

PROGRAM

Conference

"TAX TREATY CASE LAW AROUND THE GLOBE"

Tilburg University,
June 14 – 16, 2012, Tilburg, The Netherlands

Thursday, June 14, 2012

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

Friday, June 15, 2012

Session 1 **Scope, interpretation and residence**
08:30 – 10:30 *Chairs:* Eric Kemmeren
Michael Lang

Australia (Graeme Cooper)

Full Federal Court of Australia 4 February 2011	Russell v Commissioner of Taxation
Business profits, supremacy of treaties, existence and extent of inconsistency with domestic anti-abuse rule	

Belgium (Luc de Broe)

Supreme Court, 27 January 2011 and 17 March 2011	Fisc. Int, 2011, no. 311
Effect of interpretative agreement Belgium/France	

Belgium (Luc de Broe)

Court of Appeals of Antwerp 21 June 2011	TFR 2011/62
Qualification whether there is an employment agreement	

Rep. South Africa (Jennifer Roeleveld)

Cape Town High Court, 2011	TLD v CSARS, No. 12432
Place of effective management	

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Switzerland (Daniel de Vries)

Federal Administrative Court 7 September 2011	Madeira case, No. A- 813/2010
Tax treaty residence & tax liability	

Romania (Aurelian Opre)

Court of Appeal Timisoara, 2011	No. 112
Tax residence certificate	

10:30 – 11:00

Coffee Break

Session 2

11:00 – 12:30

Permanent establishment

Chairs: Peter Essers
Graeme Cooper

Czech Republic (Danuše Nerudová)

Supreme Administrative Court 13 January 2011	No. 9 Afs 66/2010-189
Service PE	

Greece (Katerina Perrou)

Supreme Administrative Court 16 March 2011	No. 838/2011
Construction PE	

Italy (Pasquale Pistone)

Supreme Court 22 July 2011	No. 16106/2011
Italian subsidiary as PE of non-Italian parent	

Norway (Frederick Zimmer)

Supreme Court 2 December 2011	Dell, No. HR-2011-02245-A
Agency PE	

12:30 – 14:00

Lunch Break

Session 3

14:00 – 16:00

Business profits and capital gains

Chairs: Alfred Storck
Frans Vanistendael

France (Marilyne Sadowsky)

Supreme Court 11 July 2011	No. 317024 plén., Sté Quality Invest
What are the rules for taxing non-residents partners of partnerships?	

Germany (Alexander Rust)

Federal Finance Court 4 May	II R 51/09, IStR 2011, 635;
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2011; Federal Finance Court 25 May 2011	II R 95/10, IStR 2011, 688
Passive income earned by a partnership (qualified as business income under domestic law) also business income under applicable DTC?	

Kazachstan (Tomas Balco)

Specialized Interdistrict Economic Court, 21 January 2011	Nº2-104/6-11
Regional court of Atyrau, 10 February 2011	Nº 2κ-50/2011
Allocation of head-office expenses to PE (Germany and US Tax Treaties with Kazakhstan)	

Australia (Graeme Cooper)

Full Federal Court of Australia 1 June 2011	Commissioner of Taxation v SNF (Australia) Pty. Ltd.
Transfer pricing	

Canada (Jacques Sasseville)

Supreme Court 13 May 2011	No. 2007-2583(IT)G, Somerer and The Queen
Capital gains	

India (Philip Baker)

Supreme Court 20 January 2012	Vodafone International Holdings B.V. v. Union of India & Anr. [S.L.P. (C) No. 26529]
Capital gains	

16:00 – 16:30

Coffee Break

Session 4

16:30 – 18:00

Dividends, interest & beneficial ownership

Chairs: Roland Brandsma
Luc de Broe

Italy (Pasquale Pistone)

Supreme Court 15 April 2011	No. 8621/2011
Inter-company dividends, relation with EU PSD, refund of WHT	

Turkey (Hakan Üzeltürk)

