

# International Tax Services

## Chapter Outline

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### Overview of International Taxation

- Full Inclusion Model
- Territorial Model
- Blended Model

### Income Sourcing

- Source Determination
- Deduction Apportionment

### Tax Treaties

### Tax Havens

### BNA

- BNA Foreign Income Library
- BNA International Service
  - Table of Contents Search*
  - Advanced Search*
  - Document Options*

### LEXISNEXIS

- Tax Center
- Academic

### RIA

- International Tax Products

### Westlaw

### CCH

- Service Offerings

### Internet Sites

## Learning Objectives

- Apply the tax research process to international issues.
- Learn the major features of international tax services.
- Develop search methodologies applicable to each of the international services.
- Identify which tax services are most appropriate for different international research objectives.

THERE ARE MORE THAN 190 countries in the world today, and each can have its own tax rules and regulations. Consequently, global businesses must maneuver through a tangled web of tax laws that are likely to be unfamiliar to most tax professionals. Intricate (sometimes tax-motivated) intercompany transaction flows and transfer pricing further compound the complexity and create an international tax environment that can be an unmanageable labyrinth for many companies. Fortunately, international tax specialists can help with the perplexing compliance obligations and foster alignment of company tax strategies with its business needs. The ultimate tax planning goal of most companies, however, is quite simple—to reduce the company’s overall global effective tax rate. Finding the road that leads to this goal is the challenge.

## OVERVIEW OF INTERNATIONAL TAXATION

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Global business transactions create distinctive tax concerns for both the native country and the temporary resident or transaction country. The native country is where the taxpayer is a citizen or legal resident, or where an entity is incorporated or organized (domestic corporation). The transaction country is where the income is earned or the transaction completed. International tax provisions generally are concerned with the two potential tax situations: the native country’s taxation of its citizen’s foreign-source income (outbound) and the transaction country’s taxation of foreign taxpayers earning income within its borders (inbound).

From an economic perspective, the objective of the international tax rules of each country should be to ensure that the taxing systems interact efficiently and prevent, to the extent possible, a double taxation of income, while encouraging investment within the country’s boundaries. At the same time, each country wants to promote global commerce but not erode its domestic tax base for generating revenues. Such tax objectives can be in conflict, and these conflicts are the cause of the complexity and often situation-specific rules found in international tax laws.

There are three chief models for developing international taxing systems: full inclusion, territorial, and blended (current U.S. model).

### Full Inclusion Model

Under the **Full Inclusion Model**, a business pays taxes to its native country on all of the income it earns, regardless of the income’s source. This would include income earned in other countries, and even income earned by foreign subsidiaries, whether or not the profits are distributed to the parent. All expenses associated with the earning of the foreign income are deductible currently. Since the foreign earned income also may be taxed by the transaction country, the native country would allow a foreign tax credit for taxes paid to other countries.

The full inclusion model generally ensures that a company pays the same amount of taxes whether its businesses are located within the resident country outside its borders. Thus, this taxing model does not encourage or discourage foreign operations. It is “capital export neutral” and theoretically should not have a negative effect on multinational companies or their ability to compete in the global market. Some argue, however, that the full inclusion model does interfere with a company’s ability to compete in foreign markets, for example, when the native country’s tax on income is higher than the transaction country’s tax would be on the same income.



## SPOTLIGHT ON TAXATION

### International Tax Programs

Many businesses and CPA firms are struggling to attract and retain international tax personnel due to the shortage in high-quality individuals graduating from international tax programs at universities. Schools with specialized masters or law programs in international tax include the following.

- Harvard Law School
- New York University School of Law
- Penn Foster College
- Strayer University
- University of Florida—Levine College of Law
- University of Michigan Law School
- Walter H. and Dorthy B. Diamond International Tax Program (online)
- European Tax College (Netherlands)
- Universität of Hamburg (Germany)
- Universiteit Maastricht (Netherlands)
- University of Sydney (Australia)
- Universidad Torcuato Di Tella School of Law (Argentina)
- Vienna University of Economics and Business Administration (Austria)

### Territorial Model

With a **Territorial Model**, a local business is subject to the native country tax only on income earned within its boundaries. It would not be taxed on income earned outside the native country or income of its foreign subsidiaries, even when the income is repatriated to the parent. Since the foreign income is not taxed within the native country, there is no need for a foreign tax credit. Foreign income is taxed only once and that is by the foreign country. Accordingly, deductions associated with the foreign income are disallowed.

A territorial model generally permits companies with foreign operations to pay the same amount of taxes as companies whose residences are in those same foreign countries. This model is therefore “capital import neutral.” Territorial tax proponents assert that native taxes on foreign income hinder a company’s ability to compete in foreign markets by changing the profit margins. Opponents regard territorial taxes as eroding the native country’s tax base by encouraging exporting of business and exacerbating transfer pricing problems.

### Blended Model

The U.S. international taxing system is a blend of the full inclusion and territorial model, relying most heavily on full inclusion. In the **Blended Model**, foreign income is taxable to U.S. domestic companies when earned, and expenses associated with this income are currently deductible. However, the United States generally postpones taxing foreign subsidiary income until this income is distributed to the

domestic parent. Since this repatriated income previously was taxed in the foreign country, a foreign tax credit for some or all of the taxes paid to other countries is available to the domestic parent company. This helps to mitigate the chances of double taxation. The amount of the foreign tax credit depends on the tax rates in the foreign country as compared to the U.S. rates.

U.S. tax law uses a territorial approach for taxing non-U.S. taxpayers. For instance, the income of a Ugandan citizen is subject to U.S. Federal income tax but only if that income is earned within the United States. The Ugandan's income attributable to sources outside the United States is not taxable within the United States. Thus, the current U.S. international taxing system applies both the full-inclusion (for citizens) and the territorial models (for nonresidents) concurrently.

The international tax structure developed by the United States reflects the tension between the full-inclusion capital export neutrality and territorial capital import neutrality. By allowing tax deferral on foreign subsidiary income, the blended model encourages domestic corporations to retain earnings in foreign countries and postpone repatriation as long as possible. This model also causes numerous opportunities for U.S. tax base erosion.

## INCOME SOURCING

The geographical source of income has a direct bearing on its tax treatment. U.S. citizens are taxed on their worldwide income but income from other countries may receive tax relief through a number of Code provisions. Foreign taxpayers (also known as nonresident aliens), on the other hand, generally are subject to Federal taxes only on U.S. source income. Consequently, the sourcing rules often are the starting point in researching international tax issues.

### Source Determination

The **source determination** of income is dependent on performance location and/or property location. Income from interest and dividends generally is sourced by the residency of the payor. Thus, dividends from a domestic corporation and interest from a state bond are sourced within the United States. For income from property, such as rents, royalties, or gains from property sales, it is the location of the property that is relevant. Sales of inventory often are sourced by the location of the transaction, not by the origin of the inventory. Thus, inventory purchased in a foreign country but sold within the United States produces domestic sourced income. Income for personal services usually is sourced according to where the services are performed, not the residency of the compensating entity or the citizenship of the personal service provider. Finally, sourcing rules apply to deductions as well as to income.

### Deduction Apportionment

Since the U.S. tax is based on taxable income, deductions and losses must be apportioned between domestic and foreign-source gross income. **Deduction apportionment** for expenses and losses directly related to a transaction or activity can be easy to allocate. Thus, the cost of goods sold is apportioned to the sales income to which it relates.

Expenses that are either not attributable to any specific income source or are associated with more than one source must be apportioned. For example, interest expense is apportioned based on the theory that money is fungible. With limited exceptions, interest expense is attributable to all the taxpayer's leveraged transactions and activities, regardless of the specific purpose for incurring the debt.



## SPOTLIGHT ON TAXATION

### International Organizations

Three influential international organizations are the World Trade Organization (WTO), International Money Fund (IMF), and the Organization for Economic Co-operation and Development (OECD).

#### World Trade Organization

The WTO is a global organization that concentrates on developing agreements (known as multilateral trading systems) that become the legal ground rules for international commerce between nations. These agreements are negotiated and signed by the bulk of the world's trading nations after being ratified by their governments. Essentially, they are contracts, guaranteeing member countries important trade rights. They also bind governments to keep their trade policies in alignment with agreed-upon parameters for the benefit of the participating countries. The goal is to help producers of goods and services, exporters, and importers to conduct their business with the least amount of friction. In addition, the WTO wants to improve the welfare of the peoples within its member countries.

The WTO was established in January 1995 and is based in Geneva, Switzerland. As of January 2007, it has fifty member countries.

#### International Money Fund

The IMF was created to promote international monetary cooperation, exchange stability, and orderly exchange arrangements. Through these arrangements, the IMF fosters economic growth and high levels of employment. It also provides temporary financial assistance to countries needing help to ease the balance of payment adjustments. Since the IMF (and World Bank) was established in 1945 (after World War II), its purpose has remained unchanged. However, its operations have evolved to meet the changing needs of its 185 member countries in an ever-changing world economy.

The Executive Board consists of twenty-four member countries, of which sixteen seats are elected for two-year terms. The United States, United Kingdom, Saudi Arabia, Russia, Japan, Germany, France, and China have permanent seats. IMF headquarters are in Washington, D.C.

