



## Tax Controversy and Disputes

DLA Piper's Tax Controversy practice focuses on complex tax controversy matters, including tax audits, administrative appeals, claims for refund, voluntary disclosures and civil tax litigation as well as criminal tax matters.

Our tax controversy practice consists of experienced lawyers with excellent credentials in the area of tax law and tax criminal law who are repeatedly recognized as leaders in the areas of tax disputes and tax litigation.

For many years we have represented multinational corporations, privately owned companies, partnerships, limited liability companies, high-net-worth individuals and trusts and estates in all aspects of sophisticated tax controversies and criminal tax matters around the world.

Many of our Tax Controversy and Disputes lawyers have more than 20 years of experience in private practice and many have experience in government service.

Close cooperation between our international offices and the regular involvement of colleagues in neighboring fields such as criminal law, employment law and corporate law allows us to provide comprehensive and solution-orientated advice in the representation of our clients.

### CAPABILITIES

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We advise and represent our clients in both national and international tax proceedings, in tax audits and in connection with tax criminal proceedings. Our services include:

- Assistance during tax audits, development of audit strategies and subsequent proceedings (e.g. tax settlement agreements)
- Representation in administrative appeals and before tax, administrative or constitutional courts including the European Court of Justice, with the Internal Revenue Service and the Department of Justice, as well as with state and local tax jurisdictions throughout the US
- Managing tax investigations and disputes including those in relation to FATCA and for individuals in relation to tax evasion concerning undeclared assets in bank accounts offshore. Our expertise includes advising on the disclosure of reports, group litigation orders, acting in courts and tribunals, negotiating settlements with tax authorities and interviews under caution
- Individual and corporate advice in relation to crisis management. We have extensive experience in defending raids by many different regulators and investigating authorities regulatory authorities. Our 'Rapid Response' global crisis management hotline service provides 24-hour, 365-day access to regulatory legal advice and crisis assistance.
- Individual and corporate defense at all stages of tax criminal proceedings
- Individual and corporate defense in tax-related liability proceedings

### KEY CONTACTS

#### Roderik Bouwman

Partner  
Amsterdam  
T: +31 (0)20 5419 894  
roderik.bouwman@dlapiper.com

#### Ellis L. Reemer

Partner  
New York  
T: +1 212 335 4980  
ellis.reemer@dlapiper.com

### RELATED SERVICES

- Litigation, Arbitration and Investigations
- Tax
- White Collar and Corporate Crime

- Advice on voluntary disclosure of tax evasion and disclosure submissions for individuals and companies including those relating to the Liechtenstein Disclosure facility ("LDF")
- Negotiations with tax authorities on advance rulings and mutual agreements
- Assistance in connection with obtaining Advanced Pricing Agreements and participation in Mutual Agreement Procedures
- Compliance advice – guidelines and concepts for avoiding risks of criminal or other sanctions against companies, executives or staff (e.g. tax control framework)
- Assistance with FIN 48 issues and assessment of tax audit risks

## EXPERIENCE

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- Representation of a large national accounting firm in a federal grand jury investigation and promoter penalty audit relating to the development, marketing and reporting of tax shelter transactions; negotiated a US\$50 million Deferred Prosecution Agreement and an IRS Closing Agreement to resolve both and assisted in the creation of a compliance and ethics plan meeting the requirements of the US sentencing guidelines
- Advising and representing a German bank and its subsidiaries in connection with an official investigation regarding possible intentional evasion of VAT
- Representation of numerous US based multinational clients in connection with federal income tax audits addressing transfer pricing, R&D credits, withholding taxes, Subpart F income, and various other issues.
- Advising various clients in connection with IRS audits of losses arising from partially worthless debt claims and wholly worthless stock claims.
- Represented wireless phone companies in California tax litigation holding that certain taxes imposed on their customers were illegal and therefore need not be collected by the companies.
- Obtained numerous Advance Pricing Agreements for multinational companies doing business in the United States.
- Assisted numerous clients (high-net-worth individuals, estates and financial institutions) in becoming compliant with US (and state) tax laws through voluntary disclosure initiatives relating to previously undisclosed foreign financial accounts; also represented clients in civil tax audits and criminal tax investigations relating to undisclosed foreign financial accounts and transactions
- Advising and representing members of the management board of an international electronic group in connection with tax proceedings regarding the international taxation of stock options
- Represented an internationally known auction house in an IRS audit with respect to the tax treatment of guarantee payments made in connection with obtaining art work for auctions
- Represented a multinational corporation in IRS audit and IRS appeal with respect to the tax consequences of a reorganization, liquidation and gain recognition agreement, including the characterization and valuation of intangible assets under IRC Section 936
- Advising and representing a Dutch pension fund in proceedings regarding refund of capital gains tax on foreign payments of dividends
- Represented a public water utility in reversing a determination by the New York State Department of Taxation and Finance that the purchase of electricity by the utility for use in powering pumps that create water pressure was subject to sales and/or use tax, by establishing that water pressure was utilized in the "production" of a public water supply, as opposed to in its "distribution"
- Advising and representing tourism companies in connection with model proceedings regarding energy taxes before the Austrian Constitutional Court
- Advising a significant number of financial institutions in relation to one of the most invasive and extraterritorial legislation to be passed by the US in living memory, FATCA

