Thursday, May 22, 2014

18:00 Conference opening and cocktail reception
Tilburg University, lobby Dante Building,
Warandelaan 2, 5037 AB, Tilburg

Friday, May 23, 2014

Session 1
08:30 – 10:00 Scope, residence and permanent establishment
Chairs: Eric Kemmeren
       Michael Lang

Australia (Daniel Smit)
Federal Court 26 April 2013
Application of AUS/US tax treaty to hybrid partnership / entity qualification conflict

Spain (Adolfo Martín Jiménez)
Audiencia Nacional 25 April 2013
Fishing vessel under ESP/EST DTC

Italy (Guglielmo Maisto)
Supreme Court 17 January 2013
Italian PE of Slovenian citizen who acted as tourist intermediary for a Slovenian ski club

Sweden (Martin Berglund)
Swedish Board for Advance Tax Rulings 12 June 2013; Supreme Administrative Court 6 December 2013
Whether a computer server can constitute a permanent establishment

10:00 – 10:30 Coffee Break
### Session 2
**Business profits and personal independent services**

**10:30 – 12:30**

*Chairs:* Philip Baker  
Alfred Storck

<table>
<thead>
<tr>
<th>Country</th>
<th>Court/Source</th>
<th>Reference</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>France</strong></td>
<td>Conseil d’Etat 1 October 2013</td>
<td>351982, Sté BNP Paribas</td>
<td>Profit attribution to PE under FR/UK DTC; gain resulting from borrowing transactions and currency swap</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>Dutch Supreme Court 6 December 2013</td>
<td>12/00252</td>
<td>Income from former research under NL/UK DTC and fixed base</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>Bundesfinanzhof of 1 October 2012</td>
<td>I R 75/11, IStR 2013, 109</td>
<td>Hidden profit distributions under DE/NL DTC and transfer pricing</td>
</tr>
<tr>
<td><strong>Canada</strong></td>
<td>Tax Court of Canada 13 December 2013</td>
<td>Mckesson Canada Corp. v. The Queen, 2013 TCC 404 (TCC)</td>
<td>Limitation period for transfer pricing adjustment CAN/Lux DTC</td>
</tr>
<tr>
<td><strong>Denmark</strong></td>
<td>Supreme Court 3 October 2013 SKM2013.699HR</td>
<td></td>
<td>Article 9 of the DK/ CZ DTC (Arm’s length) in connection with a debt converted into share capital in a Chech company</td>
</tr>
<tr>
<td><strong>Czech Republic</strong></td>
<td>Supreme Court 28 March 2013</td>
<td>2 Afs 71/2012-87</td>
<td>Thin capitalization rules comprised in CZ/UK DTC; associated enterprises</td>
</tr>
</tbody>
</table>

**12:30 – 14:00**

Lunch Break
Dividends, beneficial ownership and capital gains

**Chairs:** David Duff
Pasquale Pistone

### Netherlands (Daniel Smit)
- Dutch Supreme Court 22 March 2013
- Disposal of Dutch real estate under NL/LUX DTC; exit taxation

### France (Alexandre Maitrot de la Motte)
- Conseil d’Etat, 29 April 2013
- Exit tax upon emigration on unrealized capital gains under Franco/CH DTC

### Italy (Guglielmo Maisto)
- Supreme Court 20 February 2013
- No. 4164
- Meaning of “payment” of dividend under IT/UK DTC

### Germany (Alexander Rust)
- Bundesfinanzhof of 22 June 2013
- I R 48/12, ISTR 2013, 881
- US S-Corporation – income allocation under DE/US DTC

### Mexico (César A. Dominguez)
- First Section of the High Chamber of the Mexican Administrative Court on November 15th, 2012, compulsory after its Publication on February, 2013
- Case 14409/11
- Benefits of DTCs are not only subject to the demonstration of residence of the taxpayer, but also the accomplishment of other circumstances such as beneficial ownership

### Session 4
Royalties

**Chairs:** Alfred Storck
Cees Peters

### Kazakhstan (Tomas Balco)
- Supreme Court
- 3р-215/2013
- Royalty payments - beneficial ownership

### Turkey (Billur Yalti)
- 3rd Chamber of the Supreme Administrative Court, 10 February 2013
- E.2011/1367, K. 2013/1281
- Aircrafts leasing – qualification of leasing payments under TUR/US DTC

15:30 – 16:00
Coffee Break

16:00 – 18:00
Coffee Break

**Session 4**
Royalties

**Chairs:** Alfred Storck
Cees Peters

### Kazakhstan (Tomas Balco)
- Supreme Court
- 3р-215/2013
- Royalty payments - beneficial ownership

### Turkey (Billur Yalti)
- 3rd Chamber of the Supreme Administrative Court, 10 February 2013
- E.2011/1367, K. 2013/1281
- Aircrafts leasing – qualification of leasing payments under TUR/US DTC

15:30 – 16:00
Coffee Break
Spain (Adolfo Martín Jiménez)
Supreme Court 28 February 2013 and 19 March 2013
rec. n. 2773/2010
Changes in the domestic definition of royalties upon the withholding tax rates applicable to payments for the use of software in the context of the ESP/US DTC.

