



# Annual report 2012





# Contents

<b>1. Introduction</b>	<b>5</b>
<b>2. Institutional affiliations</b>	<b>6</b>
<b>3. ACTL Research Programme: Tax Sovereignty versus Globalisation</b>	<b>7</b>
3.1 Background and objective	7
3.2. Research themes	7
3.3. Researchers	8
<b>4. Organisation</b>	<b>9</b>
4.1. General	9
4.2. Appointment ACTL prof. dr. Hein Vermeulen	9
4.3. Table ACTL Fte	9
4.4. ACTL Staff overview (including other employers)	10
4.5. Other activities	11
<b>5. Funding</b>	<b>12</b>
<b>New PhD researcher: Thidaporn Sirithaporn</b>	<b>12</b>
<b>6. Location and internet address</b>	<b>13</b>
<b>Interview with Professor dr. Hein Vermeulen</b>	<b>14</b>
<b>7. Activities in 2012</b>	<b>17</b>
7.1. ACTL conferences	17
7.2. ACTL courses	18
7.3. Key publications in 2012	19
<b>8. Research Output</b>	<b>20</b>
8.1. Academic publications	20
8.2. Professional publications	21
8.3. Presentations	24

# General information on the ACTL

A photograph of a meeting or conference. In the foreground, a man with curly brown hair, wearing a dark suit jacket, is speaking into a black microphone. He is looking towards the right. Behind him, several other men in suits are seated at a table. One man with glasses is looking towards the speaker. The table in front of them has water bottles, glasses, and papers. The background is a blurred wall with horizontal lines.

# 1. Introduction

The Amsterdam Centre for Tax Law, founded on 1 January 2009, is the tax law research centre of the University of Amsterdam.

Until 31 December 2008, the tax law research was conducted at the Amsterdam Centre for International Law (ACIL).

The object of the ACTL is to conduct thorough research into various areas of the national, international and European tax law, and to share the results of this research with society by means of publications and conferences.

## 2. Institutional affiliations

Within the University of Amsterdam, the ACTL is considered to be a Centre of Excellence. In that framework, the research of the ACTL belongs to the 'Private and Public European law priority area', which is one of the Amsterdam Law School research priority areas.

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT), a collaboration between the ACTL and researchers from Lisbon University (Portugal), Lund University (Sweden), Vienna University (Austria), Johannes Kepler University of Linz (Austria), European University Institute (Italy) and the University of Salerno (Italy), and is to be found at [www.greit-tax.eu](http://www.greit-tax.eu).

Outside the EU, the ACTL co-operates with universities from different parts of the world, such as the New York University (NYU - USA), FGV Rio (Brazil) and the Financial University of Moscow (Russia).

# 3 ACTL Research Programme: Tax Sovereignty versus Globalisation

## 3.1 Background and objective

Globalisation of world trade is characterised by progressive liberalization and regulation of trade between States and by formation and expansion of multilateral trade cooperation bodies, such as the World Trade Organization (WTO), the Organisation for Economic Cooperation and Development (OECD), the European Community, NAFTA and Ecosur. Taxation, which still is a largely national sovereignty, particularly in direct taxes, may conflict with these organisations' objects, especially as regards free movement of goods, services, persons and capital. The free movement rights enshrined in the treaties founding these organizations and the standards set by them in hard law (e.g. EU-directives) and soft law (e.g. recommendations), have their impact on national taxation. This also applies to bilateral tax treaties concluded between States. Although bilateral tax treaties can also be considered an expression of tax sovereignty, at the same time they limit the tax jurisdiction of the contracting States. European law especially limits the (tax) sovereignty of Member States.

Globalisation and free movement rights have as consequence that goods, services, persons and capital can move faster and to more destinations. On the one hand, this gives rise to the prospect of taxpayers trying to relocate their tax bases to jurisdictions with lower taxation, or to have them 'disappear' by international mismatches. States take all kinds of measures to protect their

tax base. On the other hand, relocation of the taxpayer leads to 'tax competition' arising between States. Member States endeavour to make various aspects as attractive as possible (special regimes, low rates, advance certainty about tax position, etc.).

The aim of this research project is twofold: (i) to establish the limits on national tax sovereignty and tax jurisdiction set by international and supranational law, and (ii) to assess whether these limits should be narrowed or broadened on the basis of criteria such as level playing field, interjurisdictional equity, free movement of persons and capital, budgetary stability, tax base integrity and fair interstate policy competition. The emphasis in the research program lies on European law in light of its major influence on national and bilateral tax law in the EU. In this respect, a distinction is drawn between the impact of the EU Treaty freedoms (theme 2) and the impact of the various harmonisation measures in the area of tax law within the EU (theme 3).

## 3.2. Research themes

The research program is divided into three related and partly overlapping research themes: double tax treaties, the EC treaty freedoms and the EC directives in the area of direct and indirect tax law. These three bodies of law all limit the tax sovereignty and/or the tax jurisdiction of the Member States.

### Research theme 1: Influence of double tax treaties on tax sovereignty

Double taxation treaties can be considered an expression of tax sovereignty. By concluding tax treaties, the States can limit and allocate their tax jurisdiction. In some States (for example, in the United States, Canada, Germany and Denmark), this limitation and allocation of the tax jurisdiction can be unilaterally overridden by national law (tax treaty override). Tax treaties are generally bilateral and provide for the avoidance of double taxation on income and capital, or on inheritance and gift tax. Theme 1 focuses on the bilateral tax treaties for the avoidance of double taxation on income and capital. These treaties are generally concluded on the basis of the model convention issued by the OECD.

On the basis of a bilateral tax treaty, the state of residence of a taxpayer has the obligation, generally, either to exempt the income or capital which may be taxed in the state of source of the income or capital, or to credit the tax of the state of source, in situations where the state of source is allowed to tax the income or capital under the treaty. Research Theme 1 will explore the extent to which tax jurisdiction is limited by those treaties. Issues that will be researched include:

- i) The status in public international law of the official OECD Commentary to the Model Convention and the relevance thereof as a means of interpretation of treaties following the Model Convention;

- ii) The relevance of national law of both States party to a bilateral treaty, both anterior and posterior law (i.e. prior to or after concluding the treaty, respectively) for the interpretation of these bilateral tax treaties;
- iii) The relevance of justified expectations of both the contracting States and their residents for the interpretation of these bilateral tax treaties;
- iv) The possibility to fight treaty abuse by taxpayers (the doctrines of *fraus conventionis* or *fraus tractatus*)
- v) The phenomenon of tax treaty override.

#### Research theme 2: Influence of EC treaty freedoms on tax sovereignty

Tax sovereignty is limited by EC law. As regards direct taxes (e.g. income tax and corporation tax) this is predominantly due to the EC treaty freedoms. Although the tax sovereignty of Member States in the field of direct taxation is in general recognised by the ECJ, the ECJ case law has a huge impact on direct taxation. Research Theme 2 will explore the extent to which the tax sovereignty is limited by the EC treaty freedoms.

Issues that will be researched include:

- i) The issue whether and under which circumstances it may be prohibited to grant differential treatment to taxpayers of various Member States ('most favoured nation tax treatment' within the EU);
- ii) The influence of the EC treaty freedoms on the prevention of double taxation;
- iii) The influence of Community law on the tax treatment of a permanent establishment (i.e. a branch of an enterprise in another Member State) as compared to a resident company;

iv) The correct balance between free movement within the EC and the right to levy tax, especially as regards the following questions:

- Does the Court of Justice assume competence in tax matters not covered by the attribution system of the EC Treaty?
- What balance does the EC Court of Justice strike between free movement and tax sovereignty?
- Do the usual discrimination and restriction concepts of the ECJ suffice to assess national tax measures applying to cross border situations which by their nature have no look-alike in purely internal situations, such as arm's length transfer pricing rules, controlled foreign corporations rules and thin capitalization rules? Is there a fourth concept (dislocations) in between disparities on the one hand and discriminations and restrictions on the other?
- Does the Court of Justice leave sufficient room for the curbing of international tax avoidance? (tax base integrity)
- What function and scope do the justifications for tax impediments have which the ECJ *in abstracto* allows, such as especially the fiscal territoriality principle, the concept of fiscal coherence, and the necessity of a balanced allocation of taxing powers?

#### Research theme 3: Influence of EC directives on tax sovereignty

Disparities between national tax laws are an impediment to the common market. These impediments may be removed by positive integration. This has been done in the area of indirect taxation

(e.g. VAT). There are, however, only few harmonisation measures in the field of direct taxation. Research theme 3 will explore the correct scope and interpretation of the various EC directives in the area of direct and indirect tax law, including the interpretation of the sixth VAT Directive, and the interpretation of the various directives in the area of direct taxation (the Merger, Interest and Royalty, Parent-Subsidiary and Savings Directives). Furthermore, this theme will assess the (un) desirability of harmonization or uniforming of detailed areas of national taxation, such as Cross border loss relief facilities, treatment of real estate, Home State taxation, Common Consolidated Corporate Base taxation, EU profits tax, dividend tax, etc.

