

Peter Barnes Addresses Tax and Sharia Instruments at IFA 73rd London Congress

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As financial and funding instruments evolve, there is an ongoing need for international tax constructs to be refined and sometimes even revised. International taxation is familiar with addressing the tax implications of different legal systems encountering each other, in some cases giving rise to classification or qualification issues that treaties seek to resolve. The features and implications of Sharia law – a non-secular legal system – and its interaction with other legal systems is a less familiar example of the interaction of legal systems giving rise to specific and practical legal and tax issues for transactions. But sometimes the differences between legal systems are not as profound as they may seem. This seminar will consider some of the major Sharia finance instruments, and the practical complications that typically arise when applying traditional international tax principles. The panel will share observations on some domestic measures that have been considered in some jurisdictions, on some complications arising in cross-border financing arrangements, and on how BEPS Actions might impact the treatment of these instruments. The panel will conduct its inquiry with reference to particular kinds of financial instruments and their financial characteristics in relation to non-Sharia forms of financing to achieve equivalent or similar financing objectives.

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