Zitzelsberger

On 08 May 2019, the German Federal Ministry of Finance



**Dr Annette Zitzelsberger**

published a draft tax bill on real estate transfer tax (RETT), which provides for a severe tightening of the tax rules for share deals.

There may be amendments in the course of the further legislative procedure and investors should closely monitor the legislative process, but currently major changes consist of:

- Lowering of the acquisition or investment threshold triggering RETT from 95% to 90%;
- Application of the less favourable partnership RETT change of ownership rules to corporations;
- Extension of the look-back period for cumulative ownership changes from five years to ten years.

In general, the new rules shall apply to transactions closed after 31 December 2019. There will be highly complex transitional rules, mainly aimed at ensuring that transactions with investment levels of at least 90%, but less than 95%, do not remain tax-free if the (former) 95% threshold is reached in the future.

## Current RETT Rules for Share Deals

Under the current rules for share deals, RETT is triggered if an investor (or a group of affiliated investors) acquires a direct and/or indirect ownership of at least 95% in a company owning German real estate. The applicable RETT rates range

from 3.5% to 6.5% of the gross value of the properties, depending on in which Federal State they are located. When the real estate company has the legal form of a partnership, RETT is also triggered if within any period of five years there is a direct or indirect transfer of interests of at least 95% to new shareholders.

A standard way of avoiding RETT on share deals is to acquire property companies together with unrelated co-investors that hold at least 5.1% or, in the case of partnerships, leave at least 5.1% of the interests for at least five years with the seller. Frequently, property companies in the legal form of partnerships are converted into corporations prior to the acquisition in order to avoid the application of the special change of ownership rule for partnerships.



## Proposed New Rules

Under the new rules, RETT would be triggered if an investor (or a group of affiliated investors) acquires a direct and/or indirect ownership of at least 90% in the property company. The same applies if there is a direct or indirect transfer of the ownership of the property

XLNC member firm  
**Schlecht und Partner**  
**Wirtschaftsprüfer Steuerberater**  
 Audit, Accounting, Tax, Corporate  
 Finance, Management Consulting  
 Stuttgart, Germany  
 T: +49 711 40 05 40 30  
 W: [www.schlecht-partner.de](http://www.schlecht-partner.de)

**Dr Annette Zitzelsberger**  
 E: [a.zitzelsberger@schlecht-partner.de](mailto:a.zitzelsberger@schlecht-partner.de)

company, in the legal form of a partnership or a corporation, to at least 90% new shareholders within any period of ten years.

Thus, it will no longer be possible to avoid RETT on share deals if the main investor acquires the property company together with a >10% co-investor, as both would qualify as new shareholders. The conversion of a partnership into a corporation would also no longer help to avoid RETT as the new change of ownership rules apply regardless of the legal form of the property company.

A share deal may still be executed in a RETT-neutral way under the new rules if >10% of the shares in the property company remain with the seller for at least ten years. However, even if the seller continues to hold the >10% shares, RETT might be triggered in case of a change of ownership in the seller within the ten-year period (which could be seen as an indirect transfer of its shareholding).

If an investor reaches the 90% ownership threshold, he will owe RETT. In contrast, the respective property company will owe RETT triggered due to a 90% transfer of ownership to new shareholders within ten years. The draft bill does not provide for an exemption for listed property companies, although these will hardly be able to monitor a relevant change of their investor base.

Even though the new rules generally only apply for transactions executed after December 31, 2019, the transitional rules require that transactions of the past are considered as well. It will be of particular importance to review the RETT impact of the execution of put or exit rights of co-investors negotiated under the current rules. In order to assess the RETT consequences of share transfers under the new rules, it will be required to analyse all direct and indirect share transfers in companies owning German properties that occurred during the last ten years.

# How to Commoditise Legal Products: A Case Story of Testanemt.dk

■ **By Henrik Bartels and Morten Arnberg**

XLNC member firm ADVODAN initially started working on a digital strategy and digital transformation back in 2017 – outlining five key elements in the process.

