SOME LOGISTICS OF TAX TREATY NEGOTIATIONS BY VIDEOCONFERENCE

When tax treaty negotiations take place through videoconference, certain logistical aspects will change. This short note provides a checklist for negotiators to take into consideration.

Agreeing on the Videoconferencing Platform

The negotiators will need to agree on a videoconferencing platform on which the negotiations will take place. This decision will have to take into account any government-wide information technology security policies in place in the two countries.

Once the negotiators have agreed on the videoconferencing platform, the countries should agree on the responsibilities for scheduling the meetings, taking into account which countries have the necessary accounts.

The parties should agree on whether the sessions will be recorded, who will control the recordings and the purposes for which recordings may later be used. Agreements on these issues should be memorialized in writing.

The Dates on Which Negotiations will Take Place

Negotiations through videoconference should be short – most likely three to four hours a day for three to four days at a time. As a result, a single "round" of negotiations should be scheduled over the course of at least two weeks.

The schedule of sessions should take into account the time zones of each country. If it is not possible to schedule the sessions during normal working hours for both teams, "hosting" duties should alternate with each "round" of negotiations so that the burden of early mornings or late nights is shared evenly between the two teams.

If a negotiation is taking place outside a team's normal working hours, the team may want to check on the availability of IT support in case there are problems.

Location of the Negotiating Team

If possible, the members of a negotiating team should be gathered in one room to facilitate private communications among the team members. When that is not possible, members of the negotiating team should make arrangements for a second channel of secure communication accessible only to them. Often, this may be achieved through use of a secure messaging app on a smartphone.

If the negotiating team is together in a conference room, the team will have to decide whether to use a single camera/computer that shows the entire team or whether each team member will use an individual computer. Teams should check the equipment (including loudspeakers) in advance. In some circumstances (for example, if bandwidth may be a problem) it may be advisable to do an IT check with the other team in advance.

Control of access to the virtual "room" is as important as in in-person negotiations.

- If the members of the negotiating team are on individual computers, the naming conventions for their screen names should make it easy to identify everyone.

Nevertheless, the head of delegation should introduce each member of the team as in an in-person negotiation.

- Team members should not turn off their cameras (subject to bandwidth problems) as a mark of courtesy and so that the other team knows who is present.
- If a team plans to invite a specialist to discuss particular issues, that intention should be made known to the other team in advance so that they can make similar arrangements if they wish.

The Language in Which Negotiations will take Place

If interpretation is necessary, the negotiating team should contact the interpreters as soon as possible to determine what modifications to normal working methods might be necessary.

In particular, the team and interpreter will have to decide whether the interpreter(s) will be in the same room as the negotiating team or whether they will use the interpretation function available in some videoconferencing platforms which allow the interpreter to be located elsewhere. If the interpreters are not in the same room as the negotiating team, the heads of delegation and any others speaking during the negotiation should be prepared to use a headset or other microphone in order to facilitate the interpretation.

While a single interpreter may be sufficient for in-person negotiations, the more tiring nature of interpreting for videoconferencing may mean that more than one interpreter is required. The negotiators should agree in advance on which country will bear the cost of interpretation.

Use of Screen Sharing

The negotiators will have to agree on the extent to which they will use screen sharing during the course of negotiations. For example, they may decide to have an initial discussion of the issues without screen sharing so that they can read each other's reactions and then share the draft document in order to implement those changes.

Agreed Minutes and Initialing

At the end of a round of in-person negotiations, it is common practice for the two heads of delegation to sign a short "agreed minute" on the status of the negotiations, which will usually have the draft treaty text attached. The negotiators should agree on whether they intend to follow this practice for rounds conducted through videoconferencing and how that process will take place.

In any case, when the negotiators have agreed on the text, it is best to have the negotiators "initial" the document. The "host" team should print the agreed text, the head of delegation should initial each page, then the document should be scanned and sent to the other team. That head of delegation should initial each page, after which the document, with both sets of initials, is scanned and sent back to the original team.