



UNIVERSITY OF AMSTERDAM

Amsterdam Centre for Tax Law

Annual report 2013





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General information on the ACTL



1. Introduction

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 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 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 has a research staff of over twenty members, which includes professors, assistant professors and PhD researchers. In addition, several external researchers are associated

with the ACTL. The ACTL regularly organizes (international) conferences, seminars and courses.

The Director of the ACTL is professor dr. Dennis Weber, professor of European Corporate Tax Law. The ACTL professors are: prof. dr. Rob Cornelisse, prof. dr. Otto Marres, prof. dr. Ben Terra, prof. dr. Hein Vermeulen, prof. dr. Peter Wattel, prof. dr. Dennis Weber and prof. dr. Stef van Weeghel.

2. Co-operations

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT) (www.greit-tax.eu) 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 collaborated closely with the International

Bureau of Fiscal Documentation (IBFD; www.ibfd.com) (Amsterdam) in order to set up the one year 'Advanced Master (LL.M) in International Tax Law: Policy, Principles and Practice'. This LL.M. is to start in September 2015.

Outside the EU, the ACTL co-operates with universities from 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) and Universidad del Rosario (Colombia).

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 EU treaty freedoms and the EU 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 EU treaty freedoms on tax sovereignty

Tax sovereignty is limited by EU law. As regards direct taxes (e.g. income tax and corporation tax) this is predominantly due to the EU 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 EU 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 EU 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 EU 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 EU Treaty?
 - What balance does the EU 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 EU 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 EU 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 was the management-assistant of the ACTL until October 2013. From October 2013 Sanderijn Mulders took over this position. Aad Rozendal, Ciske Wisman and Maarten de Wilde strengthened the ACTL in 2013 as a researcher. Dr. Walter de Wit and Rita Szudoczky left the ACTL.

4.2. Table ACTL Fte

Research staff 'Tax Sovereignty versus Globalisation'

Name and present title		Fte
Professors (7)	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
Assistant professors (9)	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
Researchers (11)	Reinout de Boer	0.00
	Shu Chien Chen	0.80
	Marieke Koerts	0.00
	Roel Monteiro	0.40
	Martijn Nouwen	0.40
	Aad Rozendal	0.00
	Bruno da Silva	1.00
	Thidaporn Sirithaporn	1.00
	Rita Szudoczky	1.00
	Maarten de Wilde	0.00
	Ciske Wisman	0.00
Total research staff (27)	6.72	

4.3. ACTL Staff overview (including other employers)

Director

- prof. dr. D. (Dennis) M. Weber
- Professor European Corporate Tax law
 - Loyens & Loeff

Management-assistants ACTL

- (Astrid) J. Cornelisse MA
(Sanderijn) S. Mulders

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

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
- Loyens & Loeff

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

4.4. 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.

M. van Dun

- Tax lawyer at PricewaterhouseCoopers.

De Groot

- Tax Knowledge Center van KPMG Meijburg & Co.

O. Marres

- Editorial board Nederlands Tijdschrift Fiscaal Recht.
- Editorial board Nederlandse Documentatie voor Fiscaal Recht.
- Ph.D Research, Reinout de Boer: Misbruik van Europees recht en misbruik van nationaal recht in Europeesrechtelijk perspectief (Abuse of EU law and abuse of domestic law in EU perspective).
- Tax lawyer at KPMG Meijburg & Co.
- Deputy judge at the Court of Appeals of the Hague.

A.L. Mertens

- Chair committee 'Loonsomheffing' Vereniging voor Belastingwetenschap.

S. Mol-Verver

- Lecturer at the Law Firm School (Beroepsopleiding voor de advocatuur).
- Member of the Programme Committee Tax Law of the Amsterdam Law School
- Member of the examining board of the Amsterdam Law School.
- Programme coordinator Master Dutch Tax Law at the UvA.
- Member of the Master-Thesis-team of the Amsterdam Law School.

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.

A. Rozendal

- Assistant professor Corporate Taxation and International Tax Law.
- Head of Tax Technical Office RSM Nieuwe Kooij.
- (Editor Fiscal notes for the notary public (Fiscale Berichten voor het Notariaat)).

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).

- Chair of the Programme Committee Tax Law of the Amsterdam Law School.
- Member Begeleidingscommissie Evaluatie bestuursrechtelijke geldschuldenregeling van de Algemene wet bestuursrecht (titel 4.4. Awb), Wetenschappelijk Onderzoek- en Documentatiecentrum (WODC).
- Wet bestuursrecht (titel 4.4. Awb), Wetenschappelijk Onderzoek- en Documentatiecentrum (WODC).

