



UNIVERSITY OF AMSTERDAM

Amsterdam Centre for Tax Law

The background of the cover is a vibrant, multi-colored sky with shades of blue, purple, and pink. Numerous white birds are depicted in various stages of flight, scattered across the entire scene. The text 'Annual report 2019' is centered in the middle of the image, enclosed in a thin, light-colored rectangular border.

Annual report 2019

Amsterdam Centre for Tax Law

Annual report 2019

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About

The Amsterdam Centre for Tax Law (ACTL) is the tax law research centre of the University of Amsterdam. ACTL members conduct research into various subjects of tax law, with a strong emphasis on Corporate Taxation, International Tax Law and European Tax Law. Within the University of Amsterdam, the ACTL is considered a Centre of Excellence.

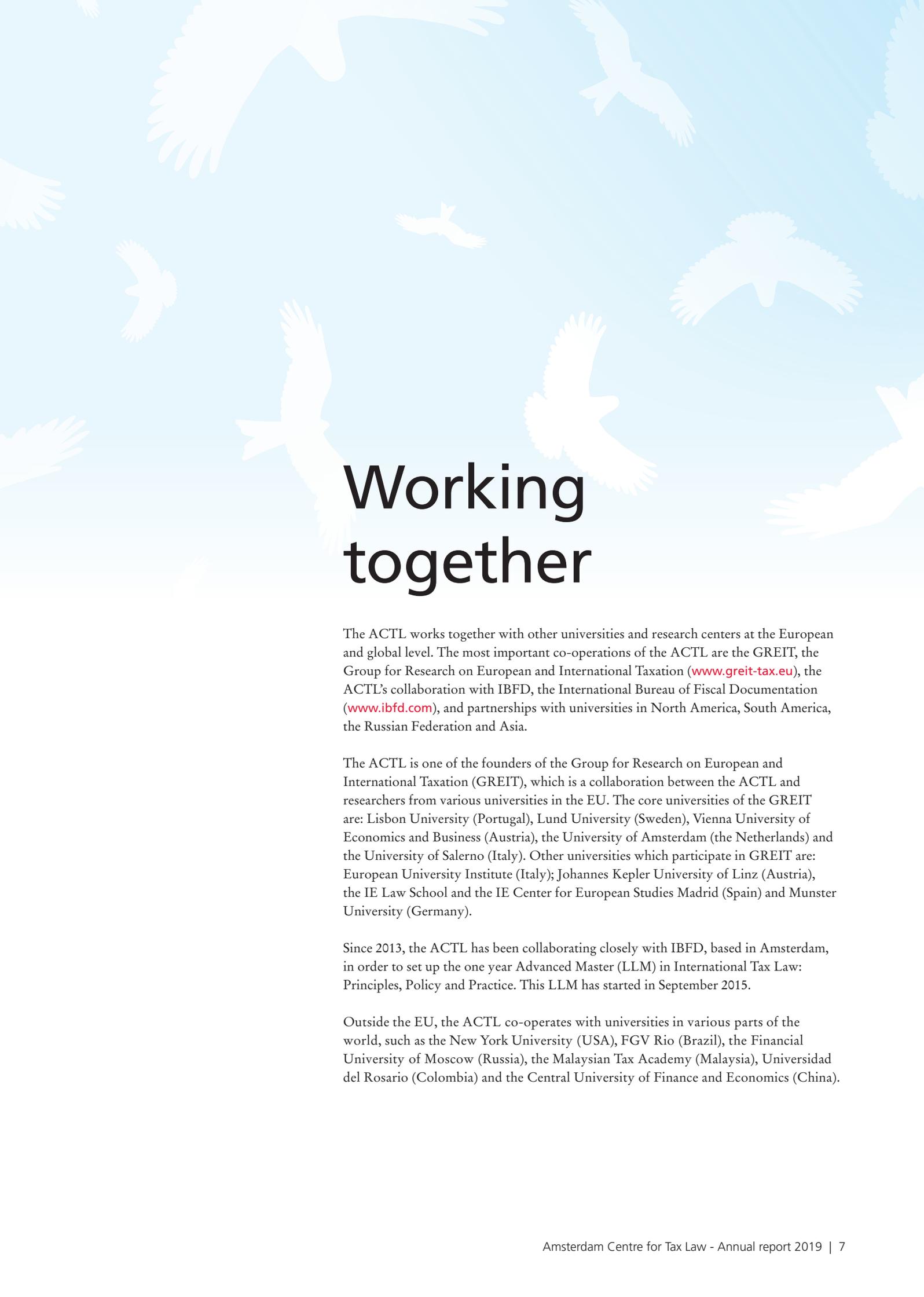
The ACTL has a research staff of over 20 (twenty) members, which includes professors, assistant professors and PhD researchers. In addition, several external researchers are associated with the ACTL. The Centre regularly organizes (international) conferences, seminars and courses.

The Director of the ACTL is prof. dr. Dennis Weber, professor of European Corporate Tax Law.

The other professors of the ACTL are:

- Prof. dr. Rob Cornelisse
- Prof. dr. Sjoerd Douma
- Prof. dr. Mariken van Hilten
- Prof. dr. Otto Marres
- Prof. dr. Jan van de Streek
- Prof. dr. Hein Vermeulen
- Prof. dr. Peter Wattel
- Prof. dr. Dennis Weber
- Prof. dr. Stef van Weeghel.





Working together

The ACTL works together with other universities and research centers at the European and global level. The most important co-operations of the ACTL are the GREIT, the Group for Research on European and International Taxation (www.greit-tax.eu), the ACTL's collaboration with IBFD, the International Bureau of Fiscal Documentation (www.ibfd.com), and partnerships with universities in North America, South America, the Russian Federation and Asia.

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT), which is a collaboration between the ACTL and researchers from various universities in the EU. The core universities of the GREIT are: Lisbon University (Portugal), Lund University (Sweden), Vienna University of Economics and Business (Austria), the University of Amsterdam (the Netherlands) and the University of Salerno (Italy). Other universities which participate in GREIT are: European University Institute (Italy); Johannes Kepler University of Linz (Austria), the IE Law School and the IE Center for European Studies Madrid (Spain) and Munster University (Germany).

Since 2013, the ACTL has been collaborating closely with IBFD, based in Amsterdam, in order to set up the one year Advanced Master (LLM) in International Tax Law: Principles, Policy and Practice. This LLM has started in September 2015.

Outside the EU, the ACTL co-operates with universities in various parts of the world, such as the New York University (USA), FGV Rio (Brazil), the Financial University of Moscow (Russia), the Malaysian Tax Academy (Malaysia), Universidad del Rosario (Colombia) and the Central University of Finance and Economics (China).



Tax sovereignty and (anti)- globalisation

3.1 Background and objective of the ACTL research programme

Globalisation of world trade was until recently 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 Union, NAFTA, Ecosur and ASEAN. (Direct) taxation, which is still largely a national sovereign prerogative, 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. TFEU-provisions on free movement and on State aid, EU-directives, and the multilateral OECD/CoE mutual assistance convention) as well as in soft law (e.g. EU-recommendations and OECD-deliverables on BEPS (base erosion and profit shifting)), have far-reaching consequences for national taxation rights. This is also true for 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 taxing powers 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 and persons, but especially 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 using international regulatory mismatches (BEPS). States take all kinds of unilateral measures against BEPS, but especially the OECD (in its BEPS Action plan and its BEPS deliverables) and the EU take anti-BEPS measures. These measures give rise to questions, such as to their compatibility with free movement (especially the EU treaty freedoms) and with secondary EU law on tax harmonisation. There is also the question of whether the rights of taxpayers (rights to privacy, etc.) are sufficiently protected against the pursuit of States to safeguard taxation rights.

Furthermore, the increased possibilities for relocation of the taxpayer or of his economic activities leads to 'tax competition' between States. States make their tax system as attractive as possible for (foreign) investment (special regimes, low rates, advance tax rulings, etc.). Such measures may lead to a 'race to the bottom', to retaliation such as blacklists, CFC¹-rules, and interest deduction limitations (and with that to possible violation of free movement rights) and to State aid investigations by the EU Commission, as, e.g., in the *Apple* and *Starbucks* cases. Tax competition also leads to the very interesting phenomenon of a Code of Conduct (a legally nonbinding gentlemen's agreement between the EU member States); a specimen of the so-called 'open method of coordination', which is, however, rather hidden from parliamentary and public scrutiny.

The aim of the ACTL research is twofold: (i) to establish the limits on national tax sovereignty and national taxing 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, fair interstate policy competition and taxpayers rights. The emphasis in the research program lies on EU law given its major influence on national and bilateral tax law in the EU.

In the research programme a distinction is drawn between the influence of double tax treaties and other treaties on tax sovereignty (theme 1); the impact of the TFEU freedoms and the EU State aid rules (theme 2), the impact of the various harmonisation measures in the area of tax law within the EU (theme 3) and taxpayers rights (theme 4).