#### Organization for Economic Co-operation and Development

The OECD is an association of countries that believe in democratic governments and market economies. The goals of the OECD are to assist developing countries, support sustainable economic growth, boost employment, raise living standards, maintain financial stability, and generally contribute to world trade. Through its monitoring of world economics, the OECD has become known as one of the most reliable and prolific publishers of economic and social data/statistics. The OECD plays a prominent role in fostering good governance and helps to obtain multilateral economic agreements for individual countries wanting to participate in the global economy. It is a forum where peer pressure can act as a powerful incentive. This peer pressure incentive is demonstrated by the OECD's effect on tax havens. In 2000, the OECD issued a list of forty-one possible tax havens. There now are only five countries still classified as uncooperative tax havens.

The OECD started up in 1961 in Paris, France. It currently has thirty member countries and relationships with more than seventy other countries.

## TAX TREATIES

International taxation is governed in the United States by the *Internal Revenue Code* (Code) and by tax treaties. **Tax treaties**, negotiated by the Treasury Department and signed by the President, are bilateral agreements regarding the treatment of residents (not necessarily citizens) of the foreign country and the United States. Generally, treaties are negotiated to prevent double taxation by providing reduced tax rates, or exempting certain types of income from taxation. The incomes receiving reduced rates and exemptions vary among countries. Most income tax treaties contain what is known as a “saving clause.” These clauses prevent U.S. residents from using treaty provisions to avoid taxes on U.S. source income. The United States has tax treaties with over sixty countries, as enumerated in Exhibit 10-1.

The Code and tax treaties may provide conflicting treatment of some types of foreign sourced income. Unlike most countries, the United States does not consider treaty provisions to take precedence over the Code. Rather, to the extent possible, the Code and treaty should be applied in harmony with each other. If this is not possible, the most recently issued provision generally prevails. Some U.S. states do not honor the provisions of tax treaties, and U.S.-adopted tax treaties usually do not address state and local tax issues.

If there is no U.S. treaty covering income from a particular country, all taxable income from the country is includible in the tax base of the U.S. citizens and

### Exhibit 10-1: U.S. Income Tax Treaty Countries\*

Armenia	India	Portugal
Australia	Indonesia	Romania
Austria	Ireland	Russia
Azerbaijan	Israel	Slovak Republic
Bangladesh	Italy	Slovenia
Barbados	Jamaica	South Africa
Belarus	Japan	Spain
Belgium	Kazakhstan	Sri Lanka
Canada	Kyrgyzstan	Sweden
China	Korea	Switzerland
Cyprus	Latvia	Tajikistan
Czech Republic	Lithuania	Thailand
Denmark	Luxembourg	Trinidad/Tobago
Egypt	Mexico	Tunisia
Estonia	Moldova	Turkey
Finland	Morocco	Turkmenistan
France	Netherlands	Ukraine
Georgia	New Zealand	United Kingdom
Germany	Norway	Uzbekistan
Greece	Pakistan	Venezuela
Hungary	Philippines	
Iceland	Poland	

\*IRS web site as of July 2007.

residents. This income also is likely to be taxed by the foreign country. To mitigate double taxation of this income, the foreign income exclusion, foreign tax credit, and other more specific provisions, were legislated.

## TAX HAVENS

What is considered a **tax haven** varies depending on the observer's viewpoint. A rather neutral definition is that a tax haven is a location that imposes one or more of its taxes at a lower rate than the jurisdiction to which it is being compared. These beneficial (or no) tax rate areas encourage wealthy individuals and businesses to establish residency or a presence within the tax haven's boundaries. For example, a U.S. state with no sales tax or no corporate income tax meets this definition of a tax haven. Hence, different jurisdictions may be havens for singular taxes and for different types of taxpayers. Besides adopting a low tax rate, tax havens generally are viewed by the public as intentionally creating a tax structure that deliberately exploits the worldwide desire to engage in tax avoidance.

The **Organization for Economic Co-operation and Development (OECD)** suggests three key factors that identify a jurisdiction as a tax haven.

1. No or nominal taxes. This criterion might be applied with respect to income in general, or as to specific types or sources of income.
2. Effective information exchange lacking. Tax havens often adopt secrecy laws or administrative practices that protect individuals and businesses from the scrutiny of outside taxing authorities. Consequently, transactions within the tax haven jurisdiction remain private. This protection prevents an effective information exchange regarding taxpayers who are benefiting from locating within the tax haven.
3. Lack of transparency. Legislative, legal, or administrative provisions that are not transparent make it difficult to determine whether the laws are applied consistently. Information needed by taxing authorities, such as access to financial records, typically is legally restricted by a tax haven. These practices may make it impossible for outside tax authorities to determine tax obligations.

The OECD considers the first factor as necessary but not the deciding factor in defining a tax haven. Every jurisdiction, according to the OECD, should be able to determine whether it wishes to impose taxes and what rates are appropriate for which types of income and taxpayers. Therefore, one of the latter two factors also must be found for a jurisdiction to be considered a tax haven. Other observers believe that the first factor is sufficient for tax haven designation. The tax haven list appearing in Exhibit 10-2 is a composite from several different sources, with each country enumerated by at least two separate sources. Most of these countries would not meet the OECD's definition of a tax haven.

The remainder of this chapter reviews a sample of the commercial international tax service providers. As discussed in Chapter 6, these providers offer a plethora of tax products that can be bundled in a variety of ways. Thus, the tax services described in this chapter may not describe the set of resources available to the reader. Furthermore, the tax services constantly are updating their products to maintain their competitive edge, and this is especially true in the international arena. Therefore, the current appearance of the tax services may differ from those presented in this text. However, the research concepts still are applicable.

**Exhibit 10-2: List of Tax Havens**

The following is a composite list of countries considered as tax havens by at least two Internet sources. This list includes approximately 25% of the countries in the world.

Andorra	Liberia
Anguilla	Liechtenstein
Antigua and Barbuda	Luxembourg
Aruba	Maldives
Bahamas	Malta
Bahrain	Marshall Islands
Barbados	Mauritius
Belize	Monaco
Bermuda	Montserrat
British Virgin Islands	Nauru
Campione d'Italia	Netherlands Antilles
Canary Islands	Nevis
Cayman Islands	Niue
Cook Island	Panama
Costa Rica	Seychelles
Cyprus	St. Christopher
Dominica	St. Lucia
Gibraltar	St. Vincent
Grenada	Tonga
Grenadines	Turks and Caicos Islands
Guernsey	U.S. Virgin Islands
Hong Kong	Uruguay
Ireland	Vanuatu
Isle of Man	Western Samoa
Jersey	

**BNA**

The Bureau of National Affairs (BNA) has developed a myriad of products for the tax practitioner specializing in international taxation. Its international tax products can be divided into three major categories; (1) the U.S. tax treatment of foreign income or foreign taxpayers, (2) taxation by foreign countries, and (3) transfer pricing. BNA's signature publication, the **Tax Management Portfolios**, populates each of these categories. BNA also delivers in-depth news coverage, tax planning commentaries, journals, and detailed analysis through special tax services. The BNA products are so authoritative and of such quality that all of the major tax services (RIA, CCH, Westlaw, and LexisNexis) utilize BNA as the foundation of their international tax services.

**BNA Foreign Income Library**

The **BNA Foreign Income Library** includes approximately ninety Tax Management Portfolios written by leading experts in international taxation and business. The topics covered run the gamut from the foreign tax credit, to international aspects of social security taxes and foreign estates, to nontax issues such as the



**Exhibit 10-3: BNA Working Paper Legal Certificate**

TMFEDPORT No. 946 WS 14 (BNA)

BNA Tax Management Portfolios  
 Foreign Income Series  
 Provisions Applicable to U.S. and Foreign Persons  
 946-1st: U.S. International Taxation of Telecoms  
 Copyright © 2007 Tax Management, Inc.

**Worksheet 14 Sample** Exemption Certificate for Communications Excise Tax**Worksheet 14 Sample** Exemption Certificate for Communications Excise Tax**Worksheet 14 Sample** Exemption Certificate for Communications Excise Tax

EXEMPTION CERTIFICATE

FOR THE COMMUNICATIONS EXCISE TAX

IMPOSED PURSUANT TO SECTIONS 4251-4254

January 29, 2001

I certify that local telephone services have been furnished by U.S. Telco, Inc. to the United Nations; that the charges of \$100.00 will be paid from United Nation's funds; and that the charges are exempt from tax under section 4253(c) of the Internal Revenue Code of 1986, as amended.

(Signature of officer or employee)

(Title of officer or employee)

(Business Address of the officer or employee)

Note: Penalty for fraudulent use, \$10,000 or imprisonment or both.

This document updated March 2007.

TMFEDPORT No. 946 WS 14

regulation of foreign investments and currency exchange controls. There are more than ten portfolios dedicated to transfer pricing and forty portfolios covering the taxation of business operations in specific countries. These Country Portfolios address not only income taxation but also indirect taxes such as the value-added tax (VAT) and other special taxes unique to the various countries.