P. Wattel

- Member of the Royal Netherlands Academy of Sciences.
- Member of the board of trustees, Europäische Rechtsakademie, Trier (Germany).
- Editor, Netherlands Law Review (Nederlands Juristenblad).
- Advocate-General, Netherlands Supreme Court.

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.
- Chair of the Permanent Scientific Committee of the International Fiscal Association.
- Chairman of the Board of Trustees International Bureau for Fiscal Documentation.
- Lecturer at the International Tax Center in Leiden (Adv. LL.M. Program on International Taxation).
- Member of editorial board, "Global Tax Treaty Commentary", database published by IBFD.

J. Wheeler

- Senior principal research associate, IBFD.

M. de Wilde

- PhD candidate / lecturer, Erasmus University Rotterdam.
- Tax lawyer / know how adviser, Loyens & Loeff.

C. Wisman

- PhD student / lecturer, Radboud University Nijmegen.
- Tax adviser, PwC Rotterdam.

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



6 Location and internet address

6.1. Address ACTL

University of Amsterdam (UvA)
Amsterdam Centre for Tax Law (ACTL)
Vendelstraat 8
1012 XX Amsterdam

The ACTL internet page is 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). Persons who are interested in the activities of the ACTL are kept up to date. At the end of 2013, the group had over 1.700 members.



7 ACTL activities in 2013

7.1. ACTL Conferences in 2013

In 2013, the ACTL organized five conferences in Amsterdam and in other parts of the world:

- i) 'The European Union's struggle with mismatches and aggressive tax planning' (Amsterdam);
- ii) 'The line between Tax Planning and Tax Avoidance', (Rio de Janeiro, Brazil);
- iii) 'Recent developments in EU Tax Law' (Copenhagen)
- iv) 'Emerging aspects of International Taxation' (Moscow), and
- v) 'Vereenvoudiging formeel verkeer Belastingdienst; Sinterklaascadeau of wolf in schaapskleren?' (Amsterdam).

'The European Union's struggle with mismatches and aggressive tax planning' (Amsterdam)

On 5 April 2013, the ACTL organized the conference 'The European Union's struggle with mismatches and aggressive tax planning'.

During the conference leading officials from the European Commission, the OECD and national administrations and specialists from academia and practice discussed whether and how EU and OECD policy initiatives may be successful in countering international (double) non taxation. The list of speakers included:

- Mr. Martijn Nouwen (ACTL/ Ernst & Young)
- Mr. Reinout de Boer (ACTL/ Stibbe)
- Prof. Stef van Weeghel (ACTL/ PwC)

- Mr. Dieter Kischel (European Commission)
- Mr. Raffaele Russo (OECD)
- Mr. Eamonn O'Dea (EU Code of Conduct Group/Irish Tax and Customs)
- Mr. Dave Hartnett (Formerly HM Revenue and Customs UK)
- Mr. Edwin Visser (Ministry of Finance, the Netherlands)
- Mr. Henny Koemans (ING Group)
- Mr. Eugène Bartman (Royal Ahold)
- Mr. Jeroen Lammers (VNO-NCW, Confederation of Netherlands Industry and Employers)
- Mr. Klaus Vonbrocke (Ernst & Young)
- Prof. Ewald Engelen (University of Amsterdam)
- Mr. Marnix van Rij (President of the Dutch Bar Association of Tax Advisers)
- Prof. Dennis Weber (ACTL/ Loyens & Loeff)
- Prof. Peter Wattel (ACTL/ Supreme Court)

'The line between Tax Planning and Tax Avoidance' (Rio de Janeiro, Brazil)

On Thursday, 23 May 2013 The FGV Law Program Direito/Rio and the ACTL organized a conference entitled, 'The line between Tax Planning and Tax Avoidance', in Rio de Janeiro, Brazil.

Speakers and moderators included:

- Linneu de Albuquerque Mello (LCCF Advogados)
- Rafael Alves de Almeida (FGV Rio)
- Prof. Sérgio André (UERJ/FGV Rio)

- Prof. Elidie Bifano (Mariz de Oliveira e Siqueira Campos Advogados)
- Prof. Paulo Coimbra (UFMG/ Coimbra & Chaves)
- Leonardo Costa (FGV Rio)
- Jeroen Janssen (Loyens & Loeff)
- Prof. Otto Marres (ACTL/ KPMG)
- Bruno da Silva (ACTL)
- Melina de Souza Rocha Lukic (FGV Rio)
- Eduardo Telles (FGV Rio/Tauil & Chequer/Mayer Brown)
- Prof. Ana Cláudia Utumi (Tozzini Freire Advogados/IFA)
- Marcos Vinícius Neder (Trench, Rossi e Watanabe)
- Prof. dr. Peter Wattel (ACTL/ Dutch Supreme Court)
- Prof. dr. Dennis Weber (ACTL/ Loyens & Loeff)

'Recent developments in EU Tax Law' (Copenhagen)

The EU Tax Law Group in co-operation with the ACTL organized the seminar 'Recent developments in EU Tax Law' on Monday, 26 August 2013, in Copenhagen, Denmark. This conference was chaired by prof. dr. Dennis Weber.

