



Duke Law Firm, P.C.-in the News

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Seminars/Conferences

Demystifying Asset Protection Vehicles, National Business Institute, July 9, 2007, 8:30 AM to 4:40 PM, Wynfrey Hotel, 1000 Riverchase Galleria, Birmingham, AL

<http://www.nbi-sems.com/seminfo/nbi-moreinfo.asp?session-id=38457>

Controlled Foreign Corporation Tax Guide, Third Edition

The updated Controlled Foreign Corporation Tax Guide, Third Edition, by Vernon K. Jacobs and J. Richard Duke, is in the final editing stages and will soon be available for purchase by either hard copy or Internet.

Tax Havens of the World

J. Richard Duke is now a contributing editor to the three-volume set of books, TAX HAVENS OF THE WORLD, published by Lexis Nexis, Matthew Bender & Co. The authors, Walter H. Diamond and Dorothy B. Diamond, from New York, are also well-known around the world.

<http://bookstore.lexis.com/bookstore/product/10494.html>

Dubai, United Arab Emirates

Richard Duke traveled to Dubai May 24-28. Dubai is one of the seven Emirates and is adjacent to Abu Dhabi. Abu Dhabi is largely dependent on oil, but less than six percent of Dubai's revenue comes from oil. The following is Richard's personal account of some of his experiences and observations of Dubai:

My travel to Dubai began with a 12½ hour flight from New York's JFK airport to Dubai on Emirates Airline. The service from the flight attendants and the food on Emirates Airline was excellent, with the most advanced media technology available on any airline I have ever traveled. The seat backs provided access to charge my Blackberry, cell phone or computer with the proper converter.

Emirates Airline:
<http://www.emirates.com/>

On my return flight, the captain introduced each of the flight attendants by first name and stated where they were from, each from different countries and between them spoke 12-14 different languages, with all speaking English. Everyone in Dubai speaks English and most speak both Arabic and English.

A client of mine, who previously resided in Dubai for two years, gave a tour of Dubai. We visited the initially-developed section of Dubai, which was not that impressive based on news media and other accounts of Dubai. We then drove to the newer area of Jumeirah Beach that includes the seven-star hotel, Burj Al Arab. Jumeirah Beach was beyond anything I could previously have understood, with sand that was like powder and cars driving right on the beach, almost to the water. All the buildings are modern and striking. When walking around Jumeirah Beach and looking at the people, you think you are in America because of the way they dress and the fact that everyone speaks English.



We then visited the new business sections and I was astonished at the tall buildings (my client informed me that there are more skyscrapers in Dubai than in New York City). These buildings are completely modern with very unusual architecture. Each building has its own unique design features. In a word, these buildings reflect opulence.



We toured the current and future development of the city within the city called "Burj Dubai" or "downtown Burj Dubai," with only a few buildings completed at this time. A brochure of this development showed the entire project, which will be beyond extraordinary when complete. Downtown Burj Dubai will include the world's tallest commercial building, which is almost completed, and the world's largest mall.

When we drove out on one of the new man-made islands to look at the new condominiums and other buildings that are either completed or near completion, I thought to myself, "How did they move so much sand in order to make these tentacle islands?" It is income-

prehensible how they created these man-made islands. Again, the word "astonishing" is appropriate.

The wealth in Dubai was apparent by simply looking at skyscrapers and other buildings, especially in the newly developed areas, such as Burj Dubai and Jumeirah Beach. And I have never seen so many Bentleys, Mercedes, Porsches and Lamborghinis. These cars are all over the place.

The food we ate ranged from deli sandwiches to beef, fish, chicken and seafood at restaurants that ranged from cafeteria-style to fine dining. The food was excellent!

I stayed at the J.W. Marriott, which looked like one of the high-end Marriotts in the U.S. The hotel accommodations and service were excellent. The hotel employees and guests were very friendly, courteous and helpful. The food at the J.W. Marriott was also excellent.

We spent some time at the Mall of the Emirates, the largest shopping mall outside of North America, which includes indoor ski slopes, complete with a ski lift (by view through the windows). I watched people ski in this man-made, indoor ski resort while sipping my hot chocolate. One evening, we also visited the City Centre Mall, close to the J.W. Marriott. Both malls were bustling with people carrying shopping bags, indicating that they were buying.