### 3.3. Researchers

The research within this project is to be carried out by researchers who combine their scientific and practical experience in tax law with an in-depth knowledge and practical experience of international and European law. This permits conducting in-depth research at the intersection of international and European law and tax law.

# 4. Organisation

## 4.1. General

The director of the ACTL is prof. dr. Dennis Weber. Astrid Cornelisse MA is the management-assistant of the ACTL.

In 2012, the programme comprised 24 researchers (6.72 Fte). One new full-time PhD researcher, Thidaporn Sirithaporn, has strengthened the ACTL, and one junior researcher (mr. I.M. de Groot) and one senior researcher (dr. J. Wheeler), have become members of the ACTL in 2012. Dr. Hein Vermeulen has been appointed as a Professor at the Faculty of Law of the University of Amsterdam, as of November 1, 2012 (for more information see below and the interview on page 15-17).

## 4.2. Appointment ACTL prof. dr. Hein Vermeulen

Dr. Hein Vermeulen has been appointed as a Professor at the Faculty of Law of the University of Amsterdam, as of November 1, 2012. The appointment is on behalf of the Amsterdam School of Real Estate ('ASRE') of the University of Amsterdam. His research will focus on the tax aspects of collective investment vehicles ('CIVS') and Real Estate Investment Trusts ('REITS'), in the context of international tax law and EU tax law. This research is embedded in the Research Programme of the ACTL. Hein Vermeulen lectures corporate tax law and international tax law at the University of Amsterdam. He publishes regularly in both national and international journals. He is the author of the book on the Dutch

Fiscal Investment Fund regime (Kluwer Law 2012) and was Secretary to the Commission on CIVS of the Dutch Association for Fiscal Sciences that delivered a Report recently (Kluwer Law 2012).

## 4.3. Table ACTL Fte

Research staff 'Tax Sovereignty versus Globalisation'

Name and present title		Fte
<b>Professors (7)</b>	prof. dr. R.P.C. Cornelisse	0.24
	prof. dr. O.C.R. Marres	0.16
	prof. dr. B.J.M. Terra	0.00
	prof. dr. H. Vermeulen	0.16
	prof. dr. P.J. Wattel	0.08
	prof. dr. D.M. Weber	0.20
	prof. dr. S. van Weeghel	0.08
<b>Assistant professors (9)</b>	dr. M. van Dun	0.00
	mr. I.M. de Groot	0.16
	mr. A.L. Mertens	0.00
	mr. dr. S.J. Mol-Verver	0.32
	mr. drs. W.A.P. Nieuwenhuizen	0.00
	dr. E. Poelmann	0.16
	mr. dr. J.L. van de Streek	0.32
	dr. J. Wheeler	0.24
dr. W. de Wit	0.00	
<b>PhD researcher (8)</b>	Reinout de Boer	0.00
	Shu Chien Chen	0.80
	Marieke Koerts	0.00
	Roel Monteiro	0.40
	Martijn Nouwen	0.40
	Bruno da Silva	1.00
	Thidaporn Sirithaporn	1.00
	Rita Szudoczky	1.00
<b>Total research staff (24)</b>	<b>6.72</b>	



#### 4.4. ACTL Staff overview (including other employers)

Director

**Prof. dr. D. (Dennis) M. Weber**

- Professor European Corporate Tax law
- Loyens & Loeff

Management-assistant ACTL  
**A. (Astrid) J. Cornelisse MA**

Professors

**Prof. dr. R. (Rob) P.C. Cornelisse**

- Professor tax law
- Loyens & Loeff

**Prof. dr. O. (Otto) C.R. Marres**

- Professor Integrity of the corporate tax base
- Tax lawyer at KPMG Meijburg & Co
- Deputy judge at the Court of Appeals of the Hague

**Prof. dr. B. (Ben) J.M. Terra**

- Professor Indirect Taxation University of Amsterdam and Lund (Sweden)

**Prof. dr. H. (Hein) Vermeulen**

- Professor Corporate Taxation
- PricewaterhouseCoopers

**Prof. dr. P. (Peter) J. Wattel**

- Professor European Tax Law
- Advocate-General Netherlands Supreme Court
- Member of the board of trustees, Europäische Rechtsakademie, Trier (Germany)

**Prof. dr. S. (Stef) van Weeghel**

- Professor International Tax Law
- PricewaterhouseCoopers

Assistant professors

**Dr. M. (Michel) van Dun**

- Assistant professor International Tax Law
- Judge at the Court of Appeals of 's-Hertogenbosch

**Mr. I. (Isabella) M. de Groot**

- Assistant professor Income Taxation and Corporate Taxation
- Tax Knowledge Center KPMG Meijburg & Co

**Mr. A. (Ton) L. Mertens**

- Assistant professor Income Taxation and Employment Taxes
- Independent tax lawyer
- Deputy judge 's-Hertogenbosch Tax Court of Appeals

**Mr. dr. S. (Suzanne) J. Mol-Verver**

- Assistant professor Corporate Taxation and Income Taxation

**Mr. drs. W. (Wilbert) A.P.**

**Nieuwenhuizen**

- Assistant professor VAT
- Nieuwenhuizen BTW adviseurs

**Dr. E. (Eric) Poelmann**

- Assistant professor Formal Tax Law
- Tax inspector

**Mr. dr. J. (Jan) L. van de Streek**

- Assistant professor Corporate Taxation
- Ernst & Young

**Dr. J. (Joanna) Wheeler**

- Researcher ACTL
- Senior Principal Research Associate IBFD

**Dr. W. (Walter) de Wit**

- Assistant professor European Tax Law and Indirect Taxation
- Ernst & Young

**PhD-researchers**

- R. (Reinout) A. de Boer
- S. C. (Shu Chien) Chen
- M. (Marieke) Koerts
- W. (Roel) W. Monteiro
- M. (Martijn) F. Nouwen
- B. (Bruno) F.A. da Silva
- T. (Thidaporn) Sirithaporn
- R. (Rita) Szudoczky

**4.5. Other activities**

Membership of editorial/advisory board of academic publications and/or academic associations, etc.

**R.P.C. Cornelisse**

- Editorial board Fiscaal Tijdschrift FED
- Editorial board Maandblad Belastingbeschouwingen

**O.C.R. Marres**

- Editorial board Nederlands Tijdschrift Fiscaal Recht
- Editorial board Nederlandse Documentatie voor Fiscaal Recht

**A.L. Mertens**

- Chair committee 'Loosomheffing' Vereniging voor Belastingwetenschap

**E. Poelmann**

- Editor Tijdschrift voor formeel belastingrecht, Sdu
- Editor in chief, Almanak formeel belastingrecht, Reed Business - Amsterdam
- Editor in chief, Jurisprudentie formeel belastingrecht 2012/2013, Den Haag: Boom fiscale uitgevers 2012
- Member onderwijsadviesraad HvA/opleiding FRE

**J.L. van de Streek**

- Member of the editorial board of tijdschrift Fiscale Berichten voor het Notariaat (FBN).

**R. Szudoczky**

- IFA, Hungarian Branch

**H. Vermeulen**

- Editor Real Estate Review, Tax and Civil Law (Vastgoed Fiscaal & Civiel)
- Editor Fiscal notes for the notary public (Fiscale Berichten voor het Notariaat)

- Secretary, Commission on Collective Investment Vehicles of the Association of Tax Law Researchers (Vereniging voor Belastingwetenschap).

- Chair of the Programme Committee Tax Law of the Amsterdam Law School.

**P.J. Wattel**

- Editor, Netherlands Law Review (Nederlands Juristenblad)

**D.M. Weber**

- General editor of Highlights & Insights on European Taxation
- Coordinator of the International and European Tax Law program of the Nederlandse Orde van Belastingadviseurs (Netherlands Association of Tax Lawyers: NOB);
- Board member of the NOB's European tax law section;
- Lecturer in the European Tax Studies-course at the Erasmus University Rotterdam (direct and indirect taxation)
- Lecturer at the International Tax Center of Leiden (adv. LL.M Program in International Taxation)
- Lecturer at the Wirtschaft Universität Wien in Vienna
- Board member of the Group for European and International Taxation (GREIT)

**S. van Weeghel**

- Chair of the Dutch branch of the International Fiscal Association
- Member of the permanent scientific committee of the International Fiscal Association
- Chairman of the Board of Trustees International Bureau for Fiscal Documentation

# 5. Funding

Most of the research in this programme is funded from the first flow of funds (government funds). In addition, ACTL conferences are usually sponsored due to which these remain cost-neutral.

As of 2010, the ACTL organizes a Winter Course on European Tax Law in order, amongst others, to be less dependent on government funds or sponsors.