The list of speakers included:

- Emmanuel de La Rochethulon - Jones Day
- Simon Whitehead - Hage Aaronson
- Eric Ginter - STC Partners
- Mario Tenore - 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
- Yvonne Schuchter - LeitnerLeitner

‘Emerging aspects of International Taxation’ (Moscow)

On 24 October 2013, the Financial University Moscow and the ACTL organized a conference entitled, ‘Emerging aspects of International Taxation’, in Moscow, Russian Federation.

- This conference was chaired by Prof. dr. Dennis Weber and prof. dr. M. Fedotova. The list of speakers included:
- Prof. dr. M. Eskindarov - Rector of the Financial university
- Prof. dr. Dennis Weber - Director of ACTL
- Prof. dr. L. Goncharenko - Deputy Rector for Masters Teaching
- Prof. dr. Hein Vermeulen - ACTL/PwC
- Kizimov - Head of division, Tax and Customs Tariff Policy Department, Ministry of Finance of the RF
- Dr. Jan van de Streek - ACTL
- Prof. dr. V. Zasko - Dean of the Taxes and Taxation Faculty
- Prof. dr. G. Ruchkina
- Bartjan Zoetmulder - Loyens & Loeff
- Sobchuk - Tax and Legal/Transfer Pricing Services, Deloitte & Touche CIS
- S. Stroikova - Head of International Taxation and Transfer Pricing Department, PwC Partner
- Prof. William Byrnes - Thomas Jefferson School of Law - San Diego
- Roustam Vakhitov - International Tax Associates
- Prof. Stef Van Weeghel - ACTL/PwC/chair IFA PSC

‘Vereenvoudiging formeel verkeer Belastingdienst; Sinterklaascadeau of wolf in schaapskleren?’

On 6 December 2013, the ACTL organized a Symposium entitled ‘Vereenvoudiging formeel verkeer Belastingdienst; Sinterklaascadeau of wolf in schaapskleren?’ (Simplification of formal transactions Tax Authorities: Present from Santa or wolf in sheep’s clothing’), Chairman and introductory speaker was dr. E. Poelmann (ACTL).

The list of speakers included:

- prof. mr. J.L.M. Gribnau (University of Tilburg)
- dr. Ch.J. Langereis (Spigt Litigators)
- prof. mr. G. Overkleeft-Verburg (Emeritus Erasmus Universiteit Rotterdam)
- mr. M.J. Pelinck (attorney-at-law/University of Amsterdam)

7.2. Inaugural lecture of prof. dr. Hein Vermeulen ‘The Equal Treatment of the Unequal. Taxation of Individual and Collective Investment’

On Thursday, 26 September 2013, prof. dr. Hein Vermeulen, member of the ACTL held his inaugural lecture on the topic ‘The Equal Treatment of the Unequal. Taxation of Individual and Collective Investment’.

7.3. PHD defences in 2013

Two ACTL PhDs have been defended in 2013. On 13 June 2013, Emily Fett successfully defended her PhD thesis entitled ‘Triangular Cases: The Application of Bilateral Tax Treaties in Multilateral Situations’. Promotor was Prof. dr. S. van Weeghel (ACTL) and Co-promotor Prof. dr. F. Vanistendael (KU Leuven).

On 26 November 2013, Rita Szudoczky defended her PhD thesis entitled ‘The sources of EU law and their relationships: Lessons for the field of taxation’. Promotor was Prof. Dr. Dennis Weber (ACTL UvA) and Co-promotor was Prof. Dr. Pasquale Pistone (WU Wien, University of Salerno).

7.4. GREIT 2013 Conference: Principles of Law; Function, Status & Impact in EU Tax Law

The ACTL is one of the founders of The Group for Research on European and International Taxation (GREIT). On 19 and 20 June 2013, the 8th annual GREIT conference was held in Lund, Sweden on the subject ‘Principles of Law: Function, Status & Impact in EU Tax Law’. Host organization was the Department of Business Law, School of Economics and Management, Lund University in Sweden. The list of speakers included:

- A.P. Dourado (Lisbon)
- J. Englisch (Münster)
- X. Groussot (Lund)
- D. Gutmann (Paris)
- M. Helminen (Helsinki)
- S. Hemels (Rotterdam)
- O. Henkow (Lund)
- J. Hettne (Lund)
- G. Kofler (Linz)
- R. Lyal (Brussels)
- G. Maisto (Milano)
- P. Pistone (Vienna)
- R. Pålsson (Gothenburg)
- D. Sarmiento (Luxembourg/Madrid)
- M. Simonek (Zurich)
- B. Terra (Amsterdam/Lund)
- E. Traversa (Louvain)
- T. Tridimas (Oxford)
- F. Vanistendael (Leuven)
- P. J. Wattel (Amsterdam)
- Zalasinski (Brussels)

