

PROGRAMME &amp; SPEAKERS



# IBFD Masterclass

## Opportunities and Challenges of Post-BEPS International Taxation – Current Issues

13-14 September 2024 | Sao Paulo, Brazil

### Summary

As part of the partnership between IBFD and IFA Latin America (IFA LATAM), we are delighted to present the third edition of the annual IBFD course on international taxation and transfer pricing, providing a unique learning platform for Latin American tax professionals to analyse, discuss and share experiences on relevant current issues in international taxation.

This course, Opportunities and Challenges of Post-BEPS International Taxation – Current Issues, seeks to analyse a selection of critical topical issues, encompassing transfer pricing, the OECD/G20 Pillar Two, indirect transfers of assets abroad, tax treaty treatment of income from e-commerce and services, and the tax consequences of global mobility.

### Field of Study

Taxes

### Who should attend

The course is suitable for professionals, such as tax managers and directors, in-house tax and accounting specialists in commerce and industry, practitioners in tax advisory firms, and government officials who deal with international taxation or transfer pricing in Latin America and wish to gain a deeper technical understanding of developments in international taxation, in particular, transfer pricing and tax treaties.

### Course level and prerequisites

This is an intermediate-level course. Participants taking this course are expected to have a good understanding of at least one national tax system and the fundamentals of transfer pricing and tax treaties.

## Day 1

09.00 – 09.15	<b>Welcome and IBFD Introduction</b>
09.15 – 10.45	<b>Transfer Pricing (TP) in Practice</b> <ul style="list-style-type: none"><li>&gt; Practical application of TP rules from the compliance perspective<ul style="list-style-type: none"><li>&gt; Characterization of transactions: Re-allocation of risks and non-recognition</li><li>&gt; Pricing of intra-group transactions<ul style="list-style-type: none"><li>&gt; Comparability analysis</li><li>&gt; Benchmarking studies</li><li>&gt; TP adjustments</li></ul></li><li>&gt; TP documentation (country-by-country reporting, Master File and Local File)</li></ul></li><li>&gt; TP compliance<ul style="list-style-type: none"><li>&gt; Developing a TP study based on the arm's length principle<ul style="list-style-type: none"><li>&gt; TP methods and hierarchy of OECD methodology</li><li>&gt; Addressing difficulties in searching for comparables, sources and practice</li></ul></li></ul></li><li>&gt; Requirements under Brazilian TP rules based on the Normative Instructions. Application to Brazilian MNE groups with foreign subsidiaries vs foreign MNE groups with Brazilian subsidiaries</li></ul>
10.45 - 11.15	Break – Refreshments
11.15 - 12.45	<b>Transfer Pricing in Practice</b> <ul style="list-style-type: none"><li>&gt; Transfer pricing of intra-group transactions<ul style="list-style-type: none"><li>&gt; Centralized business model and intra-group services (application of Brazilian withholding taxes and other service taxes)</li><li>&gt; Intra-group intangibles transactions</li><li>&gt; Cost sharing arrangements under the arm's length principle</li><li>&gt; Business restructuring and exit taxes</li><li>&gt; Intra-group financial transactions</li></ul></li></ul>
12.45 – 14.15	Lunch
13.45 - 15.30	<b>Transfer Pricing in Practice</b> <ul style="list-style-type: none"><li>&gt; Potential TP disputes<ul style="list-style-type: none"><li>&gt; Common areas of TP disputes</li><li>&gt; Approaches to resolving TP disputes<ul style="list-style-type: none"><li>&gt; Managing TP audits and enquiries</li><li>&gt; Advance pricing agreement and its role in TP certainty</li><li>&gt; Resolution of disputes and the mutual agreement procedure (MAP) in practice</li></ul></li></ul></li></ul>
15.45 – 16.15	Break – Refreshments

- 16.15 – 17.45      **OECD/IF Pillar Two: The Global Minimum Tax**  
(The length of this session will depend on Pillar Two developments in Brazil and other Latin American countries. Accordingly, it may be dealt with in a shorter session in Day 2 (in which case the whole Day 1 may be allocated to TP) or in two sessions (additional session in Day 2))
- Key features of OECD Pillar Two Model Rules and developments in their implementation in Latin America
  - Pillar Two methodology and transfer pricing
  - Application to inbound investments
    - Impact on ETR of current incentives
    - Pillar Two competition: The Substance-based Income Exclusion and the Qualified Refundable Tax Credit
    - Compliance issues for subsidiaries of foreign multinationals in the region
  - Application to outbound investments
    - Whether ultimate parent entities would have to pay top-up tax (TuT)? If not, who will levy and who will pay TuT?
    - Impact of current Brazilian CFC rules on minimum tax?