## New PhD researcher: Thidaporn Sirithaporn



Thidaporn Sirithaporn, known as Thida, obtained her LL.B. (first class honours) from Chulalongkorn University, Thailand, in 2003, where she majored in business law. After obtaining her bachelor degree she obtained her LL.M.'s from both the University of Cambridge, in 2005, and the University of Virginia, in 2006. Her studies focused on business law with an emphasis on competition laws. In 2008, Thida was appointed as a permanent member of the law faculty at Chulalongkorn University and taught a number of undergraduate and graduate law courses. She was appointed as the deputy director of the Finance and Tax Law LL.M. programme in 2009. In this capacity she had the opportunity to be part of a number of research projects for departments of the Thai government.

Since September 2012, Thida has taken up a doctoral research position at the University of Amsterdam. At the Amsterdam Centre for Tax Law her research will focus on the influence of regional tax integration on national tax sovereignty, with the core objective of trying to establish sound principles for a regional tax regulatory framework model within ASEAN, drawing from the experiences of the European Union. The significance of the thesis will therefore be to examine this dynamic and contribute to the extant literature relating to tax integration frameworks for regional trading blocs. It would also attempt to provide practical and reasoned proposals for relevant ASEAN authorities.

# 6 Location and internet address

## **Address ACTL**

University of Amsterdam (UvA)  
Amsterdam Centre for Tax Law (ACTL)  
Nieuwe Doelenstraat 15  
1012 CP Amsterdam

The ACTL internet page is [www.actl.uva.nl](http://www.actl.uva.nl). This page is updated regularly. Publications of ACTL members are announced and free publications and downloads are made available.

The ACTL has a group on LinkedIn ([www.linkedin.com](http://www.linkedin.com)). Persons who are interested in the activities of the ACTL are kept up to date. At the end of 2012, the group had over 1500 members.



A portrait of Hein Vermeulen, a man with dark hair, wearing a dark suit jacket over a light blue shirt. He is standing with his arms crossed, looking directly at the camera with a slight smile. The background is dark and out of focus.

# Interview with

Hein Vermeulen was appointed Professor of International Tax Aspects of Collective Investment Institutions at the Faculty of Law of the University of Amsterdam (UvA), on 1 November 2012. The chair is endowed by the UvA's Amsterdam School of Real Estate (ASRE). His research will focus on the tax aspects of Collective Investment Vehicles ('CIVs') and Real Estate Investment Trusts ('REITs'), in the context of international tax law and EU tax law. This research is embedded in the research programme of the Amsterdam Centre for Tax Law.

# Professor dr. Hein Vermeulen

In this interview, Vermeulen gives a glimpse into the workings of the ACTL and his recent appointment. This is guided by the two leitmotifs of his work at the UvA, ACTL and ASRE. The second part of this interview can be read on our website: [www.actl.uva.nl](http://www.actl.uva.nl).

## Ambitions

*What are your further ambitions now that you have been appointed professor?*

Well, a lot! This is only the beginning, really. I have a teaching and research remit that I want to develop, which is pretty ambitious. That is my primary responsibility. Besides wanting to do a lot more here at the University, I would like to write two books about different forms of Dutch CIVs. Also, in light of my remit, which focuses on international and European tax law, I aim to seek cooperation with foreign colleagues, foreign academics in particular, who conduct research on CIVs. For example, I am writing a comparative law study about the U.S. REIT and the Dutch REIT with a colleague from NYU School of Law. The final aim is to organise a conference with him at the ACTL sometime next year. You try to learn from one another, to compare and ultimately, I intend to link a conference to this project. So, it is not only cooperation in writing an article, you also have the opportunity to come together and discuss the subject, and even invite other parties to join the discussion. This discussion is centred on the fact that there are certain flaws in the set-up of CIVs. We hope to come to a certain conclusion, by learning from other countries, and reassure the authorities that the solution is not abuse. Because that is constantly the theme of interest of the tax authorities. What you want is a

deviation from the normal application of the law. Because, if you apply the law 'normally', the investment through a CIV will turn out unfairly, that is a given. The legislature wants to address this problem because the economic reality is that we all have to save up for the future. That is why provisions have been made in corporate tax law, to make sure that the double taxation that occurs when you invest collectively, instead of individually, is alleviated. We chose a solution for this problem in the 1940s and 1970s, but now it may be time for revision. Only, the fear is, because you would deviate from normal law, you give a party a certain facility, that the wrong parties would take advantage of it. The legislature wants to be certain that a revision of the law will not turn out badly. That is why it is so great that I can now do thorough research, so that the legislature can build on evidence-based recommendations. Another project I am working on, although I have not been able to do much for it yet because of my upcoming inaugural lecture, is a collaboration with Oxford, WU Vienna, Complutense University of Madrid, Mendel University (Czech Republic), Corvinus University of Budapest, Sacro Cuore Catholic University (Italy) and the IBFD, about the Financial Transaction Tax (FTT). The initiative for this joint effort has attracted some renowned institutions, Oxford and the ACTL of course! Thus, in short, I have a remit of my own and plans for international cooperation. Lastly, another challenge would be to study the link between financial monitoring and tax law. Those are two separate languages really, regulatory law and tax law, while the latter is being linked more and more to the former. That is another thing I hope to focus on. So, enough

ambitions indeed! Furthermore, I will be supervising a PhD student, so that and international cooperation are both ways to improve my research effectiveness.

## CIVs

*Your field of research focuses on CIVs, amongst other things. What is so interesting about 'Collective Investment Vehicles'?*

Well, I can only give you a 'nerdy' answer to that! What is so interesting about CIVs? What I find most interesting is that you have to understand the basic rules and principles. You have to be familiar with corporate taxation, with income taxation, with international tax law and European tax law, and then look at it from my own point of view. So, I cannot say that I only work with one of these subjects, no, I have to understand them all, because they are all interconnected. And each time you look at it with a certain point of view, the viewpoint of the CIV. But, you might ask, why is that so interesting? Because of the dynamics. We think inside our own borders and see that there is double taxation when investing collectively. We do not want that, there is a certain principle of neutrality, and the conclusion is to treat it equally, although it is not an equal case. So, we deviate from the law, which we think works in the national context, but that leads to international, European problems. That is the dynamic I find so interesting.

The subject of CIVs is also socially relevant. In an ageing society and in a world where citizens no longer depend on the State, wealth accumulation is very important. In order for citizens to achieve that, a State has to make sure that in regulatory law and in tax law collective investment is well

organised. In Western Europe certainly, this is highly relevant. It is vital for a State to remove any obstacles that are in the way of citizens' investment. These obstacles are twofold. On the one hand, they result in people not investing, on the other hand, a fiscal obstacle results in needing more capital to reach the end level of capital for your retirement. Therefore, it is in the best interest of a State, and that is why they are all doing it, to make sure that there is a dispersion of capital and that it is not only limited to a select group. In short, although I personally find it interesting, it is also very relevant socially.

## Teaching

*Are you successful in transferring the dynamics of your field onto students when teaching?*

I try to transfer those dynamics by thinking about ways to teach and educate. So I think about didactical strategies of how to convey my message to students. In a way, I am already programmed to think about how I am going to explain a new subject, while reading it. I am also very much conscious of the fact that teaching is a real office. My sister, who holds a PhD in medical science, also teaches and I enjoy talking to her about it and copying her when she has learned something new. But most of all, I try to enliven my classes by telling students something about tax law in practice. About the dynamics of the real world and what you can read between the lines in study books. Sometimes I make use of current topics and events, by bringing various newspaper clippings to class. I do think it is really good to have a different world from the university; working in practice and being active in the academic world. How I see it is that everybody who works here



at the ACTL is eating in a candy shop, because next to this job we have another job. If you were to work here for five days a week the feeling would be different. We feel privileged to be here at the ACTL and to be able to brainstorm with one another, colleagues from the Big Four and reputable Law Firms, but also from the tax authorities, from the courts, including the Dutch Supreme Court. I find this a very energetic meeting place, where all kinds of ideas are exchanged, because of the fact that most people have another job. An extra job, so to speak. And, in my opinion, that is the reason why people are so glad to work here and why the atmosphere is so good. I myself go to work with a smile on my face. But if you miss that practical experience, you would have to find other ways to draw your relevance from. I do not believe that it is very attractive for students to have a teacher without a practical feeling. Another benefit is that the colleagues who work here at the ACTL are very efficient, which this

Annual Report proves. Colleagues here are ambitious and creative and find it a privilege to work for the ACTL, not to relax but to be part of that amazing flow of energy.