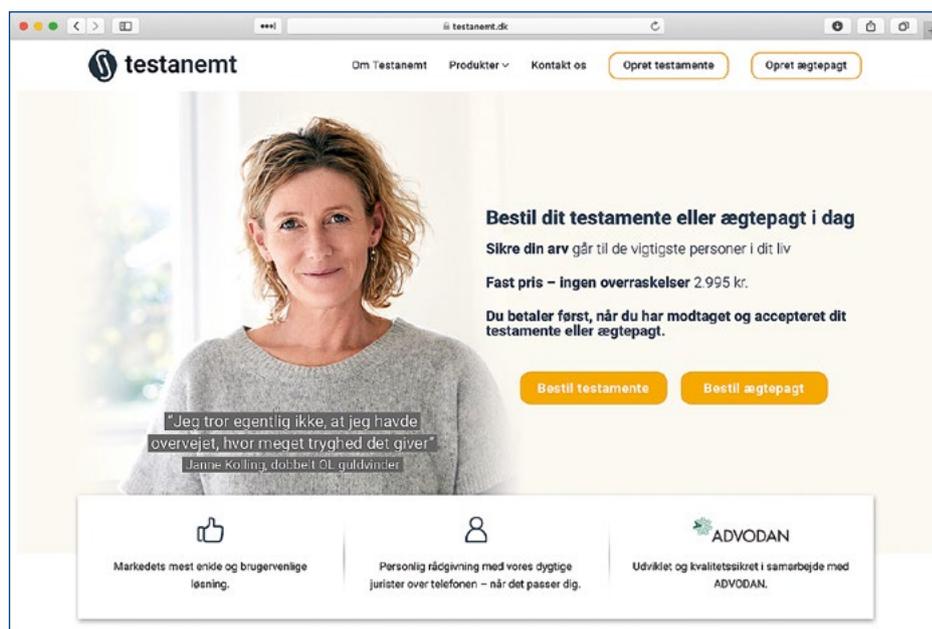
One element was the transformation of products and services – especially with a view to commoditising existing legal services.

The other four elements were transformation of customer engagements, improved (digital) work processes, digital empowering of employees, and restructuring of back office functions (toward a more digitised organisation). The Danish legal tech scene had by then already seen quite a few non-attorney start-up companies who offered online drafting of wills and testaments, for example.

The process of these services, however, typically involved the customer answering 15 or more complicated legal questions, making it difficult for the end customer to complete – as well as providing the customer with no usable understanding of what, why, or how.

## The Idea

Actively wanting a different approach, and to leverage our vast



**Screenshot from our testanemt.dk legal webservice, with double Olympic Gold medallist Janne Kolling (handball) fronting the business**

experience and knowledge of the legal arena (our sole advantage competitively speaking), we conducted an extensive fact-finding and analysis of a few hundred wills and testaments drafted over the last couple of years by our law firm.

Our analysis uncovered that customers with same types of family constructions had identical or near identical wills and testaments, with very few differences. Based hereon, we developed a new approach to the drafting of wills and testaments. Instead of asking the customers difficult questions of a legal nature, we ask the customers about their family situation: are they married, single or in a relationship?

Do they have children or not? If they have children, are they both parents' children, or is it one parent's children only, or a mix?

In the case where the customers (the couple) have 'his and her and/or common children', do they want the children to inherit on an equal pro-rata basis or do they want the children to inherit (only) from their specific parent.

Based on the answers to these questions alone, the system we developed then generates a will tailored to the specific family pattern. Or rather, the system pulls the relevant standard document/form tailored to the specific family

type and the couple's names, etc, are filled into the standard form via a template on the system platform.

## The Process

The idea was born in late autumn 2017, and until the platform opened for business on 01 January 2019, our journey has been filled with obstacles.

First, it was necessary to establish a separate company to own and run the business, as law firms are prohibited from doing so, under Danish good-practice rules for Law firms.

This obviously also carries the less than motivating fact of having to invest in the start-up of a new company with funds that have already been levied with taxes.

Second, we experienced what we already knew would be a challenge from existing clients and general digital transformation literature – that a partner-driven business constitutes quite a formidable challenge when it comes to agility and manoeuvrability. It is not without reason that most companies who venture into digitisation warn that new endeavours must be explored in a separate entity, and in an entity

The screenshot shows a web browser window with the URL 'testanemt.dk'. The main heading is 'Vælg den situation der passer på dig'. There are three cards representing different relationship statuses: 'Enlig' (Single), 'Samlevende' (Cohabiting), and 'Ægtefælle' (Married). The 'Ægtefælle' card is highlighted with a blue checkmark. Below this, there is a section titled 'Har I børn?' (Do you have children?). There are two cards: 'Ingen børn' (No children) and 'Børn' (Children). The 'Ingen børn' card is highlighted.

**Screenshot from the questionnaire form on testanemt.dk**

that is wholly self-governing and autonomous also in financial terms.

Third, it is an in-coherent process if you are not able to allocate the necessary work force continually. In that case it becomes an 'after hours' task which lacks momentum and focus.

There is always another case to be handled back in the law firm, and the lack of up-front

support and acknowledgement in an organisation will always be challenging to these ideas. These issues need to be addressed before embarking on the journey.