7.5. ACTL 2013 Winter courses

In January 2013, the ACTL organized a new edition of the Winter course on European Direct tax law. The list of speakers included:

- Willibrord Egelie (Dutch Tax Administration)
- Frank Engelen (Leiden University/PwC)
- Joachim Englisch (University of Munster)
- Marieke Koerts (ACTL/KPMG Meijburg)
- Raymond Luja (Maastricht University)
- Richard Lyal (European Commission)
- Christiana Panayi (Queen Mary, University of London)
- Martien Pelinck (ACTL/Loyens & Loeff)
- Bruno da Silva (ACTL/Loyens & Loeff)
- Jan van de Streek (ACTL/Ernst & Young)
- Rita Szudoczky (ACTL/Loyens & Loeff)
- Mario Tenore (Maisto e Associati)
- Peter Wattel (ACTL/Dutch Supreme Court)
- Dennis Weber (ACTL/Loyens & Loeff)

Also in January 2013, the ACTL organized a new edition of the Winter course on International Tax Law.

The list of speakers included:

- Tanja Bender (Leiden University/PwC)
- Mary Bennett (Baker & McKenzie; Washington)
- Luc de Broe (K.U. Leuven/Laga)
- Gijs Fibbe (Erasmus University/PwC)
- Renata Fontana (OECD)
- Wilbert Kannekens (KPMG Meijburg)
- Otto Marres (ACTL/KPMG Meijburg)

- Marlies de Ruyter (Head of the OECD's Tax Treaty, Transfer Pricing and Financial Transactions Division)
- Antonio Russo (Baker & McKenzie)
- Raffaele Russo (OECD)
- Alexander Rust (University of Luxembourg)
- Bruno da Silva (ACTL/Loyens & Loeff)
- Rogier Sterk (Loyens & Loeff)
- Rita Szudoczky (ACTL/Loyens & Loeff)
- Hein Vermeulen (ACTL/PwC)
- Peter Wattel (ACTL/Dutch Supreme Court)
- Stef van Weeghel (ACTL/PwC)
- Joanna Wheeler (IBFD)
- Leo Zuliani (Dutch Tax Administration)

7.6. Key publications in 2013

- Emily Fett, 'Triangular Cases: The Application of Bilateral Tax Treaties in Multilateral Situations' (PhD).
- Rita Szudoczky, 'The sources of EU law and their relationships: Lessons for the field of taxation' (PhD).
- Reinout de Boer and Martijn Nouwen (ed.), *The European Union's Struggle with Mismatches and Aggressive Tax Planning*, Report of the Amsterdam Centre for Tax Law (ACTL) Conference held in Amsterdam on April 5, 2013, Eleven International Publishing 2013 (272 pages).
- Dennis Weber, *Abuse of Law in European Tax Law: An Overview and Some Recent Trends in the Direct and Indirect Tax Case Law of the ECJ*, European Taxation 2013/6 (part 1).

- Dennis Weber, *Abuse of Law in European Tax Law: An Overview and Some Recent Trends in the Direct and Indirect Tax Case Law of the ECJ*, European Taxation 2013/7 (part 2).
- Dennis Weber (editor), *EU Income Tax Law* "Issues for the Years Ahead", EC and International Tax Law series, Vo. 9, IBFD, 2013, pp. 360.
- Hein Vermeulen. [with Willard Taylor], *What Do We Have in Common? What Can We Learn from Each Other? A Comparative Study of US and Dutch REITs*. *Bulletin for International Taxation*, 2013(12), pp. 635-654.
- Otto Marres and Dennis Weber (editors), *Tax Treatment of Interest for Corporations*, IBFD, 2013.
- Peter Wattel, *Interaction of State Aid, Free Movement, Policy Competition, and Abuse Control in Direct Tax Matters*; *World Tax Journal*, Vol. 5, 2013, No. 1 (February), p. 128-144, published online 7 february 2013 (*reprint* of No. 392).