3.1.1 Research themes

The research program is dividend into four interrelated and partly overlapping research themes:

- Theme 1 double tax treaties and multilateral instruments (regular international public law);
- Theme 2 the EU treaty freedoms and EU State Aid rules (negative market integration)'
- Theme 3 the EU directives in the area of direct and indirect tax law (positive market integration); and
- Theme 4 taxpayers rights, on the basis of national law, EU law (e.g. the EU Charter rights, the EU data protection directive, and general principles of EU law such as the rights of the defence) and human rights treaties such as most notably the European Convention on Human Rights.

These four bodies of law all limit the tax sovereignty and/or the tax jurisdiction of the Member States.

3.1.1.1 Research theme 1

Influence of double tax treaties and other treaties on tax sovereignty

Double taxation treaties may be considered as an expression of tax sovereignty. By concluding tax treaties, the States voluntarily limit their taxing jurisdiction and allocate taxing rights. In some States (e.g. the United States, Canada, Germany and Denmark), this limitation and allocation of the tax jurisdiction may be unilaterally overridden by subsequent 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 taxes. Theme 1 focuses on the bilateral tax treaties for the avoidance of double taxation on income and capital and on the BEPS² project of the OECD which also includes multilateral instruments. These bilateral tax treaties are generally concluded on the basis of the OECD model tax convention on income and on capital. A bilateral tax treaty generally requires the state of residence of a taxpayer to prevent double taxation

1 Controlled foreign corporations.

2 Base erosion and profit shifting.

by providing either an exemption for foreign-sourced income or foreign-located capital which may be taxed in the state of source or locus, or a credit for the tax levied by the state of source. Research Theme 1 explores the extent to which tax jurisdiction is limited by those treaties, especially as regards the (remaining) powers to curb international tax avoidance and abuse of rights. Issues researched under this theme 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, given that these tax treaties usually refer to national (tax) law for any terms not defined in the treaty;
- iii. The relevance of the Vienna Convention on the Law of Treaties for the application of tax treaties
- iv. The relevance of justified expectations of both the contracting States and of their residents for the interpretation of these bilateral tax treaties;
- v. The possibility to fight treaty abuse by taxpayers (the doctrine of *fraus conventionis* or *fraus tractatus*)
- vi. The phenomenon of tax treaty overrides
- vii. The differences and similarities between the OECD Tax Model treaties/guidelines and the United Nation Tax Model treaties/guidelines, especially as regards tax treaties between developed and developing countries
- viii. The phenomenon of TIEAs (tax information exchange agreements) with ‘tax havens’ which are coerced, by the OECD, the G20 and the EU, into accepting the CRS (common reporting standard) of tax transparency.

3.1.1.2 Research theme 2

Influence of EU treaty freedoms and EU state aid rules on tax sovereignty

Tax sovereignty is limited by EU law, in case of direct taxes mainly by the EU treaty freedoms and the EU State Aid rules and to a much lesser extent by EU Directives, and in case of indirect taxes by a far-reaching harmonization or even uniformization of tax rules. Although the tax sovereignty of Member States in the field of direct taxation is in general recognised by the Court of Justice of the European Union (CJEU) in the absence of EU (positive) harmonization measures, the CJEU case law on negative integration (prohibitions set by free movement rights and State aid rules) has a huge impact on direct taxation. The State Aid Decisions of the European Commission in direct taxation cases and the case law of the CJEU also affects the allocation of taxing rights between EU Member States and between EU Member States and non-EU countries.

Research Theme 2 explores the extent to which the tax sovereignty is limited by the EU treaty freedoms and the EU State aid rules and the influence of (EU soft law against) harmful tax competition. Issues researched under this theme include:

- ix. The questions whether and under which circumstances it is still permitted to distinguish between taxpayers of various other Member States (‘horizontal discrimination’; does EU free movement law require ‘most favoured nation tax treatment’ within the EU?);
- x. The contribution of the EU treaty freedoms to the reduction of international double taxation;
- xi. The influence of EU law on the tax treatment nonresidents (such as branches of companies resident in other Member States) as compared to a resident (company);
- xii. The correct balance between free movement within the EU and the right to levy tax on income generated within the national territory, especially as regards the following questions:

- Does the Court of Justice overstep its competence in tax matters, given the attribution system of the EU Treaty?
 - Or does the Court of Justice show too much deference as regards the most effective impediment against free movement, double taxation of cross-border income, by recognizing ‘parallel exercise of taxing power’ as a market impediment which cannot be remedied under the free movement rights?
 - What balance does the CJEU strike between free movement and tax sovereignty, especially the right to protect taxing rights on tax base generated within a jurisdiction against tax avoidance relying on free movement rights?
 - Are the regular discrimination and restriction concepts used by the CJEU in free movement cases adequate to test national tax measures addressing cross-border profit shifting and tax avoidance situations which do not exist in purely internal situations, such as arm’s length transfer pricing rules, controlled foreign corporations (CFC) 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 CJEU leave the Member States sufficient room for protecting tax base integrity?
 - What is the reach of the unwritten justifications for fiscal market impediments the CJEU allows, such as the need for effective fiscal supervision, ‘the fiscal territoriality principle’, protection of the coherence of the tax system, and the need for ‘a balanced allocation of taxing powers between the member States’?
- xiii. The correct balance between the EU State aid rules and the right *not* to levy tax, especially as regards the following questions:
- To what extent may Member States issue advance tax rulings and advance pricing agreements to MNE’s?
 - Is a derogation from the OECD transfer pricing rules or not having any transfer pricing rules in place or not curbing tax avoidance State aid?
 - Does the EU State Aid concept of (market) equality coincide with the OECD’s arm’s length principle or do these two concepts differ?
 - How should the selectivity criterion under the State Aid rules be applied to ostensibly horizontal taxation measures?
 - What ‘justifications in the nature or the general scheme of a tax measure’ may pardon it from being selective?

3.1.1.3 Research theme 3

Influence of EU directives on tax sovereignty

Disparities between national tax laws are an impediment to the internal market. These impediments may be removed by positive integration. This has been done in the area of indirect taxation (e.g. VAT, customs duties, excises and energy taxation). There are, however, only few harmonisation measures in the field of direct taxation, as the Member States do not wish to relinquish their sovereignty in that area. Under the influence of the OECD/G20 BEPS project, however, also the EU takes large steps towards (minimum) harmonization of anti tax avoidance rules and automatic exchange of tax information. Research theme 3 explored the scope and interpretation of the EU directives in the area of both direct and indirect tax law, including the interpretation of the VAT Directives, and the interpretation of the few directives in the area of direct taxation (the Merger Directive, Interest & Royalty Directive, Parent-Subsidiary Directive, Administrative Cooperation Directive, and Anti-Tax Avoidance Directive). Furthermore, this theme assessed the (un)desirability and (im)possibility of harmonizing corporate income taxation to a degree comparable to the base integration of turnover taxes (the EU VAT

system), especially on the basis of the Commission's proposal for a common corporate tax base (CCTB) and cross-border loss relief, and its proposal for a Directive on arbitration in case of international double business taxation.

3.1.1.4 Research theme 4

The influence of taxpayers rights on tax sovereignty

Member States increasingly exchange automatically bulk data, particularly financial data in order to identify tax avoidance and tax evasion, both within the EU and with third States.

Examples of large-scale legal tax avoidance by multinationals and of excessive policy competition between States (harmful tax competition) as evidenced by the Luxleaks affair, as well as tax fraud scandals such as the KB Lux and UBS affairs have led to automatic inter-State exchange of, inter alia, bank account and income information and tax rulings and advance pricing agreements (APA's) for companies. Other examples of the increasing exchange of tax information are the mandatory country-by-country reporting of their tax position by multinationals, the unilateral US FATCA (Foreign account tax compliance Act), the CRS (common reporting standard on financial information) of the OESO, the conclusion of many TIEA's (tax information exchange agreements), the recent revision and almost yearly extension of the EU DAC (EU Directive on administrative cooperation), the obligation to set up UBO (ultimate beneficial owner)-registers, whether or not accessible to the public, access for tax administrations to the information exchanged under the EU anti-money laundering Directive and rules which prescribe the advance disclosure of tax planning structures.

These developments give rise to the question whether the legal protection of the taxpayers has been adequately regulated, also in light of the EU legislation concerning data protection, the right to due process and the right to privacy.

A sub-theme of Research themes 2 and 3 is a project which investigates in which way the lessons learned within the EU in establishing an internal market may benefit market integration in other parts of the world, such as the regions covered by ASEAN or the East Africa Community.

3.1.2 Methodology

The research of the ACTL, in principle follows the traditional methods of legal research (such as comparative legal analysis, analysis of the law and case law).

3.1.3 Objectives / strategy / societal relevance

The objective of this research programme is to meet the highest international standard of academic excellence. To achieve its aim, the ACTL concentrates on academic top quality research. This research is reflected in the publication of books, articles and dissertations that are intended for academic peers. Furthermore, the ACTL has developed a number of outreach activities. Research products for target groups outside academia (tax lawyers, tax administration, accountants, judges, students, tax managers of companies) are created with articles in professional journals, contributions for blogs, annotations, Winter Courses and a LLM in International taxation.

