

# Dorsey London Tax Update

21 June 2010

### Upcoming and Anticipated Dates

Wilkins v HMRC (compound interest)	Court of Appeal (hearing)	24-25 June 2010
HMRC v Philips Electronics (UK) Ltd	Upper Tribunal (hearing)	28-29 June 2010
FII GLO	Supreme Court (leave to appeal)	June/July 2010
Prudential (portfolio dividends, FII and life assurance, compound interest)	High Court (judgment)	July 2010
Thin Cap GLO	Court of Appeal (hearing)	18 Oct 2010
FID Litigation (cash tax credits)	First Tier Tribunal (judgment)	Pending other judgments (mid 2010)
Accor (avoir fiscal)	ECJ (hearing)	Ca Dec 2010

### Seminars and Presentations

EU Judicial Protection	18 June 2010	Kings College	London
Compound Interest & Time Limits	1 July 2010	Dorsey & Whitney	London
Loss Relief	16 July 2010	Dorsey & Whitney	London
International Tax Conference	7 October 2010	KPMG	Cyprus

### Marks & Spencer Upper Tribunal Decision

**Seminar:** We will be holding a seminar at our offices to discuss the Upper Tribunal judgment and other developments in cross border loss relief cases on 16 July 2010, with Graham Aaronson QC as a guest speaker. Invitations will follow shortly.

The Upper Tribunal has today handed down its decision in Marks and Spencer group relief case. In brief, the Tribunal followed the First-tier Tribunal on every issue save that it concluded that out of time claims for pay and file periods did not succeed for that reason.

In its conclusions, the Tribunal found that M&S was entitled to group relief in respect of losses made in Germany and Belgium for the self assessment years under claim on the basis that M&S had made valid claims for group relief within the appropriate time limits. The Tribunal also upheld the First-tier Tribunal decision on ascertaining the quantum of the claims for group relief.

In respect of the pay and file periods, the Upper Tribunal agreed with the First-tier Tribunal that the claims for group relief made in time were not valid as the no possibilities test was not satisfied at that date of the claims.

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**Dorsey ranked top for tax litigation, Legal 500 2009 edition**

**Dorsey ranked top of "the best in the UK" for contentious tax, Chambers 2008, 2009 and 2010 editions**

Dorsey awarded **European Tax Litigation Firm of the Year in 2009 and 2007**

Dorsey wins the **ECJ Award for 2008** and **Editor's Award for 2006** by International Tax Review

Dorsey named the **UK's Tax Team Of The Year 2006** by Legal Business Magazine

Paul Farmer named **Tax Lawyer of the Year 2006** by Lexis Nexis



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However, unlike the First-tier Tribunal, the Upper Tribunal determined that M&S should not be allowed to make claims outside of the normal time limits and accordingly allowed HMRC's appeal on this issue.

The next step in proceedings would be an appeal to the Court of Appeal although no applications for permission to appeal to the Court of Appeal have yet been made.

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