

Advance Tax Rulings And Principles Of Law Towards A European Advance Tax Rulings System Doctoral

The rules of the Member States on the taxation of the foreign business income of companies, whether such rules are based on the fiscal principle of territoriality or on the principle of worldwide taxation, are in conflict with the objective of achievement of the internal market. This objective is indeed difficult to reach when it comes to the taxation of foreign income, given that the Member States are far from taxing companies doing business cross-border as if their operations were purely domestic. Areas of conflict include particularly the taxation of foreign profits, the deduction of foreign losses, the elimination of international double taxation and the attribution of profits to permanent establishments. This dissertation analyses this conflict on the basis of a study of the case law of the European Court of Justice as well as some of the key provisions of the European treaties. It appears that both the fiscal principle of territoriality and the principle of worldwide taxation give rise to complex issues of compatibility with the law of the European Union. Although the analysis conducted throughout the dissertation provides some guidance for the taxation of the foreign business income of companies, it is concluded that the Court cannot, by itself, efficiently resolve the conflict between such taxation and the objective of achievement of the internal market.

The most important and recent judgments of the CJEU Considering the ever increasing importance of indirect taxation as a source of revenue for governments, the intensifying complexity of legal framework, and the proliferating number of countries adopting indirect taxation, it is essential to scrutinize how the law is actually applied in practice. The primary driving force in this area is, undoubtedly, the Court of Justice of the European Union. This book analyzes selected topics (e.g., abuse and anti-avoidance measures, taxable base and rates, treatment of Public Bodies, exemptions, and deductions) by examining the most prominent and recent judgments of the Court of Justice of the European Union. Experts from all over the world, not just from academia but also government representatives and tax practitioners, have provided their input and helped us compile what is an informative and worthy read for anyone dealing with indirect taxation on a professional basis.

The book argues that the notions of tax sovereignty and EU free movement should be regarded as two fundamentally equal principles. The conflict between these two principles is resolved by establishing, in individual cases, the optimum position between two extremes: a general unrestricted freedom of action by states versus a prohibition of any obstacle to the free movement of goods, persons, services and capital. The process of reconciliation of these competing principles is structured by the theoretical optimization model developed in the present study. This model is external to the present case law. The application of the theoretical optimization model to the ECJ's case law in the area of direct taxation reveals that this case law is largely in line with the model. It is certainly not as internally inconsistent as claimed in some of the tax literature. Many jigsaw pieces seem to fit after all if the case law is assessed in the light of the model. A number of future developments could be expected on the basis of the model and extensive case law analysis. The most important of these is that, in some cases, truly non-discriminatory tax measures should give rise to a prima facie restriction on free movement.

BEPS Action 5 is one of the four minimum standards which all members of the OECD/G20 Inclusive Framework on BEPS have committed to implement. One part of the Action 5 minimum standard is the transparency framework for compulsory spontaneous exchange of information on certain tax rulings which, in the absence of transparency, could give rise to BEPS concerns.

"Taxation of Intercompany Dividends under Tax Treaties and EU Law, comprising the proceedings and working documents of an annual seminar held in Milan on 1 October 2011, is a detailed and comprehensive study on the taxation of cross-border dividend distributions."--Extracted from publisher website on March 27, 2015.

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"This book strongly encourages international dialogue and effort in the coordination of national VAT/GST laws. If, however, coordination of unilateral measures fails to effectively prevent double taxation, states can take recourse to binding instruments into which they can build dispute resolution mechanisms - just as they do with respect to income taxes. This book provides a toolkit that may assist in the design of such an instrument and provides an example: a multilateral VAT/GST Model Convention."--Extracted from publisher website on May 20, 2015.

Aims to identify and analyse problems related to double taxation of income attributable to cross border partnerships in asymmetrical situations de lege lata. This refers to cases where the same partnership, in across border owner/entity situation, is recognized as a taxable person in one country, but as transparent for tax purposes in the other."