## INSIGHTS

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### Publications

#### **Spanish case law sets forth that compensation for the termination of senior managers can be tax exempt**

24 September 2020

Two recent decisions of the Spanish Supreme Court, have determined that, in case of unilateral termination by the company of

senior management contracts, seven days' salary per year of service up to six monthly salary payments, qualifies as mandatory compensation, and is exempt from Personal Income Tax with a maximum of EUR180,000.

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### **UK tax amortisation of IP**

27 July 2020

The UK does not, at present, permit tax amortisation of 'old' (i.e. pre-April 2002) IP assets. The UK Government proposes to remove this restriction in relation to IP transferred within a group to a UK company after 1 July 2020. This change may be of material benefit to some groups considering an IP transfer to the UK.

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### **Spanish Constitutional Court overturns Corporate Income Tax advanced payment regime for large taxpayers**

13 July 2020

On 1 July 2020 the Spanish Constitutional Court ruled that the advance payment regime established for large taxpayers approved by Royal Decree 2/2016 of 30 September, is unconstitutional and, therefore, null and void, because it violates the limits of the power to legislate through Royal Decree.

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### **UAE economic substance - self-assessment notification deadline fast approaching**

13 May 2020

It would be prudent for UAE entities to assume a deadline of June 30, 2020.

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### **European Commission proposes to defer DAC6 implementation**

11 May 2020

The proposal does not affect the substantive requirements in DAC6, only the deadlines for reporting obligations.

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### **APA and MAP Country Guide 2019**

17 MAY 2019

#### **TRANSFER PRICING**

Welcome to the third edition of our APA & MAP Country Guide. The guide now lists 55 countries and informs taxpayers about the APA and MAP application procedures as they currently exist in those countries.

Since the publication of the first edition in 2017, there have been significant developments in the international tax and transfer pricing space at both global and country level. Multinationals continue to face increasing pressure to ensure that they are compliant with the tax and the transfer pricing rules in the jurisdictions in which they operate.

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### **Mexico: Anti-money laundering rules / self-correction program**

8 MAY 2019

Mexico's new rules aim to encourage non-compliant taxpayers to meet their reporting obligations.

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## **Managing post-BEPS audits and controversies in international tax and transfer pricing**

25 APR 2019

Whether you are responding to a request for information from tax authorities, dealing with a diverted profits tax assessment, managing an international tax or transfer pricing audit, or trying to resolve disputes with tax authorities, this article summarizes our experience and highlights areas to consider.

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## **Brazil releases manual on Mutual Agreement Procedures**

3 APR 2019

### **TRANSFER PRICING**

Brazil's recently published MAP manual sets out the process through which taxpayers can request assistance to address taxation not in accordance with the relevant tax treaty.

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## **Dividend withholding tax schemes - New measures take aim at Belgian and foreign pension funds**

27 FEB 2019

The most striking aspect of the measures is the introduction of a rebuttable presumption pertaining to Belgian and non Belgian pension funds.

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## **Dutch government announces stricter requirements for issuance of tax rulings**

29 NOV 2018

Companies looking for tax certainty from the Dutch tax authorities need to reconsider their substance in the Netherlands.