As with the BNA U.S. Income Library, each Tax Management Portfolio contains excerpts from primary sources such as the Code, Regulations, and IRS pronouncements. For tax treaties, the portfolios furnish not only the text but all relevant materials for interpreting the agreements including technical explanations, legislative histories, and judicial interpretations. Practical advice for complying with the local business and tax laws is offered by notable practitioners in the Detailed Analysis Section. The Working Papers Section contains interactive and IRS forms, sample elections, official documents, and legal forms (some filled-in as examples). An example of a sample legal certificate is presented in Exhibit 10-3. These portfolios, which are updated regularly, are offered in print and electronic formats.

**BNA International Service**

**BNA International Service (BNA IS)** was developed to communicate accurate and detailed analysis of worldwide taxation as well as regular international news updates. Thus, in addition to the Country Portfolios, BNA IS offers a variety of news and analysis libraries to the international tax practitioner as illustrated in the left window of Exhibit 10-4. The table of contents (TOC) organization of these

**Exhibit 10-4: BNA International Service European Tax Service Opening Screen**

The screenshot shows the BNA International website interface. At the top, there are navigation links: home, subscribe, contact us, log out, and change log-in details. Below this is a search bar and a menu with options like Document, Search Results, Doc/Results, and Advanced Search. The left sidebar contains a tree view of the site's structure, with 'European Tax Service' highlighted. The main content area has a title 'European Tax Service incorporating EU Focus Archive' and a map of Europe. Below the map, there is a welcome message and two sections: 'Latest Developments' and 'European Tax News Headlines'.

libraries is similar to that found in the CCH NetWork and RIA Checkpoint services discussed in Chapter 6. The library headings and document titles are displayed by expanding outlines, as can be seen for Japan in Exhibit 10-4. Each library in the BNA IS has its own opening page, as Exhibit 10-4 illustrates for the European Tax Service. The latest tax news and most recently added documents are highlighted on the opening page.

The Asia-Pacific Focus and the European Tax Service libraries both deliver news, in-depth articles on tax developments, legislative updates, and tax planning ideas that are country specific (see Exhibit 10-4). The European Union (EU) has a separate Tax Library and Focus Archive. For a practitioner whose expertise is international corporate restructuring, BNA IS maintains a separate Corporate Restructuring library covering mergers and acquisitions, capital raising, securitization, debt, and foreign investment. This global coverage is helpful when structuring cross-border transactions, as well as restructuring within a single foreign jurisdiction. While the Forum library contains quarterly issued articles on specific transactions that are written by experts, the Tax Planning International Review (Review in Exhibit 10-4) offers in-depth, practical analysis and focused monthly news reports on tax legislation, rulings, cases, and policies. Other specialty libraries available in BNA IS including Indirect Taxes (such as VAT, customs, stamp duties, etc.) and Transfer Pricing.

**Table of Contents Search** Given the organization of the libraries, a TOC search can be quite efficient and effective. Simply expand the TOC by clicking on the + boxes preceding the headings (see Exhibit 10-4). However, a simple search of the entire service may be easily performed by entering keywords in the Quick Search box above the left window (Exhibit 10-4). This search retrieves documents containing any of the keywords. Thus, the fewer the number of the researcher's keywords, the shorter will be the list of documents retrieved.

**Advanced Search** Rather than accepting Boolean term connectors, the Advanced Search option furnishes separate keyword boxes for the various types of searches, as seen in Exhibit 10-5. Accordingly, there are boxes for “and” (containing all of the words), “not” (not containing the word), “or” (containing one or more of the words), exact phrases, and proximity connectors (words that are used near each other). Advanced Search also allows the researcher to search for alternate word forms or apply a thesaurus to the search terms. Date restrictions are possible, and key word in context (KWIC) options of none, short, medium, and long are available.

The document list screen in Exhibit 10-6 shows the results of a search with keywords displayed in context (KWIC option was selected). If the researcher does not select the KWIC option on the search screen (Exhibit 10-5 screen), it can be

**Exhibit 10-5: BNA IS Advanced Search Screen**

**BNA International** home subscribe contact us log out change log-in details

Quick Search  Document Search Results DocResults Advanced Search Briefcase/View/Add help Clear Search Options

**Advanced Search**

You can search a subset of the site by choosing sections in the table of contents (in the frame on the left).

**Search for documents...**

containing all these words:  ←

and not containing any of these words:

and containing one or more of these words:

and containing this exact phrase:

and containing these words near each other:

Find alternate word forms (stemming) ←

Find synonyms (thesaurus)

Search by date on or after:   ←

and/or before:

Show document excerpts in the results list:  ←

turned on in the document list screen using the Document Excerpts option (Exhibit 10-6). Clicking on any of the highlighted keywords takes the researcher to where the word appears in the document. Based on the number of times the keywords appear in the document and other factors, the results are given a percentage score for ranking the document's relevance (see Exhibit 10-6).

**Document Options** Exhibit 10-7 illustrates the various functions (at the top of the screen) that are available in the document screen. Most are self-explanatory; however, some may not be intuitive. For example, clicking on Sync Contents expands the entries in the left window to show where the documents retrieved by the search appear in the libraries. The Find Similar feature locates documents in the other libraries, previously not searched, that are on the same topic. This is very handy when trying to determine how various countries treat a particular transaction. Finally, when reviewing any document, clicking on Reference displays the location of the article in its library (see Exhibit 10-7).

## LEXISNEXIS

LexisNexis has built impressive international tax libraries by amassing documents and services developed by other publishers. The Tax Center and Academic services

**Exhibit 10-6: BNA IS Document List Screen**

**BNA International** home subscribe contact us log out change log-in details

Quick Search  Document Search Results DocResults Advanced Search Briefcase/View/Add help Clear Search Options

4 of 4 results Find Similar Print Docs Document Excerpts: Short

Score	Title	Date	Location	Type	Briefcase/Print
100%	<b>Russia: Expert Reports Valid For Determining Market Royalty Rates - June 2006</b>	June 2006	European Tax Service		
... Reports Valid For Determining Market <b>royalty</b> Rates Ruling of the Federal... ... an unreasonably high rate of <b>royalty</b> constituted a tax evasion scheme... ... Tver-Pivo. Afanasy.Pivo paid <b>royalties</b> to Tver-Pivo, and sought... ... found in a circle. The <b>royalty</b> rates in August and September... ... the average market rate for <b>royalties</b> associated with beverages is 2... ... as a source of market <b>royalty</b> rates. The company appealed, and... ... constitute proper evidence of market <b>royalty</b> rates. The tax authorities appealed... ... actually, it says that the <b>royalty</b> rates could be used as... ... source of information about market <b>royalty</b> rates, which does not mate...					
64%	<b>Russia: Participation Exemption Rules Proposed Under Draft Law - February 2007</b>	January 2007	European Tax Service		
... and derivatives, the receipt of <b>royalties</b> , dividends and interest income. The...					
64%	<b>Participation Exemption Rules Proposed Under Draft Law - January 2007</b>	January 2007	European Tax Service		
... and derivatives, the receipt of <b>royalties</b> , dividends and interest income. The...					
45%	<b>Transfer Pricing in the CIS Countries - August 2006</b>	August 2006	European Tax Service		
... scope or proprietary rights ( e.g., <b>royalties</b> ) which are currently exempt from...					

Save search as:   Manage Saved Searches

Exhibit 10-7: BNA IS Document

The screenshot displays the BNA International website interface. On the left is a navigation tree with categories like 'Asia-Pacific Focus Online', 'Corporate Restructuring', and 'European Tax Service'. The main content area shows a document titled 'Expert Reports Valid For Determining Market Royalty Rates'. The document text discusses a ruling by the Federal Arbitration Court of the North-Western District of October 5, 2005, concerning the level of payments charged for the use of trademarks. A search results window is overlaid on the document, showing the current document path: 'European Tax Service > Russia > 2006 > Russia: Expert Reports Valid For Determining Market Royalty Rates - June 2006'. The search results window also lists several bullet points related to M.V. Larin and the Swiss company.