The objective is also achieved by organizing conferences at home and abroad. These events reach not only peers but also societal target groups. The ACTL makes every effort possible to see to it that individuals from various sectors of society participate in the

conferences (as speakers/panel members or as keynote speakers) and that the audience is made up of as varied a public as possible. The aim here is to give all branches of society access to ACTL's research and explain the research that is conducted by the ACTL to them, so as to make meaningful contributions to the public debate. Also important in this framework is that everyone is capable of entering into debate with the researchers at the ACTL, and thus avoid academics from ending up in ivory towers. To achieve this, the admission fees for ACTL conferences are always as low as possible (and often free for students). Attention is also devoted to seeing to it that the ACTL members are alert to the sensitivities and discussions alive in society.

Passing on the research results to society can be accomplished by means of publications and public debate (conferences), as well as through education. The ACTL satisfies this need by offering an LLM degree in international taxation, whereby a new generation of tax professionals is trained.

3.1.4 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



Organization

4.1 General - to a more robust organisation

The director of the ACTL is prof. dr. Dennis Weber. Wendy Rademaker is the management-assistant of the ACTL. Prof. dr Otto Marres is the Phd director of the ACTL.

In 2019, the ACTL experienced growth: Vassilis Dafnomilis and Dr. Bruno da Silva, who have strengthened research and education in the advanced LLM in international taxation and lecturer Anya Vvedenskaya. Also, by expanding the appointment of Dr. S.J. Mol-Verver to almost a full-time appointment and with the arrival of Ciska Wisman, the Dutch team for Bachelor and Master education has become more robust. Two full-time Phd students, Federica Casano and Max Holzhauser-Wittich joined the ACTL under the fiscal transparency programme. Dr. Eric Poelman left the ACTL at the end of 2018.

4.2 ACTL advisory board

The ACTL advisory board, established in 2014, provides advice to the ACTL, upon request or on its own initiative, on research, education, conferences and on other matters involving the ACTL. Advice can be given on an individual basis or by the entire advisory board. The following individuals are the members of the advisory board of the ACTL:

- Prof. dr. Bristar Cao, Director, China International Tax Center (CUFE), vice-dean, School of Taxation (CUFE);
- Prof. Ana Paula Dourado, professor of tax law and European tax law at the School of Law of the Universidade de Lisboa;
- Prof. dr. Joachim Englisch, Lehrstuhl für Öffentliches Recht und Steuerrecht, Geschäftsführender Direktor des Instituts für Steuerrecht Universität Münster;
- Prof. dr. Luis Schoueri, professor of tax law, University of Sao Paulo;
- Prof. Richard Vann, Challis professor of Law, University of Sydney.

4.3 Table ACTL fte

Research staff ' Tax Sovereignty and (Anti)-Globalisation

All (assistant) professors have 30% research time. When this is deviated from, it is stated in brackets

Full Professors ('gewoon hoogleraar')

- prof. dr. R.P.C. Cornelisse (0.1)
- prof. dr. S.C.W Douma (0.4)
- prof. dr. O.C.R. Marres (0.4)
- prof. dr J.L. van de Streek (0.4)
- prof. dr. H. Vermeulen (0.4)
- prof. dr. P.J. Wattel (0.2)
- prof. dr. D.M. Weber (0.5)
- prof. dr. S. van Weeghel (0.2)

Professor by special appointment ('bijzonder hoogleraar')

- prof. dr. M. van Hilten (0.0)

Assistant-professors

- dr. M. van Dun (0.2)
- dr. W.R. Kooiman (0.4)
- mr. A.L. Mertens (0.2)
- mr. dr. S.J. Mol-Verver (0.9)
- mr. drs. W.A.P. Nieuwenhuizen (0.2)
- dr. A. Rozendal (0.2)
- dr. Bruno da Silva (0.4)
- dr. J. Wheeler (0.24)

Lecturers

- Vassilis Dafnomilis (0.4)
- Ciska Wisman (0.2)
- Anya Vvedenskaya (1 fte)

Internal Phd students

- All Phd students have 100% research time
- Federica Casano (1 fte)
- Max Holzhauer-Wittich (1 fte)
- Martijn Nouwen (0.40)

Total staff: 9,34 fte

4.4 ACTL staff overview (including ancillary activities)

Director

- prof. dr. D. (Dennis) M. Weber
 - Professor European Corporate Tax law
 - Of Counsel Loyens & Loeff
 - Nederlandse Orde Belastingadviseurs, Bestuurslid Sectie Europees Fiscaal Recht
 - GREIT, Bestuurslid Group for Research on European and International Taxation
 - Kluwer International Tax Blog, Editor
 - H&I on European Taxation, Kluwer, General editor

Management-assistant ACTL

- W.E. (Wendy) Rademaker-Swart

Professors

- prof. dr. R. (Rob) P.C. Cornelisse
 - Professor Tax Law
 - Of Counsel Loyens & Loeff
 - Stichting Belastingwinkel Amsterdam, Lid van de Raad van Advies
 - B & S Group S.A., member of the Supervisory board
 - Stichting 2 HEJB (ANBI), voorzitter van het Bestuur
 - Stichting bev. beoefening bel.wetenschap, Ondersteuning lsg belastingrecht UvA
 - Stichting Papageno Fonds, Penningmeester
- prof. dr. (Sjoerd) Douma
 - professor of International and European Procedural Tax Law
 - Partner Lubbers, Boer & Douma
 - Ned. Vereniging voor Int. Belastingrecht, Lid van het bestuur
 - FED Fiscale Brochures & Fis. Studierie, Lid van de redactie
 - Stichting Studiecentrum Rechtspleging, Docent
 - Erasmus Universiteit Rotterdam, Docent in de post-masteropleiding Europese Fiscale Studies (EFS)
 - International Fiscal Association, Lid van de Permanent Scientific Committee
- prof. dr. O. (Otto) C.R. Marres
 - Professor Integrity of the corporate tax base
 - Tax lawyer at KPMG Meijburg & Co
 - SDU, Redacteur
- prof. dr. J. (Jan) L. van de Streek
 - Professor Corporate Taxation
 - Owner, Fiscale Topsprekers
- prof. dr. H. (Hein) Vermeulen
 - Professor of Tax Law
 - Tax lawyer, PricewaterhouseCoopers
 - Gerechtshof Arnhem-Leeuwarden, raadsheer-plaatsvervanger
 - Amsterdam School of Real Estate, Voorzitter Examencommissie
- prof. dr. P. (Peter) J. Wattel
 - Professor European Tax Law
 - Advocate-General at the Netherlands Supreme Court
- prof. dr. S. (Stef) van Weeghel
 - Professor International Tax Law
 - Partner PricewaterhouseCoopers
 - Int. Bureau of Fiscal Documentation, Chair Board of Trustees
 - Belt and Road Cooperation Mechanism, Lid Advisory Board
 - Intertax (Publication), Lid Editorial Board
- prof. mr. dr. M.E. (Mariken) van Hilten
 - Professor Indirect Tax Law
 - Judge at the Netherlands Supreme Court

Assistant professors and lecturers

- Vassilis Dafnomilis
 - Lecturer UvA-IBFD LLM in International Tax law
 - Tax lawyer, PwC
- dr. M. (Michel) van Dun
 - Assistant professor International Tax Law
 - PWC - senior manager Knowledge Centre
 - Boom Uitgevers Den Haag BV, (co-) auteur Jurisprudentiebundel Internationaal Belastingrecht
 - Stichting Opleiding Belastingadviseurs, docent internationaal belastingrecht
 - Wolters Kluwer Nederland BV, auteur Fiscaal Tijdschrift FED
 - St. International Tax Centre Leiden, docent internationaal belastingrecht
 - Stichting NL Fiscaal, auteur NL Fiscaal
 - SDU, auteur Nederlands Tijdschrift voor Fiscaal Recht

- dr.W.R. (Reinier) Kooiman
 - Assistant professor Corporate Taxation
 - Medewerker wetenschappelijk bureau, Deloitte
- mr. A. (Ton) L. Mertens
 - Assistant professor Income Taxation and Employment Taxes
 - Independent tax lawyer, Mr. A.L. Mertens B.V.
 - Deputy judge 's-Hertogenbosch Tax Court of Appeals
 - VU, Gastdocent
 - Stichting Normering Arbeid, Lid College van Beroep
 - Gerechtshof Den Bosch, Raadsheer-plaatsvervanger
- mr. dr. S. (Suzanne) J. Mol-Verver
 - Assistant professor Corporate Taxation and Income Taxation
- mr. drs. W. (Wilbert) A.P. Nieuwenhuizen
 - Assistant professor VAT
 - WSV Almere Haven, Bestuurslid
 - RB (Register Belastingadviseurs), Raad van Beroep
 - JFAS, Raad van Toezicht
 - Rechtspraak, Raadsheer plv. Gerechtshof Den Haag
 - btw-adviseurs.nl, Belastingadviseur
- dr. A. (Aad) Rozendal
 - Assistant professor Corporate Taxation and International Tax Law
 - Head of Tax Technical Office RSM Netherlands Belastingadviseurs N.V.
- dr. Bruno da Silva
 - Assistant professor UvA-IBFD LLM in International Tax law
 - Professional support lawyer Loyens & Loeff
 - Advisor Macao (China)
- Anya Vvedenskaya
 - Lecturer UvA-IBFD LLM in International Tax law
- dr. J. (Joanna) Wheeler
 - Lecturer UvA-IBFD LLM in International Tax law
 - Senior Principal Research Associate IBFD
- C (Ciska) Wisman
 - Lecturer Corporate Taxation
 - EY, Fiscalist (International Tax and Transaction Services/EU)
 - Radboud Universiteit Nijmegen, Buitenpromovenda

4.5 External Phd students

The ACTL does not receive funds from the UvA for conducting or supervising doctoral research. Below is a list of PhD students who conduct research as external PhD students and are supervised by an ACTL professor.