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## **IRS releases long-awaited draft FFI Agreement and previews updates to FATCA regulations**

5 NOV 2013

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## **US DOJ and Swiss Government Announce New Voluntary Disclosure Program for Swiss Banks**

4 OCT 2013

A first of its kind program enabling eligible Swiss banks to address and resolve their status re the DOJ's ongoing enforcement investigations

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## **IRS opens online FATCA registration system: financial institutions may now sign in**

20 AUG 2013

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## **OECD releases "BEPS" Action Plan – a sweeping international tax effort to combat base erosion and profit shifting**

30 JUL 2013

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## **IRS announces six-month delay in FATCA implementation**

12 JUL 2013

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## **Time to "get right" with the Internal Revenue Service**

5 FEB 2013

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## **NEWS**

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### **DLA Piper acts for Mid Ulster District Council in successful VAT repayment claim at First Tier Tribunal**

20 October 2020

DLA Piper has acted for Mid Ulster District Council (formerly Magherafelt District Council) in its successful appeal for refunds of wrongly paid VAT on leisure and recreational services, against HM Revenue & Customs, before the First Tier Tribunal. The Council won this decision as the lead nominated case on behalf of councils across Northern Ireland.

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### **DLA Piper advises P3 Logistic Parks on the rental of commercial space to Makita Werkzeug GmbH**

27 August 2020

DLA Piper has advised P3 Logistic Parks GmbH on the rental of commercial space to Makita Werkzeug GmbH.

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### **DLA Piper advises Syngenta on the acquisition of South African Sensako Group**

17 August 2020

DLA Piper has advised Swiss-based Syngenta Group on its acquisition of Sensako Group, a South African seeds company engaged in the breeding and the commercialization of agronomic crops.

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### **DLA Piper advises GM Cruise on acquisition of Astyx**

8 July 2020

DLA Piper has advised GM Cruise Holdings LLC (GM Cruise) in connection with the acquisition of Astyx GmbH (Astyx) from Zukunft Ventures GmbH, a subsidiary of ZF Friedrichshafen AG, and the founders of Astyx.

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### **DLA Piper announces partnership promotions for 2020**

30 April 2020

DLA Piper is proud to announce that 67 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2020 in the United States and May 1, 2020 for EMEA and Asia Pacific. The promotions have been made across many of the firm's practice areas in 35 different offices throughout 13 countries.

Across the firm's practices globally, Corporate saw the largest intake of new partners with 19 promotions, followed by Litigation and

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Regulatory with 15. Intellectual Property and Technology and Finance and Projects had ten and eight promotions respectively, while there were six in Real Estate. Tax and Employment both had four, and there was one in Restructuring.

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### **DLA Piper advises Eiffage and JOHANN BUNTE consortium on Germany's largest ever motorway PPP**

14 April 2020

DLA Piper has successfully advised the consortium A3 Nordbayern with its shareholders Eiffage S.A. and JOHANN BUNTE Bauunternehmung GmbH & Co. KG on the financing of Germany's largest PPP project in the motorway sector.

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### **DLA Piper lawyers named Acritas Stars**

10 March 2020

Acritas has named over 200 DLA Piper lawyers as 2020 Acritas Stars. Now in its fourth year, Acritas Stars highlights the stand-out lawyers in private practice as nominated by clients around the world. More than 3,000 senior in-house counsel feed into the nomination process to give a comprehensive view of highly recommended lawyers across the globe.

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### **DLA Piper advises Guala Closures Group on the acquisition of the assets of Germany's Closurelogic**

6 January 2020

DLA Piper has advised the Guala Closures Group, one of the world leaders in the production of security closures for spirits and aluminium closures for wines, as well as one of the major world producer and distributor of aluminium closures for the beverage industry, on the acquisition of the activities of Closurelogic GmbH, the German producer specialised in the aluminium closures.

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### **DLA Piper advises Hahn Group on sale of Campus Center Lübeck**

18 December 2019

DLA Piper has advised Hahn Group on the sale of Campus Center Lübeck to real estate investment manager Nuveen Real Estate, which acquired the property for its German core retail platform.

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### **DLA Piper launches Global Digital Services VAT Guide**

29 November 2019

DLA Piper has launched the fourth edition of its Global VAT Guide on Digital Services, covering cross-border supplies of digital content, intangible services and, more generally, the various forms of e-commerce.