<http://www.malloftheemirates.com/aboutMoe.asp>

I visited several Starbucks and the experience was exactly like going to a Starbucks in America except for the fact that my drinks tasted better (I learned that they put more sugar in their drinks than we do in America). And, just as in America, there are Starbucks in malls, on street corners, and in hotels.

The current Sheikh (Sheikh Mohammed Bin Rashid Al Maktoum), ruler of Dubai and Prime Minister of the UAE, is credited with the vision of propelling Dubai into the international arena. However, Dubai's initial growth is credited to the foresight of the former Sheikh (Sheikh Rashid bin Saeed Al Maktoum, the late father of Sheikh Mohammed), who foresaw the day when Dubai's oil well would run dry.

The Special Advertising Section, New York Times, December 24, 2006.

The editor of Trusts & Estates magazine requested that I tell my story after visiting Dubai. I am currently writing this article that will be submitted to Trusts & Estates for publication a future issue:

<http://trustsandestates.com/>

For Dubai, the Oil Futures Are Now

Page C1, The Wall Street Journal Thursday, May 31, 2007

The Wall Street Journal reports:

Today, the eyes of the oil world will be turning to a souk in the desert.

At 6 p.m. Eastern time, a long-awaited effort gets under way in Dubai's opulent financial center to give the world a new crude-oil pricing benchmark. The recently organized Dubai Mercantile Exchange is launching its Middle East "sour" crude futures contract as an alternative to the bellwether New York and London contracts for the black gold of Texas and the North Sea.

For more information (if you are a WSJ subscriber), see:

http://online.wsj.com/article_email/SB118057438231219462-1MyQjAxMDE3ODMwMTUzNzE0Wi.html

Trust law issued in Bahrain

In 2006, the Bahrain Monetary Agency announced a new statutory law to govern trustees, and trust administration was enacted in Bahrain. The Trust Law, issued by Royal Decree No. 23 of 2006, provides comprehensive guidance and lays down rules related to the creation and administration of financial trusts.

<http://www.ameinfo.com/93865.html>

WSJ NEWS ALERT: Ernst & Young Partners Charged in Tax Shelter Case

from The Wall Street Journal May 30, 2007

Four current or former partners of accounting firm Ernst & Young have been charged criminally in connection with the promotion of allegedly fraudulent tax shelters, prosecutors said. The individuals charged include Martin Nissenbaum, national director of Ernst & Young's personal-income tax and retirement-planning practice.

For more information (if you are a WSJ subscriber), see:

<http://online.wsj.com/article/SB118053712115018623.html?mod=djemalert>

Sidley & Austin LLP Pays IRS \$39.4 Million Penalty

May 23, 2007

WASHINGTON—The Internal Revenue Service today announced that it has reached a settlement with the law firm of Sidley Austin LLP, the successor firm of the merger in 2001 between Sidley & Austin and Brown & Wood LLP, which has paid a civil tax shelter promoter penalty of \$39.4 million. The penalty stems from the firm's promotion of abusive tax shelters and a failure to comply with tax shelter registration requirements.

"Sidley Austin has paid a significant penalty for its role in promoting abusive tax shelters," said IRS Acting Commissioner Kevin M. Brown. "The firm has also taken concrete steps to prevent a recurrence of this be-

havior in the future, which they have agreed to maintain going forward. We appreciate their actions and their cooperation in our ongoing investigations.”

The firm issued opinions in connection with potentially abusive tax shelters to over 700 high-net worth individuals and corporations. Some of the packages marketed to these individuals included listed transactions such as BOSS (Bond & Option Sale Strategy), variants of the so-called “Son of BOSS” shelter that went by names of COBRA (Currency Options Bring Reward Alternatives), BLIPS (Bond Linked Issue Premium Structure) and COINS (Currency Option Investment Strategy), and others that went by the names of FLIP (Foreign Leveraged Investment Program), OPIS (Offshore Portfolio Investment Strategy) and POPS (Partnership Option Portfolio Securities).

The firm also issued tax opinions in connection with certain potentially abusive non-listed transactions involving distressed assets, bond and equity strips and lease strips.

Sidley Austin LLP has offices in Beijing, Brussels, Chicago, Dallas, Frankfurt, Geneva, Hong Kong, London, Los Angeles, New York, San Francisco, Shanghai, Singapore, Tokyo and Washington, D.C.