## Literature

*What issues do you think are underexposed in the literature about tax law in general, and about CIVs in particular?*

Many issues are underexposed in the literature, mainly the basics of CIVs. My intention is to close that gap. It is not so much the case that the international dimension or the problems with regard to EU law, the million-dollar question at the moment, concerning CIVs are underexposed. Those things are being pointed out in the literature and discussed, but what is lacking are the basics. The basics of CIVs, and what is lacking is a theoretical framework of CIVs, or rather the tax base of CIVs. Thus, in my research, I aim to give an answer to those questions and find the missing pieces of the puzzle. I hope to do that by writing two books, one about the 'fonds voor gemene rekening' (FGR), or Dutch fund for joint account. I would also like to write a book about the 'vrijgestelde beleggingsinstelling' (VBI), or Dutch exempt investment institution. These would be more or less similar to the book I published in 2012 on the Dutch fiscal investment institution (FBI). Perhaps not as long but rather, two serious works about those two themes, because that is what is lacking in the field of CIVs. Well, articles are being written, but there is a lot of room for improvement. In short, I hope to publish some extensive literature on the subject of CIVs, in the line of the book I wrote last year, entitled 'The regime for the fiscal investment institution'.

# 7. Activities in 2012

## 7.1. ACTL conferences

In 2012, the Amsterdam Centre for Tax Law (ACTL) organized six well-attended national and international conferences: i) EU Income Tax Law: Issues for the years ahead, ii) Toekomst van de fiscale beleggingsinstelling, iii) FATCA from a US and an EU perspective, iv) US International Taxation: Issues for the years ahead, v) The Tax Treatment of CIVs and REITs and vi) Symposium Vereenvoudiging formeel verkeer Belastingdienst.

### ACTL Conference 'EU Income Tax Law: Issues for the years ahead'

On 13 April 2012, the ACTL organized a conference on 'EU Income Tax Law: Issues For The Years Ahead'. Topics of the conference included: harmonisation of disparities, state aid, EU fundamental freedoms and emerging issues in EU tax law. The conference was chaired by Guglielmo Maisto and Dennis Weber. Speakers and moderators were: Peter Wattel (ACTL/Dutch Supreme Court), Klaus Sieker (Flick Gocke Schaumburg), Vincent Agulhon (Jones Day), Jan van de Streek (ACTL/Ernst & Young), Dennis Weber (ACTL/Loyens & Loeff), Raymond Luja (University of Maastricht), Pierpaolo Rossi (European Commission; Legal service), Eric Ginter (STC Partners; Paris), Rob Cornelisse (ACTL/Loyens & Loeff), Arne Møllin Ottosen (Kromann Reumert), Antonio Barba de Alba (Cuatrecasas), Sabine Kirchmayr (Leitner &

Leitner/University of Vienna), Guglielmo Maisto (Maisto e Associati), Pasquale Pistone (Vienna University of Economics and Business/University of Salerno), Bruno da Silva (ACTL/Loyens & Loeff) and Simon Whitehead (Dorsey & Whitney London).

### ACTL Conference 'Toekomst van de fiscale beleggingsinstelling'

On 18 April 2012, the ACTL organized a conference entitled 'Toekomst van de fiscale beleggingsinstelling'. Following the publication of the third edition of the Fiscal Monograph on the Dutch Fiscal Investment Fund regime, the ACTL organized a conference on this subject. The conference was chaired by Hein Vermeulen, who is also the author of the book on the Dutch Fiscal Investment Fund regime (Kluwer Law 2012). Speakers included: Paul Bongaarts (Gerechtshof 's-Hertogenbosch), Hans Janssen Dalen (Dufas), Bart van Raaij (Ministerie van Financiën), Marc Steinbusch (Robeco), Anja de Haan (Belastingdienst Amsterdam), Fleur Timmer (Belastingdienst Amsterdam), Hein Vermeulen (ACTL/PwC) and John Borsboom (Ernst & Young).

ACTL / NYU Conference 'FATCA from a US and an EU perspective', New York The NYU School of Law and the ACTL organized an afternoon conference entitled 'FATCA from a US and an EU perspective; Where are we now' on 21 June 2012 in New York City. The US Foreign

Account Tax Compliance Act (FATCA) will have a profound worldwide impact on various players in the financial sector including account holders, institutions, and governments. During this conference, a number of top specialists in this area presented their views on the state of affairs of the FATCA regulations. They did this from a US and an EU perspective. This conference was chaired by David Rosenbloom (NYU School of Law/Caplin & Drysdale) and Dennis Weber (ACTL/Loyens & Loeff). Speakers included: Alan Granwell (DLA Piper), Itai Grinberg (Georgetown University Law Center), Barbara Angus (Ernst & Young), Jesse Eggert (US Treasury), Otto Marres (ACTL/KPMG Meijburg), Barend Salemink (Rabobank Nederland) and Bert Zuijndendorp (European Commission).

ACTL / NYU Conference 'US International Taxation: Issues for the years ahead', New York The NYU School of Law and the ACTL organized an afternoon conference entitled 'US International Taxation - Issues for the years ahead' on 23 October 2012 in New York City. Subjects included an update on FATCA, non-discrimination under tax treaties, international tax policy and tax arbitrage. This conference was chaired by David Rosenbloom (NYU School of Law/Caplin & Drysdale) and Dennis Weber (ACTL/Loyens & Loeff). The list of speakers included: Jesse Eggert (US Treasury), Tom Prevost (Credit Suisse - New York), Bruno da Silva (ACTL), Michael Graetz

(Columbia Law School), Michiel van Kempen (Loyens & Loeff) and Peter Blessing (Shearman & Sterling).

### ACTL Conference 'The Tax Treatment of CIVs and REITs'

On 2 November 2012, the ACTL organized the conference 'The tax treatment of CIVs and REITs'. During the conference specialists from academia and practice discussed the 2008 and 2010 updates to the OECD MTC, adopting the CIV report and REIT report, and placed the treatment of CIVs and REITs in an EU tax law perspective. Future developments were also discussed. This conference was chaired by Hein Vermeulen (ACTL/PwC) and the list of speakers and moderates included: Raymond Adema (Groningen University/Deloitte), Peter Wattel (ACTL/Dutch Supreme Court), Patricia Brown (University of Miami/former OECD), Ronald Wijs (Loyens & Loeff/EPRA), Sjoerd Douma (Leiden University), Stef van Weeghel (ACTL), Erwin Nijkeuter (Rotterdam University/KPMG), Martijn Nouwen (ACTL/Ernst & Young), Gert-Jan van Norden (Tilburg University/KPMG), Luis Nouel (IBFD), Tomi Viitala (Ernst & Young), Dennis Weber (ACTL/Loyens & Loeff), Gijis Fibbe (Rotterdam University), Martin Vink (European Asset Management/PwC), Stefano Simontacchi (Bonelli Erede Pappalardo), Arnaud de Graaf (Rotterdam University/Ministry of Finance).

### ACTL Symposium 'Vereenvoudiging formeel verkeer Belastingdienst'

The ACTL organized the 'Symposium vereenvoudiging formeel verkeer Belastingdienst' on 9 November 2012. The subject of the symposium was the so-called 'ter internetconsulatie vrijgegeven

concept-wetsvoorstel met de gelijkkluidende naam'. The chair of this symposium was Suzanne Mol-Verver (ACTL). Speakers included: Robert Jan Koopman (Dutch Supreme Court), Martien Pelinck (Loyens & Loeff/University of Amsterdam), Eric Poelmann (ACTL/Belastingdienst) and Guido de Bont (De Bont Advocaten).

### Other activities

On 25 April 2012, Joanna Wheeler successfully defended her PhD thesis, written under the supervision of ACTL professor Stef van Weeghel, on the attribution of income to a person for treaty purposes. Her PhD "The Missing Keystone of Income Tax Treaties", is published by the IBFD.

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT), a collaboration between the ACTL and researchers from Lisbon University (Portugal), Lund University (Sweden), Vienna University (Austria), Johannes Kepler University of Linz (Austria), European University Institute (Italy) and the University of Salerno (Italy). In September 2012, the 7<sup>th</sup> annual GREIT conference was held in Madrid, on the subject of 'Litigating EU tax law in international, national and non-EU national courts', covering selected issues currently under debate at both academic and practical levels on an interdisciplinary basis combining tax expertise with contributions from law specialists. The conference had panels with renowned speakers on the following topics: i) The European Court of Justice and the extraterritorial scope of EU tax law, ii) EU national courts and the application of EU tax law, iii) EU tax law in WTO &

international arbitration litigation and iv) Non-EU national courts and the application of EU tax law.

The EU Tax Law Group in co-operation with the Amsterdam Centre for Tax Law (ACTL) organized the conference 'Recent developments in EU Tax Law relevant for the rest of the World' on Tuesday 2 October 2012 in Boston. This seminar was chaired by the director of the ACTL, prof. dr. Dennis Weber, and the list of speakers included: Vincent Agulhon (Jones Day), Paul Farmer (Dorsey & Whitney), Eric Ginter (STC Partners), Guglielmo Maisto (Maisto e Associati), Arne Møllin Ottosen (Kromann Reumert), Diogo Ortigão Ramos (Cuatrecasas Gonçalves Pereira), Andrés Sánchez (Cuatrecasas Gonçalves Pereira), Thies Sanders (Loyens & Loeff), Klaus Sieker (Flick Gocke Schaumburg), Gebhard Fuherr (LeitnerLeitner).