8 Research Output

8.1. Academic publications

R. de Boer

- Reinout de Boer and Martijn Nouwen (ed.), *The European Union's Struggle with Mismatches and Aggressive Tax Planning*, Report of the Amsterdam Centre for Tax Law (ACTL) Conference held in Amsterdam on April 5, 2013, Eleven International Publishing 2013 (272 pages).
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I. de Groot

- *Renteaftrek in de CCCTB: feest voor de belastingadviseur?*, *WFR* 2013/240 (februari).
- *Gevolgen FII-2 voor de Nederlandse deelnemingsverrekening (met P.J. te Boekhorst)*, *WFR* 2013/6994 (maart).
- *Verrassende ontwikkelingen omtrent de onzakelijke lening*, *WFR* 2013/7005 (juni).
- *De (on)zakelijke lening arresten van 3 mei 2013*, *FED* 2013/50 (juni).
- *Overkill in de samenloopregeling inzake aftrekposten voor ANBI's?*, *NTFR-A* 2013/18 (augustus).
- *Interest deduction and the CCCTB: a walk in the park for tax advisors?*, *Intertax*, volume 41, Issue 11, p. 571-580 (november).
- *EU-rechtelijke houdbaarheid van art. 131 lid 7 Wet Vpb 1969 in het licht van Argenta*, *WFR* 2013/7023 (november).

- *EU-recht scheidt verplichting voor lidstaten tot unilaterale meestbegunstiging*, *MBB* 12/02 (december).

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- Otto Marres (and Dennis Weber), editors, *Tax Treatment of Interest for Corporations*, IBFD, 2013.

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- Reinout de Boer and Martijn Nouwen (ed.), *The European Union's Struggle with Mismatches and Aggressive Tax Planning*, Report of the Amsterdam Centre for Tax Law (ACTL) Conference held in Amsterdam on April 5, 2013, Eleven International Publishing 2013 (272 pages).

A. Rozendal

- *De 'Marks & Spencer-uitzondering' nog altijd springlevend*, *WFR* 2013/844 (met A.W. Ravelli).
- *Onzakelijke leningen en (toekomstig) aandeelhouder-schap*, *FED* 2013/23.
- *De toepassing van het leerstuk van de zelfstandige fiscaalrechtelijke kwalificatie op rechten om aandelen te verwerven*, *WFR* 2013/145 (met M.A.H. Reimert).

R. Szudoczky

- 'The sources of EU law and their relationships: Lessons for the field of taxation' (PhD).

H. Vermeulen

- *Collective investment vehicles: the Dutch approach*. *Revista del Instituto Colombiano de Derecho Tributario*, 2013/50(68), pp. 113-145.
- *What Do We Have in Common? What Can We Learn from Each Other? A Comparative Study of US and Dutch REITs*. *Bulletin for International Taxation*, 2013(12), pp. 635-654. [with Willard Taylor].
- *Fiscale implementatiewetgeving AIFMD*. *Weekblad voor Fiscaal Recht*. *WFR*, 2013/142 (6983), pp. 53-58.
- *Gelijke behandeling van het ongelijke*. *Belastingheffing van individuele en collectieve belegging*. *NTFR. Nederlands Tijdschrift voor Fiscaal Recht*, 2013/14(39), pp. 1-6.
- *De gevolgen van de AIFMD voor de aandeelhouderseisen van de FBI*. *Weekblad voor Fiscaal Recht*. *WFR*, 2013/7013, pp. 977-981. [with J.H. Elink Schuurman].
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C. Wisman

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8.2. Professional publications

R. de Boer

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R. Monteiro

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E. Poelmann

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Annotations

- Noot bij HvJ EU (grote kamer) 13 november 2012, zaak C-35/11, Test Claimants in the FII Group (bis) ((on)gelijkwaardigheid deelnemingsvrijstelling en credit for underlying tax; derdelandenkapitaalverkeer t.o.v. vestiging), BNB 2013/28, p. 572-579
- Comments: ECJ (Grand Chamber), 13 november 2012, Case C-35/11, Test Claimants in the FII Group (bis) ((non-) equivalence exemption and credit for underlying tax; third State capital movement as opposed to establishment), H&I 2013/3.1, p. 20-24.
- Noot bij HvJ EU 4 juli 2013, nr C-350/11, Argenta Spaarbank (vrijheid van vestiging; beperking van een allowance for corporate equity tot eigen vermogen dat binnenslands belastbare winst genereert), BNB 2013/258, p. 5305-5310.

- Comments, CJEU Case C-350/11, Argenta Spaarbank NV v Belgische Staat (freedom of establishment; allowance for corporate equity only for domestically invested equity; discrimination), H&I 2013/12.14, p. 30-34.
- Nederlandse Documentatie Fiscaal Recht (NDFR) Fiscale Encyclopedie, onderdeel Belastingen van Rechtsverkeer, commentaar art. 4, art. 10, art. 15, lid 1 onderdeel b, art. 15, lid 1 onderdeel e, art. 15, lid 1 onderdeel f, art. 15, lid 1 onderdeel h. Nederlandse Documentatie Fiscaal Recht (NDFR), Fiscale Encyclopedie, onderdeel Vennootschapsbelasting, commentaar art. 28c en art. 34b.