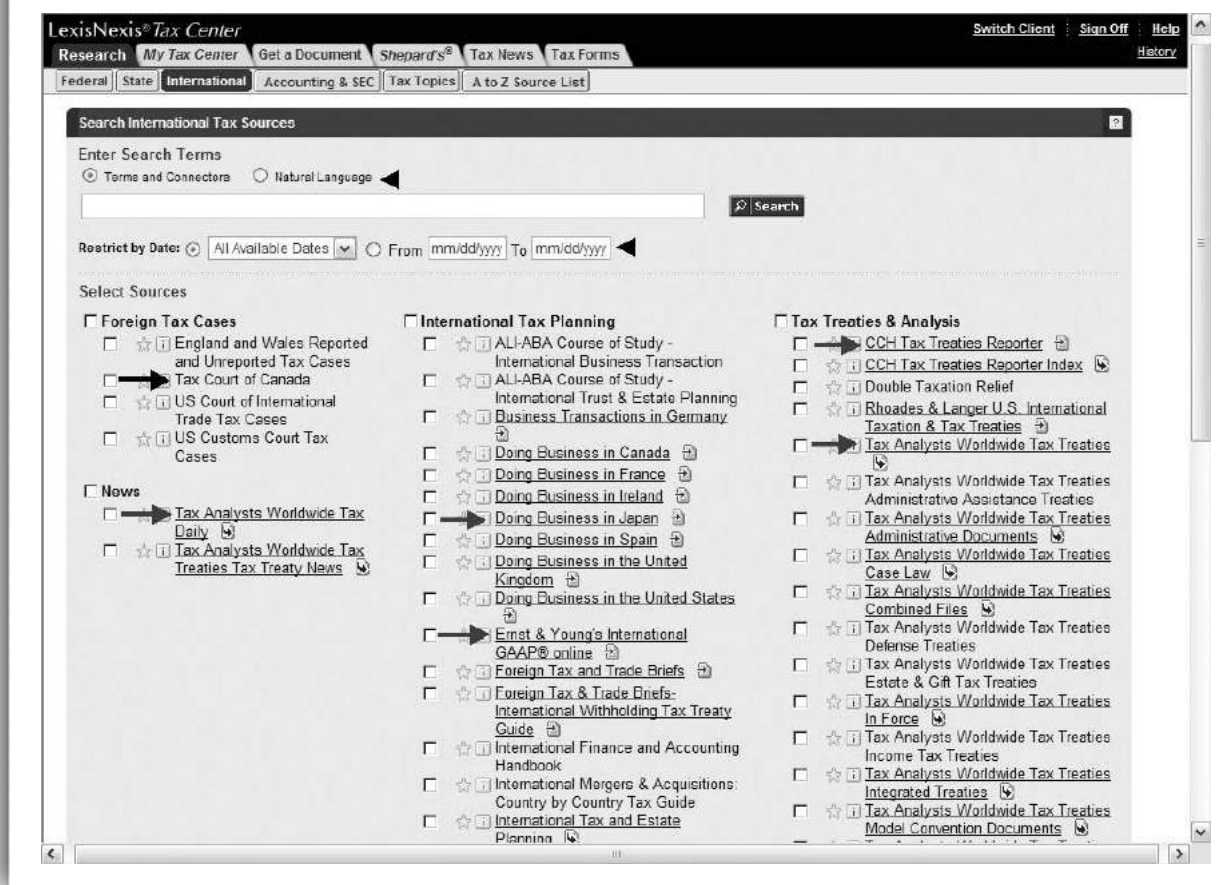
contain the international publications by BNA, CCH, Wiley, and Tax Analysts as well as publications written by recognized experts in the international field.

## Tax Center

The International tab in the Lexis/Nexis Tax Center displays document sources in four categories as Exhibit 10-8 indicates. Foreign Tax Cases includes combined sources of international tax cases as well as cases from specific countries, such as Canada. The researcher may select one, some, or all of these sources and then perform keyword searches by using either the natural language or terms and connectors options. Date restrictions also are available. These restrictions are especially effective when the practitioner desires to merely update prior research or needs to know how the law stood in a prior year for such situations as tax audits or court proceedings.

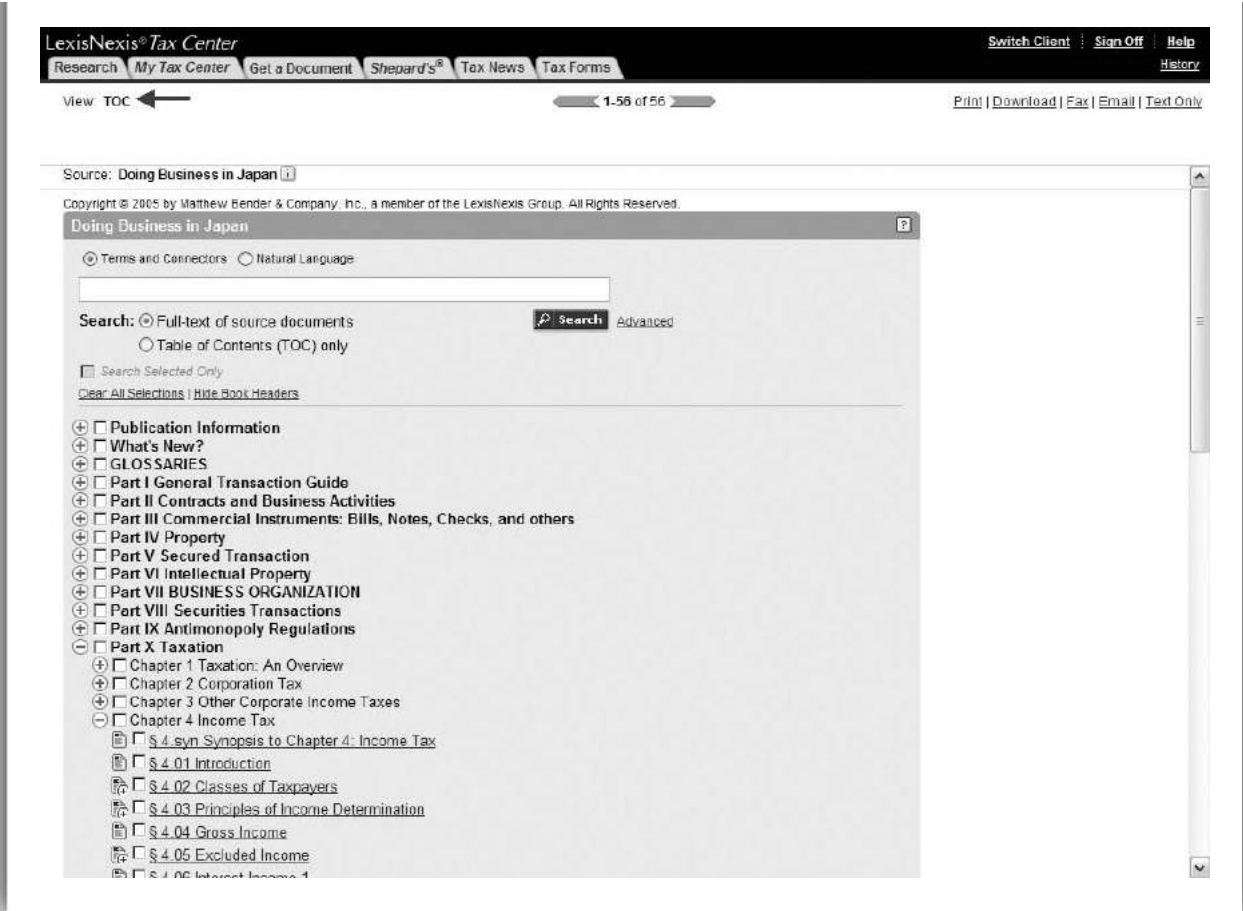
The International Tax Planning heading offers the business primers, *Doing Business in....*, for a variety of countries (see Exhibit 10-8). These portfolios provide an overview of the country's business environment, including its taxing structure. Clicking on the icon after the title will either access the document or display the document's TOC, as Exhibit 10-9 shows for the *Doing Business in Japan*

Exhibit 10-8: LexisNexis Tax Center International Tab Opening Screen



portfolio. Another document within International Tax Planning is the Ernst & Young (E&Y) *International GAAP* (see Exhibit 10-8). Written by the International Financial Reporting Group of E&Y, *International GAAP* contains the full text of every International Financial Reporting Standard (IFRS) and model IFRS financial statements. The Wiley *IFRS: Interpretation and Application of International Accounting and Financial Reporting Standards* (not visible in Exhibit 10-8) also is accessible within International Tax Planning.

The majority of the Tax Treaties & Analysis resources are products of the Tax Analysts organization. The **Tax Analysts Worldwide Tax Treaties** recently added several features to enhance the ability to compare, side by side, income tax treaties. Easy-to-read tables compare the tax rates on various types of income and withholding rates among over 170 worldwide taxing jurisdictions. The original, in-force, pending, terminated, and unperfected treaties can be viewed separately. The CCH Tax Treaties Reporter includes many of the same documents as the Worldwide Tax Treaties. Both have the income and estate tax treaties into which the United States has entered with foreign countries. In addition, the **CCH Tax Treaties Reporter** contains the exchange of information agreements between the United States and foreign countries, U.S. Regulations relating to treaty articles, reports from the Department of State and the Senate

**Exhibit 10-9: LexisNexis Tax Center Document TOC Screen**

Foreign Relations Committee, as well as administrative rulings and court cases pertinent to the treaties.

The last category of document offerings in the LexisNexis Tax Center is News. LexisNexis selected one of the most respected sources to supply its daily international news, the *Tax Analysts Worldwide Tax Daily*. A sample of the *Worldwide Tax Daily* e-newsletter is presented in Exhibit 10-10. *Worldwide Tax Daily* offers international news on a daily basis, with news updates from around the world. It includes full-text PDF files of international tax documents and treaties discussed in its articles. The information is organized by countries and international organizations.

Tax Analysts also publishes *Tax Notes International*. Similar to *Tax Notes* (see Chapter 7 for discussion), *Tax Notes International* is a weekly publication that provides tax news, commentary, and in-depth analysis of legislative, judicial, and administrative tax developments from over 180 countries. Full-text tax documents also are available with *Tax Notes International*.