Next, the process of developing and executing a new business is, strangely enough, no different than any other start-up business. It requires blood, sweat, tears, and a lot of hours. It takes time, and a lot of it. Plus a very specific set of skills and professional competencies.

## How to Interact with Developers and Business Administrators

It is our experience that in order to succeed, it is necessary to build a team consisting of innovative lawyers (with in-depth knowledge of the legal business area), business administrators, and tech people.

...next page



**Henrik Bartels**



**Morten Arnberg**

If you can facilitate an environment where these three groups can interact and work together closely to create and innovate, this is undoubtedly the most opportune road to successfully navigate the challenges described above. But once the results are there, it is worth all the trouble.

## A Tool

In our view, it is important to constantly have a dual focus on the product, both as a commodity that can be sold to customers, with no attorney interaction, and as a tool for the attorneys.

There is no reason why our attorneys should not use the platform developed as our own tool in drafting wills and testaments of more complicated nature.

The platform will complete the basis of the will or testament, leaving the attorney with the (often minimal) task of tailoring the final details to specific customers, who fall outside the scope of the commodity product or who require specific advice on complex estates etc.

## The Responsibility?

Many have raised questions about the professional liability connected to the rendering of attorney's advice on a digital platform.

First, we have for multiple reasons decided to run the business as a non-attorney business. This means that the strict attorney regulation (in Denmark) does not apply to the platform.

Secondly, it is our opinion that the platform offers a close to 'fool-proof' approach in terms of responsibility. The final will and testament is the end product of designed documents,

that are specifically tailored to a specific family situation. Basically, it is our contention that if the customer wants something different than what is in the will, it is a mistake or due to a wrongful perception of the existing legal environment.

The standard document has been created based on several hundred wills drafted by experienced lawyers, for people in the exact same family situation. Thus, the original fact-finding and analysis that constitute the base for the webservice provide substantial legal quality assurance.

Obviously, it can be argued that the platform does not take into consideration the individual wishes and ideas of the customer. This may in part be true, but it fails to recognise, that the standard document has come into existence through analysis of hundreds of wills – that were found to be wholly or partially identical, despite being drafted by different lawyers.

As such, the product should be more correct than the individually drafted will, which carries the risk of being based on a lack of knowledge of possibilities and consequences and of specific attorney's preferences who do not draw upon the said fact-finding and analysis.

Essentially, if the customer chooses something that is not the same as everyone else in their situation, it is from the outset a mistake.

Finally, the product delivers what people in that particular family situation generally would prefer or choose, and it is backed up by empirical evidence to that fact, making it more viable than almost any other will, where the choices are more or less being made by the attorneys (in the majority of the cases). Very few people have any understanding of the complicated legal area, and they all want to hear what other people normally do.

Also, it is impossible in the normal attorney meeting to present the customer with all relevant decisions. The attorney does that (untold) during the normal attorney meeting, based on what the attorney learns from the customer about their family situation and the attorney's experience with other similar families.

Which is basically what we have bottled and put on a shelf. Finally, we do of course correct for the customer's wishes. As our base by far covers most issues, this, in practice, takes very little time.

## The Future

As outlined above, that commoditisation came about primarily by thinking about our services in a different way. This way of rethinking the services via a fact-finding approach into products could and should be transformed on (most of) our services.

We are now focused on finding and attracting partners in order to grow the business outside Denmark. So, don't hesitate to get in touch with us, if you are interested in teaming up to bring Testanemt to your country.

XLNC member firm

### **ADVODAN**

Copenhagen, Glostrup, Hillerød, Holbæk, Maribo, Roskilde, Slagelse, Denmark

T: +45 46 14 50 00

W: [www.advodan.com](http://www.advodan.com)

### **Henrik Bartels**

E: [heba@advodan.dk](mailto:heba@advodan.dk)

### **Morten Arnberg**

E: [marn@advodan.dk](mailto:marn@advodan.dk)

# Decree on New Ruling Practice

■ By Jan Gerrand  
and Shie Yee Au Yeung

## Introduction

The Netherlands has a longstanding and well-developed ruling practice, whereby Dutch taxpayers can obtain certainty in advance from the Dutch tax authorities on specific tax matters.

The possibility to obtain certainty in advance is of great importance for taxpayers and has contributed to a stable and beneficial business climate in the Netherlands.

Although the Dutch ruling practice is clearly important for the Netherlands, it has at the same time recently also been subject to a public debate.