### 7.2. ACTL courses

In 2012, the ACTL organized a new edition of the Winter Course on European Direct Tax Law (January 2012). Speakers were: Willibrord Egelie (Dutch Tax Administration), Martien Pelinck (ACTL/Loyens & Loeff), Robert van der Jagt (KPMG Meijburg), Bruno da Silva (ACTL/Loyens & Loeff), dr. Werner Haslehner (University of Linz/LSE), dr. Jan van de Streek (ACTL/Ernst & Young), Richard Lyal (European Commission), Rita Szudoczky (ACTL/Loyens & Loeff), prof. Raymond Luja (Maastricht University), dr. Mario Tenore (Maisto e Associati), Tiago Cassiano Neves (Garrigues Lisbon), prof. Peter Wattel (ACTL/Dutch Supreme Court) and prof. Dennis Weber (ACTL/Loyens & Loeff).

Also in January 2012, the ACTL organized a new edition of the Winter Course on International Tax Law. Speakers were: prof. Phillip Baker (Gray's Inn Tax Chambers/ U. London), Mary Bennett (OECD), prof. Otto Marres (ACTL/KPMG Meijburg), Rita Szudoczky (ACTL/ Loyens & Loeff), Leo Zuliani (Dutch Tax Administration), prof. Stef van Weeghel (ACTL/PwC), prof. Tanja Bender (PwC/Leiden University), Antonio Russo (Baker & McKenzie), prof. Luc de Broe (K.U. Leuven/Laga), Renata Fontana (OECD), prof. Hein Vermeulen (ACTL/PwC), prof. Peter Wattel (ACTL/Supreme Court), dr. Gijs Fibbe (Erasmus Univ./PwC), Bruno da Silva (ACTL/ Loyens & Loeff), Raffaele Russo (OECD).

### 7.3. Key publications in 2012

- Otto Marres, Eerlijk delen in de fiscale jungle (oratie), Sdu, Den Haag 2012.
- Otto Marres and Dennis Weber, Tax Treatment of Interest for Corporations, 2012, IBFD, pp 246.
- Hein Vermeulen, Het regime voor de fiscale beleggingsinstelling, Fiscale Monografieën, nr. 36, Kluwer, Deventer, 2012, pp. 1-443.
- Peter Wattel & Ben Terra, European Tax Law, 6th edition, Kluwer Law International/ Aspen Publishers/Turpin Distribution, 2012, xxxiii + 1,120 pages.
- Dennis Weber (ed.), CCCTB. Selected Issues (EUCOTAX Series on European Taxation), Kluwer Law International, Alphen aan den Rijn, The Netherlands, 2012,
- Dennis Weber and Otto Marres (editors): Taxing the Financial Sector, IBFD, 2012.
- Joanna Wheeler, Dissertation: The Missing Keystone of Income Tax Treaties", IBFD, Amsterdam, 2012.



EU Income Tax Law Conference

# 8 Research Output

## 8.1. Academic publications

I.M. de Groot

*Articles*

- Bankenbelasting: overbelasting?, MBB 2012/04.
- Art. 131 Wet Vpb 1969: het sluitstuk voor de renteaftrekbeperkingen?, *Forfaitair* september 2012 (nr. 227).
- Samenloop tussen de onzakelijke geldlening en het fiscale eenheidsregime, *WFR* 2012/1329.
- Heeft SIAT gevolgen voor art. 10a Wet Vpb 1969?, *NTFR* 2012/2690.

O.C.R. Marres

*Books*

- Eerlijk delen in de fiscale jungle (oratie), Sdu, Den Haag 2012.
- with D.M. Weber (editors): *Taxing the Financial Sector*, IBFD, 2012.
- with Dennis Weber, *Tax Treatment of Interest for Corporations*, 2012, IBFD, pp 246

A.L. Mertens

*Article*

- Plaats en reikwijdte van het negatiefloonbegrip, *FED* 2012/47.

M.F. Nouwen

*Publications aimed at the general public*

- Fiscale strijd Brussel kortzichtig; Aanpak dubbele niet-belastingheffing mist nog visie, *Financieel Dagblad*, 16-07-2012.
- Fiscaal actieplan voor EU schaadt Nederland, *Financieel Dagblad*, 03-12-2012.

E. Poelmann

*Articles*

- Vereenvoudiging formeel verkeer Belastingdienst, artikel samen met mr. M.J. Pelinck, *Tijdschrift voor formeel belastingrecht*.
- Hoe oordeelt de rechter over de verhoogde vpb-verzuimboete van € 2.460?, *Forfaitair* 2012/222.
- Algemene antimisbruiksregels: de hoofdlijnen van HvJ EU en CCCTB vergeleken, *Tijdschrift voor formeel belastingrecht* 2012, nr. 6, pp. 29.

B. da Silva

*Article*

- From the AOA to the New Article 7 of the OECD MCT: Analyzing the attribution of profits to PEs, in *Book of Russian All-State Academy*, Moscow 2012.

J.L. van de Streek

*Articles*

- The CCCTB Concept of Consolidation and the Rules on Entering a Group, *Intertax*, Volume 40, Issue 1, 2012, pp. 24-33.
- The CCCTB rules on leaving a group, *Intertax*, 2012, Volume 40, Issue 6/7, pp. 421-430
- Leaving a group, in: D.M. Weber (ed.), *CCCTB. Selected Issues (EUCOTAX Series on European Taxation)*, Kluwer Law International, Alphen aan den Rijn, The Netherlands, 2012, pp. 53-65.

R. Szudoczky

*Article*

- Is the CCCTB Proposal in line with the Principle of Subsidiarity?: Negative Opinions Submitted by National Parliaments in the ‘Yellow Card Procedure’, in: Weber, D., *CCCTB: Selected Issues, EUCOTAX Series* (Kluwer Law International, 2012).

B.J.M. Terra

*Book*

- Peter Wattel & Ben Terra, *European Tax Law*, 6th edition, Kluwer Law International/Aspen Publishers/Turpin Distribution, 2012, xxxiii + 1,120 pages.

H. Vermeulen

*Articles*

- Depreciation Rules under the Proposed CCCTB Directive, in: D.M. Weber (ed.), *CCCTB. Selected Issues (EUCOTAX Series on European Taxation)*, Kluwer Law International, Alphen aan den Rijn, The Netherlands, 2012, pp. 79-92.
- The implications of treaty application for a Netherlands closed fund for mutual account, *Bulletin for International Taxation*, 2012, 66(1), pp. 47-53.
- Intern lenen van de “Wft-wetgever” schept verplichtingen: ook bij het regime voor de FBI, in: F.G.B. Graaf, R.H. Maatman en L.J. Silverentand (Eds.), *Gedurfde essays over het financieel toezichtrecht (Serie vanwege het Van der Heijden Instituut, 113)*. Kluwer, Deventer, The Netherlands, 2012, pp. 61-71 [with Joop Klufft].

- Is de huidige winstrechtbepaling van art. 17a, onderdeel b, Wet VPB 1969 deels een dode letter?, *Nederlands Tijdschrift voor Fiscaal Recht*, 2012/22, pp. 6-9.

#### Books

- Het regime voor de fiscale beleggingsinstelling, *Fiscale Monografieën*, nr. 36, Kluwer, Deventer, 2012, pp. 1-443.

#### Report

- Continuïteit van het Nederlandse fiscale regime voor beleggingsinstellingen door een principiële modernisering, *Geschriften van de Vereniging voor Belastingwetenschap*, nr. 248, Deventer: Kluwer [with R.P.C. Adema, G.J. van Van Norden, E.J. Nolta, J. Kluit and P.J.C.B. Winter], pp. 1-183.

#### P.J. Wattel

##### Article

- Taxation of Intercompany Dividends and EU Law; Three Surprising Aspects of the Recent Case Law of the European Court; in: Guglielmo Maisto (series editor), *Taxation of Intercompany Dividends under Tax Treaties and EU Law*, EU and International Tax Law Series Vol. 8, IBFD Amsterdam, 2012, pp. 39-52.

#### Books

- Peter Wattel & Ben Terra, *European Tax Law*, 6<sup>th</sup> edition, Kluwer Law International/ Aspen Publishers/Turpin Distribution, 2012, xxxiii + 1,120 pages.
- Peter Wattel & Ben Terra, *European Tax Law*, 6th edition, Kluwer Fiscale Handboeken, 2012, xxxiii + 1,120 pages.

#### D.M. Weber

##### Books

- Dennis Weber and Otto Marres, *Taxing the financial sector, Financial Taxes, Bank Levies and more*, IBFD, 2012, pp. 214.
- CCCTB - selected Issues, Wolters Kluwer, 2012, pp. 337.
- Otto Marres and Dennis Weber, *Tax Treatment of Interest for Corporations*, 2012, IBFD, pp 246.

