TAX ISSUES IN TREASURY CONFERENCE

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A focused, practical half-day event on 27 June provided us with an update on tax issues affecting treasury. Deborah Anthony of Arthur Andersen set the scene by looking at tax risk management, underlining the importance of clarity over objectives and good communication between tax and treasury. Arthur Andersen had conducted a survey on the impact of tax on shareholder value by measuring the effect on the share price of announcements relating to a company's tax position. Interestingly, negative announcements had a more pronounced impact than positive ones, implying that avoiding downside risk is more important than implelmenting structures aimed at generating a positive NPV!

Paul Delaney, Director of Treasury at WPP Group, then gave some tips on transfer pricing in inter-company financing, emphasising that well structured, well documented and appropriately priced funding can add value both commercially as well as generating considerable cost advantages on a post-tax basis.

VAT is not usually very high up on a treasurer's agenda – or at not mine! However, Customs & Excise are becoming increasingly interested in treasury activities, according to Jas Sandhu, Trading and Risk Analyst at Powergen.

Ian Hardie from the Inland Revenue then outlined key issues on which it will be seeking consultation over the summer, including the abolition of foreign exchange as a standalone regime by incorporating the provisions into the financial instruments and loan relationship rules. The aim is to make the rules simpler.

Other areas under consideration are broadening the range of derivatives covered by tax legislation and changes to connected party loan relationships bad debt rules. Thankfully, Ian recognised that, although the Revenue would aim to reduce opportunities for avoidance, it is unlikely to be able to prevent all "tax planning" structures.

Means of addressing the recent changes to double tax relief were proposed by Bill Dodwell of Arthur Andersen. Although the intention had been to reduce the need for the Inland Revenue to adopt a practical approach to applying the rules, this is likely to continue to be necessary in practice.

Nigel McInerny of New Boston Partners provided an update on leasing. Despite recent restrictions, the leasing market is still very much alive with more than 25% of all plant and machinery financed in this way.

Competitive pressures are keeping margin rates low, providing highly cost-effective finance. In addition the ownership rules in the UK are flexible, enabling double-dip transactions to be completed and further enhance the benefits of certain transactions. However, there are still many different leasing jurisdictions in Europe, many of which favour the domestic industry; unfortunately Nigel was not especially hopeful of swift changes in this area in terms of opening the market. **MELANIE DUKE**

NEW TECHNOLOGIES FOR FUNDING AND CREDIT MANAGEMENT

The evening of 11 July saw a symposium on the subject of raising funding from sources such as invoices and inventory. Joint hosts were Freshfields Bruckhaus Deringer the international law firm and Demica,a company which provides the technology to support the securitisation of receivables on an enterprise wide basis.

Ian Falconer, who heads Freshfields securitisation practice, was the first speaker and provided a legal background. He concentrated on receivables, and the different legislation in the countries of the seller, the Special Purpose Vehicle and the debtor, all three can be different with an export sale. Ian felt the seller jurisdiction was much more important than the debtor jurisdiction, and clear governing law is important to help resolve any differences between the purchaser's and seller's standard terms.

He concluded by stressing the importance of three factors (1) identifying any restrictions on the assignability of receivables, (2) possible complications integrating the new funding with existing internal reinvoicing/factoring arrangements and (3) the need for strong systems to tag and track sold receivables.

The second speaker was David Trott, a banking partner at Freshfields, who concentrated on practical legal issues. He went into more detail on the need to segregate securitised and non-securitised receipts, and potential complications with cross-collateralisation whereby several originators sales are pooled. David's solution was a cross-indemnity agreement but he cautioned that transfer pricing would still require careful handling.

He also highlighted the need for securitisation to be integrated with FX hedging as securitisation conduits usually fund in sterling, US dollars or the euro whereas the receivable invoice could be denominated in any currency. David's final issue was the accounting treatment, whether off balance sheet or via linked presentation, and the different interpretations of FAS 140 (US GAAP), FRS 5 (UK GAAP) and IAS 39 (International Accounting Standards GAAP).

Tim Nicolle, Chief Executive of Demica, was the final speaker and took technology as his theme. The background was the move recently to higher return demands from banks and the growth of disintermediation. Traditionally securitisation had been perceived as time-consuming and difficult to do with high administration costs outweighing the benefits of lower borrowing costs and gaining a greater understanding of the business.

The Demica system takes daily sales ledgers and converts this to settlement data for securitisation; no changes are needed in the seller systems as long as these provide a sufficient data set. This central system operates across an unlimited number of operating companies and sellers. A larger corporate may have a dedicated enterprise wide system, a smaller corporate can participate in a communal scheme, where pooled receivables can obtain the benefits of capital markets finance.

In the question and answer session a question was put asking what happens if things go wrong? The panel of speakers gave a number of actual examples in which everything was paid out even when the manufacturer went bust. The process and documentation were messy but worked if originally structured properly. In one unnamed case the lawyers ended up footing the bill, which went down well with the audience.

The Association is most grateful to both Freshfields Bruckhaus Deringer and Demica for co-hosting a successful evening which attracted an audience of well over 50 on a summer evening. The evening confirmed that developments in both legal and information technology are making possible enterprise wide financings, and how to set about achieving this. **MIKE BRYANT**