In particular, the issuance of tax rulings to multinationals with limited activities in the Netherlands has led to the political discussion of whether the issuance of tax rulings in the existing manner and form can continue or should cease to exist, since these tax rulings facilitate tax avoidance by the taxpayer.

In view of these discussions, the Netherlands has recently evaluated and updated its ruling practice in a newly published decree on the Dutch ruling practice for international tax rulings (the 'Decree').

The new ruling practice entered into force from 01 July 2019; however, existing rulings will continue to be applicable for the remaining period as concluded in the ruling.



**Jan Gerrand**

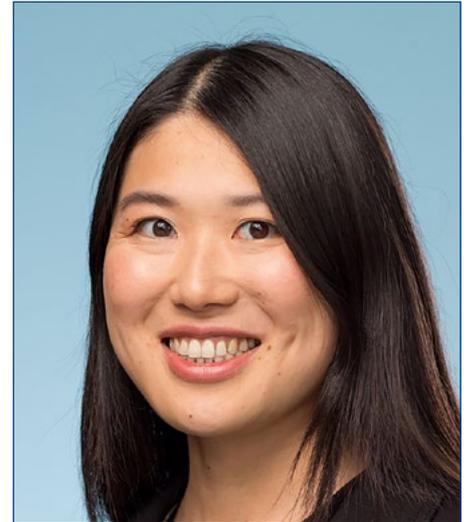
## Decree on New Ruling Practice

The Decree provides for several new items, of which the most important are the following:

### 1. Requirements and Economic Nexus

In order to combat tax avoidance, the Decree stipulates that taxpayers can no longer obtain a tax ruling if the taxpayer has insufficient 'economic nexus' with the Netherlands. This economic nexus requirement replaces the list of substance requirements that taxpayers needed to meet, prior to 01 July 2019, in order to obtain a tax ruling with the Dutch tax authorities.

The Decree explains what is meant by the economic nexus concept. Relevant is that the group of which the taxpayer forms part should perform economic operational activities in the Netherlands for the account and risk



**Shie Yee Au Yeung**

of the taxpayer in the Netherlands. These activities conducted in the Netherlands must be in proportion to the functions of the enterprise of the taxpayer. Furthermore, the taxpayer should have enough personnel available in the Netherlands that is relevant for the activities carried out in the Netherlands.

The Decree further stipulates that no tax ruling will be granted to the taxpayer if either of the following applies:

- The only or the decisive purpose of the transaction is to reduce Dutch or foreign taxation; or
- The transaction involves a country that is included on the Dutch blacklist for low-taxed companies or the EU blacklist for non-cooperative jurisdictions. In this regard, a jurisdiction is considered low-taxed if it levies no profit tax or a profit tax with a statutory rate of less than 9%.

...next page

Due to the introduction of the abovementioned requirements, it can be expected that it would be more difficult for taxpayers to obtain a tax ruling in the Netherlands – especially since the exact scope of the economic nexus requirement and the tax avoidance requirement have not been defined. In any event, it is clear that taxpayers can now no longer obtain a tax ruling on structures such as the famous ‘CV-BV structure’ or the ‘Double Irish Dutch Sandwich structure’ since these structures are clearly aimed to reduce Dutch or foreign taxation.

## 2. Transparency

Prior to the publication of the Decree, the Netherlands has already committed to exchange information on tax rulings in compliance with the OECD BEPS Action 5 Report. In practice, such an exchange of information implies that the Dutch tax authorities would exchange information on tax rulings to the tax authorities located in the other relevant jurisdictions.

To further increase transparency, the Decree states that tax rulings with an international character will now also be published in the form of a short anonymous summary. In addition, if a pre-consultation with the Dutch tax authorities



does not result in a tax ruling, the Decree states that a summary will also be published explaining why a tax ruling was not issued.

The publication of tax rulings is quite revolutionary, given that the Dutch government has until now strongly defended the privacy of the taxpayer and has been an opponent of making tax rulings publicly available. The publication of the summary of the tax rulings was, however, accepted by the Dutch government, under the strict condition that the information provided by the taxpayers is treated as confidential by the Dutch tax authorities and that the summaries cannot be traced back to the individual taxpayer.

## 3. Process

Prior to 01 July 2019, rulings were dealt with by the ‘APA/APA Team’, a specialised team within the Dutch tax authorities that focuses on the issuance of advance pricing agreements (‘APA’s’) and advance tax rulings (‘ATR’s’). As per 01 July 2019, a new body – the International Fiscal Certainty Board

(College voor Internationale Fiscale Zekerheid) – has been introduced which will be responsible for the central coordination of rulings in order to ensure unity in, quality of, and adherence to the ruling practice. Although this new body has been introduced, the local tax inspectors or the International Fiscal Certainty Team – the previous APA-ATR team – remain authorised to deal with rulings. New tax rulings concluded after 01 July 2019 require the signature of the local inspector/International Fiscal Certainty Team, as well as a second signature, from the new International Fiscal Certainty Board.