## Academic

The international content of LexisNexis Academic is similar to that found in the Tax Center. Academic also relies heavily on Tax Analysts for most of its sources, as

**Exhibit 10-10: Tax Analysts Worldwide Tax Daily**

**taxanalysts®**  
Respectfully disagreeable since 1970.™

My Subscriptions | Logout

**WORLDWIDE TAX DAILY®**

WTD Search  
Current Edition  
Contents  
Highlights  
Date View  
Jurisdiction View  
Subject Area View  
Commentary & Analysis  
... by Author  
... by Date  
Customized E-mail Service  
[Free Trial](#)

**Brazil's Supreme Court Reviews CFC Regime**  
by David Roberto R. Soares da Silva

**Brazil's Supreme Court is reviewing a case concerning when Brazilian parent companies should be taxed on the profits of their controlled foreign corporations and foreign affiliates.**

**Date:** Sep. 29, 2006

Full Text Published by **taxanalysts®**

Brazil's Supreme Court is reviewing a tax case concerning when Brazilian parent companies should be taxed on the profits of their controlled foreign corporations and foreign affiliates. Current law taxes parent companies on the earnings of their CFC at year-end, regardless of whether the profits have been distributed. Until September 28, the government was winning the case by a 2-0 vote (of a total of 11 votes). The judgment is now tied at 2-2, as two Supreme Court justices have voted in favor of the National Confederation of Industry (CNI), which argues that domestic parent companies should not be taxed on the profits of their CFCs and controlled foreign affiliates until the foreign profits have been distributed. The remaining seven justices have yet to deliver their opinions.

CNI filed Declaratory Action of Unconstitutionality in December 2001 (Case 2,588). The lawsuit challenged the application of article 74 of Provisional Measure 2,158/2001, which required Brazilian parent companies to be taxed on the profits of their CFCs and foreign affiliates when they close their financial statements at year-end. CNI argues that Brazilian income taxes, and the accompanying 9 percent social contribution, should not apply to undistributed profits.

Brazil's worldwide tax regime, which reaches foreign-source profits, was established in 1995 (Law 9,249/1995, as amended by Law 9,532/1997). Under the rules existing before Provisional Measure 2,158, the foreign-source profits of CFCs and foreign affiliates were taxed only at the time the earnings were considered available to the Brazilian parent company. The law defined "available profits" for tax purposes, but failed to address "undistributed profits." Article 74 of Provisional Measure 2,158 repealed the prior rules by establishing that profits would be considered available to Brazilian parent companies when the CFC or controlled affiliate closed its financial statements at the end of its fiscal year.

Article 74 provides:

For purposes of determining the tax basis of corporate income tax and CSL, pursuant to Article 25 of Law No. 9,249, of December 26, 1995, and Article 21 of that Provisional Measure, profits generated by foreign controlled or affiliate companies will be considered available to the Brazilian controlling company on the date of the balance sheet in which such profits have been accrued in the form established in the regulations.

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Exhibit 10-11 demonstrates. Access to the international documents is easiest through the Sources Tab, as opposed to the Search Tab.

On the Sources Tab, the Browse Sources option requires three choices (numbered 1 through 3 in Exhibit 10-11) to be made before a search can be performed. First, the researcher selects Browsing by one of the following: Publication Type, News & Business Topics, Industry, or Area of Law. Second, Filters are applied by Country, Publication Type, and Multiple/Single Source. Each of the filters has a pull-down menu, and only one item may be selected. The Publication Type menu is illustrated in Exhibit 10-11. Finally, the researcher selects a Category to View Sources. The researcher may search any or all of the listed sources.

The next step is to click the OK Continue button, which produces the Power Search keyword entry box for natural language or terms and connectors keyword searches. The search then proceeds as discussed in Chapter 7.

## RIA

Similar to LexisNexis, RIA also offers a variety of international products that may be bundled with RIA Checkpoint (see Chapter 6 for discussion) to meet the parti-



**Exhibit 10-11: LexisNexis Academic International Libraries**

LexisNexis® Academic

Start | Sign Out | Contact Us | Help

Search Sources

Browse Sources | Find Sources

Browse Sources

1 By  Publication Type  News & Business Topics  Industry  Area of Law

2 Filter by: Country: International  
 Publication Type: All Publication Types  
 Multiple/Single Source: All Publication Types

Trail: Area of Law > Taxation Law

3 Select a category to view sources

[ Up a level ]

- Business Valuation: Discounts or
- International Tax and Estate Pla
- Langer on Practical International
- Tax Analysts International Tax C
- Tax Analysts State, Federal & In
- Tax Analysts Tax Notes Inte
- Tax Analysts Tax Notes Today, V
- Tax Analysts Worldwide Tax Daily
- Tax Analysts Worldwide Tax Treaties
- Tax Analysts Worldwide Tax Treaties Administrative Assistance Treaties
- Tax Analysts Worldwide Tax Treaties Case Law
- Tax Analysts Worldwide Tax Treaties Combined Files
- Tax Analysts Worldwide Tax Treaties Defense Treaties
- Tax Analysts Worldwide Tax Treaties Estate & Gift Tax Treaties
- Law Directories
- Law Reviews & Journals
- Legal News
- Legislation, Statutes & Codes
- News
- People
- Professional & Educational Mat
- Reference
- Scientific Materials
- Treaties & International Agree
- Tax Today

1-27 of 27 Sources

03 Selected View OK - Continue

- Tax Analysts Worldwide Tax Treaties In Force
- Tax Analysts Worldwide Tax Treaties Income Tax Treaties
- Tax Analysts Worldwide Tax Treaties Integrated Treaties
- Tax Analysts Worldwide Tax Treaties Modal Convention Documents
- Tax Analysts Worldwide Tax Treaties Modal Tax Treaties
- Tax Analysts Worldwide Tax Treaties Other Tax Treaties
- Tax Analysts Worldwide Tax Treaties Reimbursement Treaties
- Tax Analysts Worldwide Tax Treaties Social Security Agreements
- Tax Analysts Worldwide Tax Treaties Tax Treaty News
- Tax Analysts Worldwide Tax Treaties Transportation Treaties
- Transfer Pricing Handbook
- Transfer Pricing International: A Country by Country Guide
- Wiley IFRS: Interpretation and Applic of Int'l Accto and Fin Rpt Standards

1-27 of 27 Sources

03 Selected View OK - Continue

Name Selected Sources   Save as a favorite

Key

cular needs of each practitioner's international research. In the International Practice Area, primary international law and treaties are supplied along with editorial materials (see Exhibit 10-12) by the International Bureau of Fiscal Documentation (IBFD), BNA, Warren, Gorham and Lamont (WG&L), the Practising Law Institute (PLI), and RIA in-house editors. Three of RIA's international products are examined in this section.

### International Tax Products

The **RIA Worldwide Tax Law (WTL)** service is one of the more comprehensive services in the International Practice Area (see Exhibit 10-12). It offers English translations of tax and commercial laws for approximately ninety countries. Similar to the search methodology used for the State & Local Checkpoint service (see Chapter 9), WTL requires the researcher to select one of eight geographical areas and at least one country, then the type of documents desired before a keyword search is performed (see Exhibit 10-13). From this point, the Checkpoint search and document retrieval proceeds in the same fashion as searching any other Practice Area, as illustrated in earlier chapters of this book.

Exhibit 10-12: RIA International Practice Area Opening Screen

**RIA Checkpoint** History | Options | My Folders | Time Tracking | Help | Sign Off

Home Research Newsstand Tools Practice Development CPE

Search | Table of Contents

**Search**  
Practice Area: International

**Keyword Search** Search U.S. Tax Treaties Search RIA Worldwide Tax Law **RIA Worldwide Tax Law** IBFD Regional Databases IBFD Tax Treaties EU Law

**Find by Citation** Code & Regs Cases Rulings IRS Pubs & Other Tax Docs More... Date Range Search Go to Create a Chart

**1 Enter Keywords:** [ ]

**2 Choose Sources from:** All International Save

**Editorial Materials**

- IBFD Asia-Pacific Taxation Analysis
- IBFD European Taxation Analysis
- IBFD Latin American Taxation Analysis
- International Tax Systems and Tax Planning Techniques
- PLI International Tax Publications
- RIA International Portfolios - Tax Advisors Planning System
- U.S. Tax Treaty Explanations
- WG&L Treatises

**Primary Source Materials**

- Code, Regulations, Committee Reports
- Current Pending/Enacted Legislation
- EU Law
- Federal Tax Cases
- RIA Worldwide Tax Law
- IRS Rulings and Releases
- OECD Guidelines
- Tax Treaties

**Legislation (Editorial Analysis and Source Material)**

**3** Search Clear All



## SPOTLIGHT ON TAXATION

### IBFD

The International Bureau of Fiscal Documentation (IBFD) is a not-for-profit organization organized in 1938 to provide authoritative expertise to tax practitioners around the globe with regard to cross-border taxation. The IBFD relies on independent tax research as well as its research specialists to contribute international tax information and education materials to its customers. Originally the IBFD was simply a tax document repository, but now it focuses on research products, which it distributes to both the private and public sectors. Because it is an independent agency, the IBFD strives to produce objective and unbiased products including software, tax courses, personalized client research (for private and government use), daily newsletters, journals, and numerous books on international tax issues. Besides its publications, the IBFD has a library that is regarded as the world's leading resource for international and comparative taxation. Free online access to this library is available at <http://www.ibfd.org>.

