



## Transfer Pricing

With the continuing globalization of our economy, as well as the resulting increase in cross-border transactions and the complexity of domestic and international laws and regulations, multinational companies increasingly recognize the importance of proactively managing transfer pricing to limit related tax risks and take advantage of planning opportunities. Get it right and the benefits can be substantial; get it wrong and the consequences can be devastating.

Our transfer pricing team is a global operation with professionals—including lawyers, economists and certified tax advisors—who have experience in some of the most sophisticated areas of international tax and transfer pricing. Members of our Transfer Pricing team are located throughout the Americas, Europe and Asia Pacific. We are well positioned to help companies address their transfer pricing challenges and opportunities, both locally and globally.

Our global approach to project management enables you to work with one transfer pricing advisor worldwide, giving you the following benefits:

- Consistent advice in developing and implementing a practical global transfer pricing policy, as well as supporting and defending the policy in any jurisdiction
- Reduction in time needed to learn about your business, gather pertinent information, draft intercompany agreements and produce reports
- A global project management methodology that enables one project partner to manage communication, deliverables and invoicing on a completely integrated basis

The Transfer Pricing team of DLA Piper has also direct access to our global network of business lawyers, including corporate lawyers, intellectual property lawyers and litigators who are ready to add their perspective when required. In many countries, the confidentiality provided by attorney-client privilege is an additional advantage of working with us.

### CAPABILITES

The transfer pricing group of DLA Piper supports clients with the full range of transfer pricing services:

- Design, documentation and implementation of transfer pricing policies, compliant with the local legislation and efficient from a

### KEY CONTACTS

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management and tax point of view

- Valuation of intangibles and other assets for tax and legal purposes
- Dispute resolution, including tax audit defence, Advance Pricing Agreements, Mutual Agreement Procedures and other forms of dispute resolution like mediation
- Tax and transfer pricing litigation, including expert witness support

## EXPERIENCE

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- Preparation of annual contemporaneous documentation reports for a US high technology multinational, including 40 separate country compliant reports under the OECD framework
- Numerous valuations of IP Migration transactions, under both the pre-2009 and the new 2009 “Platform Contribution Transaction” framework of Treasury Regulation Section 1.482-7
- Analysis and support for arm's length interest rates on long term loans between affiliates of various countries, using specialized databases of credit ratings
- Valuation of trademark portfolios in the automotive industry for tax purposes. International and local tax advice related to the transfer of those trademarks across jurisdictions. Trademark registrations and related intellectual property law advice
- Valuation of assets for a company in bankruptcy proceedings. The valuation was used by the trustee and the court to negotiate minimum prices with potential buyers and to expedite winding up the company
- Represented a leading networking infrastructure company in its global restructuring involving nearly every European jurisdiction and including a Dutch Advanced Pricing Agreement (APA) that achieved unprecedented results
- Valuation of several refineries and gas stations for one of the largest oil and gas companies in the world for real estate tax purposes. International and local tax advice related to the transaction
- Represented a global health sciences company in the negotiation of the first bilateral Advanced Pricing Agreement (APA) negotiated between the US and Ireland
- Valuation of shares required for tax purposes as a result of the reorganisation of a Japanese conglomerate
- Tax and transfer pricing planning advice to a US multinational during the acquisition of a European target, including all related legal advice such as corporate law, civil law and labour law
- Advice on the design, documentation and implementation of the transfer pricing policy of an international player in the renewable energy sector
- APA for several US technology companies
- Transfer pricing documentation for several companies in the pharmaceutical and medical equipment industries
- Tax and transfer pricing planning advice for Russian investors starting up businesses in Europe, including VAT and legal advice
- Tax litigation and transfer pricing expert witness support for several Fortune 500 companies in different countries. The subjects of the disputes included: intercompany pricing of loans, valuation of intangibles and commissionaire structures

## INSIGHTS

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### Publications

#### APA and MAP Country Guide 2019

17 MAY 2019

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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### **Zambia's Tax Appeals Tribunal finds in favour of the Revenue in its first substantive transfer pricing case**

15 MAY 2019

On March 28, 2019, the Tax Appeals Tribunal (TAT) delivered its decision in Nestlé Zambia Trading Limited v Zambia Revenue Authority [2018] TAT 03. The case is very likely to have important future implications for multinationals with operations in Zambia with cross-border related party transactions. The key elements are summarised in this article.

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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

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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### **Saudi Arabia introduces final transfer pricing rules**

6 MAR 2019

The introduction of the TP Bylaws demonstrates GAZT's increased focus on tax collection.