- Samira Bentohami
- Reinout de Boer
- Victor Chew
- Martine Chin-Oldenziel
- Vanessa Ferreira
- Tjebbe Gerverdincx
- Gerrit Groen
- Mick Knops
- Elise Okhuizen
- Raul Papotti
- Natalia Quiñones
- Afton Titus
- Clark Warren
- Martijn Weijers







Funding

Most of the research that is part of the ACTL research programme is funded by direct government funding ('1e geldstroom') including the RPA lumpsum. Furthermore, ACTL conferences are usually sponsored as a consequence of which these generate no profit (or loss). As of the academic year 2015/2016 the ACTL - in close cooperation with the Amsterdam based IBFD (a not for profit Dutch foundation) - started an Advanced LLM ("International Tax Law"; not government funded, selective), which generated a profit 2019.

The direct government funding ('direct government funding') is not sufficient to fund larger appointments for research. With the funding of the Advanced LLM (which generated a profit for the first time in 2019), a start has been made with larger appointments.

In 2019 the ACTL received € 35.000 seed funding from law firm Loyens & Loeff to map out whether and to what extent research into cashless payments and taxation can be set up. It also received € 656.000 from the Adessium Foundation to set up a fiscal transparency programme (see more below).

The ACTL does not receive any money from the UvA for conducting or supervising doctoral research. That is why most PhD students are external.





Location

Address ACTL

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Nieuwe Achtergracht 166
1018 WV Amsterdam

The ACTL website is www.actl.uva.nl. Here you can find news from the ACTL, upcoming events, information about the UvA-IBFD LLM, detailed information about our research programme and activities and an overview of the ACTL staff. It also posts announcements of publications of ACTL members and free publications and downloads are made available.

The ACTL has a group on LinkedIn (www.linkedin.com). Persons who are interested in the activities of the ACTL are kept up to date. At the end of 2019, the group had over 2500 members.



Activities in 2019

7.1 General overview

In 2019 ACTL researchers published 17 academic publications, 105 professional publications, updated 11 study books and gave 46 presentations. In 2019, eight conferences/seminars/lectures were (co-)organised. The most popular conference was the conference about the ‘The Principal Purposes Test’ (abuse of tax treaties) in Amsterdam with more than 150 participants.

7.2 Conferences & seminars

7.2.1 Springtime in Amsterdam; Peter Sloterdijk and others on voluntary taxation in a globalized world 21 March 2019

The world-famous philosopher Peter Sloterdijk has made a claim to change taxes, gradually and carefully, from enforced levies into voluntary contributions from citizens for society (through the State as intermediary). Striking about this is the two-fold change of perspective: from forced to voluntary contribution, on the one hand, and from paying taxes to - and for the purpose of - the State to payments for the benefit of society, on the other.

Left: Peter Sloterdijk

Right: Peter Sloterdijk in a panel with Peter Wattel and Fred van Horzen



Moderators/Speakers

- Prof. Dr Peter Wattel (ACTL/Dutch Supreme Court)
- Fred van Horzen (Meijburg & Co)
- Prof. Dr Peter Sloterdijk, Dr Jörg Alt SJ (Jesuitenmission Nürnberg)
- Prof. Dr Hans Gribnau (Tilburg University, department of Tax Law/Universiteit Leiden)
- René ten Bos (Chair Philosophy of Management Sciences, Radboud University Nijmegen)
- Adriaan van Dis
- Prof. Dr Jonathan Soeharno (Faculty of Law, University of Amsterdam/De Brauw)
- Anna Gunn (Erasmus University Rotterdam)
- Prof. Dr Sigrid Hemels (Erasmus School of Law, Erasmus University Rotterdam/Allen & Overy)
- Dr ds. Johanna Mugler (Institute of Social Anthropology, University of Bern)

7.2.2 The Principal Purposes Test

3 May 2019

The Principal Purposes Test (PPT) as incorporated in Art. 7(1) MLI and in Art. 29(9) 2017 OECD MC will cause a sea change in the application of bilateral income tax treaties. For a number of countries that have ratified the MLI in 2018, that change has already taken effect; for those that ratify in 2019, the effective date will be January 1, 2020. During this full day conference, the PPT was critically reviewed by internationally renowned experts in the field of tax treaty abuse. The PPT was evaluated against the background of OECD developments and international case law, the Examples provided by the OECD were discussed, the relationship between the PPT and the EU Abuse-doctrine examined – and finally the application of the PPT in practice.

This conference was organized by the Amsterdam Centre for Tax Law (ACTL) of the University of Amsterdam, in cooperation with the Tax Policy Center of the University of Lausanne, the Institute of Tax Law of KU Leuven, and the Finance and Tax Department of the University of Cádiz.

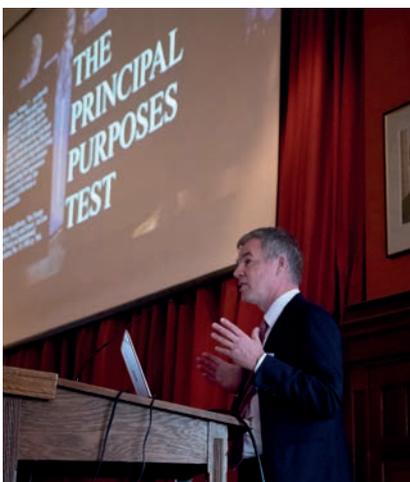
Chair

- Prof. Stef van Weeghel (ACTL/PwC)

Moderators/Speakers

- Prof. Luc De Broe (KU Leuven/Laga)
- Prof. Robert Danon (UNIL/Danon & Salomé)
- Prof. Adolfo Martín Jiménez (University of Cádiz)
- Prof. Peter Wattel (ACTL/De Hoge Raad)

Left: Prof. Stef van Weeghel speaking during the Principal Purposes Test (PPT) conference
Right: The audience during the Principal Purposes Test (PPT) conference



- Graham Aaronson QC (Joseph Hage Aaronson LLP)
- Prof. Luc De Broe (KU Leuven/Laga), Vikram Chand (UNIL)
- Maikel Evers (OECD)
- Prof. Robert Danon (UNIL/Danon & Salomé)
- Prof. Sjoerd Douma (ACTL/Lubbers Boer Douma)
- Prof. David Duff (University of British Columbia)
- Prof. Adolfo Martín Jiménez (University of Cádiz)
- Blazej Kuzniacki (Ministry of Finance Poland)
- Philippe Martin (Conseil d'État)
- Prof. Dennis Weber (ACTL/Loyens & Loeff)

7.2.3 Anonimiseringsstructuren: privacy of transparantie?

14 mei 2019

Anonimiseringsstructuren: privacy of transparantie? In 2019 is in de vakliteratuur en praktijk een discussie losgebrand over het gebruik van cv-structuren om vermogen te anonimiseren. Behalve de verschillende civiel- en fiscaalrechtelijke aspecten die daarbij aandacht hebben gekregen, rijst de dieperliggende vraag waar het juiste evenwicht ligt tussen privacy voor de belastingplichtige en de maatschappelijke roep om meer transparantie. Tijdens dit seminar werd hier dieper op ingegaan.

Voorzitter

- prof. dr. J.L. van de Streek (ACTL)

Sprekers

- mr. dr. V.A.E.M. Meijers (Universiteit Leiden)
- prof. dr. S.A. Stevens (Tilburg University)
- mr. F.M. Witpeerd (Hoge Raad)
- mr. dr. W.R. Kooiman (ACTL / Deloitte)
- mr. P. Anthoni (Tilburg University / PwC)
- drs. M.J.A.M van Gijlswijk (Meijburg & co)

7.2.4 GREIT Conference - Tax Sustainability in the EU and International Context

19/20 June 2019

The Group for Research on European and International Taxation (GREIT) organized on the 19 and 20 June 2019 a conference on Tax Sustainability in the EU and International Context. The conference was hosted by the Department of Business Law, School of Economics and Management of Lund University.

