

Investigation of Tax Authorities in the field of transfer pricing assessments

(exchange of information, tax audits abroad)

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International
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Master of
International
Taxation



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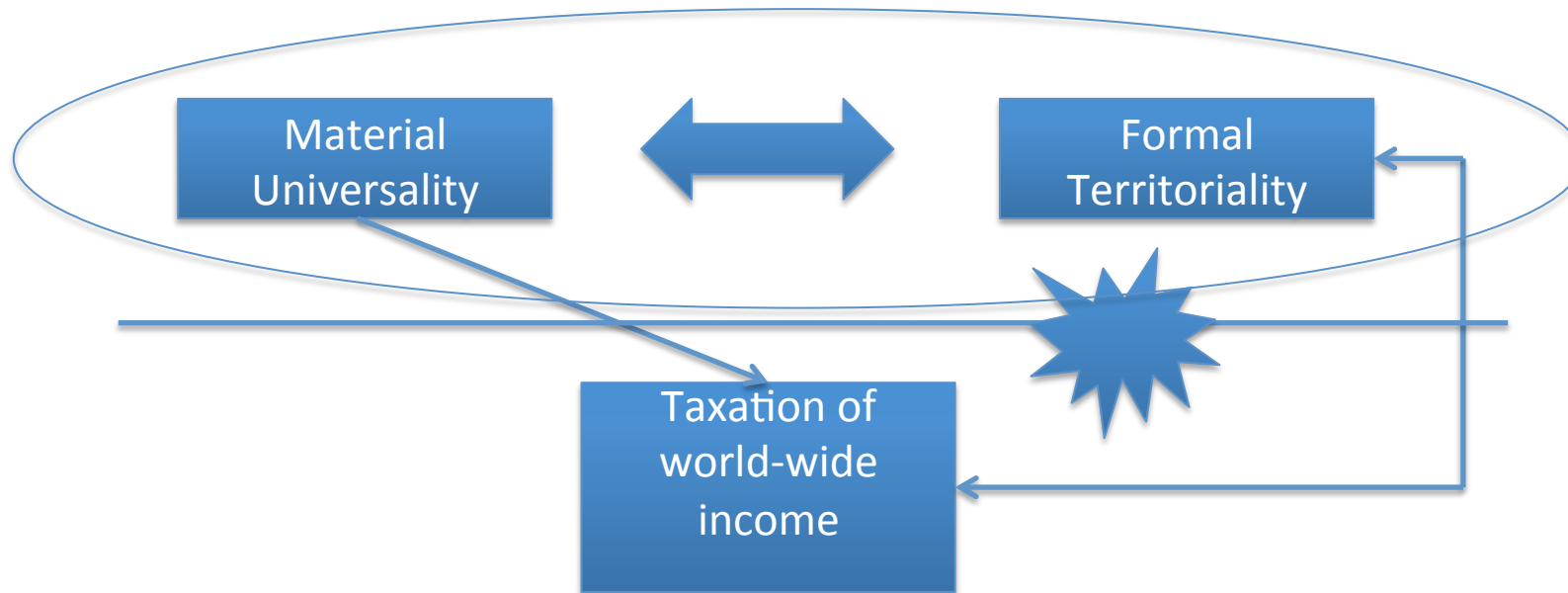
- Article 26 OECD-MT
- Joint Audit Report (OECD)
- Tax Information Exchange Agreements
- APAs
- European Mutual Assistance Directive

III. Cross-border audits

IV. The German Annual Tax Law of the year 2013 - Outlook

I. Introduction

- Why is international cooperation in the field of exchange of information and tax audits abroad necessary?



II. International and national Rules

II.I National German Law

§ 117 AO (General Tax Code):

- Legal foundation for exchanging information
- § 117 (1) AO: Enablement for the German Tax Authority to make use of the exchange of information
- § 117 (2) AO: tax treaties, European Law
- § 117 (3) AO: Exchange of information without legal obligation

II.II International Rules

Article 26 OECD-MT

- Commits the states to exchange information
- No allowance to request on information that is not relevant for taxation
- Major and minor information clause
- Germany/Italy: Article 27 tax treaty

II.II International Rules

The Joint Audit Report (OECD),

- Report of the OECD in the field of tax audits, 16th September, 2010
- Types of audits:
 - simultaneous examinations
 - multilateral control (MLC)
 - joint audits
- Pilot projects

II.II International Rules

Tax Information Exchange Agreements (TIEA)

- Enable the exchange the information between countries, where there has been previously been no existing legal basis to do so
- No binding instrument
- Basis for multilateral and bilateral treaties

II.II International Rules

Advanced Pricing Agreements (APAs)

- Origin in the USA
- In the field of transfer pricing
- Certain security for cross-border acting companies
- Unilateral, bilateral, multilateral

II.II International Rules

European Mutual Assistance Directive

- Scope
- Exchange of Information
 - Exchange of information on request
 - mandatory automatic exchange of information
 - spontaneous exchange of information
 - presence in administrative offices
 - simultaneous controls
- Conditions governing administrative cooperation and limits
- Execution of the exchange of information electronically

II.II International Rules

European Mutual Assistance Directive

- Competition between the various sources of law

III. Cross-border audits – The German view in the field of transfer pricing

- Special focus on cross-border audits in the field of transfer pricing
- Obligations of the taxpayer
- Sanctions
- Exeptions for small companies

IV. The German Annual Tax Law of the year 2013 „light“ / Outlook

- Implementing of the European Mutual Assistance Directive
- § 117 AO
- Changes to the „old“ Directive
- Chances and risks

Thank you for your attention



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