Another useful service accessible through Checkpoint is the **RIA International Tax Library (ITL)**. Unlike other RIA tax products (see Chapters 6 and 9), ITL is a comprehensive set of analytical treatises and texts. A U.S. bilateral tax treaty database is included for accessing primary sources. Thus, the ITL lacks a

Exhibit 10-13: RIA Worldwide Tax Law Search Screen

**RIA Checkpoint** | History | Options | My Folders | Time Tracking | Help | Sign Off

Home | Research | Newsstand | Tools | Practice Development | CPE

Search | Table of Contents

**Search**  
Practice Area:  
International

**Keyword Search**  
**Search U.S. Tax Treaties**  
**Search RIA Worldwide Tax Law**  
**RIA Worldwide Tax Law**  
**Country/doc type**  
**IBFD Regional Databases**  
**IBFD Tax Treaties**  
**EU Law**

**Find by Citation**  
**Date Range Search**

**Go to**  
**Create a Chart**  
**e-FormRS**  
**BNA Indexes**  
**EU Law**

**Find by Citation**  
**Date Range Search**

**Search RIA Worldwide Tax Law Regions**

Please select at least one Country: (Required)

- Austria
- Belgium
- Bulgaria
- Cyprus
- Denmark
- Finland
- France
- Germany

To select multiple countries, hold down the CTRL key and click with your mouse. To clear the list of countries, click on any new country.

Please select document type(s): (Required)

Select All | Deselect All

Tax Law |  IBFD Regional Databases  
 Commercial Law |  IBFD Daily Tax News Service  
 Bulletins

Enter Keywords: \_\_\_\_\_

**Thesaurus/Query Tool**  
Search

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central RIA editorial service such as the Federal Tax Coordinator. Newsletters and journals are included to keep the practitioner up-to-date on global taxation.

RIA offers International Portfolios, called the **RIA Tax Advisors Planning System**, that are written by expert practitioners currently in practice. These portfolios, updated monthly, focus on specific issues relevant to taxpayers with international business. Each portfolio includes commentary, advice supported by detailed explanations, integrated planning ideas, and the current rules with citations to the controlling authorities. In addition, practice aids similar in nature to those offered by the Tax Management Portfolios are furnished. The list of RIA portfolios is shorter than BNA's offerings, but the quality is outstanding.

All international subscriptions receive the *RIA International Taxes Weekly*. This is a weekly e-newsletter that covers current developments and emerging issues related to international taxation and is similar to the newsletter delivered with subscriptions to regular RIA Checkpoint.

Checkpoint offers the unique **RIA International Create-a-Chart** function that facilitates creating tax comparisons charts with links to controlling authority, detailed explanations, and analysis by WG&L treatises. These links are maintained when the chart is exported to a word processing file. The Create-a-Chart feature

develops personalized charts of pertinent information for countries selected by the practitioner. There are currently over seventy-five chart types offered in Create-a-Chart on topics such as alimony, air and ship transport, capital gains, dividends, charitable contributions, and pensions.

## WESTLAW

Westlaw offers two portals to international taxation materials, through a separate service, Westlaw International, and through the standard Westlaw subscription. Only the standard subscription is examined in this section.

Westlaw can be personalized, allowing the researcher to select up to six tabs to be displayed for those libraries most often searched. The Westlaw International Tab, shown in Exhibit 10-14, gives access to documents on a variety of international topics, one of which is Tax Law (located in Topical under the Westlaw International Subscriptions heading). The databases generally cover U.S. taxation and its treaties, with analysis supplied by the Law of Federal Income Taxation (Mertens) tax service.

Specific country headings, such as Australian and Canadian in Exhibit 10-14, have Tax as one of the Practice Areas and thus provide access to the country's tax

**Exhibit 10-14: Westlaw International Directory**

The screenshot displays the Westlaw International Directory interface. At the top, there is a navigation bar with tabs for 'Tax', 'Westlaw', 'Business & News', 'Washington', '9th Circuit', and 'Westlaw International'. A search bar is located on the left side. The main content area is titled 'International Directory' and lists various categories of materials with arrows pointing to specific links:

- Westlaw International Subscriptions** (General, Regional, Topical, News, ...)
- Australian Materials** (Cases, Topical, ...)
- Canadian Materials** (Cases, Legislation, ...)
- European Union Materials** (Cases, Legislation, ...)
- United Kingdom Materials** (Cases, Legislation, Topical, ...)
- Hong Kong** (Civil Procedure (Hong Kong White Book), Cases, Legislation, ...)
- U.S. Federal Materials** (Cases, Statutes, Admin. Mat'l, Rules, AIR International, ...)
- International/Worldwide Materials** (N. America, EU, UK, Asia Pacific, ...)
- Law Reviews and Journals** (World Journals and Law Reviews, ...)
- International Practice Areas** (International Commercial Arbitration, ...)
- Business & News** (News, Companies, People, Industries, ...)

At the bottom of the page, there is a copyright notice: Copyright © 2007, Thomson/West. | Privacy | Customer Service: 1-800-REF-ATTY (1-800-733-2889) | Help | THOMSON WEST

**Exhibit 10-15: Westlaw International Tax Journal, Texts, and Treatise Offerings**

This list is a sample and is not intended to be comprehensive.

**Journals**

*British Tax Review*

*International Income Tax and Estate Planning*

*International Tax and Estate Planning: A Practical Guide for Multinational Investors*

*International Tax Journal*

*International Tax Review*

*Journal of International Taxation*

**Treatises**

Conlon & Aquilino: *Principals of Financial Derivatives: U.S. & International Tax*

Dolan: *U.S. Taxation of International Mergers, Acquisitions & Joint Ventures*

Kuntz & Peroni: *U.S. International Taxation*

Langer on *Practical International Tax Planning*

Levey: *U.S. Taxation of Foreign Controlled Businesses*

Lowell & Governale: *U.S. International Taxation: Practice and Procedure*

Lowell, Tilton, Sheldrick & Donohue: *U.S. International Taxation: Agreements*

Streng: *US International Estate Planning*

Tilton: *U.S. International Tax Forms Manual: Compliance and Reporting*

laws. However, the countries available may be limited by the user's subscription. Finally, while International Practice Areas might appear a logical avenue for finding tax databases, taxation is not listed under this heading.

A more fruitful means of entry into Westlaw's international taxation resources is through the Tax library (Tax Tab) discussed in Chapter 7; it can be seen in Exhibit 7-11. This portal furnishes access to the RIA and BNA international materials (primary and editorial) discussed previously in this chapter, as well as international journals, WG&L treatises, and texts. Exhibit 10-15 is a partial list of these latter offerings. Most of the treatises, journals, and texts are not part of a basic subscription, so a premium charge applies to their access.

**CCH**

CCH offers numerous international tax products that offer timely and authoritative materials with practical analysis and understandable explanations written by experts in this field. To provide these products, CCH has teamed up with other publishers and authors. For example, CCH offers the BNA international publications and the **CCH International Tax News**, which is created in conjunction with Horwath International. This newsletter is included with subscriptions to any of the CCH international tax services.

All of the CCH international tax services may be accessed through the Tax Research Network platform (see Chapter 6), thus simplifying the search process for those practitioners already familiar with this service. The International Tax tab, as shown in Exhibit 10-16, furnishes access to the U.S. Tax Treaties Reporter, which consolidates U.S. international primary and secondary tax sources into one library. This service contains all bilateral U.S. treaties (arranged by country), annotations, explanations, current developments, selected forms, publications, and primary sources that address international issues (see Exhibit 10-16).

## Exhibit 10-16: CCH International U.S. Tax Treaties Reporter

The screenshot displays the CCH Tax Research Network interface. At the top, there is a navigation bar with "CCH Tax Research Network" on the left and "Preferences | Help | Log Out" on the right. Below this is a search bar with a "Search" button. A main menu includes "Main Menu", "Clear Selections", "Research History", and "Research Folders". A secondary menu contains buttons for "Check Citator", "Find by Citation", and "Search Tools".

The interface features a grid of category buttons: "My CCH", "Tax Tracker News", "Accounting & Audit", "Federal Tax", "State Tax", "State Business Income Tax", "Sales/Property Tax", "Financial & Estate Planning", "Wealth Management", "Tax Practice Areas", "Pension & Payroll", "International Tax", "perform plus III forms", "Client/Relate", "Capital Changes", "Tax Tools", "CPE", and "Training & Support".

The "International Tax" category is selected, and the breadcrumb trail shows: "International Tax - Tax Treaties and Analysis - U.S. Tax Treaties Reporter - Tax Treaties Compilations -". An arrow points to the "U.S. Tax Treaties Reporter" link.