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### **New Polish decree on withholding tax obligations**

17 JAN 2019

The decree will have a significant effect on the application of the new WHT regulations.

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### **Poland introduces mandatory disclosure rules relating to tax arrangements**

14 JAN 2019

The Polish reporting obligations are broader than the EU-mandated obligations in at least three aspects.

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### **Singapore deposits OECD Multilateral Instrument**

8 JAN 2019

Multinationals that have a holding, financing, or intangible property company in Singapore are taking note.

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## **ATO guidance on inbound distribution arrangements**

21 DEC 2018

The Australian Taxation Office has published a draft practical compliance guideline outlining its compliance approach to transfer pricing issues related to inbound distribution arrangements. The Draft Guideline provides a framework for inbound distributors to assess their potential risk of an ATO transfer pricing review against specific "profit markers" provided by the ATO.

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## **APA and MAP Country Guide 2018 New paths ahead for international tax controversy**

13 DEC 2018

The OECD BEPS project has brought significant changes to the international tax system and the regulation of cross border transactions in particular. The OECD has recognised that these changes will lead to an increase in controversy, and has encouraged dispute resolution through the mutual agreement procedure ('MAP'), and dispute prevention through advance pricing agreements ('APAs').

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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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## **Dutch government consults on the implementation of anti-hybrid measures in EU Anti-Tax Avoidance Directive 2**

7 NOV 2018

Dutch government proposes anti-hybrid rules targeting hybrid mismatches; Netherlands-US tax treaty may no longer reduce or exempt Dutch DWT on distributions to Dutch CVs that qualify as a reverse hybrid.

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## **South Africa's Revenue Service releases updated guidance on seeking mutual agreement procedure assistance**

5 NOV 2018

The time MAP can take is sometimes conflated with advisor costs, whereas the reality is that this process often has modest cost implications.

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## **Spanish government to introduce new digital services tax**

1 NOV 2018

The proposed DST will apply only when the user's digital devices are located in Spain.

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## **Poland changes WHT rules for non-residents**

31 OCT 2018

Following these changes, WHT will become obligatory for certain cross-border payments.

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## **OECD releases 2017 statistics on Mutual Agreement Procedure**

18 OCT 2018

It is now more important than ever that taxpayers and their advisors shake off historical reservations about the MAP process.

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## **Section 301 additional tariffs on imports of Chinese products: options for high tech and manufacturing companies**

3 OCT 2018

Additional tariffs of 10 percent or 25 percent have been imposed on three different lists of thousands of imports from China. Companies can request exclusion from these tariffs.

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## **Saudi Arabia signs OECD multilateral instrument: key takeaways for foreign companies**

25 SEP 2018

Saudi Arabia becomes the 84th jurisdiction to join the MLI, which aims to implement tax treaty-related base erosion and profit shifting.

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## **Poland introduces exit tax for companies and individuals**

13 SEP 2018

The Polish government has announced a draft law to introduce an exit tax.

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## **HMRC releases data on transfer pricing, diverted profit tax: key takeaways**

14 AUG 2018

HMRC's publication of transfer pricing and diverted profits tax data for 2017/8 shows increasing activity and revenue collected from multinationals.

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## **Revised Guidance on the Application of the Transactional Profit Split Method: practical considerations for global trading**

17 JUL 2018

### **TRANSFER PRICING SERIES**

In June 2018 the OECD published its final "Revised Guidance on the Application of the Transactional Profit Split Method" (ie Revised Guidance) to provide more clarity around the practical application of the profit split method.

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## **Intra-group loans under the arm's length principle - 10 things to know**

2 JUL 2018

### **TRANSFER PRICING SERIES**

Funding arrangements are an essential consideration for multinationals (MNEs) expanding their businesses, either through acquisition or organic growth.

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## **World Customs Organization publishes updated guide to customs valuation and transfer pricing**

5 JUL 2018

On 5 June 2018 the World Customs Organization (WCO) published "Revenue Package Phase III" which is a package of all available tools and instruments (including, inter alia, formal instruments and conventions, guidance notes and training materials) that are relevant to revenue collection by customs authorities. This package covers a number of new initiatives relating to Origin, Valuation, Customs Laboratories, Post-Clearance Audit, as well as Customs-Tax Cooperation. As part of the new materials on Valuation, a new version of the WCO Guide to Customs Valuation and Transfer Pricing has been published.

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## **OECD releases new guidance on the application of the transactional profit split method under BEPS Actions 10**

3 JUL 2018

The Guidance will likely continue the uncertainty for taxpayers as they develop and maintain their transfer pricing policies.