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### **DLA Piper adviseert The Carlyle Group bij investering in HSO Group**

6 September 2019

DLA Piper heeft The Carlyle Group geadviseerd bij de investering in HSO Group. Het eigen vermogen voor de investering kwam van Carlyle European Technology Partners III Fund (CETP), een fonds van EUR635 miljoen dat investeert in technologiegerichte bedrijven in Europa en de VS.

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### **DLA Piper advises The Carlyle Group on its investment in HSO Group**

6 September 2019

DLA Piper has advised The Carlyle Group on its investment in HSO Group. Equity for the investment is provided by Carlyle European Technology Partners III Fund (CETP), a EUR635 million fund that invests in technology-focused companies in Europe and the US.

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### **DLA Piper continues Irish expansion with appointment of four new partners**

4 September 2019

DLA Piper today announces the appointment of four new partners to its recently opened Dublin office into four key practice areas of Finance and Projects (F&P), Intellectual Property and Technology (IPT), Tax and Real Estate. The new partners will be joined by three legal directors, as part of the firm's ongoing expansion in Ireland.

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### **DLA Piper advises Allianz Real Estate on the acquisition of EDGE Hafencity in Hamburg**

2 August 2019

DLA Piper has advised Allianz Real Estate on its acquisition of the office property EDGE Hafencity as part of an off-market forward deal. EDGE HafenCity Hamburg will be a 15-storey building with a total lettable area of approximately 22,500 sqm.

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### **DLA Piper advises Rolls-Royce on acquisition of Siemens' eAircraft business**

21 June 2019

DLA Piper has advised Rolls-Royce plc on the acquisition of Siemens' electric and hybrid-electric aerospace propulsion activities, eAircraft. The acquisition will accelerate the delivery of Rolls-Royce's electrification strategy and boost its ambition to play a major role in the "third era" of aviation. The completion of the transaction is expected in late 2019, following a period of employee consultation.

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### **DLA Piper named UK transfer pricing firm of the year for the third year running**

17 MAY 2019

DLA Piper has been named UK Transfer Pricing Firm of the Year for the third year running at the International Tax Review (ITR) European Tax Awards 2019, in a ceremony held in London on 16 May. The firm was also, and for the first time this year, named Africa Transfer Pricing Firm of the Year.

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### **DLA Piper announces launch of Artificial Intelligence practice**

14 MAY 2019

DLA Piper announced today the launch of its Artificial Intelligence practice, which will focus on assisting companies as they navigate the legal landscape of emerging and disruptive technologies, while helping them understand the legal and compliance risks arising from the creation and deployment of AI systems.

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### **DLA Piper advises BrewDog on acquisition of iconic Berlin brewery**

6 MAY 2019

DLA Piper has advised BrewDog, a multinational craft brewery and pub chain based in Scotland, on the acquisition of World Bistro & Gardens in Berlin from Stone Brewing, one of the largest craft breweries in the US.

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## **DLA Piper announces partnership promotions for 2019**

1 APR 2019

DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 43 different offices throughout 20 countries.

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## **Non-resident real estate investors bullish on Capital Gains Tax changes**

19 MAR 2019

Non-resident real estate investors are holding their nerve on UK investment strategies despite impending capital gains tax (CGT) changes coming into force next month and uncertainty around Brexit. According to a DLA Piper report, more than half (58 percent) of those polled expect the new tax code will have no impact on their investment strategy.

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## **DLA Piper announces launch of Blockchain and Digital Assets practice**

26 FEB 2019

DLA Piper announced today the launch of its Blockchain and Digital Assets practice, which will offer strategic advice on a global basis to address the needs of companies implementing blockchain technology solutions and creating and deploying digital assets.

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## **DLA Piper enhances cross-border tax capability with new partner hire in Dublin**

26 FEB 2019

DLA Piper today announces the appointment of Maura Dineen as a Tax partner in the firm's newly opened Dublin office. This is the fifth partner hire for DLA Piper in Dublin in a month, following the announcements in January of Conor Houlihan (Finance & Projects), Éanna Mellett (Corporate), Mark Rasdale (Intellectual Property & Technology) and Ciara McLoughlin (Employment).

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