Below the breadcrumb trail is a section titled "Selected Laws and Regulations— Select All ". This section contains a list of 18 items, each with a checkbox and a link to a specific section:

- Income not connected with United States business --Sec. 871 [3]
- Branch profits tax. --Sec. 884 [3]
- Income affected by treaty --Sec. 894 [32]
- Disposition of investment in United States real property --Sec. 897 [3]
- Withholding of tax on nonresident aliens --Sec. 1441 [20]
- Withholding of tax on foreign corporations --Sec. 1442 [7]
- Foreign tax-exempt organizations --Sec. 1443 [2]
- Withholding on Virgin Islands source income --Sec. 1444 [2]
- Withholding of tax on dispositions of United States real property interests --Sec. 1445 [20]
- Liability for tax withheld --Sec. 1461 [12]
- Treaty-based return positions --Sec. 6114 [4]
- Mode or time of collection --Sec. 6302 [3]
- Failure to make deposit of taxes --Sec. 6656 [3]
- Failure to disclose treaty-based return positions --Sec. 6712 [3]
- Definitions --Sec. 7701 [3]
- Certification required to obtain reduced tax rates --26 C.F.R. 601 [3]
- Other applicable rules --Sec. 7852 [18]
- Expatriated entities --Sec. 7874 [10]

At the bottom of the page, there is a footer with copyright information: "© 2007, CCH INCORPORATED. All Rights Reserved." and support information: "Find help at <http://support.cch.com>. Call Research Specialists at 800-344-3734. | [Back to Top](#) or call Tech Support at 800-835-0105."

## Service Offerings

The following is a list of some of the most useful resources offered within the CCH International Tax Service. Availability depends upon the level of the researcher's subscription.

**Worldwide Tax Rates and Answers: Europe.** Contains country-specific tax data, forms, and instructions for the European Union countries and Switzerland.

**Global Transaction Library.** A series of publications designed to provide guidance on tax planning and compliance for cross-border and international transactions by taking a transactional approach. This service includes publications by Tax Analysts (*Tax Notes International*) and CCH (*International Tax Journal*), treaties, the Transfer Pricing Library, and full text (in English) of all U.S. bilateral tax treaties.

**International Tax Planning Library.** This library consists of three comprehensive publications and a practical newsletter exploring tax planning issues from around the world. The three publications cover international tax planning for corporations, expatriates, and migrants, plus offshore financial centers for over forty countries.

**International Tax Treaty Expert Library.** Thousands of treaties (with amended language in context) and related documents, such as diplomatic notes and

**Exhibit 10-17: CCH International Tax Treaty Expert Library**

The screenshot displays the CCH Tax Research Network interface. At the top, there is a search bar with a search button and links for Preferences, Help, and Log Out. Below the search bar is a navigation menu with buttons for Main Menu, Clear Selections, Research History, Research Folders, Check Citator, Find by Citation, and Search Tools. A grid of category buttons follows, including My CCH, Tax Tracker News, Accounting & Audit, Federal Tax, State Tax, State Business Income Tax, Sales/Property Tax, Financial & Estate Planning, Wealth Management, Tax Practice Areas, Pension & Payroll, International Tax (highlighted), perform plus III forms, ClientRelate, Capital Changes, Tax Tools, CPE, and Training & Support. The main content area is titled "International" and lists several resources under "International Tax Planning and Compliance" and "Tax Treaties and Analysis — Select All".

**International Tax Planning and Compliance**

- International Taxation by Joseph Isenbergh

**Tax Treaties and Analysis — Select All**

- Klaus Vogel on Double Taxation Conventions
- CCH Amended Treaties
- The 1996 United States Model Income Tax Convention: Analysis, Commentary and Comparison by R.L. Doernberg and K. van Raad
- OECD Model Treaties and Commentaries
- The Compatibility of Anti-Abuse Provisions in Tax Treaties with EC Law (Editors: P.H. Essers, G.J. De Bont, E.C. Kemmeren)
- U.S. Model Treaties and Technical Explanations
- The Impact of Community Law on Tax Treaties by Pasquale Pistone
- Tax Treaty Withholding Rate Decision Support Tool
- World Tax Treaties

protocols, are available, and all are in English. The treaties cover income, estate and gift taxes, sea and air transport, and information exchange agreements. This service may contain the publications included in the International Tax Planning Library.

Exhibit 10-17 illustrates some of the treaties and analytical works included in the service. Model Tax Treaties by the OECD, United Nations, and United States are available. The Tax Treaty Withholding Rate Decision Support Tool is very useful; it is designed to simplify researching withholding tax rates for over fifty countries.

**International Transfer Pricing Library.** This library contains four authoritative commentaries on transfer pricing.

## INTERNET SITES

As described in Chapter 7, the Tax and Accounting Sites Directory web site (<http://www.taxsites.com>) contains links to numerous tax web pages, one of which is designated for international tax topics. This is an excellent starting point for Internet international tax searches. Links to tax sites for over eighty countries are given, as well as references to international tax associations and IRS resources. A long list of other sources also is provided. Additionally, the international and regional businesses offer international tax information on their web sites.

## SUMMARY

The world is shrinking as more companies enter the global economy. No longer do only the Fortune 500 companies maintain international offices. Now, many middle-market and owner-managed firms are expanding into the international markets of Europe and the Pacific Rim. In 2006, the U.S. exports grew to over \$1.4 trillion, while U.S. imports reached about \$2.2 trillion. Thus, it is no longer a luxury to employ staff knowledgeable about international taxation.

The demand for international tax services is rapidly growing, and the major players in the research service industry (CCH, LexisNexis, RIA, and Westlaw) appear to be relying on BNA and Tax Analysts for analysis and newsletters, and WG&L for texts and treatises. As the importance of international taxation continues to explode, the tax services will develop more targeted products to serve the needs of the tax practitioners. Consequently, international research tools will likely be among the fastest changing component of the major tax services.

## TAX TUTOR

Reinforce the tax research information covered in this chapter by completing the online tutorials located at the *Federal Tax Research* web site. <http://academic.cengage.com/taxation/raabe>

## KEY WORDS

By the time you complete this chapter, you should be comfortable discussing each of the following terms. If you need additional review of any of these items, return to the appropriate material in the chapter or consult the glossary to this text.

Blended Model  
 BNA Foreign Income Library  
 BNA International Service (BNA IS)  
 CCH *International Tax News*  
 CCH Tax Treaties Reporter  
 Deduction apportionment  
 Full Inclusion Model  
 Organization for Economic Co-operation  
 and Development  
 RIA International Create-a-Chart  
 RIA International Tax Library (ITL)

*RIA International Taxes Weekly*  
 RIA Tax Advisors Planning System  
 RIA Worldwide Tax Law (WTL)  
 Source determination  
 Tax Analysts *Worldwide Tax Daily*  
 Tax Analysts Worldwide Tax Treaties  
 Tax haven  
 Tax Management Portfolios  
*Tax Notes International*  
 Tax treaties  
 Territorial Model

## DISCUSSION QUESTIONS

1. What is the ultimate tax planning goal of most companies?
2. What is the definition of a native country? What is the transaction country?
3. What are the three major models for developing international taxing systems?



4. What is the Full Inclusion Model of international taxation? Explain whether a corporation with only domestic income or a company with foreign income would pay more taxes under this model.
5. What are the two situations that international tax provisions generally address?
6. What is the Territorial Model of international taxation? Under this model, what rate of tax does a native corporation pay on its foreign income?
7. What problems does the Blended Model of international taxation cause for the United States?
8. How is the source of income from the sale of inventory and rental income typically determined?
9. Within the United States, what type of expenses are apportioned to determine the amount of their deductibility?
10. Describe the functions of the following organizations: WTO, IMF, and OECD?
11. If a provision of the *Internal Revenue Code* and a tax treaty are in conflict, which rule prevails?
12. What are the three factors that the OECD considers key in determining whether a jurisdiction should be listed as a tax haven?
13. The International BNA Tax Management Portfolios cover what three areas of international taxation?
14. What kinds of information are provided in the Working Papers Section of the International BNA Tax Management Portfolios?
15. In the BNA International Service, how is a TOC search performed?
16. In the BNA International Service, how is a Boolean search performed?
17. In the BNA International Service, how are the ranking percentages calculated, indicating “relevance?”
18. On what base has LexisNexis built its international tax services?
19. What are the four categories included in the international tab of LexisNexis Tax Center?
20. What type of information would you expect to find in the document *Doing Business in China*?
21. What organizations provide accounting and financial sources to LexisNexis Tax Center?
22. What organization provides the international news for LexisNexis Tax Center? What is the name of the news publication?
23. What is the easiest method to access the international documents on LexisNexis Academic?
24. What is the International Bureau of Fiscal Documentation?

25. How is the RIA International Tax Library different from other RIA services?
26. Describe the International Create-a-Chart function in RIA Checkpoint.
27. What are the two methods for accessing international tax resources in Westlaw? Which method is most effective?
28. CCH offers a newsletter with its international services. What is the name of the newsletter, and with whom is the letter created?
29. For international taxation, what categories of links does the Tax and Accounting Sites Directory web site (taxsites.com) employ?
30. Besides the Fortune 500 companies, what companies are expanding into the international markets of Europe and the Pacific Rim?