## Conclusion and Observations

In view of the requirements as stated in the Decree, it can be expected that it will be more difficult for taxpayers to obtain a tax ruling with the Dutch tax authorities. It should be noted however that the Dutch tax legislation itself has not changed due to the Decree and therefore the Dutch tax consequences should

XLNC member firm  
**STP Tax Lawyers**  
 Tax, Corporate Finance  
 Amsterdam, The Netherlands  
 T: +31 88 5060 600  
 W: www.stp.nl

**Jan Gerrand**  
 E: jan.gerrand@stp.nl  
**Shie Yee Au Yeung**  
 E: shie.auyeung@stp.nl

remain the same after 01 July 2019. Although for some taxpayers it may therefore no longer be possible to obtain a tax ruling, this does not automatically mean that the structure itself no longer works

from a Dutch tax perspective. If the taxpayer meets the conditions under Dutch tax law (taxpayers should bear in mind that these rules are also changing due to the introduction of the EU Anti-Tax Avoidance

Directive 2 and/or the Multilateral Instrument) but they do not meet (all of) the strict requirements under the Decree, taxpayers may also decide to rely on tax opinions issued by the Dutch tax advisor.

## Have the Floodgates Opened?

# Cisco Settles First-of-Its-Kind Cybersecurity False Claims Act Litigation

■ By Matthew E. Feinberg

On 31 July 2019, a False Claims Act (FCA) matter pending in federal court in New York was unsealed, revealing an USD 8.6 million settlement that may have far-reaching implications for government contractors. The litigation, *United States, et al., ex rel. James Glenn vs Cisco Systems, Inc.*, was initiated in 2011 on behalf of the federal government and a number of state governments, after a Denmark-based employee of a Cisco affiliate was terminated, allegedly for reporting a flaw in one of Cisco's video surveillance products. **With the rapidly developing role of cybersecurity in federal procurements, government contractors should clearly understand their obligations, representations, and certifications to avoid FCA liability and ensure compliance.**

According to the unsealed complaint, in 2007, Cisco created a



**Matthew E. Feinberg**

cloud-based IP video surveillance product, Cisco Video Surveillance Manager (VSM), using software it acquired from another company. The system allows customers to connect and manage multiple video surveillance cameras through a single centralised server, which can be accessed remotely. This means that the system could connect multiple camera systems located around the country and store

data and allocate video streams from one (or a small number) of principle locations. A system such as this was particularly attractive to federal government agencies and national and international organisations, which often have many physical offices or worksites around the country or around the world that must be monitored on an ongoing basis. For example, Cisco's VSM was used by all four branches of the US Military, at schools, at the Los Angeles International Airport, by the Metropolitan Police Department in Washington, DC, and by the New York City public transit system, among others.

In October 2008, James Glenn was a computer security expert working for one of Cisco's Danish distributors when he discovered and reported alleged flaws in the Cisco VSM system that, according to the complaint, would allow a person with only a 'moderate knowledge of software/network security' and the software programme to



‘exploit the system in a number of ways, including: gaining access to all video feeds, . . . all user passwords, [and] . . . all stored data on the system, modifying or deleting video feeds, and gaining permanent ‘administrator’ (i.e., highest-level) access to the system (which would enable future abuse to go completely undetected)’. Glenn contended that these flaws would not only render the product worthless (and likely harmful) to customers, risking exposure of their critical security data, but it would ‘violate the mandatory technical requirements imposed on any computer system sold to the Government...’

The complaint further alleges that, rather than Cisco taking action to correct the vulnerabilities with the software in response to Glenn’s report, Glenn was terminated by

XLNC member firm  
**Pilieromazza PLLC**  
 Legal  
 Washington DC, USA  
 T: +1 202 857 1000  
 W: [www.pilieromazza.com](http://www.pilieromazza.com)

**Matthew E. Feinberg**  
 E: [mfeinberg@pilieromazza.com](mailto:mfeinberg@pilieromazza.com)

the Danish distributor. Indeed, Cisco continued to sell the product, without repair or correction and without notice to customers of the system’s vulnerabilities, until it issued a security alert in 2013, along with a solution to solve the security flaws. By then, Glenn had already filed his FCA case, and the FBI was already investigating.

