

Sweden (Martin Berglund)

Swedish Board for Advance Tax Rulings 12 June 2013; Supreme Administrative Court 6 December 2013	No. 125-11/D; No. 4890-13
Whether a computer server can constitute a permanent establishment	

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	

10:00 – 10:30

Coffee Break

Session 2

10:30 – 12:30

Business profits and personal independent services

Chairs: Philip Baker
Alfred Storck

France (Alexandre Maitrot de la Motte)

Conseil d'Etat 1 October 2013	351982, Sté BNP Paribas
Profit attribution to PE under FR/UK DTC; gain resulting from borrowing transactions and currency swap	

Netherlands (Eric Kemmeren)

Dutch Supreme Court 6 December 2013	12/00252
Income from former research under NL/UK DTC and fixed base	

Germany (Alexander Rust)

Bundesfinanzhof of 1 October 2012	I R 75/11, IStR 2013, 109
Hidden profit distributions under DE/NL DTC and transfer pricing	

Canada (David Duff)

Tax Court of Canada 13 December 2013	Mckesson Canada Corp. v. The Queen, 2013 TCC 404 (TCC)
Limitation period for transfer pricing adjustment CAN/LUX DTC	

Denmark (Søren Friis Hansen)

Supreme Court 3 October 2013	SKM2013.699HR
Article 9 of the DK/ CZ DTC (Arm's length) in connection with a debt converted into share capital in a Czech company	

Czech Republic (Danuše Nerudová)

Supreme Court 28 March 2013	2 Afs 71/2012-87
Thin capitalization rules comprised in CZ/UK DTC; associated enterprises	

12:30 – 14:00

Lunch Break

Session 3

14:00 – 15:30

Dividends, beneficial ownership and capital gains

Chairs: David Duff
Pasquale Pistone

Netherlands (Daniël Smit)

Dutch Supreme Court 22 March 2013	11/05599
Disposal of Dutch real estate under NL/LUX DTC; exit taxation	

France (Alexandre Maitrot de la Motte)

Conseil d'Etat, 29 April 2013	357576, Mr. Picart
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	

15:30 – 16:00

Coffee Break

Session 4
16:00 – 18:00

Royalties

Chairs: Cees Peters
Danuše Nerudová

Kazachstan (Tomas Balco)

Supreme Court	3r-215/2013
Royalty payments - beneficial ownership	

Turkey (Billur Yalti)

3 rd 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	

Spain (Adolfo Martín Jiménez)

Spanish Administrative Central Court of 30 October 2013	
Recharacterization of part of the price for paid for goods as royalties and use of secret comparables to calculate what part of the price was paid for the use of a trade mark.	

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

08:30 – 10:30

Labour income

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	

10:00 – 10:30

Coffee Break

Session 6

10300 – 12:30

Other income, avoidance of double taxation and non-discrimination

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

Session 7
retroactivity

14:00 – 16:30

Exchange of information, legal protection and

Chairs: Daniël Smit
Jacques Sasseville

Switzerland (*Michael Beusch*) Stefano Bernasconi

Federal Supreme Court, 5 July 2013	Credit Suisse BGE 139 II 404
Group request DTC CH/USA	

Luxembourg (Werner Haslehner)

Cour Administrative 24 September 2013	CA 33118C
Clarification regarding 'foreseeable relevance' of requested information	

Liechtenstein (Martin Wenz)

Constitutional Court 3 September 2013	2012/106
Fishing expedition	

Luxembourg (Werner Haslehner)

Cour Administrative 2 May 2013	CA 32184C
Taxpayer's right to be informed of exchange of information request, relevance of OECD Commentary	

Liechtenstein (Martin Wenz)

Constitutional Court 23 November 2012 Supreme Administrative Court 20 September 2012	2012/166 and VGH 2012/099
Legal protection in requested state	

Portugal (João Nogueira)

Supreme Administrative Court 23 October 2013	01361/13
Right to be notified in the requested state	

Australia (João Nogueira)

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)

Federal Court 29 May 2013	Teletch Canada Inc. v. Minister of National Revenue, 2013 FC 572, 2013 D.T.C. 5110, [2013] 5 C.T.C. 104
Judicial review of a taxpayer's request for competent authority assistance under the CAN/US DTC	

Switzerland (*Michael Beusch*) Salome Zimmerman

Federal Administrative Court 17 December 2013	A/4232-2013
Exchange of information; retroactivity under CH/INDIA DTC	

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