#### J. Wheeler

- Dissertation: *The Missing Keystone of Income Tax Treaties*, IBFD, Amsterdam, 2012.

## 8.2. Professional publications

#### I.M. de Groot

- *Bankenbelasting blijft vaag*, FD 18 juli 2012.

#### R.A. de Boer

##### Book

- R.A. de Boer & G.F. Boulogne, "Country Report: The Netherlands", in: G. Maisto (red.), *Taxation of Intercompany Dividends under Tax Treaties and EU Law* (EC and International Tax Law Series - Volume 8), Amsterdam: IBFD 2012, pp. 771-867 (chapter 20).

#### S. C. Chen

##### Article

- Piet Hein van Kempen, "The Protection of Human Rights in Criminal Law Procedure in The Netherlands", vol 13.2 *Electronic Journal of Comparative Law*, (May 2009)" translated into Chinese (荷蘭刑事程序法中之人權保障) and published in *Military Law Journal* (軍法專刊), vol 58:4 August, 58:5 October, 58:6 December 2012 in Taiwan.

#### R.P.C. Cornelisse

##### Annotations

- Hoge Raad, 11 november 2011, nr. 10/03774, BNB 2012/17.
- Hoge Raad, 20 januari 2012, nr. 10/01694, BNB 2012/115.
- Hoge Raad, 27 april 2012, nr. 11/03880, FED 2012/67.
- Hoge Raad, 11 mei 2012, nr. 11/03128, BNB 2012/211.
- Hoge Raad, 22 juni 2012, nr. 10/03228, BNB 2012/226.
- Hoge Raad, 12 oktober 2012, nr. 11/03805, BNB 2012/315.

##### Articles

- *Remigratie en AB*, NTFR 2012/362.
- *Dirty tricks*, in: *De Generalist*, bundel ter gelegenheid van het afscheid van Martin Smid, Boom fiscale uitgevers, Den Haag, 2012, pp. 7-10.

##### Book

- *Goed koopmansgebruik*, Fed fiscale brochures, achtste druk.

#### O.C.R. Marres

##### Annotations

- Hoge Raad, 18 november 2011, nr. 10/01719, BNB 2012/27.
- Hoge Raad, 16 december 2011, nr. 10/04920, BNB 2012/102.
- Hoge Raad, 23 december 2012, nr. 11/00483, BNB 2012/197.
- Hoge Raad, 23 december 2011, nr. 11/00453, BNB 2012/198.
- Hoge Raad, 13 januari 2012, nr. 08/05322, BNB 2012/199.
- Hoge Raad, 25 november 2011, nrs. 10/05161 en 08/5323, FED 2012/19 en 20.
- Hoge Raad, 29 juni 2012, nr. 11/00482, FED 2012/113.

##### Articles

- *De onzakelijke lening in de vennootschapsbelasting*, WFR 2012/142.
- *Over coördinatie, concurrentie en consolidatie*, WFR 2012/324.

- Over de open cv met een overtredende commandiet, in: De Generalist, bundel ter gelegenheid van het afscheid van Martin Smid, Boom fiscale uitgevers, Den Haag, 2012, pp. 13-18.
- CCCTB and tax treaties, in: The KPMG Guide to CCCTB - part 3, Chapter 16, KPMG, Amsterdam, 2012, pp. 15-19.
- Het gat gedicht, NTFR 2012/1682.
- Ongewenste dumping van rentelasten, NTFR 2012/2312.
- Deelnemingsrente, WFR 2012/1426.

#### Book

- Redactie (met S.J. Mol-Verver en J.L. van de Streek) en hoofdstuk 5 (dividendbelasting) in: Hoofdzaken belastingrecht, 14e druk, Boom fiscale uitgevers, Den Haag, 2012.

#### A.L. Mertens

##### Annotations

- Hoge Raad, 29 juni 2012, BNB 2012/288\* (inzake de vraag of aandelenopties met een te verwaarlozen waarde loon vormen).
- Hoge Raad, 15 juni 2012, BNB 2012/310\* (inzake de reikwijdte van de RVU-heffing).
- Hoge Raad, 11 mei 2012, BNB 2012/233c\* (inzake de vraag of het niet verwerken van later aangegeven inkomen een ambtelijk verzuim oplevert).
- Hoge Raad, 4 mei 2012, BNB 2012/260\* (inzake de vraag of de verplichting correctieberichten te verzenden in strijd kan komen met de leer van de formele rechtskracht).
- Hoge Raad, 27 april 2012, BNB 2012/232c\* (inzake de vraag of na vertrek uit Nederland genoten loon tot de grondslag van de 30%-regeling kan behoren).
- Hoge Raad, 9 december 2011, BNB 2012/175c\* (inzake de

vraag of een nietige arbeids-overeenkomst verzekeringsplicht kan opleveren).

- Hoge Raad, 25 november 2011, BNB 2012/151c\* (inzake aanspraken op ongevalsuitkeringen).
- Hoge Raad, 7 oktober 2011, BNB 2012/86 (inzake de kortingsregeling binnen de 30%-regeling).

#### Article

- Het is nu wel genoeg, met dat afromen, NTFR 2012/2618.

#### S.J. Mol-Verver

##### Articles

- De IB-ondernemer als (populair) scriptie onderwerp, in: De Generalist, bundel ter gelegenheid van het afscheid van Martin Smid, Boom fiscale uitgevers, Den Haag, 2012, pp. 19-22.
- 'Ruimte' in het aanmerkelijk belang door arrest soortaanmerkelijk belang, artikel in FBN 2012/13.
- FED - Aantekening bij tweetal arresten van HR 29 juni 2012, FED 2012/105 + 106.

#### Book

- Redactie (met O.C.R. Marres en J.L. van de Streek) en bewerking van onderdeel 2.1 t/m 2.3 in: Hoofdzaken belastingrecht, 14e druk, Boom fiscale uitgevers, Den Haag, 2012.

#### W. W. Monteiro

##### Annotations

- Hof van Justitie EU, 28 juni 2012, NTFR 2012-2073 (Berekening van loonaanvulling in strijd met het vrije verkeer van werknemers).
- Hof Den Bosch, 13 oktober 2011, NTFR 2012-700 (Geen aftrek ter voorkoming van dubbele belasting voor participaties in teakbomen).

- Conclusie A-G Jääskinen (Hof van Justitie EU), 10 juli 2012, NTFR 2012-2074 (Italiaanse boekhoudkundige reserve niet in strijd met Fusierichtlijn).
- Hoge Raad, 29 juni 2012, NTFR 2012-1821 (Toekenning van werknemersopties op cumprefs leidt niet tot een aftrekpost).

#### Articles

- Fiscale aspecten van COMI-verplaatsingen. Deel 1 - Over insolventie- en fiscaalrechtelijke jurisdictie. *FIP: Tijdschrift Financiering, Zekerheden en Insolventierechtpraktijk*, 2012(6), pp. 198-201.
- Fiscale aspecten van COMI-verplaatsingen. Deel 2 - Over de Europeesrechtelijke aspecten van jurisdictiewijziging. *FIP: Tijdschrift Financiering, Zekerheden en Insolventierechtpraktijk*, 2012(7), pp. 238-242.
- Intra-EU-verliezen: Het drama is toe aan de volgende acte. *NTFR. Nederlands Tijdschrift voor Fiscaal Recht*, 2012(2691), pp. 9-14.

#### M.F. Nouwen

##### Annotations

- Comment on the Report from the EU Code of Conduct Group (Business Taxation) to the Ecofin Council of 21 December 2011 in H&I 2012/2.1.
- Comment on the Report by the Finance Ministers of the Euro Plus Pact on Tax Policy Coordination in H&I 2012/2.2.
- Comment on the Growth-Friendly Tax Policies in Member States and Better Tax Coordination in the EU in H&I 2012/2.3.
- Comment on the Consultation Paper on Factual Examples and Possible Ways to Tackle Double Non-Taxation Cases, 29 February 2012 in H&I 2012/4.3.

- Comment on the Report from the EU Code of Conduct Group (Business Taxation) to the Ecofin Council of 22 June 2012 in H&I 2012/8.3.
- Comment on the Summary Report of the Responses Received on the Public Consultation on Factual and Possible Ways to Tackle Double Non-Taxation Cases, 5 July 2012 in H&I 2012/8.4.
- Comment on the Presidency Comments on the Common Consolidated Corporate Tax Base Compromise Proposal of 16 April 2012 in H&I 2012/11.1.
- Hoge Raad 12 oktober 2012, nr. 11/04974 LJN BX9942, NTFR 2012/2441 (Aftrekpost voor fiscaal fondswervende instellingen).

#### Articles

- Verzekeraars mogen een administratiekostenreserve blijven vormen, *Het Verzekerings-Archief*, Jaargang 89, 1e kwartaal 2012.
- De strijd tegen schadelijke belastingconcurrentie in de Europese Unie is weer losgebarsten: een tussenbalans, *WFR* 2012/1296.