Moderators/Speakers

- Cecile Brokelind
- Sigrid Hemels
- Ana Paula Dourado
- Pasquale Pistone
- Servaas van Thiel
- Danuse Nerudová
- P. Rozmahel
- M. Dobranschi
- Andrea Mucciariello
- Alice Pirlot
- Axel Hilling
- Begona PérezBernabey
- Jasna Bogovac
- Meyyapan Nagappan
- Nehal Binani
- Mats Tjernberg

- Yvette Lind
- Agustin Redonda
- Irma Mosquera
- Ddries Lesage
- Wouter Lips
- Peter Koerver Schmidt
- Carlo Garbarino
- Peter J. Wattel
- Richard Lyal
- Mateusz Lewandowski
- Joana Pedruso
- Jonas Nilsson
- Isabelle Richelle
- Pernilla Rendahl
- Katarina Nordblom
- Daniela Oprescu

**7.2.5 De Deense beneficial ownership zaken:
de gevolgen voor de dividendbelasting en de
deelnemingsvrijstelling – ACTL afternoon seminar
25 juni 2019**

De Deense beneficial ownership arresten van het HvJEU hebben veel losgemaakt. Is het HvJEU echt een andere koers ingeslagen met betrekking tot de bestrijding van belastingontwijking? En wat is de invloed hiervan op het internationale (Nederlandse) belastingrecht?

Chair

- Prof dr. Dennis Weber (ACTL/Loyens & Loeff)

Speakers

- Dr. Frederik Boulogne (ACTL/BDO)
- Heiko Lohuis (Leiden University/Loyens & Loeff)
- Dr. Bruno da Silva (ACTL)
- Prof. dr. Daniel Smit (Tilburg University/EY)



Dr. Boulogne speaking – Afternoon seminar
'de Deense beneficial ownership zaken'

7.2.6 Symposium 50 jaar vennootschapsbelasting

27 juni 2019

Georganiseerd door de fiscale vakgroepen van de Nederlandse universiteiten. Op initiatief van de gezamenlijke vpb-secties van de Nederlandse universiteiten zijn uit de gelederen van deze secties auteurs benaderd om in het kader van het 50-jarige bestaan van de Wet VPB 1969 een wetenschappelijke bijdrage te leveren aan een evaluatie van deze wet.

Moderators/Speakers

- prof. dr. J.C.M. van Sonderen
- prof. mr. dr. J.P. Boer & mr. J.P. Hofstra
- prof. dr. E.J.W. Heithuis
- prof. dr. H.T.P.M. van den Hurk
- prof. dr. J.L. van de Streek
- prof. dr. S.A. Stevens
- prof. dr. M.F. de Wilde

7.2.7 Adv LLM Ceremony and Amsterdam Distinguished Lecture in International Tax Law

5 September 2019

On Thursday 5 September 2019, the Amsterdam Distinguished Lecture in International Tax Law was delivered by Prof. Diane Ring, who is the Associate Dean of Faculty, Professor of Law and the Dr. Thomas F. Carney Distinguished Scholar at Boston College Law School. Prof. Ring was also the IBFD Professor in Residence for the year 2019.

7.2.8 Mandatory Disclosure (DAC6) - de meldplicht en de hallmarks: de theorie in de praktijk

16 december 2019

De invoering van de zogenoemde 'Mandatory Disclosure richtlijn' heeft zowel in de praktijk als wetenschap al de nodige hoofdbrekers opgeleverd. Nu de implementatiewetgeving bijna in werking treedt, is het goed hernieuwde aandacht te besteden aan de verplichting voor intermediairs en relevante belastingplichtigen om vanaf 1 juli 2020 bepaalde grensoverschrijdende constructies te melden. Hoeveel reikt die verplichting precies? Wat gaan banken melden? Wat is de positie van de belastingadviseur versus de in-house fiscalist? Welke constructies moeten worden aangemeld? Polen heeft de wetgeving al geïmplementeerd. Kunnen we leren van hun ervaringen?

Voorzitter

- prof. dr. S.C.W. Douma (UvA/LubbersBoerDouma)

Sprekers

- mr. M.B. Weijers (PNW/UvA)
- prof. dr. H. Vermeulen (PwC/UvA)
- dr. A.H.M. Daniëls (Nederlandse Vereniging van Banken)
- mr. drs. W-J Van Veen (Nederlandse belastingdienst)
- Konrad Kurpiewski (Ministry of Finance, Poland)

7.3 UvA-IBFD Advanced Master (LLM) in international tax law: principles, policy and practice

During the 2018-2019 academic year, the 15 students followed classes on fundamental aspects of international taxation, such as Foundation of Taxation in Public International law, EU tax law, Taxation of business profits, Tax Treaties. and VAT law. At the second semester, the students were working on their master thesis that was submitted at the end of July 2019.

Nina Berndsen was the winner of the IBFD Award for the best IBFD-UvA LLM thesis 2019 for her thesis “Profit allocation based on scarcity value: A new factor to tax intra-group services where their value is created”. She also won the ACTL Award for the student with the highest average grade of the 2019 IBFD-UvA LLM class.

The following Adv. LLM students of the year 2018-2019 published their master thesis in highly esteemed academic journals:

- Nina Berndsen, Profit allocation based on scarcity value: A new factor to tax intra-group services where their value is created,
- Anna Vvedenskaya, Common features of video games and social networks: importance for international taxation.

7.4 Some ACTL research in the spotlights

7.4.1 Taxing the Digital Economy – The EU Proposals and other insights

This book edited by Pasquale Pistone and Dennis Weber discusses the various aspects of the taxation of the digital economy, from value creation to significant digital presence to the digital services tax.

As the OECD puts it, the digital economy is increasingly becoming the economy itself. Since this new economy comes with challenges for tax policymakers, the OECD published the consultation document “Addressing the tax challenges of the digitalisation of the economy”, which outlines different policy options to address these challenges. In June 2018, the Amsterdam Centre for Tax Law and IBFD hosted a two-day conference, where speakers from all over the world shared their views on these various options for taxing the digital economy.

This book contains the papers written in connection with this conference. It summarizes the insights from the conference and discusses recent policy developments on the taxation of the digital economy. Different aspects of the taxation of the digital economy, from value creation to significant digital presence to the digital services tax, are addressed by renowned academics and distinguished scholars.

In offering insight into all the different aspects of the taxation of the digital economy, this book aims to provide an overview of the (consequences of) various tax policy options to address the digital economy. In particular, it is hoped that it contributes to the discussion on resolving the tax challenges arising from the digitalization of the economy.

Authors

Mattia Calabrese, Vikram Chand, Stjepan Gadžo, Sriram Govind, Charlène A. Herbain, Vasiliki Koukouliti, Marie Lamensch, Paolo Ludovici, Christopher A. Ludwig, Andrés Báez Moreno, Luís Flávio Neto, João Félix Pinto Nogueira, Marcel Olbert, Steve Pierrée, Laura Simmonds, Christoph Spengel, Piergiorgio Valente, Maarten de Wilde and Ciska Wisman.

7.4.2 Prof. dr Jan van de Streek wins Saskia J. Stuiveling Prize

In 2019 Jan van de Streek has been awarded the 2018 Saskia J. Stuiveling Prize – a journalism prize for non-journalists – by the Stichting Anne Vondeling. Van de Streek was chosen for his expert cooperation with journalists during the period that a repeal of the dividend withholding tax was under consideration.

7.4.3 The ‘fiscal transparency research’ programme

The ‘Fiscal transparency research’ programme led by Martijn Nouwen started in 2019. This research programme has two goals:

- To carry out academic research into and promote transparency with regard to inter-state international tax competition, especially within the European Union; and
- To interpret the results of its academic research for the benefit of society – investigative journalism, politics and non-governmental organisations (NGOs) included.

The research in the ‘fiscal transparency’ research programme will be performed by an assistant professor (0,5 FTE) and two full-time Phd students, Federica Casano and Max Holzhauser-Wittich and is financed by the Adessium Foundation (€ 656.000).





Key publications in 2019

- S. van Weeghel, “A Deconstruction of the Principal Purposes Test”, published in the *IBFD World Tax Journal*, February 2019, pp. 3 – 45.
- H. Vermeulen, Vijftig jaar fiscale neutraliteit in de Wet VPB 1969: beleggingsinstelling en coöperatie. In J. L. van de Streek, & A. J. A. Stevens (Eds.), *De toekomst van de vennootschapsbelasting: Lessen uit 50 jaar wet VPB 1969* (pp. 363-373), Deventer, Wolters Kluwer 2019.
- P.J. Wattel, Regulation and Effects of Fiscal State Aid in Third-State Relations, Chapter 6 in: Adolfo Martín Jiménez (ed.), *The External Tax Strategy of the EU in a Post-BEPS Environment*, IBFD Amsterdam, 2019, p. 149-169.
- G.F. Boulogne, Debt Push-Downs in Times of BEPS Action 4 and the ATAD. *Intertax*, 47(5), 444-453.
- W.R. Kooiman, Inleiding in de Vennootschapsbelasting. Het mysterie ontrafeld (deel I), Amsterdam: Uitgeverij Scripta Manum 2019, 142 blz.
- C. Wisman and M.F. de Wilde, OECD consultations on the digital economy: ‘Tax base reallocation’ and ‘I’ll tax if you don’t’. , Aug 2019, *Taxing the Digital Economy*. Weber, D. & Pistone, P. (eds.), IBFD.
- D.M. Weber (with Pasquale Pistone), *Taxing the Digital economy*, IBFD, 2019, 360 pp.





Research output

9.1 Academic publications

G.F. Boulogne

Books

- With & Brandsma, R. P. C. W. M. (2019). *Juridische splitsing: Een fiscale analyse* (Fed fiscale brochures), Wolters Kluwer, 209 pp

Articles

- Debt Push-Downs in Times of BEPS Action 4 and the ATAD. *Intertax*, 47(5), 444-453.