Glenn’s complaint offered a somewhat novel approach to FCA liability. Rather than targeting a specific certification requirement imposed on government contractors generally, the complaint relied on the **government’s** obligations regarding procurements. Specifically, Glenn noted that the Federal Acquisition Regulations (FAR), including 48 C.F.R. § 11.102, mandate that government agencies meet certain information technology (IT)-based requirements, including, in Cisco’s case, the Federal Information Processing Standards (FIPS). The FIPS, in turn, incorporates certain cybersecurity requirements with which the government must comply, including those found in National Institute of Standards and Technology (NIST) Special Publications 800-53. These requirements are then flowed down, either directly or by implication, to government contractors.

Glenn argued that Cisco, in billing the government for the purchase of the Cisco VSM, was required

to ensure that its surveillance products were compliant with certain provisions of the NIST, which, relevant to the Cisco case, set minimum security standards. Because, based on Glenn’s report, Cisco knew that the Cisco VSM did not meet these standards, it may have presented repeated false claims to the government over a five-year period, subjecting it to potential FCA liability.

The settlement appears to be, and is being publicised in the industry as, the first time there has been a payout, either through a judgment or settlement, in an FCA case brought due to a party’s failure to meet cybersecurity standards. But it is undoubtedly not the last. Given the favourable outcome in the Cisco case, and the substantial monetary benefits available to successful whistle-blowers in FCA matters – Glenn will receive approximately USD 1.72 million for blowing the whistle on Cisco – we expect many more cybersecurity FCA complaints to be filed in the coming years. Therefore, it is critical that government contractors have a clear understanding of their obligations, representations, and certifications regarding cybersecurity requirements on federal contracts.

*Matthew Feinberg is a Partner and Chair of PilieroMazza’s False Claims Act and Litigation and Dispute Resolution practice groups.*

# Bulgaria amends VAT Legislation

## Changes Affect a Wide Range of Sectors

### ■ Albena Rasheva

The VAT rate in Bulgaria has remained unchanged at 20% for many consecutive years. Recently, there has been a lot of debates on the future possibility of amending the VAT rate for certain food products as well as medicines and books to a rate somewhere in the range between 3% and 5%. While it remains to be seen what the government will decide on this issue, we will focus our attention on the VAT legislation changes which had entered into force since the beginning of 2019.

The majority of the changes at the VAT legislation aim to implement the requirements of EU directives. Following Bulgaria's sentence in several big tax cases at the Court of the European Union, it became necessary to amend the VAT legislation to avoid further court cases. Several European Court vs Bulgaria procedures are still ongoing, mostly because of discrepancies between local and EU legislation. Furthermore, significant



**Albena Rasheva**

changes guarantee the decrease of the administrative burden on taxpayers and certain requirements are clarified in order to put an end to variable interpretations.

Since the beginning of this year, the law finally addresses electronic trade and online shops with a newly created possibility for issuing electronic fiscal bonds.

Another novelty is the fact that companies which had voluntarily registered for VAT purposes can now be deregistered voluntarily after 12 months since the beginning of the year, following the year of their VAT registration, unless they have meanwhile fulfilled requirements for an obligatory VAT registration.

As of 01 July 2019, companies which import chemical and metallurgical goods in value exceeding BGN 50,000 (for each item, according to the tax

declaration), will have the opportunity to self-calculate VAT for the import of goods instead of paying VAT for import to the customs authorities. In order to use this opportunity, the importing company should have registered under VAT requirements at least six months before the import and should not have any due unpaid obligations towards the state.

A new threshold of EUR 10,000 per calendar year is defined for the provision of telecommunication services, radio and TV-services and services, provided electronically, under which the provider can charge VAT according to the Bulgarian legislation (i.e. place of supply will be considered to be the location of the supplier).

Given the wide spectrum of changes in the Bulgarian VAT legislation, we advise Bulgarian companies to seek competent and professional advice in understanding the implications of the amendments in their daily operations.

XLNC member firm  
**Eurofast Global EOOD**  
 Accounting, Tax, Legal  
 Sofia, Bulgaria  
 T: +359 2 988 69 77  
 W: [www.eurofast.eu](http://www.eurofast.eu)

**Albena Rasheva**  
 E: [albena.rasheva@eurofast.eu](mailto:albena.rasheva@eurofast.eu)

Join us at the  
**XLNC**  
**Autumn**  
**Conference**

Venice, Italy  
 15-17 Nov. 2019

# Top Tips for Investing in UK and European Property

## ■ By Marcus Wroe, Head of European Services at Paragon Building Consultancy

International investors continue to take a keen interest in UK and European property. There are plenty of commercial opportunities out there, but with the market shifting, navigating through the many considerations and variables poses a real challenge.