IRS Newswire, Issue Number: IR-2007-103

<http://www.irs.gov/newsroom/content/0,id=103381,00.html>

Isle of Man-International identity of the Isle of Man recognized

A landmark declaration recognizing that the Isle of Man has its own identity and interests in the international arena has been announced this week.

The framework of principles agreed by the governments of the United Kingdom and the Isle of Man reinforces the Island's sepa-

rate status within the context of its constitutional relationship with the UK.

Chief Minister of the Isle of Man, Tony Brown MHK, who signed the document on behalf of the Manx Government, said: 'This is a significant step forward in the Isle of Man's evolution as a mature and responsible democracy. It confirms in writing that the Island has its own distinct and legitimate interests on the world stage, which may differ from those of the United Kingdom.

<http://www.gov.im/lib/news/cso/international/ide.xml>

Precarious Progress: Complex financial instruments create more of the risk they are designed to hedge, *Worth, Page 30, June 2007, by: Richard Bookstaber*

In the June 2007 issue of *Worth* magazine, a writer states that “Wall Street is becoming riskier and riskier. Crisis and catastrophic losses seem commonplace. This is odd, considering investors are more sophisticated now, enabled by an increasing array of financial products and protected by more government oversight than ever before.” The author points out that this risk in the financial markets is not a reflection of growing economic uncertainty. The author states that based on most measures, the economy is far less risky today than a generation ago.

The author states at the forefront of the financial market becoming riskier and riskier are Wall Street innovations such as derivatives and swaps, as well as Main Street instruments such as interest-only mortgages. These innovations are designed to control risk, but in the aggregate, they result in greater market complexity, unexpected outcomes from market shocks and a mechanism for investors to invest on the edge with ever-higher leverage.

The author points out that these investments may be similar to the Holland tulip mania and other investments that collapsed because the advanced innovations today continue to propagate the same flaw: These financial innovations facilitate financial leverage, and that leverage provides the capacity to spawn a crisis. The author concludes by stating that “we can begin to conquer these risks by thinking twice before throwing the next new financial instrument into the market.”

<http://www.worth.com/>

Tax Increase Batters Chinese Stocks, but There's Little Wider Damage

The *New York Times*, May 31, 2007, reports that the Chinese tax increase, announced early May 30, which is “the government's latest attempt to rein in the world's hottest stock market as a growing number of economists and analysts warn about the danger of a market bubble,” caused the Chinese stock market to plummet and the decline continues.

Tax Reform in China Brings New Considerations for Foreign Investment

By Khoonming Ho, Amy Tao, and Guy A. Bracuti

Khoonming Ho is a partner and head of tax for KPMG Huazhen, a KPMG International member firm; he is based in Beijing. Amy Tao is head of KPMG LLP's China Tax Center of Excellence; she is based in Philadelphia. Guy A. Bracuti is a principal with the international corporate services group of KPMG's Washington National Tax practice; he is based in Washington, D.C.

Tao and Bracuti are part of KPMG's U.S. China Income Tax Reform Team, which assists U.S. multinationals with understanding the tax impact of the reform and its implications.

The views and opinions are those of the authors and do not neces-

sarily represent the views and opinions of KPMG LLP or KPMG Huazhen. The information contained herein is general in nature and based on authorities that are subject to change. Applicability to specific situations is to be determined through consultation with your tax adviser.

Introduction

The Fifth Plenary Session of the 10th National People's Congress of China March 16 passed the unified Enterprise Income Tax Law (EIT Law) with 2,826 favorable votes among all 2,885 votes.

The passage of the EIT Law is a milestone in the long process of tax reform in China and will likely have profound implications for China's economy. The EIT Law will also likely have a significant effect on foreign investors doing business in China because it signals an end to favorable Chinese income tax treatment afforded certain foreign investment enterprises (FIEs).

The EIT Law will replace two separate Chinese income tax regimes:

the Provisional Rules of Enterprise Income Tax (EIT Provisional Rules), which apply to Chinese enterprises and FIEs that are less than 25 percent foreign owned; and

People's Republic of China Foreign Investment Enterprise and Foreign Enterprise Income Tax Law (FEIT Law), which applies to FIEs that are at least 25 percent foreign owned and foreign enterprises that derive income from sources within China.

The EIT Law will be effective Jan. 1, 2008, and the EIT Provisional Rules and the FEIT Law will be abolished at the same time.

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