R.P.C. Cornelisse

Articles

- Is het innen van de conserverende aanslag bij WFR 2019/386 Emigratie in strijd met de goede verdragstrouw?

V. Dafnomilis

- Dafnomilis, V. (2019). Greece - Amendments to the Thin Cap Rule, the CFC Rule and the GAAR Following ATAD Implementation. *European Taxation*, 59(8)
- Vermeulen, H., & Dafnomilis, V. (2019). Case C-28/17 *NN A/S v. Skatteministeriet*: A CJEU Judgment that Raises 'Fresh Questions'. *EC Tax Review*, 28(2), 90-100

S.C.W. Douma

Book chapter

- Algemene wet inzake rijksbelastingen, Fed Fiscale Studieserie, deel 5, Deventer, Kluwer, 2019 (met E.A.G. van der Ouderaa, R.J. Koopman en J. Wortel)

W.R. Kooiman

Books

- Inleiding in de Vennootschapsbelasting. Het mysterie ontrafeld (deel I), Amsterdam: Uitgeverij Scripta Manum 2019, 142 blz.

O. Marres

Book chapter

- Renteaftrek, in: J.L. van de Streek en A.J.A. Stevens (red.), *De toekomst van de vennootschapsbelasting: lessen uit 50 jaar Wet VPB 1969*, Kluwer, Deventer, 2019, p. 269 e.v.

B. Farinha Aniceto da Silva

Articles

- “The independent agent PE”, in *New trends in the Definition of Permanent Establishment* (G. Maisto, ed), Vol. 17 of the EC and International Tax Law Series, IBFD August 2019, pp. 169-196;

H. Vermeulen

Articles

- Vijftig jaar fiscale neutraliteit in de Wet VPB 1969: beleggingsinstelling en coöperatie. In J. L. van de Streek, & A. J. A. Stevens (Eds.), *De toekomst van de vennootschapsbelasting: Lessen uit 50 jaar wet VPB 1969* (pp. 363-373), Deventer, Wolters Kluwer 2019.
- H. Vermeulen & V. Dafnomilis, Case C-28/17 NN A/S v. Skatteministeriet: A CJEU Judgment that Raises ‘Fresh Questions’. *EC Tax Review* 2019, 28(2), 90-100
- Vermeulen & V. Dafnomilis. ECJ Decision in Bevola (Case C-650/16): A Missing Piece in the Marks & Spencer (Case C-446/03) Puzzle. *European Taxation* 2019, 59(2/3).

S. van Weeghel

Articles

- “A Deconstruction of the Principal Purposes Test”, published in the *IBFD World Tax Journal*, February 2019, pp. 3 – 45.

P.J. Wattel

Book chapters

- Regulation and Effects of Fiscal State Aid in Third-State Relations, Chapter 6 in: Adolfo Martín Jiménez (ed.), *The External Tax Strategy of the EU in a Post-BEPS Environment*, IBFD Amsterdam, 2019, p. 149-169.

D.M. Weber

Books

- Dennis Weber & Pasquale Pistone, *Taxing the Digital economy*, IBFD, 2019, 360 pp

Articles

- Tax rules with retroactive effect versus legal certainty and legitimate expectations, Published in *Time and Tax, Issues in International, EU, and Constitutional Law*, (edited by Haslehner, Kofler and Rust), Wolters Kluwer, 2019, p. 167-180.

C. Wisman

Book chapters

- C. Wisman and M.F. de Wilde, OECD consultations on the digital economy: ‘Tax base reallocation’ and ‘I’ll tax if you don’t’, Aug 2019, *Taxing the Digital Economy*. Weber, D. & Pistone, P. (eds.), IBFD
- M.F. de Wilde/C. Wisman, *New Trends in the Definition of Permanent Establishment: The Netherlands*, in: G. Maisto, *New Trends in the Definition of Permanent Establishment*, EC and International Tax Law Series, IBFD, Augustus 2019

9.2 Professional publications

G.F. Boulogne

Case notes

- Gevoegde zaken C-662/18 (AQ) en C-672/18 (DN): NTFR 2019/3059. NTFR. Nederlands Tijdschrift voor Fiscaal Recht, 2019, [3059]
- Rechtbank Rotterdam: Rechtbank stelt geen prejudiciële vragen aan HvJ in zaak over Italiaanse aanslagen (ECLI:NL:RBROT:2019:8942): NLF 2019/2707. NLFiscaal, 2019, [2707].
- HvJ (nr. C-662/18, nr. C-672/18): Highlights & Insights on European Taxation 2019/357. Highlights & Insights on European Taxation (H&I), 2019, [357].
- HvJ EU (Belgische regeling inzake vennootschapsbelasting strijdig met EU-recht): NLF 2019/2131. NLFiscaal, 2019, [C-389/19].
- HvJ EU (nr. C-662/18: Franse heffing over meerwaarden effectenruil strijdig met Fusierichtlijn). NLFiscaal, 2019, [2157].
- NLFiscaal Kennisbank (<https://www.nlfiscaal.nl/nlf/kennistaxdeposit.nsf/zoekNLFiscaal?readform>): Commentaar bij art. 14, 14a en 14b Wet Vpb 1969. In NLFiscaal Kennisbank NLFiscaal.
- HR (nr. 17/05180: Geldlening kan worden toegerekend aan winningsbedrijf), Fiscaal Tijdschrift FED.
- HR (nr. 18/02329, 18/02330, 18/02332, 18/02333, 18/02334: FED 2019/87: Geen parallelle tussen interne en externe leningen): HR 22-03-2019, ECLI:NL:HR:2019:394, Fiscaal Tijdschrift FED.
- HvJ EU (nr. C-115/16): HvJ EU C-115/16 et al, Fiscaal Tijdschrift FED.
- PHR (nr. 18/02384: Nederland mag door inwoner België ontvangen liquidatie-uitkeringen belasten): NLF 2019/0838. NLF 2019/0838.
- Interestbetalingen tussen lidstaten: verplichting om richtlijnmisbruik te bestrijden en uitleg eis uiteindelijk gerechtigde: FED 2019/53. Fiscaal Tijdschrift FED, 2019, [53].
- HvJ (Conclusie A-G nr. C-607/17: Eisen voor grensoverschrijdende verliesverrekening bij fusies): Conclusie A-G Kokott van 10 januari 2019 (C-607/17). NLFiscaal, 4(4), 44-46. [0187].
- Wetsvoorstel 'Fiscale Arbitrage' NLF 2019/0135: MvF 19 december 2018. NLFiscaal, 4(3), 33-35. [0135]. NLF-17-01-2019
- HvJ EU (Verliesverrekening bij grensoverschrijdende fusies): NLF 2019/1509. NLFiscaal, 2019, [1509].

R.P.C. Cornelisse

Articles

- Objectief, subjectief of hybride? NTFR 2019/410
- Verhoging AB-tarief en lenen bij de eigen BV, FED 2019/65

Case Notes

- Hoge Raad, 30 november 2018, nr. 17/01640, BNB 2019/25
- Hoge Raad, 11 januari 2019, nr. 17/03603, BNB 2019/40
- Hoge Raad, 8 november 2019, nr. 18/01352, BNB 2020/13

S.C.W. Douma

Articles

- Openbaarmaking bestuurlijke boeten voor belastingadviseurs: niet invoeren!', NTFR 2019/1412.

Book review

- Book review of Jérôme Monsenego, Selectivity in State Aid Law and the Methods for the Allocation of the Corporate Tax Base, EUCOTAX Series on European Taxation, Vol. 60, Kluwer Law International, 2018, Intertax 2019, p. 338-339

O. Marres

Articles

- Panta rhei: de doorstroomarresten, NTFRB 2019/23
- Toepassing van art. 10a VPB 1969 op schulden binnen fiscale eenheid: ellendig maar niet krankzinnig, NTFR 2019/2078 (en naschrift bij reactie in NTFR 019/2467)
- Waarom de earningsstrippingmaatregel niet in strijd met het primaire Unierecht is, NTFR 2019/3022

Case notes

- HR 19 oktober 2018, 15/00194, BNB 2019/17: Eindbeslissing zaak X BV. Vrijheid van vestiging. Fiscale eenheid. Per-elementbenadering. Renteaftrekbeperking winstdrainage
- HR 22 maart 2019, 18/02329, BNB 2019/98: Renteaftrekbeperking winstdrainage. Tegenbewijs. Onvoldoende parallelle tussen interne leningen en externe financiering
- HR 10 mei 2019, 17/0510, BNB 2019/130: Rentelasten op lening ter verkrijging aandelen in winningsbedrijf vormen na fusie kosten van dat winningsbedrijf
- HR 19 juli 2019, 18/03647, BNB 2019/174: Zakelijke winstverdeling sluit niet uit dat het winstaandeel van een in het buitenland woonachtige partner gedeeltelijk wordt behaald met behulp van een in Nederland woonachtige vaste vertegenwoordiger
- HR 27 september 2019, 18/04850, BNB 2019/187: Belastbaarheid overheidspensioen. Eerbiedigende werking bij inwerkingtreding nieuw verdrag met Verenigd Koninkrijk
- HR 18 oktober 2019, 2019, 18/03614, BNB 2019/190: Teruggaaf dividendbelasting. Bewijslastverdeling bij beoordeling of een verzoeker de tot de opbrengst gerechtigde en de uiteindelijk gerechtigde is
- HR 18 januari 2019, 17/04584, FED 2019/41: Dividendbelasting. Art. 10 lid 10 Verdrag Nederland-Zuid-Afrika. Meestbegunstigingsclausule
- HR 15 maart 2019, 17/04329, FED 2019/78: Afwaarderingsverlies op vordering post emigratie niet aftrekbaar. Ab-voorbehoud verdrag met België mist toepassing

B. Farinha Aniceto da Silva

Case notes

- The Danish cases: N Luxembourg 1 & Others. Beneficial ownership of interest and royalties. Abuse of rights in Highlights & Insights on European Taxation 2019/252.