Europe as a continent can seem like an enigma, being home to the world's most competitive locations such as London and Paris, as well as emerging and high-growth markets like Portugal and Romania.

There's also growing awareness of the opportunities from different asset types. From offices and retail to student residential and care homes, it's no longer enough for investors to buy a portfolio of industrial 'sheds' in Germany and Poland.

How can overseas investors navigate through the confusion? Here are some top tips for anyone looking to achieve commercial success in UK and European property, from a UK-based building consultancy's perspective.

## Think Outside 'Big Box'

There is a growing trend of international investors switching



**Marcus Wroe, Head of European services at Paragon building consultancy**

from industrial property to other asset types or at least diversifying their portfolios in that direction.

Paragon has seen this directly, with a Far East client which had previously invested heavily in European sheds now moving into an asset management phase on those developments and shifting its transactions towards offices and student residential.

Offices prove attractive to many investors and there is often scope for new owners to add value. For example, Qatar's Alduwaliya Asset Management bought Riverside House (right), a South Bank office block, for around GBP 150 million in 2017, and Paragon is now advising on a 90,000 square foot, Category A

refurbishment during the client's asset management phase to increase value.

## Look to UK Regions and Emerging Markets

Many international investors are rethinking their approach to UK regions and emerging markets.

Traditionally, London has been key focus for overseas investors looking to the UK, but now they are seeing value in its main regional centres such as Edinburgh, Manchester, Birmingham, and Bristol. Cities like Dublin have also seen a huge influx of investment, in this case based on concentration of global technology companies at the city's famous Silicon Docks.

Paragon has advised South African investors on 29 transactions in the UK in recent years. Many of these investors historically sought high-profile property in London but are now looking much more open-mindedly at the whole UK market. They are hungry for new asset classes all over the UK and in every sector, with an uptick in investment driven by discounts on currency as the pound weakens.

Likewise, markets which have previously been low down on

portfolio lists, such as Romania, Portugal, and Italy, are having a resurgence and enjoying the benefits of inward investment. Buying here instead of Germany and France, for instance, can offer high growth potential and lower competition.

## Get Global Service, Local Knowledge

Overseas investors may be based thousands of miles from their investments, which can create a host of problems around service levels, local knowledge, time zones, and language barriers. Do they hire a UK consultant who can provide excellent service but lacks local knowledge, or a local company which knows the area but isn't used to working with international clients?

Ideally, investors should be able to access both world-class service and local knowledge. For example, Paragon delivers services across Europe by forming and maintaining strategic alliances with local services providers who work closely with UK-based experts. This provides overseas investors with a trusted team delivering across the whole project lifecycle, from transaction and development to management.

A key benefit of this approach is that overseas investors get one overarching view of the project, enabling informed investment decisions. All the better if this view focuses on the hard facts in succinct UK-style reporting aligned to their strategy and objectives.

## Hold Judgment on the UK

The UK's imminent exit from the European Union has left most



**Riverside House**

investors facing a lot of uncertainty. This alone doesn't necessarily mean that international investors are shifting funds from the UK to the rest of Europe instead.

Looking back at the market immediately after the 2016 referendum, Far East investors pulled out of the UK but, after the value of the pound fell, US and Middle East investors piled back in and sparked an increase in transactions. Investors don't like uncertainty, but they do like favourable exchange rates.

## Partner Up

However overseas funds invest, it's vital to choose a trusted consultant to deliver their projects and portfolios. Commercial acumen, technical expertise, and access to local knowledge are all non-negotiable as far as many are concerned.

Another bonus is being able to provide a broad range of services – such as building surveying, environmental surveying, and technical due diligence – across all asset classes, from hotels and retail to industrial and offices.

With a decade of experience on European projects, Paragon has advised global clients on EUR 5 billion of European real estate transactions in the past three years across countries including Germany, France, Portugal, Italy, Spain, The Netherlands, Hungary and Poland.

European property is in a unique state. The market is shifting, and, in the coming months, the old rules may no longer apply. But there remains plenty of commercial opportunity for overseas investors who identify the right markets and assets, and partner with the right consultants.

Marcus Wroe (right) is founding director and head of European services at UK-based building and project consultancy Paragon. The business advises overseas investors on all asset classes and sectors in the UK, as well as established and emerging European markets. Paragon prides itself on providing clients with the same level of exemplary service, wherever they decide to invest.

For more information contact [marcuswroe@paragonbc.co.uk](mailto:marcuswroe@paragonbc.co.uk) or visit [www.paragonbc.co.uk](http://www.paragonbc.co.uk).