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## **UAE signs Multilateral Instrument**

2 JUL 2018

The signing of the MLI by the UAE reinforces its position as a cooperative and transparent jurisdiction.

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## **Italy releases final regulations on transfer pricing**

30 MAY 2018

Italy aligns its transfer pricing rules with international standards.

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## **Section 301 trade action against Chinese products: time for quick action**

4 APR 2018

Companies wishing to seek removal of a product from the final list have the opportunity to present their views, but less than two months remain before the window completely closes.

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## **The UK releases new guidance on Mutual Agreement Procedures**

12 MAR 2018

### **TRANSFER PRICING SERIES**

Multinationals should consider the improved MAP as a viable compliance risk management tool.

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## **Dutch government announces future tax developments: key takeaways for business**

6 MAR 2018

The new tax policy aims to strengthen the investment climate by lowering the Dutch corporate income tax rate.

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## **Norway's Ministry of Finance releases guidance on seeking mutual agreement procedure assistance**

26 FEB 2018

The new guide, the first of its kind, contains general information on the use of MAP in individual cases, as well as specific guidance related to transfer pricing.

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## **Hong Kong: ground-breaking transfer pricing legislation – key features**

24 JAN 2018

Key features of Hong Kong's proposed transfer pricing rules.

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## **European Court of Justice finds German anti-treaty shopping rule in violation of EU law: key takeaways**

25 JAN 2018

Significant conclusions for the current version of the law can be drawn from the ECJ's reasoning.

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## **China defers 10 percent withholding tax on dividend income reinvested into Encouraged Industries**

3 JAN 2018

China works to create a more convenient and competitive tax environment for foreign investors.

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## **India publishes new rules for master file and CbC reporting**

30 NOV 2017

Guidance for multinationals on master file and country-by-country reporting in India.

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## **South African Revenue Service scrutinizes taxable presence of foreign service providers in South Africa**

1 NOV 2017

The primary focus of the requests appears to be whether a permanent establishment has been created in South Africa; thus, profits attributable to that permanent establishment should have been subject to tax in South Africa.

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## **Japan's National Tax Agency releases guidance on requesting Mutual Agreement Procedure assistance**

26 OCT 2017

The new guidance contains information on how the MAP mechanism functions in Japan.

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## **European Union adopts new Directive to better resolve double taxation disputes**

17 OCT 2017

This alert outlines details of the new Tax Dispute Resolution Mechanism Directive adopted by the Council of the European Union on 10 October 2017 and the impact on multinational companies.

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## **OECD releases reviews on BEPS Action 14**

5 OCT 2017

Belgium, Canada, the Netherlands, Switzerland, the UK and the US are the subject of this first tranche of stage 1 peer review reports that evaluate how countries are implementing the BEPS Project minimum standards.

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## **The proposed US tax reform: repatriation alternatives for multinationals operating in Latin America**

28 SEP 2017

A review of regulations in Argentina, Chile, Colombia, Mexico and Peru and steps for multinationals to consider regarding their operations.

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## **Finland: Supreme Administrative Court decides two transfer pricing cases involving intra-group services - key takeaways**

27 SEP 2017

Two new precedential decisions.

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## **Hong Kong releases Consultation Report on Measures to Counter Base Erosion and Profit Shifting: key topics**

26 SEP 2017

The Consultation Report sheds light on the legislative changes to come and the respective timelines, allowing companies to assess how these BEPS-driven changes may affect their group structure and strategic plans.

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## **Morocco publishes new procedures for Advance Pricing Agreements**



7 SEP 2017

Both unilateral and bilateral APAs are available.

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### **APA & MAP Country Guide 2017**

25 AUG 2017

Advance Pricing Agreements (APAs) are quickly becoming a strategy of choice for multinationals, amid increased scrutiny and growing complexity of transfer pricing issues globally. To this end, DLA Piper has prepared a guide that informs taxpayers about the APA application procedures across multiple jurisdictions.

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### **Ireland's Revenue releases guidelines on requesting Mutual Agreement Procedure assistance**

15 AUG 2017

These guidelines are a useful development for MNEs.

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### **The Mutual Agreement Procedure: A Taxpayers' Tool Reinvented**

6 JUL 2017

Multinationals faced with disputes concerning cross-border transactions are well advised to proactively consider the use of MAP while at the same time pursuing options under the usual domestic avenues.

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### **More than 60 countries sign OECD multilateral convention to counter base erosion and profit shifting**

8 JUN 2017

The Convention is the first multilateral treaty of its kind that allows jurisdictions to transpose results from the OECD/G20 BEPS Action Plan into their existing networks of bilateral tax treaties.