## EXERCISES

31. Use the BNA International Service to answer the following questions.
  - a. Who wrote the document *Doing Business in Austria*?
  - b. What Latin American country has the most recent bankruptcy act listed in the Corporate Restructuring library?
  - c. What type of business organization is a GmbH und Co KG? What countries recognize this business entity?
32. Use the BNA International Service to answer the following questions.
  - a. What is the proper citation for the most recent article in the European Tax Service on the United Kingdom's VAT?
  - b. Use the Advanced Search option to find a 2007 article on the transfer pricing for intellectual property in China. Give the article's proper citation.
  - c. Use the Quick Search option to determine how many articles Bert Mesdom has written regarding the VAT.
33. Use the BNA International Service to answer the following questions.
  - a. What is the title of the most recent Global Case Study in the Corporate Restructuring Library?
  - b. What is the title of the most recent Featured Article on the Transfer Pricing Library opening page?
  - c. What is the title of the August 2006 article by Professor Giampaolo Corabi and Roberto Scalia that discusses the European Commission request for Italy and other EU members to amend their tax legislation concerning outbound dividends?
34. Use the BNA International Service to answer the following questions.
  - a. On what date was the Japanese Tax Reform Act of 2007 passed?
  - b. What is the most recent article on European Court of Justice found in the European Tax Focus Archives? Give the proper citation of the article.
  - c. Use the Advanced Search option to locate a 2005 article discussing German investment incentives for U.S. film production companies. Provide the title of the article and its author.

35. Use International Tax Law Sources of LexisNexis Academic to answer the following questions.
- Who is the publisher of International Tax Law and Estate Planning?
  - What is the content of the Wiley IFRS: Interpretations and Applications of International Accounting and Financial Reporting Standards?
  - Perform a Find a Source search using the key words transfer pricing. What sources are suggested?
36. Use International Tax Law Sources of LexisNexis Academic to answer the following questions.
- What is the address for the Ministry of Finance for Vanuatu (Use a Directory source)?
  - Find the Canadian-French Social Security Agreement and Final Protocol. What is its date of publication and what is its effective date? What is the article number?
  - In the Model Convention Documents, find the Commentary on the Articles of the OECD Model Income and Capital Tax Convention. Determine the article and paragraph number for the discussion of cross-border issues related to pensions. On what date was this Commentary issued?
37. Use the International Tax Law Sources of LexisNexis Academic to answer the following questions.
- What tax treatment do the Greece-Moldova treaties indicate for earnings of nonresident students? What is the effective date of the agreement?
  - What is the title and date of the most recent article regarding Iceland in the Tax Analysts' *Worldwide Tax Daily*?
  - What is the title and date of the most recent article on the European VAT found in the Tax Analysts' *Tax Notes International*?
38. Use RIA materials to answer the following questions.
- What international sources are included in the International News/Current Awareness source heading?
  - What paragraph of the RIA Tax Treaty Editorial Explanations discusses rental, royalty, and realty income?
  - What are the title and date of the most recent article in *International Taxes Weekly* that discusses charitable contributions of nonresident aliens?
39. Use RIA materials to answer the following questions.
- What are the title and date of the most recent article in the *Journal of International Taxation* on Belgium tax incentives?
  - What International Create-a-Charts are available for the taxation of students and trainees?
  - Who are the authors of the treatise titled *U.S. Taxation of International Mergers, Acquisitions & Joint Ventures*?
40. Use the Westlaw Tax Tab to answer the following questions.
- In which BNA Foreign Income Portfolio is there a discussion of enterprise investment incentives in Singapore?
  - Perform a keyword search for the country of Ireland using the terms intangibles within ten words of royalties. Provide the article and paragraph number of where intangible royalties are discussed in a Treasury Technical Explanation? When were the documents issued?

- c. What are the first and last names of the author of the WG&L treatise *Analysis of U.S. Income Tax Treaties*? What does Chapter 16 of this treatise cover? What subscription rate applies to this treatise?
41. Use the Westlaw International Tab to answer the following questions.
  - a. What are the international practice areas listed in the International Directory?
  - b. What South American countries are listed in the International/Worldwide Materials?
  - c. What are the title and date of the most recent law review article on VAT tax evasion in the European Union found by searching World Journals and Law Reviews in the News and Periodicals of the Westlaw International Subscriptions?
42. Use the Westlaw Tax Tab to answer the following questions.
  - a. How do the authors of the WG&L treatise, *U.S. International Taxation: Agreements, Checklists & Commentary*, suggest structuring an activity-specific foreign joint venture for intangible development arrangements?
  - b. What are the title and date of the most recent article in the British Tax Review that addresses a U.S.-British tax issue?
  - c. What are the numbers and titles of the BNA Foreign Income Portfolio that cover transfers under IRC §367?
43. Use the Westlaw International Tab to answer the following questions.
  - a. Explain where tax-related documents are found in the United Kingdom Materials.
  - b. What general terms does the thesaurus provide for VAT?
  - c. What are the title and date of an article discussing the taxation of families with or without children?
44. Use the CCH International Tab to answer the following questions.
  - a. What is the most recent Tax Treaties Report Letter? What does it discuss?
  - b. What article of the Tunisia treaty discusses the U.S. taxation of students, apprentices, and trainees from Tunisia? At what CCH paragraph number does the article appear?
  - c. Provide the IRS publication numbers listed in the Practice Aids in the Tax Treaties Compilations. (If there is no number, provide the name of the publication.)
45. Use the CCH to answer the following questions.
  - a. How is a resident of Cyprus defined in its treaty with the United States?
  - b. What is the Tax Treaties Report Letter from May 31, 2007 reporting? What is the letter number of this report?
  - c. What is the title of Article 26 in the United Nations Model Double Taxation Convention Between Developed and Developing Countries?

## RESEARCH CASES

46. VanDelay, a citizen of the United States but a resident of Dulcinea, is an important sculptor. This year, he came to the United States to appear at an exhibition of his work in San Francisco. The United States has no tax treaty with

- Dulcinea. Does the \$250,000 that VanDelay netted from the show qualify for the §911 earned income exclusion?
47. State University invites Dr. Byko, a Russian citizen, to become a member of the faculty for a three-year period to work on a large grant the university obtained from the National Aeronautics and Space Administration (NASA). Dr. Byko accepts the invitation and enters the United States on a J-1 visa. His university pay is entirely funded by the NASA grant. Based on the Russian treaty, Dr. Byko thinks his income is exempt because it is from a grant. Determine whether Dr. Byko is correct.
  48. Haruo, a resident alien, obtained a U.S. divorce from his wife, Wakana, two years ago. Last July, Wakana returned to Japan; however, Haruo remained in the United States. For all of the current year, Haruo paid alimony to Wakana in the amount of \$10,000 per month. Does Wakana have income subject to U.S. taxation or withholding?
  49. Rainbow Corporation has a contract with the National Science Foundation to conduct research in Antarctica. Harriet, a U.S. employee of Rainbow, spent all of last year and part of this year working at McMurdo Station on Ross Island, Antarctica. When filing her return for last year, Harriet excluded her income from the contract, based on the fact that she worked outside of the United States. Her income was not in excess of the excludible ceiling. Is Harriet correct in her treatment of last year's income?
  50. Moonsoo, a Republic of Korea citizen, went to San Diego, California on a vacation. Since he liked San Diego, Moonsoo purchased five acres of land on which he wants to build luxury condominiums. He also bought the majority interest in a construction corporation that specializes in condominium construction. Moonsoo could not get the zoning clearance to build the condominiums, so he sold both the land and his stock in the construction corporation. Is Moonsoo taxed in the United States on his gains from these sales?
  51. Ireland imposes a tax on the net market value (less certain deduction) of the taxable assets of those individuals residing in Ireland. Although she is a U.S. citizen, Katherine has been residing in Ireland for the past five years. She owns property located in Ireland and in the United States. Much of her property consists of stocks and bonds, but she also has large holdings of land in both countries. Does this Irish tax qualify for the foreign tax credit, and/or as a deduction for U.S. tax purposes?
  52. Paul Thomas and Karen Jackson are both in the Armed Forces and each receive combat zone pay. Karen is a commissioned officer, whereas Paul is enlisted personnel. How is each taxed on the combat zone pay? How does Paul treat his combat zone pay when computing his Earned Income Tax Credit?
  53. Three international students are paid \$1,000 a month to be teaching assistants in their university's Department of Accounting. The students from India and China have been in the United States for six years, and the student from Spain arrived one year ago. How is each of the students taxed in the United States for the current year?
  54. A group of Russian tourists spent a week in Las Vegas. Kolzak, one of the tourists, was very lucky at the roulette table and won \$50,000. Is Kolzak

subject to U.S. income tax, and is the casino required to withhold taxes on her winnings?

55. Which of the following payments by International Partners, Inc., a Montana corporation, qualifies for the foreign tax credit?
- Income tax paid to Germany, covered by an existing treaty.
  - Income tax paid to Adagio, with which the United States has no income tax treaty.
  - Value-added tax paid to Largetto, with which the United States has no income tax treaty.
  - Oil extraction tax paid to Tedesco, with which the United States has no income tax treaty.
  - Transportation tax paid to Santa Lucia, with which the United States has no income tax treaty. The tax is reduced dollar-for-dollar when International provides consulting services in designing Santa Lucia's new bullet train system. This year, International incurred \$1 million in taxes, but it earned a \$600,000 reduction for its services.