H. Vermeulen

Book chapters

- H. Vermeulen (red) (2019). Grondslagen internationaal belastingrecht. (9 ed.) Boom juridisch.
- O.C.R Marres, S.J. Mol-Verver en H. Vermeulen (red.) (2019). Hoofdzaken belastingrecht. (21 ed.) Den Haag: Boom juridisch.
- De invloed van het EU-recht op het belastingrecht, in: O.C.R Marres, S.J. Mol-Verver en H. Vermeulen (red.) (2020). Hoofdzaken belastingrecht. (21 ed.) Den Haag: Boom juridisch.
- J.L. van de Streek & H. Vermeulen, Vennootschapsbelasting, in: O.C.R Marres, S.J. Mol-Verver en H. Vermeulen (red.) (2019). Hoofdzaken belastingrecht. (21 ed.) Den Haag: Boom juridisch.
- De fiscale beleggingsinstelling, in. A.W. Hofman, S.A.W.J. Strik en J.L. van de Streek (Eds). Cursus belastingrecht Vennootschapsbelasting, chapter 7.0.1. Deventer: Kluwer.
- De vrijgestelde beleggingsinstelling, in. A.W. Hofman, S.A.W.J. Strik en J.L. van de Streek (Eds). Cursus belastingrecht Vennootschapsbelasting, chapter 7.0.2. Deventer: Kluwer.
- Introductie, in: H. Vermeulen (red) (2019). Grondslagen internationaal belastingrecht. (9 ed.) Boom juridisch.
- H. Vermeulen & Z. Zalmai. Belastingverdragen, in: H. Vermeulen (red) (2019). Grondslagen internationaal belastingrecht. (9 ed.) Boom juridisch.

Articles

- De Deense beneficial ownership-zaken in relatie tot Deister Holding en Juhler Holding. NTFR. Nederlands Tijdschrift voor Fiscaal Recht, 2019(29),
- Infrastructuur en earningsstripping-maatregel: De vlag dekt de lading niet. Vakstudie Nieuws 2019, 74(6), [6.0]
- Minder terughoudendheid voor prejudiciële vragen aan het Hof van Justitie EU. Vakstudie Nieuws 2019, 74(1), 18-19. [1.0].
- Verliesverdamping anno 2019. Vastgoed Fiscaal & Civiel 2019, 24(2), 5-9.
- Voorwaartse verliesverrekening per 2019 beperkt tot 6 jaar. FBN: Fiscale Berichten voor het Notariaat 2019, 31(5), 10-13, [26]
- Dubbel pech. Het Register 2019(4), 17.

S.J. Mol-Verver

Articles

- Aantekening bij Hoge Raad 21 december 2018, ECLI:HR:2018:2390, FED 2019/46
- FED rubriek Fiscale Ergernis, Een wetsvoorstel met enorme afschrikkende gevolgen, 22 maart 2019.

Books

- Redactie *Hoofdzaken Belastingrecht*, Boom juridische uitgevers 2019, 21^e druk

S. van Weeghel

Case notes

- Hoge Raad 19 July 2019, nr. 17/05809

Articles

- “Digitalization in a Broader Tax Perspective”, editorial published in *Intertax*, Volume 47, Issue 6 & 7, 2019 pp. 1- 4.

J. Wheeler

Books

Wheeler, J. (editor), *The Aftermath of BEPS*, ISBN: 978-90-8722-587-2 (print); 978-90-8722-588-9 (eBook, ePub); 978-90-8722-589-6 (eBook, PDF), IBFD, 2019.

Book chapter

- Wheeler, J., Chapter 2: Some Thoughts about Transparency, Attribution and CFC Regimes and Their Interaction with Tax Treaties, in Wheeler, J. (ed.), *The Aftermath of BEPS*, ISBN: 978-90-8722-587-2 (print), 978-90-8722-588-9 (eBook, ePub), 978-90-8722-589-6 (eBook, PDF), IBFD, 2019, pp. 43-72.

W.R. Kooiman

Opinions

- HR 7 december 2018, ECLI:NL:HR:2018:2264: Oorzaak of gevolg?, NLF Opinie 2019/13.

Case notes

- A-G Wattel belicht in tweede cassatieronde tegenbewijsregeling inzake winstdrainage in zaken van exploitatie van Bosalgat, NTFR 2019/604.
- A-G Wattel adviseert zaken over teruggaaf van dividendbelasting aan een Schotse trust te verwijzen naar feitenrechter, NTFR 2019/419.
- Wetsvoorstel UBO-register; nota van wijziging en nota n.a.v. het verslag, NLF 2019/2261.
- Bestuurder STAK heeft na doorcertificering toch aanmerkelijk belang, NLF 2019/2206.
- Aanbiedingsbrief beleidsreactie BIT-advies UBO-register, NLF 2019/2532.
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A.L. Mertens

Books

- Het beginsel van de minste pijn; een inleiding tot de loonheffingen *Ars Aequi Libri*, Nijmegen, 13e druk 2019; ISBN 978-94-9276-675-5
- Hoofdzaken belastingrecht, Hoofdstuk 3, Boom Juridisch, 21e druk, 2019
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- Loonheffingen in 2019, FBN 2019/2.
- Platformarbeid fiscaal: zie maar dat je er (niet) tussenkomt, Tijdschrift voor Arbeidsrecht in Context, 2019, nr. 1
- J. Gielink en A.L. Mertens, De RVU-heffing: oude beleidsbesluitenwijn in een nieuwe handreikingszak, *PensioenMagazine* 2019/45.

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- HR 16 november 2018, ECLI:NL:HR:2018:2114, 18/04103, BNB 2019/45 Prejudiciële vragen. Rijnvaart. Hoge Raad ziet af van beantwoording. Vereiste dat antwoord nodig is om op het (hoger) beroep te beslissen
- HR 5 oktober 2018, ECLI:NL:HR:2018:1725, 18/01619, BNB 2019/44 Prejudiciële vragen. Rijnvaart. Verbindendheid A1-verklaring inzake socialeverzekeringplicht. Aanhouding van de zaak in afwachting van procedure over A1-verklaring
- HR 23 november 2018, ECLI:NL:HR:2018:2066, 18/01030, BNB 2019/62 Afdrachtvermindering onderwijs. Initiële opleiding aan een hogeschool
- HR 8 februari 2019, ECLI:NL:HR:2019:188, 18/00136, BNB 2019/74, Fictieve afkoop pre-Brede-Herwaarderingslijfrente. Door verzekeraar bij uitbetaling achtergehouden bedrag is geen ter zake van de fictieve afkoop ingehouden loonheffing
- HR 8 maart 2019, ECLI:NL:HR:2019:266, 17/05027, BNB 2019/83 Stamrechtvrijstelling niet van toepassing bij in 2014 toegekende schadevergoeding wegens kennelijk onredelijk ontslag
- HR 19 april 2019, ECLI:NL:HR:2019:627, 17/05894, BNB 2019/158 Gedifferentieerde premie Werkhervattingskas. Geen overschrijding ruime beoordelingsvrijheid wetgever door onvoorziene verhoging
- Hof Arnhem-Leeuwarden 18 december 2018, ECLI:NL:GHARL:2018:10971, NLF 2019/0192 Gewijzigde regelgeving sectorindeling; overgangsrecht; gelijkheidsbeginsel
- Rechtbank Den Haag, 31 januari 2019, ECLI:NL:RBDHA:2019:1052, NLF 2019/1225 Voormalige 8%-vakantietoeslag kwalificeert niet als vrijgesteld loon

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- A-G Wattel 22-03-19, nrs. 18/02951 t/m 18/02956, ECLI:NL:PHR:2019:276, NTFR 2019/1452;
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- Noot bij HvJEU 4 oktober 2018, C-416/17, Commissie v. France (Précompte mobilier), veroordeling Frankrijk wegens niet-verwijzen prejudiciële vragen door zijn hoogste nationale rechter), BNB 2019/95 (7 bladzijden)