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### **Supply chain planning in the post-BEPS era: five questions for MNEs**

22 JUL 2015

After BEPS actions are incorporated into OECD documents and local legislation, tax planning opportunities will still exist, but realizing the benefits of tax planning will require a greater emphasis on economic substance. One often-overlooked area of opportunity is tax-efficient supply chain planning.

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## **NEWS**

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

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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 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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### **DLA Piper Africa welcomes Zimbabwe member firm**

19 JUN 2018

DLA Piper Africa has announced that leading Zimbabwean law firm, Manokore Attorneys, is joining as the member firm in Zimbabwe.

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### **DLA Piper takes home eight awards at 2018 International Tax Review European Tax Awards**

18 MAY 2018

DLA Piper has won eight awards at the International Tax Review European Tax Awards 2018, in a ceremony that took place on Thursday, May 17, 2018 at the Savoy Hotel in London.

The firm has been named UK Transfer Pricing Firm of the Year, Spain Tax Firm of the Year and Gulf Cooperation Council Tax Firm of the Year.

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### **DLA Piper advises Migdal on the acquisition of German light industrial portfolio for €56m**

13 APR 2018

DLA Piper has advised the Israeli insurance company and pension manager, Migdal, on its acquisition of three light industrial properties in Germany from ThreadGreen Industrial for €55.7 million. Migdal completed the acquisition in association with Cording Real Estate Group, a German, UK and Benelux real estate investment and asset management firm.

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### **DLA Piper Africa advises Adenia Partners on acquisition of controlling stake in Kanu Equipment Limited**

23 MAR 2018

Kanu has been driving an expansion strategy across Sub-Saharan Africa in recent years and the business now operates in 13 countries, servicing the agriculture, construction and mining industries.

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### **DLA Piper grows Tax practice in Germany with new hire**

8 MAR 2018

DLA Piper is pleased to announce that Dr Marie-Theres Rämer will join the firm as a partner in its Tax practice, based in Frankfurt.

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## **DLA Piper advises Cabinet Group on Funcom joint venture**

9 FEB 2018

DLA Piper represented Cabinet Group LLC on tax and Norwegian law matters in its joint venture with Funcom N.V., a Norwegian developer, to establish Heroic Signatures.

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## **DLA Piper launches Middle East Tax practice**

4 DEC 2017

DLA Piper has strengthened its International Tax practice with the appointment of Ton van Doremalen as partner and Head of Tax in the Middle East. Ton joined the firm's Dubai office on 3 December 2017.

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## **DLA Piper advises McDonald's on restaurant opening in Kyiv**

21 NOV 2017

DLA Piper has advised and represented McDonald's, the leading global fast-service restaurant brand, in a recently completed transaction resulting in the opening of a new restaurant in Kyiv.

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## **DLA Piper launches Finance Rules of the World**

2 Nov 2017

DLA Piper's global Finance & Projects practice has today launched Finance Rules of the World, a knowledge site for clients, which summarizes key legal questions and answers to be considered when initially looking at financing or investing in particular jurisdictions.

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## **DLA Piper launches new platform for *Guide to Going Global* series**

20 SEP 2017

DLA Piper has launched a new platform featuring its *Guide to Going Global* series, an online resource designed to help companies operating and growing their international businesses.

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## **DLA Piper advises Link Group on £888 million (AU\$1.49 billion) acquisition of Capita Asset Services**

10 Jul 2017

DLA Piper has advised Australian company Link Group (ASX: LNK) on the acquisition of UK-based Capita Asset Services division (CAS) of Capital Plc for £888 million (AU\$1.49 billion). Link Group was selected as the successful bidder following a competitive sale process. DLA Piper also advised Link Group on the related acquisition debt financing of £485 million (AU\$815 million).

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## **DLA Piper advises Beijing BDStar Navigation Co., Ltd on the purchase of an interest in the in-tech Group**

19 Jun 2017

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DLA Piper has advised BDStar as part of a bidding procedure on the acquisition of an interest in the company in-tech GmbH, a supplier for the digitization and the development in the area of automotive, machinery and transportation systems.

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### **DLA Piper advises trio of lenders on financing Spurs' new stadium development**

1 JUN 2017

DLA Piper has advised Goldman Sachs Bank USA, HSBC Bank plc and Bank of America Merrill Lynch International Limited on their financing of Tottenham Hotspur's new, multi-purpose, 61,500 seat stadium. The financing package consists of a £400,000,000 development term loan and a £25,000,000 revolving credit facility.

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