International tax education in the financial service industry

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The origin of the study of international taxation

I have heard many professionals comment that the study of international taxation and offshore financial centres is relatively new. But actually, the study of international taxation from both the comparative and planning approaches dates to the late 1930s, to names like Walter Diamond and the late Dr. Joop van Hoorn who were pioneers of the industry (Walter just celebrated his ninety second birthday and is still pioneering). The following generation of international tax professors and practitioners, such as Marshall Langer, Dr. Michael Edwardes-Ker, Professor Klaus Vogel (Munich), Professor Kees van Raad (Leiden), Dr. Barry Spitz, Professor Maarten Ellis (Rotterdam), Professor Jon Bischel (Syracuse), and Professor Hubert Hamaekers (Tilburg) each continued to contribute to the academic science of our industry through their ground breaking books and articles. My good fortune is to have studied under, learned from, and/or worked with each of these pioneers. But of all the pioneers since 1949, Walter and Dorothy Diamond stand out due to the sheer volume of quality loose-leaf series and books, now over eighty, including titles such as “Tax Havens of the World”, “Free Trade Zones”, his *Financial Times* column and his regular monthly column in this magazine.

The study of international taxation from an academic perspective was birthed in 1938 with the founding of the International Fiscal Association (“IFA”) [http://www.ifa.nl] in the Netherlands. Now at more than 10,000 members from 90 countries and jurisdictions, its membership is drawn from high level representatives from both the private and the public sectors, including the Courts, Universities and international governmental and non-governmental organisations. IFA is best known for its annual Cahiers, published since 1939, presenting a comparative perspective for a fiscal topic chosen and worked on during the proceeding year by academics, government officials and practitioners since the previous annual congress. Also in 1938, the founding members of IFA established the international tax library of the International Bureau of Fiscal Documentation (IBFD), located in Amsterdam. This library currently houses over 30,000 tax books and subscribes to 1,000 tax journals and government gazettes - the largest research depository in our discipline.

During World War II, Walter Diamond, well known to the readers of *Offshore Investment,* served in the US Navy but also he served as the US Federal Reserve liquidator of the German, Italian, and Japanese banks. He travelled the world establishing an inventory of the expropriated Axis’ banks assets and securities assets and recording the investments and tax laws in memorandum form that applied thereto. In 1949, Walter Diamond began the first international tax loose-leaf publication, Foreign Tax & Trade Briefs, now in supplement 470, based upon these memoranda from the war years. In 1951 the University of Illinois invited Walter Diamond to present a university lecture on the offshore centres of Liberia, Panama, and Venezuela. The first academically accredited program in the industry started in 1952 with the founding of the Harvard Law School International Tax Program in the USA.

Approaches to international tax education

A potential student must distinguish among the four types of approaches to “international tax” programs when examining which degree to pursue. Some university programs approach international tax as the study of the domestic tax system by foreign practitioners, by example New York University School of Law’s LL.M., International Tax. Other universities, sometimes in combination with this foreign practitioner approach, require courses whereby the student examines the taxation of international transactions for the country in question. The third approach, employed by a growing number of primarily European programs, addresses taxation from an international comparative and treaty based approach, by example the Leiden International Tax Program founded by Professor Kees van Raad in 1998.

Finally, the fourth approach employed by very few programs but of the most value to the practitioner is whereby the study examines taxation from an international planning perspective and teaches the use of tax treaties and international financial centres. For the readers of *Offshore Investment*, the fourth approach is likely the desired academic perspective because on a daily basis we face cross-border client issues for the minimisation of tax cost and optimum risk management for which the client requires innovative solutions. This approach is employed by the Walter H. & Dorothy B. Diamond International Tax Program, founded by Professor William Byrnes in 1998.

Continuing professional education?

Every practitioner seeking further education in the financial services industry faces a plethora of choices amongst professional continuing education conferences and two-day to two-week training seminars, of which *Offshore Investment* offers an industry standard known as the Oxford Offshore Symposium. For professionals seeking an indepth study, the industry leader has become the Society of Trust and Estate Practitioners through its education provider Central Law & Training ("CLT") [www.centlaw.com]. CLT has trained over 5,000 students, mostly from the 10,000 plus members of STEP, in four month distance learning programs in areas of trusts, company secretarial, anti-money laundering and now international tax as well as international estate planning. The STEP diplomas are certified for persons seeking to become full STEP members and qualified by all substantial financial service firms through the International Trust Companies Association (ITCA) for purposes of employment opportunity recognition.