This book is the result of a 4-year research project conducted at the Faculty of Law of the University of Luxembourg. It explores the legal value and enforceability of tax circulars and tax rulings in Luxembourg domestic law in light of the principle of legitimate expectations and related principles. After studying the historical roots of both interpretative acts, this research questions the level of protection taxpayers enjoy when relying on circulars and tax rulings and contains a review of decades of administrative case-law to assess the judicial discourse on taxpayers' rights to certainty. This book further investigates the case of circulars and tax rulings that contain interpretations of tax laws that are contrary to the law (contra legem) and builds upon the existing normative framework to introduce proposals addressing issues of uncertainty and inequality taxpayers are likely to suffer when relying on such interpretative acts. Prix Pierre Pescatore de la Faculté de Droit de Luxembourg (École doctorale de droit).

Today, privacy is one of the most hotly debated topics worldwide. The book aims to balance the development of personal rights in a country that has historically valued collective rights over those of the individual. The protection of privacy is not an issue that has been emphasised during the rapid development of economic laws in China. However, the accompanying development of greater government-based regulation of these laws' implementation has led to greater invasions of personal privacy. This study attempts to provide a way forward for China to address the ever-increasing concerns about the protection of privacy and puts forward a legislative model for protection. This is achieved after a thorough analysis of the threats to privacy protection in China, a critical evaluation of the level of current privacy protection in China, and an analysis of the privacy laws in a series of developed nations based on common law and civil law.

As populations become increasingly concentrated in urban centres and mega cities, while demands on transportation continue to grow, the question of how to mitigate the environmental footprint of these trends is ever more pressing. This comprehensive book demonstrates the potentially significant role of environmental taxation and other market-based instruments in meeting these challenges.

This book is a compilation of contributions exploring the impact of the European Treaty provisions regarding state aid on Member States' legislation and administrative practice in the area of business taxation. Starting from a detailed analysis of the European Courts' jurisprudence on Art.107 TFEU the authors lay out fundamental issues – e.g. on legal concepts like “advantage”, “selectivity” and “discrimination” – and explore current problems – in particular policy and practice regarding “harmful” tax competition within the European Union. This includes the Member States' Code of Conduct on business taxation, the limits to anti-avoidance legislation and the options for legislation on patent boxes. The European Commission's recent findings on preferential “rulings” are discussed as well as the general relationship between international tax law, transfer pricing standards and the European prohibition on selective fiscal aids.

Since its Company Tax Communication of 2001, the European Commission has been promoting a comprehensive harmonization of corporation taxes within the Internal Market on the basis of consolidation and formulary apportionment of the profits of cross-border enterprises, both in the form of a Home State Taxation (HST) and of the Common Consolidated Corporate Tax Base (CCCTB). This study aims to assess whether this approach represents a viable alternative to the arm's length standard currently applied in international tax law. The study comprises four parts. First, a theoretical concept of formulary apportionment is presented in order to define the role that formulary apportionment could take in the area of profit allocation within the Internal Market. This is followed by an in-depth evaluation of the practical experiences of four jurisdictions (United States, Canada, Switzerland and Germany) with formulary apportionment at the subnational level. Next, a comprehensive proposal for harmonization on the basis of consolidation and apportionment is developed, using the insights from the foregoing theoretical considerations and comparative analysis. The book concludes with an overall analysis of the merits and drawbacks of the proposed model for harmonization which suggests that consolidation and formulary apportionment could indeed represent a workable solution to numerous problems of corporate taxation within the Internal Market.

Recent developments in direct taxes and VAT/GST Taxes – in general – have become the topic of broad legal and policy discussions. VAT and GST are often said to be the fiscal success story of the 20th century, as almost all developed countries levy VAT or GST or similar all-encompassing broad-based consumption taxes. Global trends in direct taxes are visible at the level of international players, such as the OECD. Due to the OECD's BEPS project, national tax systems are being significantly modified. This book aims at identifying and discussing the current global trends in both VAT/GST and direct taxes. In daily practice, VAT/GST and direct taxes should be regarded simultaneously. Therefore, the Master's theses contained in this book deal with and highlight numerous issues, challenges and opportunities found in both direct taxes and in the VAT/GST area, ranging from nexus in direct taxes and VAT/GST, recent developments in certain policy areas, the definition of taxable persons, tax abuse, non-discrimination rules, charities, transfer pricing, European State aid, immovable property, share deals etc. While the construction of VAT/GST and direct taxes differs, both taxes have similarities. The contributions in this book make a legal comparison of the recent developments in direct taxes and VAT/GST in the relevant fields, provide an analysis of the similarities and differences of the two taxation systems and highlight global trends in taxation.