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- Ecologisch winden; NJB 2019/4, p. 245
- Misbuikbestrijding van interne bevoegdheid naar EU-plicht; NJB 2019/16, p. 1147
- Précompte en Baltic Master; de verwijsplicht van de hoogste rechter; NJB 2019/19, p. 1387
- Fiscale duurzaamheid; Vooraf, NJB 2019/26, p. 1855
- Starbucks, Fiat en het arm’s length beginsel; Vooraf, NJB 2019/33, p. 2425
- GloBe and Nexus; Vooraf, NJB 2019/41, p. 3079
- Starbucks and Fiat: Arm’s Length Competition Law, Intertax, Vol. 48, Issue 1

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Book chapters

- Hfst 1 t/m 5 (145pp) in Europees belastingrecht, studenteneditie 2019-2020, Kluwer 2019;

C. Wisman

Articles

- M.F. de Wilde en C. Wisman, OESO-consultatie digitale economie: ‘grondslaghervereiding’ en ‘ik belast wat jij niet doet?’, NLF-W (NLFiscaal – Wetenschappelijk), 4 maart 2019
- C. Wisman, Het GloBE-voorstel van de OESO: enkel een wereldwijd minimum winstbelastingtarief?, column TaxLive, 6 december 2019
- C. Wisman, Overgangsregeling overheidspensioenen belastingverdrag Nederland en Verenigd Koninkrijk 2008: tegemoetkoming effecten verdragwijziging enkel voor ‘bestaande gevallen’, FED 2019/149.
- C. Wisman, ‘The integrity of the tax system’: van ‘beneficial ownership’ tot consultatie liquidatieverliesregeling, column TaxLive, 8 mei 2019

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- P. Flutsch, L. Rijff, C. Wisman, Belastinggids 2019, Complete handleiding voor aangifte inkomstenbelasting 2018, 7 januari 2019, ISBN 9789013151558, Wolters Kluwer
- C. Wisman, Hoofdstuk 4 t/m 7 (Winst en vennootschapsbelasting), in: Inleiding belastingheffing ondernemingen en particulieren 2019, SDU (februari 2019)

Interview

- Nominatie Stevensprijs en interview Ciska Wisman genomineerd voor de Stevensprijs 2019 | TaxLive
- Interview op TaxLive, 23 oktober 2019, Starbucks-zaak is tik op de vingers van de Europese Commissie’

Podcast

- C. Wisman, Ook 'kwalificerende buitenlandse belastingplichtige' bij beperkte Nederlandse bronheffing, Podcast, 5 april 2019, Kluwer TaxVisions
- C. Wisman, HvJ EU: geen directe inning exitheffing vrij verkeer Zwitserland personen OVP, Podcast, 8 maart 2019, Kluwer TaxVisions
- C. Wisman, Teruggaaf dividendbelasting door MFN-clausule in verdrag met Zuid-Afrika, Podcast, 25 januari 2019, Kluwer TaxVisions
- C. Wisman, Conclusie A-G over verhouding staatssteun en vrij verkeer van kapitaal, Podcast, 4 januari 2019, Kluwer TaxVisions

9.3 Presentations

M. van Hilten

- 11 April 2019, Chair of the conference Douanewetboek van de Unie, Hoge Raad/Wolters Kluwer
- 6 June 2019, Keynote speaker International ICC VAT conference Tegernsee (Germany) – recent case law CJEU

W.R. Kooiman

- 12 April 2019, Taxlive.nl, 'Implementatie UBO-register: Een te weinig doordacht moetje!', interview
- 14 May 2019, Organizer of ACTL afternoon seminar 'Anonimiseringsstructuren: privacy of transparantie?'



- 26 September 2019, Masterclass ‘De oorsprong van het belastingrecht’ for honours law students, organized by JHV Phaedrus,
- 31 October 2019, Lecture ‘Renteaftrek onder de Wet VPB 1969’, organized by Mazars

O. Marres

- 11 March 2019; Introduction ‘Buitenlandse ondernemingen actief in Nederland (with J.J.L. Leenman)’, Post-Master Internationaal & Europees Belastingrecht 2019 (PMIEB), Rotterdam
- 18 June 2019; Introduction ‘Earningsstripping, waar liggen de belangen?’, (with J.L.L. Leenman), Studiedag Renteaftrek & Earningsstripping (Belastingdienst), Utrecht

H. Vermeulen

- 4 maart 2019, ‘Europees (direct) belastingrecht’, Studiecentrum Rechtspleging (SSR), Utrecht,
- 8 maart 2019, ‘Nieuwe jurisprudentie, Paob, Utrecht,
- 8 april 2019, ‘The fight against corporate tax avoidance – where do we stand? Main features of the European Union’s Anti-Tax Avoidance Directive (ATAD)’, Europäische Rechtsakademie (ERA), Finland.
- 16 mei 2019, ‘Recent developments in the fight against (corporate) tax avoidance’, Europäische Rechtsakademie (ERA), Brussel
- 30 oktober 2019, ‘Fondsstructuren’, Grotius, Utrecht
- 2 december 2019, ‘Vastgoedbeleggen: overzicht juridische en fiscale aspecten bij fondsstructurering’, Amsterdam School of Real Estate, Amsterdam,
- 16 december 2019, ‘Mandatory Disclosure (DAC6). De meldplicht en de hallmarks’, Amsterdam Centre for Tax Law,

S. Mol-Verver

- RB PE-cursus, onderwerp Deeleconomie en inkomstenbelasting; 16 oktober 2019, Seminar Inkomensheffing bij digitale platforms, op 16 oktober 2019 georganiseerd door Ministerie van Financiën

P.J. Wattel

- 17 January 2019, Bestuurlijke boeten en strafrecht; voordracht voor de Afdeling bestuursrechtspraak van de Raad van State, Den Haag
- 21 March 2019, Chair, Peter Sloterdijk and others on voluntary taxation in a globalized world, ACTL seminar, University of Amsterdam
- 3 May 2019, Moderator, The Principal Purpose Test v. the EU Anti-Abuse Doctrine, session, ACTL seminar The Principal Purpose Test, University of Amsterdam
- 13-14 June 2019, General Commentator, 14th GREIT Conference, Tax Sustainability in an EU and International Context, University of Lund, Sweden
- 13 September 2019, Chair, Tax Procedures in the United Kingdom, substantive session, 10th Assembly of the International Association of Tax Judges, Magdalene College, University of Cambridge
- 9 December 2019, De bestuursrechtelijke conclusie ex art. 8:12a Awb; voordracht voor het College van Beroep voor het Bedrijfsleven, Den Haag

S. van Weeghel

- 24 January 2019, Speaker, 3e Fiscale Conferentie Tax Talents – Verandering, NOB, Zeist
- 1 February 2019, Lecturer, Excellence Course 2019 - “Beneficial Ownership – Critical Review of Case Law & post-BEPS Relevance”, Maastricht University, Maastricht
- 15 February 2019, Speaker, Anti-Tax Avoidance Directive Conference, University of Luxembourg, Luxembourg
- 7 March 2019, Speaker, Medior Tax Community Meeting, Utrecht
- 18-20 April 2019, Speaker, Belt and Road Initiative Tax Administration Cooperation Forum conference (BRITACOF), Wuzhen, China

- 3 May 2019, Co-organiser, Chair and Speaker, ACTL Conference: The Principal Purposes Test, Amsterdam
- 24 May 2019, Discussant, Conference: Tax by Design for the Netherlands, Erasmus University, Rotterdam
- 11 September 2019, Chair IFA/OECD Seminar, IFA Annual Congress, London
- 23 September 2019, Co-chair, Panel on Unilateral Measures and the Risk of Tax War, IBA Annual Conference, Seoul, Korea
- 25 November 2019, Chair afternoon session Maisto seminar: 50th Anniversary of the International Tax Group, Milan
- 28 November 2019, Lecturer, Beneficial ownership, LOB and international tax avoidance, ITC Tax Treaties Course, Leiden
- 19-20 December 2019, Speaker, Conference on Tax Treaty Interpretation after BEPS, UNIL, Lausanne

D.M. Weber

- 7 March 2019, Tax Avoidance: the OECD principal Purposes test, National University of Singapore, NUS law
- 8 March 2019, Taxation and the Digital society, National University of Singapore, NUS Business school
- 1 April 2019, Beneficial ownership, Russian Tax Week 2019, IFA, Financial University, Moscow
- 3 May 2019, The PPT versus the EU abuse-doctrine, The principal Purposes test, ACTL conference, UvA, Amsterdam
- 14 June 2019, Introduction to EU Tax Law, Università degli Studi di Milano Bicocca, Milan
- 25 June 2019, Chair, De Deense beneficial ownership zaken: de gevolgen voor de dividendbelasting en de deelnemingsvrijstelling ACTL afternoon seminar, UvA, Amsterdam
- 20 September 2019, Selected cases on direct taxation, GREIT, University of Lisbon
- 3 October 2019, Transfer pricing and State aid, National University of Singapore
- 4 October 2019, Digital Taxation – EU Experience and Policy Approach, IFA/Tax Academy of Singapore
- 25 October 2019, Chair, Withholding tax in the EU context, Copenhagen EU Tax Law Conference 2019, university of Copenhagen
- 11 December 2019, The future of International taxation: Beneficial ownership and Abuse – IFA Conference, Jakarta, Indonesia