D. Weber

Books

- Hfst 1 t/m 5 (145pp) in Europees belastingrecht, studenteneditie 2013-2014, Kluwer 2013.

S. van Weeghel

Publications

- A General Anti-Abuse Principle of International Law: Can It Be Applied in Tax Cases?, with Anna Gunn, in Essays on Tax Treaties, A Tribute to David Ward, Guglielmo Maisto, Angelo Nikolakakis, and John Ulmer (eds.), Canadian Tax Foundation (Toronto 2013) IBFD (Amsterdam 2013), pp. 305-325.
- Global Development and Trends in International Anti-Avoidance, with Frank Emmerink, in Bulletin for International Taxation, August 2013, pp. 428-435.

Annotations

- HR 10 August 2012, nr. 11/04558, BNB 2013/11.
- HR 25 januari 2013, nr. 11/05073, BNB 2013/179.
- HR 1 maart 2013, nr. 11/05763, BNB 2013/191.

C. Wisman

- C. Wisman, Locatie onroerende zaak beslissend voor resultaat uit overige werkzaamheden', Ftv 2013/11, november 2013.
- C. Wisman, Verslag oratie prof. H. Vermeulen, WFR 2013/1368, november 2013.
- J.W.E. Litjens, C. Wisman, 22 tips voor investeringsfaciliteiten, Accountant (web-only), 21 maart 2013.
- C. Wisman, 2 maandelijks update Artikelsgewijs commentaar art. 15e, art. 15f, art. 15g, 15h, art. 15i, art. 15j, art. 23d, art. 33b, art. 33c, art. 33d Wet Vpb 1969 en art. 7b, 48d en art. 48e Besluit Fiscale eenheid, SDU/NDFR.
- C. Wisman, Inleiding Belastingheffing Ondernemingen en Particulieren 2013, Hoofdstuk 4 Startende ondernemer, Hoofdstuk 5 Winstberekening, Hoofdstuk 6 Van Vof naar bv en Hoofdstuk 7 BV en concern, februari 2013.
- J.W.E. Litjens, C. Wisman, Toegang tot fiscale voordelen - Investeringsfaciliteiten 2013, Maart 2013, PwC.

8.3. Presentations

R. de Boer

- 5 April 2013, presentation on hybrid mismatch arrangements during the Amsterdam Centre for Tax Law (ACTL) Conference held in Amsterdam titled “The European Union’s Struggle with Mismatches and Aggressive Tax Planning”.
- 20 June 2013, presentation and Panel Debate on EU and OECD initiatives against aggressive tax planning for the Amsterdam branch of D66 (Dutch Liberal Democratic Party).

O. Marres

- 17 januari 2013, postacademisch college ‘Tax Treaties and Interest Deduction’, Wintercourse International Tax Law 2013 (ACTL).
- 23 mei 2013, inleiding ‘The fight against hybrid structures’, FGV-ACTL Conference: The line between Tax Planning and Tax Avoidance, Rio de Janeiro.
- 28 mei 2013, gastcollege ‘Application of Thin Cap under OECD Patterned Tax Treaties’, FGV, Rio de Janeiro.
- 20 september 2013, panelist Lof-congres 2013, Ethiek en belastingen, Groningen.
- 15 november 2013, inleiding ‘Fraus legis’, NOB Ronde Tafel EU-sectie, Zeist.
- 20 november 2013, Universiteit van Tilburg, inleiding ‘Belastingplanning. Legaal maar toch unfair?’ en debat, opleiding Tax Assurance UvT.
- 28 november 2013, inleiding ‘Hybride financiering’, PE-programma rechterlijke macht, Paleis van Justitie Amsterdam.

T. Mertens

- Fiscale Conferentie Loonheffingen, conferentievoorzitter.

E. Poelmann

- Symposium Vereenvoudiging formeel verkeer Belastingdienst.
- Tax assurance, van horizontaal toezicht en de algemene beginselen van behoorlijk bestuur. Tilburg University, Mastervak tax assurance.

A. Rozendal

- 22 april, 6 mei, 13 mei en 27 mei 2013, cursus Vennootschapsbelasting CB Belastingadviseurs
- 17 mei, 20 september en 25 oktober 2013, SOB-cursus Bedrijfsconcentraties, onderdeel overdrachtsbelasting.
- 30 september 2013 2013, presentatie Permanent Establishments, in-company RSM International ITAX Academy.
- 2 oktober 2013, presentatie Hybrid Instruments, in-company RSM International ITAX Academy.