## Day 2

- 09.00 - 10.45      **Taxation of Capital Gains and Offshore Indirect Asset Transfers:  
What is the Current State of Play?**
- Taxation of capital gains under the 2017 OECD and 2021 UN Models with a special focus on immovable property, including natural resource rights and shares
  - Impact of BEPS measures and the Multilateral Instrument
  - Critical issues of offshore indirect transfer of assets and the toolkit of the Platform for Collaboration on Tax (IMF, OECD, UN, World Bank)
  - Examples of domestic legislation in Latin America and its application
  - Analysis of selected case law
- 10.45 - 11.15      Break – Refreshments
- 11.15 - 12.45      **Tax Treaty Treatment of Income from E-Commerce including Digital Services**
- Disentangle the order of application of tax treaty provisions dealing with income from e-commerce including digital services
  - Impact of the 2017 UN Model provision on e-commerce
  - Need of the 2021 UN Model provision on income from automated digital services
  - Analysis of specific tax treaty examples and case law
- 12.45 - 14.15      Lunch

- 14.15 - 15.45      **Tax Treaty Treatment of Royalties, Services and Software**
- Treatment of royalties and technical services under tax treaties
    - Model conventions
    - Tax treaty examples
    - Examples of administrative rulings and case law
  - Is software included in the definition of royalties of the 2017 OECD Model and 2021 UN Model?
  - 2023 October UN Tax Committee decision to explicitly include software in the royalties definition
  - Examples of approaches of Latin American countries
- 15.45 - 16.15      Break – Refreshments
- 16.15 - 17.30      **Global Mobility: Taxation Consequences**  
(This session may be replaced by an additional session on Pillar Two depending on the developments of Pillar Two in Brazil and other Latin American countries)
- Consequences of taxes and social contributions over mobility (individual and corporations)
  - Avoiding the risk of creating a taxable presence in other countries by e-working
  - Role of 3rd parties providing “talent”
  - Special regimes granted by countries and mismatches

## Instructors



**Carlos Gutiérrez P.** is a Senior Principal Associate at IBFD Tax Services. He is involved in government consultancy projects, client research, and in the development and teaching of training programmes for tax authorities and the private sector, as well as regular course programmes. Prior to joining IBFD, Mr Gutiérrez was a legal adviser with the international legislation department of the Chilean tax administration (Servicio de Impuestos Internos, SII), which is responsible for tax treaty negotiation and interpretation, and for drafting direct tax legislation. He also directly participated in numerous tax treaty negotiations.

Mr Gutiérrez obtained his law degree at the University of Chile and a master's degree (LL.M.) at Queen Mary College, University of London. He has represented IBFD at various seminars and conferences and has taught regularly for IBFD International Tax Training, and for universities in Latin America and the Netherlands. He was especially directly involved in the design and development of the Advanced Master's Programme in International Tax Law (LL.M.) that was jointly offered by the University of Amsterdam (UvA) and IBFD until 2022.



**Monique van Herksen** is a partner at Simmons & Simmons specialising in transfer pricing, dispute resolution and related international tax issues. Her practice includes advising multinational enterprises on global audit compliance, audit management and risk assessment related to transfer pricing, permanent establishment exposure and business restructurings in the jurisdictions where they do business. Ms van Herksen handles audit settlements, advance pricing agreements and competent authority requests. She provides hands-on assistance and strategic advice on tax and transfer pricing audits and discussions with tax authorities and local tax counsel, where she is able to call on her experience with leading controversy teams and working for the US Internal Revenue Service.

Ms van Herksen also serves as transfer pricing expert on the Subcommittee on Transfer Pricing of the UN Tax Committee and assists the United Nations' Financing for Development Office with training and materials for tax authorities in developing countries. She has conducted trainings for organisations such as the Inter-American Centre of Tax administrations (CIAT) and the African Tax Authorities Forum (ATAF). She also has been teaching transfer pricing at leading universities for over 20 years.



**Vanessa Arruda Ferreira** is a Principal Associate at the IBFD Knowledge Group. She is the Managing Editor of the Latin America regional portfolio and of the Digital Taxation Monitor. She is also an instructor and support researcher for IBFD Capacity Building. She holds a PhD from the University of Amsterdam, the Netherlands, and a Master's (LLM) from Université Paris 1 Panthéon-Sorbonne, France.

Prior to joining IBFD, Vanessa worked in Brazil as an attorney representing clients before courts and administrative bodies in corporate tax matters. Vanessa speaks Portuguese, English and French at professional level and has been a member of the Brazilian Bar since 2003.



**Verônica Melo de Souza** is a highly experienced International Tax Partner at Gaia Silva Gaede Advogados in São Paulo, with over 15 years of expertise in the field.

She holds an LL.M in International Tax Law from King's College London and has a solid understanding of corporate law and accounting. Ms de Souza has broad experience in the tax advisory area with significant cross-border experience (LATAM, US and Europe). Her expertise lies in international taxation, transfer pricing, cross-border transactions, foreign investment structuring, mergers and acquisitions, as well as domestic and cross-border corporate reorganizations. Verônica has provided tax advisory services to clients in various industries, including telecommunications, technology, oil & gas, insurance, and reinsurance. Additionally, she has made significant contributions to the field through her academic experience as a professor, speaker at international tax conferences (such as IFA Congress), and writer of articles in specialized journals (such as The Oxford Handbook of International Tax Law).

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