



## 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.

### CAPABILITES

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.

### KEY CONTACTS

#### Jason Collins

Partner  
London  
T: +44 (0)20 7796 6525  
jason.collins@dlapiper.com

#### Ellis L. Reemer

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

#### Jacques Wantz

Partner  
Luxembourg  
T: +352 26 29 04 2635  
jacques.wantz@dlapiper.com

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

- Individual and corporate defense at all stages of tax criminal proceedings
- Individual and corporate defense in tax-related liability proceedings
- 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

## **LatAm: Tax authorities address negative effects of the pandemic on national coffers**

12 August 2021

The tax authorities' revenue-generating approaches vary from incentives to additional taxation.

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## **Canadian international tax update: New interest deductibility restrictions and anti-hybrid rules**

3 May 2020

The Canadian federal budget tabled on April 19, 2021 proposes significant new interest deductibility restrictions and anti-hybrid mismatch arrangement rules.

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## **ATO wins legal professional privilege dispute and sets new COVID-19 PE risk guidance**

24 February 2021

From judicial decisions to ATO guidance updates, Partner Paul McNab summarises the tax-related developments from early 2021 in Australia.

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## **Saudi Arabia extends tax amnesty scheme enabling international groups to regularize historic tax exposure**

1 February 2021

An increasing number of international taxpayers are using the KSA scheme.

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## **Australian Federal Court dismisses ATO appeal in Glencore transfer pricing case**

10 November 2020

In a unanimous decision, the Australia Full Federal Court dismissed the ATO appeal in the Glencore transfer pricing matter (except in relation to freight expenses in 2009).

In our update note, we analyse key parts of the judgement, including the role of the Court of Appeal and the relevance of witnesses.

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## **Australian regulators consider the application of legal professional privilege**

24 September 2020

We present the tax highlights from September 2020 in Australia, which includes clarifications to the hybrid mismatch rules and wider discussion on legal professional privilege.

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## **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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## **Learning from the Addy and Auctus Resources decisions in Australia**

26 August 2020

From economic recovery plans to judicial decisions, we summarise the tax-related developments from mid-2020 in Australia.

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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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## **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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