The Arab upheaval and the world's biggest financial crisis after the Great Depression were almost simultaneous in their occurrence. The Mediterranean economies now face a dual challenge of a political and financial restructuring in the light of a shaky economic pedestal on which they stand. In light of this socio-political and economic shift in both inland and in world markets, this book offers a thorough analysis on problems, prospects and the way ahead for the financial integration of the South-Mediterranean region. Several perspectives on financial integration and policy recommendations are put forward from a leading group of researchers specializing on the Mediterranean region.

Advance tax rulings are a common feature of mature tax systems. The tax systems of the United States, the United Kingdom, the Netherlands, Germany, Australia, and South Africa all have established ruling practices. Taxpayers can obtain an advance tax ruling in nearly all OECD member countries. Increasingly, many non-OECD countries are also offering advance tax rulings. An advance tax ruling regime seeks to promote clarity and consistency regarding the application of the tax law for both taxpayers and the tax authority. However, there are also inherent risks associated with the proliferation of granting confidential advance tax rulings which are not published or otherwise reported. This Tax Law IMF Technical Note focuses on designing an advance tax ruling regime in the nature of private tax rulings.

The Major Developments in Tax Policy Steadily increasing globalization as well as the financial and economic crisis have brought major challenges for states in ensuring budgetary consolidation while maintaining sustainable economic growth. These developments have not only influenced political and economic discussions in the 21st century, but also raise new questions on the role of taxation in the economic policy environment. National taxation systems worldwide are subject to significant changes and it is assumed that they will develop in a more co-operative way in the near future. This book aims at identifying the major developments in tax policy in the 21st century on a national as well as on an international level and gives an in-depth analysis of the challenges and risks, but also of the opportunities connected to these developments. It covers numerous and discrete issues ranging from challenges in the VAT/GST area, the taxation of the financial sector, the fight against aggressive tax planning, tax abuse and tax evasion, tax integration within the EU, the development of transfer pricing rules, the increasing role of co-operative compliance and good governance and the changing tax policies of developing and newly industrialized countries. The contributions in this book build upon a legal comparison of the national tax systems in the relevant fields, propose tax policy solutions where required and give ideas on how to go forward.

Cross-border economic activity is gaining more and more importance. This is especially true for the border region between Germany and the Netherlands. The GD Tax Centre was founded to research on the taxation of such activities in 2012. The GD Tax Centre brought together renowned scientists and a significant number of emerging young talents from both sides of the border over a period of three years. This anthology represents some of the research results of the GD Tax Centre. Further research results have been made public via events, presentations or academic publications and a variety of other ways. It consists of many different articles, which mainly discuss topics of cross-border business activities and compare the tax treatment in Germany and the Netherlands. An enormous part of this book focuses on the new German-Dutch tax treaty, which hopefully will enter into force in January 2016. Additionally some articles concern a more general or even a more specific research question. This project was kindly supported by: University of Osnabrück, Tilburg University, University of Münster, PwC, Hartmann & Kiwit, De Kok, Provincie Gelderland, Provincie Overijssel, Euregio, Niedersächsisches Ministerium für Wirtschaft, Arbeit und Verkehr, Ministerium für Wirtschaft, Energie, Bauen, Wohnen und Verkehr des Landes Nordrhein-Westfalen, Interreg Deutschland-Niederland, European Regional Development Fund.