3 rd office of Council of State 17 January 2011	Bosch v Turkish Revenue Administration, No. 2011/13
Concept of dividends	

Czech Republic (Danuše Nerudová)

Supreme Administrative Court 10 June 2011	No. 2 Afs 86/2010-141
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Beneficial ownership

Denmark (Søren Friis Hansen)

Danish High Court, December 2011	No. SKM20012.121ØLR
Beneficial ownership	

Switzerland (René Matteotti)

Federal Administrative Court, 10 January 2010	UBS, No. A-6053/2010
Notion of 'beneficially owned' in the context of mutual administrative assistance in tax matters	

19:30

Dinner at Faculty Club of Tilburg University

Saturday, June 16, 2012

Session 5

08:30 – 10:30

Royalties and labour income

Chairs: Peter Essers
Jacques Sasseville

Portugal (João Félix Nogueira)

Supreme Administrative Court 2 February 2011	No. 621/09
Meaning of 'royalties' and payments for software	

Australia (Graeme Cooper)

Federal Court of Australia 12 April 2011	International Business Machines Corporation v Commissioner of Taxation
Meaning of 'royalty' and software license agreement	

United States (Yariv Brauner)

US Tax Court 9 June 2011	Retief Goosen v. Commissioner, 136 T.C. No. 27 (2011)
Professional golfer – qualification of endorsement fee	

The Netherlands (Eric Kemmeren)

Supreme Court 15 April 2011	No. 10/00990
Exit taxation and pensions; tax treaty override?	

10:30 – 11:00

Coffee Break

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Session 6
11:00 – 12:30

Avoidance of double taxation and mutual assistance

Chairs: Pasquale Pistone
Philip Baker

Finland (Marjaana Helminen)

Supreme Administrative Court 2011	
Credit method and losses	

France (Marilyne Sadowsky)

Supreme Court 29 June 2011	No. 320263, 3 ^e et 8 ^e s.-s., min. c/ Chauvin
What is the scope of the clause eliminating the double taxation of wages in the Franco-American tax treaty?	

The Netherlands (Daniël Smit)

Supreme Court 17 June 2011	No. 10/00076
Credit for foreign WHT on interest; impact of currency loss on loan receivable	

Rep. South-Africa (Jennifer Roeleveld)

High Court 22 November 2011	CSARS v Werner van Kets
Who is the person from whom which information can be extracted?	

United States (Yariv Brauner)

Ninth Circuit Court of Appeals, 2011	Aloe Vera of America, Inc., et al v. U.S.A., Case: 10-17136
Exchange of information & taxpayer protection	

12:30 – 14:00

Lunch Break

Session 7
14:00 – 16:30

Non-discrimination

Chairs: Daniël Smit
Yariv Brauner

Russia (Danil V. Vinnitskiy)

Supreme Commercial Court 15 November 2011	Severny Kusbuss, No. 8654/11
Thin Capitalization	

Spain (José Manuel Almudi CID)

Supreme Court 2 November 2011	No. 3181/2007
Thin capitalization	

Sweden (Bertil Wiman)

Administrative Supreme Court 30 November 2011	Nos. 7648-09, 7649-09, 4348-10, 4797-10, 4798-10 and 4800-10
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Non-deductibility of interest payments
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Canada (Jacques Sasseville)

Supreme Court 14 January 2011	No. 2008-2540(IT)G, Saipem UK Limited and The Queen
Transfer of losses	

United Kingdom (Philip Baker)

Court of Appeal 14 October 2011	FCE Bank, No. [2011] EWCA Civ 1156
UK group relief	

United Kingdom (Philip Baker)

First Tier Tribunal 19 December 2011	Hutchison, No. [2011] UKFTT 838 (TC)
UK group relief	

Germany (Alexander Rust)

Federal Finance Court 9 February 2011	I R 54, 55/10, IStR 2011, 345
Cross-border group consolidation	

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

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