# New XLNC Member Firms

In all issues we will present the new member firms since the last issue of the XLNC Magazine. We warmly welcome all of you!

## GERMANY



### Schomburg · Rother · Schumacher

Audit, Accounting, Tax  
Bremen, Germany  
T: +49 421 43 43 10  
E: [info@berater-bremen.de](mailto:info@berater-bremen.de)  
W: [www.berater-bremen.de](http://www.berater-bremen.de)

**Benno Gregarek**  
E: [benno.gregarek@berater-bremen.de](mailto:benno.gregarek@berater-bremen.de)



**SCHOMBURG · ROTHER · SCHUMACHER**  
Steuerberatung | Wirtschaftsprüfung | IT Solution

## FRANCE



### ELTEA Avocats

Legal  
Paris, France  
T: +33 1 87 89 61 75  
W: [www.eltea.legal](http://www.eltea.legal)

**Michael Skaarup**  
E: [mkskaarup@eltea.legal](mailto:mkskaarup@eltea.legal)



eltea avocats

## GERMANY



### Franz Rechtsanwälte

Legal  
Dusseldorf, Germany  
T: +49 211 15 76 76  
E: [info@franzlegal.com](mailto:info@franzlegal.com)  
W: [www.franzlegal.com](http://www.franzlegal.com)

**Dr Udo von Fragstein**  
E: [fragstein@franzlegal.com](mailto:fragstein@franzlegal.com)  
**Dr Christian Franz**  
E: [franz@franzlegal.com](mailto:franz@franzlegal.com)



**FRANZ**  
RECHTSANWÄLTE

## INDONESIA



### KAP Jojo Sunarjo & Rekan

Audit, Accounting, Tax, Corporate Finance  
Jakarta, Indonesia  
T: +62 21 3506192  
E: [idjsr@jsr.co.id](mailto:idjsr@jsr.co.id)  
W: [www.jsr.co.id](http://www.jsr.co.id)

**Mario Zulfa Nasution**  
E: [admin\\_lb@nasution.co.id](mailto:admin_lb@nasution.co.id)



**Jojo Sunarjo & Rekan**  
Registered Public Accountant

## IRELAND



### Gordon Judge Solicitors

Legal  
Dublin, Ireland  
T: +353 1 661 7449  
E: [info@gordonjudge.ie](mailto:info@gordonjudge.ie)  
W: [www.gordonjudge.ie](http://www.gordonjudge.ie)

**Gordon Judge**  
E: [gordon.judge@gordonjudge.ie](mailto:gordon.judge@gordonjudge.ie)



**Gordon Judge**  
SOLICITORS

 **MEXICO**



**BHR Mexico**

Audit, Accounting, Tax, Legal, Corporate Finance, Strategy, Management Consulting, Fiduciary Mexico City and 18 further offices throughout Mexico

T: +52 55 5447 7400

E: servicios@bhrewmx.com.mx

W: www.bhrewmx.com.mx/en/

**Carlos Enrique Brito Alvarez**

E: cbrito@bhrewmx.com.mx



 **SPAIN**



**Oscar Eguren Abogados**

Tax, Legal

Marbella, Spain

T: +34 952 86 67 27

E: info@oeguren.es

W: www.oeguren.es

**Oscar Eguren**

E: oscareguren@oeguren.es



 **SPAIN**



**Spence Clarke & Co**

Accounting, Tax, Fiduciary

Marbella, Spain

T: +34 95 282 29 43

W: www.spenceclarke.com

**Alistair Spence Clarke**

E: alistair@spenceclarke.com



 **THAILAND**



**Juslaws & Consult International Law Firm**

Tax, Legal

Bangkok, Phuket, Thailand

T: +66 2254 41179

W: juslaws.com

**Yuthana Promsin**

E: yuthana@juslaws.com



 **USA**



**Gerard Fox Law, P.C.**

Legal

Los Angeles (CA), New York (NY),

San Francisco (CA), USA

T: +1 310 441 0500

E: info@gerardfoxlaw.com

W: www.gerardfoxlaw.com

**Gerard P. Fox**

E: gfox@gerardfoxlaw.com



 **USA**



**Guillen Pujol CPA, P.A.**

Audit, Accounting, Tax, Corporate Finance,

Strategy, Management Consulting, Fiduciary

Miami (FL), USA

T: +1 305 831 4093

W: www.guillenpujol.com

**Nestor Guillen**

E: nguillen@guillenpujol.com





**GLOBAL PROFESSIONAL  
EXCELLENCE**

[www.xlnc.org](http://www.xlnc.org)