The International Taxation of Autonomous Artificial Intelligence (AAI): Questions from Leopoldo Parada

The International Tax Blog
July 14, 2019

In this post, I ask a question on Leopoldo Parada’s “The International Taxation of Autonomous Artificial Intelligence (AAI): Questions from Leopoldo Parada” — the International Tax Blog, July 14, 2019.

I propose in my paper a two-tiered test for the tax residence of AAI. The first tier is what I call a Primary Place of Business (PPB) for AAI of any jurisdiction, and it basically defines residence as the jurisdiction in which we can most reasonably find the primary “physical marker” for the economic activities of an AAI. The second tier is that if a PPB is triggered for an AAI, it must be associated with an actual place of business (ASPB) to which the AAI is permanently and actually associated (let me call it the PPB test). That ASPB must be a permanent place of business that can be reasonably associated to a tax authority by the person in charge of the AAI. The ASPB must be an actual place of business that includes a physical presence of the AAI that is simultaneously being used to perform tasks associated with human intelligence and beyond. When it is determined that an AAI does not have a PPB in any jurisdiction, it will follow that an AAI must be regarded as non-resident for tax purposes in all jurisdictions

Leopoldo Parada
Autonomous Artificial Intelligence (AAI): More Questions from
The International Tax Blog
July 14, 2019

I propose in my paper a two-tiered test for the tax residence of AAI. The first tier is what I call a Primary Place of Business (PPB) for AAI of any jurisdiction, and it basically defines residence as the jurisdiction in which we can most reasonably find the primary “physical marker” for the economic activities of an AAI. The second tier is that if a PPB is triggered for an AAI, it must be associated with an actual place of business (ASPB) to which the AAI is permanently and actually associated (let me call it the PPB test). That ASPB must be a permanent place of business that can be reasonably associated to a tax authority by the person in charge of the AAI. The ASPB must be an actual place of business that includes a physical presence of the AAI that is simultaneously being used to perform tasks associated with human intelligence and beyond. When it is determined that an AAI does not have a PPB in any jurisdiction, it will follow that an AAI must be regarded as non-resident for tax purposes in all jurisdictions.
Some authorities to deny a tax benefit under the relevant treaty? In principle, if the SVJ is not able to sign treaties with other jurisdictions, either (i) resident AAI will always be subject to domestic tax legislation and never benefit from tax treaties (directly or indirectly, as in the cases they control local AAI or multinationals), or (ii) resident AAI will be allowed to access benefits of existing tax treaties following a multilateral “agreement” that the treaty-shopping concerns during the “traditional” application of LOB clauses are absent in cases involving (i) resident AAI. However, even if I am sure final fell sentences is true, because AAI will be driven enough to examine the economic returns of these worldwide activities in ways tax departments of multinational entities are any more departmental and the taxing can vary from it to deal with the type of international tax planning that led us to BEPS to back in the first place!

I would like to thank Leopoldo Parada for having read my paper and asked very interesting questions (which I hopefully have answered in the paragraphs above). I would also like to thank you for reading this article. If you have any comments on my paper or on my answers to the questions, please feel free to use the Comments section below. All the best!

The views expressed by the author in this article are his own.

END NOTES


[3] “In accordance with our taxable residence criteria, an AAI should be regarded as a taxable resident of a given jurisdiction if, in a first-tier analysis, its primary place of business (PPB) is physically located in that jurisdiction, and only if it is not reasonably associated with a PBD, in a second-tier analysis, the AAI will be regarded as a resident of the virtual jurisdiction. If and only if a PPB cannot be reasonably associated with a PBD, in a second-tier analysis, the AAI will be regarded as resident of a single virtual jurisdiction (SVJ), and this will require both (1) a blanket source taxation and (2) a harmonized approach for taxing income of SVJ residents worldwide.” See note 3, pp. 661.