H. Vermeulen

- 24 October 2013, beneficial Ownership. Moscow, Emerging aspects of International Taxation, Moscow Financial University.
- 31 May 2013, corporate Income Tax Subjects - Investment Structures. Lisbon, European Association of Tax Law Professors (EATLP) 2013 Congress.
- 5 November 2013, cross-border investments: How long will the tax barriers stand in the European market. Paris, European Real Estate Conference, Paris. [with J.H. Elink Schuurman].
- 2 October 2013, hybrid Entities, CIVs and REITs. Veldhoven, RSM International Tax Course.
- 26 September 2013, inaugural lecture, Gelijke behandeling van het ongelijke. Belastingheffing van individuele en collectieve

belegging, Amsterdam, University of Amsterdam.

- 23 May 2013, introduction International Tax Law - CIVs and REITs. Lisbon, Erasmus Programme Universidade de Lisboa.
- 24 May 2013, introduction International Tax Law - Double Tax Relief and Non Discrimination. Lisbon, Erasmus Programme Universidade de Lisboa.
- 22 May 2013, introduction International Tax Law - Hybrid entities. Lisbon, Erasmus Programme Universidade de Lisboa.
- 20 May 2013, introduction International Tax Law - Introduction. Lisbon, Erasmus Programme Universidade de Lisboa.
- 18 April 2013, introduction International Tax Law - Introduction. Moscow, Moscow Financial University.
- 21 May 2013, introduction International Tax Law - PE’s. Lisbon, Erasmus Programme Universidade de Lisboa.
- 19 April 2013, introduction International Tax Law - PE’s. Moscow, Moscow Financial University.
- 20 April 2013, introduction International Tax Law - Real Estate and REITs. Moscow, Moscow Financial University.
- 14 February 2013, op- en afwaarderen van vastgoed. Amsterdam, PropertyNL. [with J.H. Elink Schuurman].
- 23 October 2013, some Current Issues on Investment Funds. Moscow, IFA Meeting - IFA, Moscow Branch.
- 20 November 2013, tax Treaties and CIVs and REITs. Leiden, Tax Treaty Course - International Tax Centre Leiden.
- 29 and 30 May 2013, PAOB, Lecture, Deelnemingsvrijstelling, Utrecht, [with W.F.E.M. Egelie].

P. Wattel

- 15 January 2013, Amsterdam: lecturer ACTL Winter Course on European Tax Law: The Case law of the Court of Justice on Direct Taxes - General Overview;; Law Faculty, UvA, Amsterdam;
- 23 January 2013, Amsterdam: lecturer ACTL Winter Course on International Tax Law: Tax Treaty Interpretation; Law Faculty, UvA, Amsterdam.
- 15 April 2013 Amsterdam: Chair of discussion panel 1, and moderator of the debate on economic policy angles, ACTL Seminar on: The European Union's struggle with mismatches and aggressive tax planning; KNAW.
- 9 March 2013, Utrecht: lecturer PAOB: Nieuwe jurisprudentie - Algemeen en formeel belastingrecht.
- 22 May 2013, Rio de Janeiro, Brazil: Guest Lecturer, FGV (Fundação Getúlio Vargas) Escola de Direito do Rio de Janeiro: Tax Treaty Interpretation, FGV Centro.
- 23 May 2013, Rio de Janeiro, Brazil: Speaker, Conference A Linha entre o Planjamento Tributário e a Evasão Fiscal/The line between Tax Planning and Tax Avoidance, panel 4 (The Way Forward), organized by ACTL and FGV Direito Rio: Auditório da FGV, Botafogo.
- 19-20 June 2013, Lund, Sweden: Access to Effective legal Remedy; 8th GREIT Annual Conference on Principles of Law: Function, Status and Impact in EU Tax Law, University of Lund.
- 30-31 August 2013, Amsterdam: Key note dinner speech, 4th Annual Assembly of the International Association of Tax Judges, IBFD Amsterdam and Gerechtshof Amsterdam.
- 14-15 November 2013, Zeist: Bij het HvJ EU aanhangige zaken; 6e Rondetafelbijeenkomst Europees Fiscaal Recht: Misbruik onder nationaal en Europees recht, Slot Zeist.
- 25 November 2013, Milano, Italy: Relevance of (Departures from) the OECD Model Tax Convention and Commentary in ECJ Income Tax Law; Seminar, Università Cattolica del Sacro Cuore: Departures from the OECD MC and Commentaries in EU Law and Tax Treaties.
- 26 August 2013, chair, ACTL seminar in co-operation with the EU Tax Law group, Recent developments in EU Tax Law, Copenhagen.
- 5 September 2013, the Netherlands - Tax Haven?, Thomas Jefferson School of Law, San Diego.
- 4 October 2013, horizontal discrimination, EU Tax Law Group, Paris.
- 4 October 2013, moderator, TEI conference, Panel, The climate change - The proposed BEPS measures by the OECD and the EU.
- 24 October 2013, ACTL-Financial University conference, Emerging aspects of International Taxation, Moscow.
- Tax planning and the EU IFA Sao Paulo 4 November and IFA Rio de Janeiro 5 November 2013.
- 7 November 2013, "the thin Line between Tax Planning and Tax avoidance", Florianopolis, IBET Conference, Brazil.