#### Book

- Chapter 2.5 'Inkomen uit sparen en beleggen', in: O.C.R. Marres, S.J. Mol-Verver en J.L. van de Streek (red.), *Hoofdzaken Belastingrecht*, 14e druk, Boom fiscale uitgevers, Den Haag, 2012.

#### E. Poelmann

##### Annotations

- Raad van State, 7 december 2011, 201105372/1/H2, FED 2012/22.
- Hoge Raad, 11 november 2011, 10/03793, FED 2012, 82.
- Raad van State, 29 augustus 2012, 201102653/1/R1, FED 2012, 116.

#### Articles

- *Opinie: met de kennis van toen*, *Tijdschrift voor formeel belastingrecht* 2012, nr. 4, pp. 2.
- *Kroniek procesrecht 2012*, *Tijdschrift voor formeel belastingrecht* 2012, nr. 8, pp. 38.
- *Bezwaren zijn niet eender*, *Nederlands tijdschrift voor bestuursrecht* 2012, 8, pp. 52-53.
- *Begunstigend boetebeleid zou ambtshalve toegepast moeten worden*, *FP* 2012/15, pp. 3.
- *Verslag Symposium belastingrechtspraak in de actualiteit*, *Tijdschrift voor formeel belastingrecht* 2012, nr. 4, pp. 2.

#### Books

- Chapter 1 'Formeel belastingrecht', in: O.C.R. Marres, S.J. Mol-Verver en J.L. van de Streek (red.), *Hoofdzaken belastingrecht*, 14<sup>e</sup> druk, Boom fiscale uitgevers, Den Haag, 2012.
- *Bijdrage Hoofdzaken formeel belastingrecht 2012/2013*, Boom fiscale uitgevers, Den Haag, 2012.
- *Bijdrage, Jurisprudentie formeel belastingrecht 2012/2013*, Boom fiscale uitgevers, Den Haag, 2012.
- *Bijdrage en redactie Verslag UvA/ACTL symposium Vereenvoudiging formeel verkeer Belastingdienst*, Boom fiscale uitgevers, Den Haag, 2012.
- *Bijdrage Almanak formeel belastingrecht*, Reed Business - Amsterdam.

#### B. da Silva

##### Annotations

- Comment on the Commission v Portugal case: discriminatory treatment of dividends paid to foreign pension funds in H&I 2012/1.
- Comment of the Commission proposal for a Recast of the Interest & Royalty Directive in H&I 2012/4.

- Comment on case Foggia - Sociedade Gestora de Participacoes Sociais, S.A.: Meaning of "valid commercial reasons" under Art. 11 (1) (a) of the Merger Directive in H&I 2012.6/1.

#### J.L. van de Streek

##### Articles

- *De heffing van vennootschapsbelasting van culturele instellingen: er ontbreekt iets...*, in: *De Generalist*, bundel ter gelegenheid van het afscheid van Martin Smid, Boom fiscale uitgevers, Den Haag, 2012, pp. 27-31.
- *De voortgaande ontwikkeling van de CCCTB*, *WFR* 2012/6967, pp. 1155-1161.
- *Gemengde gevoelens: interview door Expose, NOB*, september 2012, pp. 10-11 en 18.
- *Tijd is rijp voor Vpb-light: interview door Het Register*, Oktober 2012. nr. 5, pp. 15-17.
- *De nieuwe uitkeringstest voor de besloten vennootschap in civiel en fiscaal perspectief* (with H. Koster), *WPNR* 2012/6947, pp. 718-728.
- *Proefballonnen voor de toekomst van de vennootschapsbelasting*, *WFR* 2012/6944, pp. 329-339.

#### Books

- *Casuïstiek vennootschapsbelasting*, Boom Fiscale Uitgevers, Den Haag, 2012, eerste druk, pp. 1-182.
- *Casuïstiek vennootschapsbelasting*, Boom Fiscale Uitgevers, Den Haag, 2012, tweede druk, pp. 1-200.

## R. Szudoczky

### Annotation

- 3 M Italia: Tax Amnesty Aimed at Concluding Tax Litigation Prolonged for an Unreasonable Time Does Not Constitute State Aid, 12 *EStAL* 1 (2013).

## B.J.M. Terra

### Books

- Peter Wattel & Ben Terra, *European Tax Law*, abridged student edition, Kluwer Law International, 2012, xxiv + 600 pages.

## H. Vermeulen

### Articles

- Het naderende einde van de vastgoed-CV, *Nederlands Tijdschrift voor Fiscaal Recht*, 2012/23, pp. 1-3.
- Herinvesteringsreserve: de omgekeerde wereld?, in: *De Generalist (Bundel ter gelegenheid van het afscheid van Martin Smid)*, Boom Fiscale Uitgevers, Den Haag, The Netherlands, 2012, pp. 35-37.
- Vastgoed in de winstfeer: vennootschapsbelasting, in: *PropertyNL Taxspecial 2012*, PropertyNL, Amsterdam, pp. 263-299 [with J.H. Elink Schuurman].
- Vastgoed in de winstfeer: inkomstenbelasting, in: *PropertyNL Taxspecial 2012*, PropertyNL, Amsterdam, pp. 205-262 [with J.H. Elink Schuurman].

### Books

- *Cursus Belastingrecht (Formeel Belastingrecht)* (Cursus Belastingrecht, nr. 14). Kluwer, Deventer, The Netherlands, 2012, Chapters 1 and 7, pp. 1-21 and pp. 341-364, [with M.C.M. de Kroon, J.H.P.M. Raaijmakers, W.A.P van Roi, F.H.H. Sijbers].

- De vrijgestelde beleggingsinstelling, in: S.A.W.J Strik & J.L. van de Streek (eds.), *Cursus Belastingrecht (Vennootschapsbelasting)*, Kluwer, Deventer, The Netherlands, 2012, pp. 2456-2471.
- De fiscale beleggingsinstelling, in: S.A.W.J Strik & J.L. van de Streek (eds.), *Cursus Belastingrecht (Vennootschapsbelasting)*, Kluwer, Deventer, The Netherlands, 2012, pp. 2358-2456.

## P.J. Wattel

### Article

- Exit Taxation in the EU/EEA Before and After *National Grid Indus*, 65 *Tax Notes International* 5 (30 January 2012), pp. 371-379.

### Book

- Peter Wattel & Ben Terra, *European Tax Law*, abridged student edition, Kluwer Law International, 2012, xxiv + 600 pages

### Opinions

- Gerechtaardigde verrijking; Vooraf, *NJB* 2012/6, pp. 365.
- Grondrechtelijke *competence creep*; Vooraf, *NJB* 2012/13, pp. 861.
- Op mijn bek; naschrift/herstel, *NJB* 2012/14, pp. 984.
- Het Rollatorakkoord; Vooraf, *NJB* 2012/21, pp. 1443.
- Punitive psychiatry - punitive taxation?; Vooraf, *NJB* 2012/28, pp. 1935.
- Onrechtmatig verkregen bewijs; Vooraf *NJB* 2012/36, pp. 2527
- Why don't they use the phone? Vooraf *NJB* 2012/41, pp. 2881

## 8.3. Presentations

### O.C.R. Marres

- 22 January 2012, ACTL Winter Course on International Tax Law 2012, 'Interest and Tax Base Erosion', Amsterdam, the Netherlands.
- 16 February 2012, WFR fiscaal café, 'Coördinatie, Concurrentie en Consolidatie', The Hague, the Netherlands.
- 8 June 2012, Oratie, 'Eerlijk delen in de fiscale jungle', Amsterdam.
- 21 June 2012, FATCA from a US and EU perspective (NYU), 'How the EU deals with it, Savings Directive and other', New York, USA.
- 28 September 2012, Hof 's-Gravenhage, 'Fiscale kwalificatie', The Hague, the Netherlands.
- 29 November 2012, Annual Conference on European Direct Taxation Law 2012 (ERA), 'Recent ECJ case law with special view on cross-border situation (for tax law practitioners)', Trier, Germany.

### S.J. Mol-Verver

- 9 November 2012, Dagvoorzitter op ACTL Symposium Vereenvoudiging formeel verkeer belastingdienst, Amsterdam, the Netherlands.

### W.W. Monteiro

- 29 November 2012, Annual Conference on European Direct Taxation Law 2012 (ERA), 'Permanent Establishment - EU and OECD rules', Trier, Germany.

### E. Poelmann

- 22 June 2012, presentatie tijdens PAOB navorderen en naheffen, Utrecht, the Netherlands.
- 3 September 2012, presentatie in-company Grant Thornton, Ridderkerk, the Netherlands.

- 9 November 2012, voordracht tijdens het ACTL Symposium Vereenvoudiging formeel verkeer Belastingdienst, Amsterdam, the Netherlands.
- 14 November 2012, schriftelijke bijdrage en deelname discussie-bijeenkomst project innoverende hoven, Utrecht, the Netherlands.
- 6 December 2012, presentatie tijdens PAOB actualiteiten formeel belastingrecht, Utrecht, the Netherlands.