India (D.P. Sengupta)
Kolkata Tribunal decision, April 12, 2013
Right Florist Pvt Ltd: 2013-TII-ITAT-KOL-INTL
Advertisement revenues of search engines not royalty- Effect of reservations

India (D.P. Sengupta)
Madras High Court decision, November 7, 2013
Verizon Communications Singapore Pte Ltd: 2013-TII-48-HC-MAD-INTL
Provision of bandwidth service outside India is royalty

India (D.P. Sengupta)
Mumbai Tribunal decision, February 12, 2013
Siemens Ltd: 2013-TII-34-ITAT-MUM-INTL
Services rendered without human intervention not fee for technical services

19:30 Dinner at Faculty Club of Tilburg University

Saturday, May 24, 2014

Session 5 Labour income
08:30 – 10:30 Chairs: Alexander Rust
Michael Lang

Austria (Kasper Dziurdź)
Austrian Supreme Administrative Court 22 May 2013
No. 2009/13/0031
Definition of “employer” under AUT/SK DTC

Finland (Marjaana Helminen)
Supreme Administrative Court 16 May 2013
KHO 2013/1704(93)
Employment option benefits

Israel (Yariv Brauner)
The Tel Aviv District Court
Agudat Macabbi Rishon le’tzion
Relation between employment article and sportsmen article
United States (Yariv Brauner)
The United States Tax Court Garcia
Allocation of payments a professional golfer received for royalties and personal services under an endorsement contract

United Kingdom (Philip Baker)
First Tier Tribunal (Tax), 10th October 2013 Macklin
Pensions – UK national retired in UK after career in World Bank in US

10:30 – 11:00 Coffee Break

Session 6 Other income, avoidance of double taxation and non-discrimination
11:00 – 12:30 Chairs: Yariv Brauner Eric Kemmeren

Sweden (Martin Berglund)
Supreme Administrative Court 6 June 2013 HFD 2013 ref. 23
Fictitious income

Belgium (Luc De Broe)
Supreme Court 15 March 2013 F.11.0137.N
Interpretation of the foreign tax credit clause of the BE/US treaty due to a subsequent change in domestic law

Sweden (Martin Berglund)
Supreme Administrative Court 7 May 2013 HFD 2013 ref. 34
Mitigation of double taxation and disparities

Portugal (João Nogueira)
Arbitration 26 November 2013 154/2013-T
Access by PT operating PE of a Brazilian company to the domestic mechanism for the elimination of economic taxation

Russia (Danil Vinnitskiy)
Federal Commercial Court of the North-West Region 18 September 2013 United-Bakers Pskov LLC/ Kellogg Group", A52-4072/2012
Thin capitalization rules between sister companies under RU/LUX DTC

12:30 – 14:00 Lunch Break
## Exchange of information, legal protection and retroactivity

**Chairs:** Daniel Smit  
Jacques Sasseville

| Switzerland (Michael Beusch) | Credit Suisse  
BGE 139 II 404 |
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<tbody>
<tr>
<td><strong>Federal Supreme Court, 5 July 2013</strong></td>
<td>Group request DTC CH/USA</td>
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| Luxembourg (Werner Haslehner) | Group request DTCH/USA  
CA 33118C |
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<tbody>
<tr>
<td><strong>Cour Administrative 24 September 2013</strong></td>
<td>Clarification regarding ‘forseeable relevance’ of requested information</td>
</tr>
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| Liechtenstein (Martin Wenz) | Group request DTCH/USA  
CA 33118C |
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<td><strong>Constitutional Court 3 September 2013</strong></td>
<td>Taxpayer’s right to be informed of exchange of information request, relevance of OECD Commentary</td>
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| Liechtenstein (Martin Wenz) | Group request DTCH/USA  
CA 33118C |
|-----------------------------|-----------------|
| **Constitutional Court 23 November 2012**  
**Supreme Administrative Court 20 September 2012** | Legal protection in requested state |

| Portugal (João Nogueira) | Group request DTCH/USA  
CA 33118C |
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<tr>
<td><strong>Supreme Administrative Court 23 October 2013</strong></td>
<td>Right to be notified in the requested state</td>
</tr>
</tbody>
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| Australia (João Nogueira) | Group request DTCH/USA  
CA 33118C |
|-----------------------------|-----------------|
| **Federal Court of Australia 8 October 2013**  
Hua Wang Bank (No 7) [2013] FCA 1020 | The ability to use information collected from the Cayman Islands |

| Canada (David Duff) | Group request DTCH/USA  
CA 33118C |
|-----------------------------|-----------------|
| **Federal Court 29 May 2013**  
Switzerland (Michael Beusch)

Federal Administrative Court 17  A/4232-2013
December 2013
Exchange of information; retroactivity

Sessions will take place in Room **DZ 2** at Dante Building at Tilburg University Campus (Warandelaan 2, 5037 AB, Tilburg).