D. Weber

- 15 February 2013, abuse of Law in European Tax Law, ICDT, Cartagena, Colombia
- 5 April 2013, chair, ACTL-Conference, The European Union's struggle with Mismatches and Aggressive tax planning, Amsterdam.
- 24 and 25 April 2013, lectures European tax Law, Financial University Moscow, Moscow.
- 24 May 2013, speaker, Abuse of Law in European Tax Law, ACTL/FGV Conference "the Line between Tax Planning and Tax avoidance", Rio de Janeiro.
- 1 June 2013, Nederland belastingparadijs? Open dag UvA.
- 4 June 2013, lecture, Developments in the CCCTB, GREIT, Lisbon University, Portugal.
- 13-14 June 2013, moderator, International Tax Conference - Protecting the Tax Base, Stockholm, Sweden.
- 19 June 2013, speaker: het vestigingsklimaat, Belastingadvies: hoe heurt het eigenlijk?, NOB annual conference, Bussum.
- 28 June 2013, the line between tax avoidance and tax planning - is there a line? the responsibility of multinationals and governments, 50th Anniversary of the Columbia Summer program.

S. van Weeghel

- 22 January 2013, lecturer, ACTL Wintercourse on International Tax Law, Amsterdam.
- 2-4 April 2013, keynote speaker “Global Developments and Trends in International Anti-Avoidance”, Asia.
- Pacific Regional Tax Conference, Singapore.
- 5 April 2013, chairman afternoon panel, ACTL conference: The European Union’s struggle with mismatches and aggressive tax planning, Amsterdam.
- 11-12 April 2013, panelmember “Fiscal Update”, PwC Gerlach conference, Valkenburg.
- 16-17 May 2013, IFA trilateral meeting Netherlands/Ireland/United Kingdom, London.
- 10 June 2013, panelmember, IBFD Research Students Meeting & Early Career Scholars, Amsterdam.
- 17-19 June 2013, speaker, China International Tax Forum, Beijing.
- 17 July 2013, lecturer, ITC Summer Course on Beneficial Ownership, Leiden.
- 30-31 August 2013, panelmember, 4th IATJ Assembly, Amsterdam.
- 30 Sept.-1 October 2013, speaker, IFA DRT Conference on International Tax Principles in BRICS and OECD countries: divergences and convergences, Sao Paolo.
- 16-18 October 2013, speaker, IFA China Conference, Beijing.
- 24 October 2013, keynote speaker, ACTL “Emerging aspects of international taxation” conference, Moscow.
- 22 November 2013, lecturer, ITC Tax Treaties course, Leiden.
- 4 December 2013, speaker, WRC- IFA India seminar, Mumbai.
- 5-7 December 2013, speaker and panelmember, International Taxation Conference, Mumbai.

M. de Wilde

- 6 June 2013, tax Competition within the European Union - Is the CCCTB-Directive a Solution?, Foundation European Fiscal Studies and Erasmus Law Review, Company Tax Integration in the EU; A Necessary Step to Neutralize ‘Excessive’ Behaviour within the EU?
- 3 april 2013, internationaal belastingrecht: vaste inrichting en vi-winstallocatie, Nyenrode Business Universiteit/Ernst & Young Tax Academy.

J. Wheeler

- 16 January 2013, “Methods for the Relief of Double Taxation”, Amsterdam, ACTL Winter Course.
- 28 January 2013, “Persons Qualifying for the Benefits of Tax Treaties”, Rome, UN Group Meeting on Capacity Building on Tax Treaty Administration.
- 5 February 2013, “Gift, Inheritance and Estate Taxation”, London, Queen Mary College (University of London) LLM programme.
- 12 March 2013, “Permanent Establishment Workshop”, Cambridge, University of Cambridge LLM programme.
- 30 May 2013, “Persons Qualifying for the Benefits of Tax Treaties”, New York, UN Group Meeting on Capacity Building on Tax Treaty Administration.
- 10 June 2013, “Special coaching session on writing a PhD thesis” (together with Prof. Bertil Wiman, University of Uppsala), Amsterdam, IBFD meeting for doctoral students and early career researchers.
- 21 June 2013, “The Attribution of Income to a Person”, London, LLM programme of the Institute of Advanced Legal Studies (University of London).

- 14 November 2013, “Conflicts in the Attribution of Income to a Person”, Leiden, LLM programme of the International Tax Center, University of Leiden.

C. Wisman

- 27 mei 2013, Nederland een ‘belastingparadijs’?, Universiteit Utrecht, JSVU Symposium.



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