#### B. da Silva

- 13 April 2012, ACTL Conference: EU Income Tax Law: Issues For The Years Ahead, 'Non-discrimination clauses in Tax Treaties vs Eu Law', Amsterdam, the Netherlands.
- 23 October 2012, ACTL / NYU Conference US International Taxation: Issues for the years ahead, 'Non-discrimination under tax treaties: EU developments relevant for US treaties', NYU School of Law, New York, USA.
- 28, 29 and 30 May 2012, Curso de Especializacao em Direito Tributario Internacional, 'Permanent Establishment and Article 5 of the OECD MTC'; 'From the AOA to the new Article 7 of the OECD MTC: Attribution of Profits to PEs'; 'Beneficial Ownership', Instituto Brasileiro de Direito Tributario, São Paulo, Brazil.
- 31 May 2012, Roundtable of Instituto Brasileiro de Direito Tributario, 'Aspectos práticos do Direito Tributário Europeu e sobre norma geral anti-elisão no Direito Europeu', São Paulo, Brazil.
- 30 October 2012, International Tax Conference of the Russian Ministry of Finance, 'Exchange of Information for Tax Purposes: A glimpse over the next inter-

national standards (including a discussion on the Russian Peer Review Report - Phase 1)', Moscow, Russia.

#### T. Sirithaporn

- 21 November 2012, speaker at the Thailand and The Netherlands: Exploring Business and Investment Opportunities Seminar, 'Exploring Business Opportunities in ASEAN - from Tax Perspective', Amsterdam, the Netherlands.

#### R. Szudoczky

- 12 April 2012, EU Tax Law Group meeting, 'State aid - Gibraltar case', Amsterdam, the Netherlands.
- 4-6 June 2012, GREIT Lisbon Summer Course, 'The Dutch Interest Box and State aid? - Case study', Lisbon, Portugal.
- 21-23 November 2012, IBA European Regional Forum, 'R&D incentives in Hungary and in the Netherlands', Warsaw, Poland.

#### H. Vermeulen

- 27 January 2012, ACTL Winter Course on International Tax Law, 'Real Estate Investment Trusts', Amsterdam, the Netherlands.
- 18 April 2012, speaker at the ACTL Conference The Future of the Dutch Fiscal Investment Institution, 'De begrippen 'belang' en 'berusten' in de aandeelhouderseisen van de FBI', Amsterdam, the Netherlands.
- 26 April 2012, lecture at Instituto Colombiano de Derecho Tributario (ICDT), 'European regimes for collective investments. The Dutch perspective', Bogotá, Colombia.
- 27 April 2012, speaker at Curso de Derecho Tributario Internacional del Mercado de Capitales, 'The CIV and REIT

reports: The Dutch Approach', Bogotá, Colombia.

- 2 November 2012, chair of the ACTL Conference 'The Tax Treatment of CIVs and REITs', Amsterdam, the Netherlands.
- 22 November 2012, speaker at the Dutch Tax Authorities, 'The Dutch Fiscal Investment Institution', Amsterdam, the Netherlands.

#### P.J. Wattel

- 19 January 2012, ACTL Winter Course on European Tax Law, (i) 'The Case law of the Court of Justice on Direct Taxes - General Overview'; (ii) 'The Case law of the Court of Justice on Direct Taxes - Cross-border Loss Relief', Amsterdam, the Netherlands.
- 26 January 2012, ACTL Winter Course on International Tax Law, 'Tax Treaty Interpretation', Amsterdam, the Netherlands.
- 9 March 2012, lecturer PAOB Nieuwe jurisprudentie - Algemeen en formeel belastingrecht, Utrecht, the Netherlands.
- 13 April 2012, key note speech at the ACTL Conference EU Income Tax Law; Issues for the Years Ahead, Amsterdam, the Netherlands.
- 3-4 May 2012, speaker at the Congress Cour de Cassation/ Europäische Rechtsakademie: Ne bis in idem as a General principle of EU Law: Ne bis in idem in the Context of Sanctioning Tax Offences in the EU, Paris, France.
- 8 June 2012, lecturer at the GREIT Lisbon Summer Course on State Aid, 'Interaction of State Aid Law and other EU Law (Free Movement Rights, Policy Competition, Anti-abuse Measures, and Taxation)', Universidade de Lisboa, Lisbon, Portugal.

- 20 June 2012, debater at the EMEA Tax Summit: 'Europe: Integration or Fragmentation?', Vienna, Austria.
- 18 October 2012, speaker at the 3rd Assembly, International Association of Tax Judges: 'Static v Dynamic Interpretation of Tax treaties', Munich, Germany.
- 14 September 2012, closing lecture of the 7th GREIT International Tax Conference on Litigating EU Tax Law in international, national and non-EU national courts, Madrid, Spain.
- 2 November 2012, chairman of the first panel (OECD 2010 Update on Collective Investment Vehicles (CIVs)) of the ACTL Conference 'The Tax Treatment of CIVs and REITs', Amsterdam, the Netherlands.
- 26 November 2012, Koninklijke Nederlandse Academie van Wetenschappen: (samen met Prof. dr Ph. Scheltens, cognitief neuroloog, VU-Ziekenhuis) inleidingen voor het KNAW-Dispuut De Vrije Wil, Amsterdam, the Netherlands.

#### D.M. Weber

- January 2012, Withholding taxes under the CCCTB, University of Vienna, Austria.
- 19 April 2012, Abuse of Law in the EU, All-Russian State Academy, Moscow, Russian Federation.
- 11 May 2012, Cambridge University, CTL Workshop: 'EU Common Consolidated Corporate Tax Base', Cambridge, United Kingdom.
- 31 May 2012, EU and International law, IBDT, São Paulo, Brazil.
- 21 June 2012, chair of the ACTL NYU Conference 'FATCA from a US and an EU perspective', New York, United States.

- 6 September 2012, Recent developments in EU Tax Law, All-Russian State Academy, Moscow, Russian Federation.
- 13-14 September 2012, moderator, Litigating EU tax law in international, national and non-EU national courts, Annual GREIT conference, Madrid, Spain.
- 2 October 2012, chair of the ACTL Conference in co-operation with the EU Tax Law Group 'Recent developments in EU Tax Law relevant for the rest of the World', Boston, United States.
- 23 October 2012, chair of the ACTL / NYU Conference 'US International Taxation: Issues for the years ahead', New York, United States.
- 2 November 2012, moderator, ACTL Conference 'The Tax Treatment of CIVs and REITs', Amsterdam, the Netherlands.
- 12-13-14 November 2012, lectures European Tax Law, IBDT, São Paulo, Brazil.
- 30 November 2012, speaker at 'The OECD and European Commission fight against (hybrid) tax mismatches', 2nd International Scientific and Practical Conference, Financial University Moscow, Moscow, Russian Federation.
- 12 December 2012, panellist, 'De invloed van het Europese belastingrecht op het nationale fiscale procesrecht', NOB/NVAB-seminar, Amsterdam, the Netherlands.

#### S. van Weeghel

- 31 January 2012, ACTL Winter Course on International Tax Law, 'Tax Treaty Abuse', Amsterdam, the Netherlands.
- 2 February 2012, speaker at the Symposium 'Belastingrecht-spraak in de Actualiteit', Arnhem, the Netherlands.

- 10 March 2012, lecturer at the Executive Master in International Taxation, Neuchâtel, Switzerland.
- 29 March 2012, panel member of the Plenary Session, 12<sup>th</sup> Annual Tax Planning Strategies: US and Europe Conference, Vienna, Austria.
- 20 April 2012, Chair of the day, IFA bilateral meeting Netherlands/ Germany, Amsterdam, the Netherlands.
- 30 May 2012, Chair, morning session IBFD Research Students Meeting & Chair, afternoon session IBFD Early Career Scholars Meeting, Amsterdam, the Netherlands.
- 18 July 2012, lecturer at the ITC Leiden Summer Course, Leiden, the Netherlands.
- 3-5 September 2012, keynote speaker at the Asian Tax Authorities Symposium, Kuala Lumpur, Malaysia.
- 21 September 2012, panel member at the LOF-Congres 'Het Belastinglek', Tilburg, the Netherlands.
- 29 September 2012, speaker at the Conference in honour of Professor Hugh Ault, Boston, USA.
- 2 October 2012, judge at the YIN Moot Court during the IFA Congress, Boston, USA.
- 2 November 2012, panel chair at the ACTL Conference The Tax Treatment of CIVs and REITs, Amsterdam, the Netherlands.
- 12 November 2012, speaker at the 5<sup>th</sup> Symposium of International Tax Law, Lausanne, Switzerland.
- 3 December 2012, lecturer at the ITC Tax Treaties Course, Leiden, the Netherlands.

Colofon

Uitgave

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