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

Lang et al., Tax Treaty Case Law around the Globe 2013 7
Contents

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 Yaltı
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
<table>
<thead>
<tr>
<th>Name</th>
<th>Article Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexander Rust</td>
<td>Germany: Interpreting the 183-day rule</td>
<td>269</td>
</tr>
<tr>
<td>Alexander Rust</td>
<td>Germany: Pensions vs. Business Income</td>
<td>277</td>
</tr>
<tr>
<td>D.P. Sengupta</td>
<td>India: Mohan Balakrisnan Pookulanagara</td>
<td>285</td>
</tr>
<tr>
<td>Jacques Sasseville</td>
<td>Spain: Taxation of activities related to U2 concerts</td>
<td>291</td>
</tr>
<tr>
<td>Edoardo Traversa/Gaëtan Zeyen</td>
<td>Belgium: Taking into account foreign income for the calculation of personal tax deduction</td>
<td>305</td>
</tr>
<tr>
<td>Marjaana Helminen</td>
<td>Finland: The Permanent Establishment Non-Discrimination Provision and Transfer of Assets</td>
<td>317</td>
</tr>
<tr>
<td>Danil V. Vinnitskiy</td>
<td>Russia: Thin Capitalization Rules and Non-Discrimination Clause in the light of the „NaryanmarNefteGaz“ Case</td>
<td>325</td>
</tr>
<tr>
<td>Yariv Brauner</td>
<td>USA: The United Airlines Flight Attendants’ Saga Continues</td>
<td>339</td>
</tr>
<tr>
<td>Philip Baker</td>
<td>UK: Weiser v Revenue and Customs Commissioners</td>
<td>351</td>
</tr>
<tr>
<td>Edoardo Traversa/Gaëtan Zeyen</td>
<td>Belgium: Territorial allocation of business expenses and exemption with progression</td>
<td>357</td>
</tr>
<tr>
<td>Malcolm Gammie</td>
<td>UK: Ben Nevis</td>
<td>367</td>
</tr>
<tr>
<td>List of Authors</td>
<td></td>
<td>377</td>
</tr>
</tbody>
</table>