

Contents

Editor's Preface	5
-------------------------------	---

Personal and Substantive Scope (Art 1, 2 and 4 OECD Model)

Katerina Perrou

Greece: "Taxes Covered" – Is an extraordinary levy on business profits covered?	13
---	----

Ana Paula Dourado/José Almeida Fernandes

Portugal: Tax treaty case law on personal and substantive scope.....	23
--	----

David G. Duff

Individual Residence Under the Canada – U.S. Tax Treaty: Trieste v. The Queen	29
--	----

Renata Blahova

Slovak Regional Court on a Dutch Holding without sufficient substance	41
--	----

Daniël S. Smit

Dutch Supreme Court 30 November 2012, BNB 2013/54: Determination of the place of effective management of a non-active company.....	51
--	----

Philip Baker

UK: Yates v Revenue and Customs Commissioners	65
---	----

Permanent Establishments (Art 5 OECD Model)

Pasquale Pistone

Italy: Can agent activities of an Italian Subsidiary constitute a Permanent Establishment of Its Foreign Parent?	73
--	----

María Teresa Soler Roch

Spain: Permanent establishment – The concept of "fixed place of business" and the concept of "dependent agent"	81
--	----

Danuše Nerudová

Czech Republic: 2 Afs 29/2012-18	95
--	----

Business Profits and Associated Enterprises (Art 7 and Art 9 OECD Model)

Luís Eduardo Schoueri/Mateus Calicchio Barbosa

Technical services and the application of article 7 under Brazilian treaty practice: a case study	103
---	-----

D.P. Sengupta

India: Mediterranean shipping 117

Eric Kemmeren

Netherlands: Thin capitalization rules are not inconsistent with DTCs and EU Law 129

**Royalties
(Art 12 OECD Model)**

Ana Paula Dourado/José Almeida Fernandes

Portugal: Tax treaty case law on the application of Art 12 (royalties) 157

Billur Yalti

Turkey: The Characterisation of Income as Royalty 163

César Alejandro Ruiz Jiménez

Mexico: The application of Article 12 to income derived by the lease of Industrial, Commercial and Scientific Equipment 187

**Dividends, Interest and Capital Gains
(Art 10, 11 and 13 OECD Model)**

Michael Beusch

Switzerland: Beneficial ownership issues in the light of Art. 10..... 201

Marjaana Helminen

Finland: Do Investment Fund Distributions Constitute Dividends? 211

Tomas Balco

Kazakhstan: NWKC Case 221

Hannah Litwińczuk

Poland: Judgement of the Supreme Administrative Court of 24 July 2012 (II FSK 2487/11)..... 229

David G. Duff

Canada: Capital Gains Realized by an Austrian Private Foundation: Sommerer v. The Queen 241

**Employment Income (Art 15, 18 and 19 OECD Model);
Directors' Fees, Artistes and Sportsmen, Students and Other Income
(Art 16, 17, 20, 21 OECD Model)**

Philippe Martin

France: The Paupardin Case 261

Alexander Rust	
Germany: Interpreting the 183-day rule.....	269
Alexander Rust	
Germany: Pensions vs. Business Income.....	277
D.P. Sengupta	
India: Mohan Balakrisnan Pookulanagara	285
Jacques Sasseville	
Spain: Taxation of activities related to U2 concerts	291
Non-discrimination (Art 24 OECD Model)	
Edoardo Traversa/Gaëtan Zeyen	
Belgium: Taking into account foreign income for the calculation of personal tax deduction	305
Marjaana Helminen	
Finland: The Permanent Establishment Non-Discrimination Provision and Transfer of Assets	317
Danil V. Vinnitskiy	
Russia: Thin Capitalization Rules and Non-Discrimination Clause in the light of the „NaryanmarNefteGaz“ Case	325
Yariv Brauner	
USA: The United Airlines Flight Attendants’ Saga Continues	339
Methods to Avoid Double Taxation, Mutual Agreement Procedure, Exchange of information and Assistance in the Collection of Taxes (Art 23, 25, 26 and 27 OECD Model)	
Philip Baker	
UK: Weiser v Revenue and Customs Commissioners.....	351
Edoardo Traversa/Gaëtan Zeyen	
Belgium: Territorial allocation of business expenses and exemption with progression.....	357
Malcolm Gammie	
UK: Ben Nevis.....	367
List of Authors	377