CLT teamed up with Professor William Byrnes of the Walter H. & Dorothy B. Diamond International Tax Program [www.llmprogram.org] to create a four month program that uses the STEP distance learning materials methodology to study international tax principles, case law, and statutes. The distance study is enhanced through a two-day residential case study program followed by an examination paper. The residential case study is offered in the more than twenty financial centres wherein STEP has its branches. This diploma program also allows prospective students who go on to undertake a Masters level study to skip basic courses in the Diamond International Tax Program offered by the St. Thomas University School of Law in Miami.

Choosing a Masters level program?

The decision to undertake a Masters level study requires considering the balance of the time commitment away from either work or family and the tuition cost against the recognition of a professional, accredited degree and its potential application in the workplace. In the case of the Diamond program experience, some students have merely undertaken the Masters level study for the personal achievement of the study itself, by example, a retiring senior manager in a multinational group, and even a practising surgeon.

Whether a student chooses a residential study like Professor Kees van Raad's in Leiden, or the online study, like Professor William Byrnes' Diamond program will significantly be decided by whether that student is able to leave the office for a year. Some students want to take a year sabbatical from the office whereas others cannot afford to because of client or family demands. But also, each potential student must compare program curricula to ensure that a program fits the student's educational requirements. By example, the Diamond International Tax program is oriented to the international financial service sector practitioner, but is not oriented to a student seeking academic employment.

The Walter H. & Dorothy B. Diamond International Tax LL.M. Program is uniquely different from its accredited international tax program colleagues in Europe, such as Leiden, European Tax College (Leuven), and Vienna in that the Miami based law school is wholly online. Like its European brethren, the Diamond program combines full time, on-campus tenure professors with visiting professors and professionals, but this faculty interacts with the globally situated students using the course software Blackboard rather than face-to-face. Also, the Diamond program combines a business school case study method, using realistic client situations, with law school jurisprudential pedagogy, such as case law, statute and treatise analysis because the students are generally working professionals as opposed to new University graduates.

The Diamond program recently announced the addition of a PhD of International Tax study, known as a JSD in the US, for which Marshall Langer and others are donating their international tax libraries to the law school for the students' research. A JSD requires at least three years of writing and criticism before the production of a book that adds to the science of the field - thus, this route is for a rare few persons who want to pursue an academic career option.

What does an international tax study entail?

All international tax programs will provide a base curriculum in four areas: international tax principles, tax treaties, anti-avoidance and offshore financial centres. After the base is obtained, a student generally chooses whether to pursue a more corporate oriented study or one that focuses on high net wealth individuals planning. Corporate students will continue with courses such as transfer pricing, taxation of financial transactions, and international tax planning, whereas high net wealth planners will continue with the law and taxation of trusts, anti-money laundering and compliance, and international estate planning. The Diamond International Tax program requires an international tax research and legal analysis course as well as a graduation thesis, but not all international tax programs do so.

The outcome

The Diamond program's stated outcome objectives are to assist the professional in being able to capture a higher billing rate and to expand the professional's client base. The Diamond International Tax Program intakes between 70 and 80 new students each year who continue to live and work around the globe on its two-year part-time online program, of which half enter seeking to complete the full LL.M. degree. The students and graduates work for such firms as KPMG, Baker McKenzie, Citibank, Siemens, and Sovereign Group and have become the most significant marketing channel through word-of-mouth referral.

Students annually anonymously poll to the St. Thomas statistics office that they are very pleased with the Diamond International Tax program learning experience and online camaraderie with classmates and professors. However, some students have levelled the criticism that the program requires too much work from a working professional or that the student requires the discipline obtained from showing up each day to a classroom whereby a professor may call upon them. The Diamond program staff refers these students to the Central Law & Training / STEP program for the softer, gentler approach to in depth international tax education.