Advance Tax Rulings and Principles of Law Towards a European Tax Rulings System? IBFDOECD/G20 Base Erosion and Profit Shifting Project Harmful Tax Practices – 2019 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5 OECD Publishing
EUCOTAX (European Universities Cooperating on TAXes) is a network of tax institutes currently consisting of eleven universities: WU (Vienna University of Economics and Business) in Austria, Katholieke Universiteit Leuven in Belgium, Corvinus University of Budapest, Hungary, Université Paris-I Pantheon-Sorbonne in France, Universität Osnabrück in

Germany, Libera, Universita Internazionale di Studi Sociali in Rome (and Universita degli Studi di Bologna for the research part), in Italy, Fiscaal Instituut Tilburg at Tilburg University in the Netherlands, Universidad de Barcelona in Spain, Uppsala University in Sweden, Queen Mary and Westfield College at the University of London in the United Kingdom, and Georgetown University in Washington DC, United States of America. This network aims at initiating and coordinating both comparative education in taxation, through the organisation of activities such as winter courses and guest lectures, and comparative research in the field, by means of joint research projects, international conferences and exchange of researchers between various countries. European Union law barely deals with procedural questions even though they are essential for proper implementation of European Union law. The European Court of Justice has developed procedural principles in its rulings which also affect proceedings before national authorities. This is due to the fact that the principle of procedural autonomy of the Member States finds its limits where European Union law might be infringed. Therefore, domestic procedural principles and rules of the EU countries need to be interpreted in the context of European Union law requirements. This timely work seeks to identify the differences between the domestic procedural rules and principles of an array of EU and non-EU countries and analyse them in the context of European Union law requirements. Specific attention is paid to the impact of State aid rules on procedural law in tax matters, on constitutional law requirements as well as tax treaty law issues. Since customs law is already harmonized in the form of the Community Customs Code, it serves as a starting point to examine the extent to which harmonized procedural law is possible. Harmonized procedural law is also discussed in the context of a possible future Common Consolidated Corporate Tax Base as well as an EU tax levied at the European Union level.

The principal purpose of this study is to analyse and discuss the rules and principles of international law relevant to the interpretation of treaties in general, and their application to tax treaties in particular. The rules of international law enshrined in Articles 31, 32 and 33 of the Vienna Convention on the Law of Treaties are discussed in detail. Where appropriate, reference is made to the jurisprudence of the International Court of Justice, and to the law and procedure of other international courts and tribunals. Since tax treaties are not only a source of legal rights and obligations for the contracting States, but can also be invoked by the taxpayers of those States, this book considers the extent to which the relevant rules and principles of international law are binding on domestic courts and taxpayers. The effect of international law in a State's national legal order is largely dependent on its relevant rules of constitutional law, which vary from country to country. In order to address this issue, the book draws upon the example of the Netherlands and provides a number of leading cases decided by the Dutch Supreme Court (Hoge Raad).

Considers the treatment of income from private employment under tax treaties containing provisions analogous or similar to Article 15 of the OECD model. This book offers an analysis of these provisions as well as suggestions for improvements in the application and interpretation. It approaches the analysis from the perspective of five countries. The advent of electronic commerce has caused many to question the continued viability of sourced-based taxation. This thesis argues that source-based taxation is theoretically justifiable for income that arises from international transactions which are conducted in an electronic commerce environment.

International taxation is evolving in response to globalization, capital mobility, and the increased trade in services, and introduces international tax practitioner, student and researcher to the theory, practice, and international examples of the changing landscape. Models of tax competition in a flat and connected world are very different than those necessary to ensure compliance in a world dominated by cross-border flows of goods and repatriation of profits. Taxes on consumption, e-commerce, and services are looming innovations in future of international taxation. Tax coordination and standardization are immense challenges in a world in which the movement of value is increasingly subtle and hard to detect. And as corporations and individuals become more sophisticated in the internationalization of flows of capital, our models must become more sophisticated in their scope and inclusion. In the era when trade was dominated by the exchange of manufactured goods, international taxation was designed to protect domestic industries, create tax revenue, prevent evasion, and promote compliance. The traditional toolbox of customs duties, tariffs, and taxes on repatriated profits must be augmented as the movement of goods across borders represents a much smaller fraction of trade and as international taxation policy is increasingly used to attract foreign corporations rather than discourage branch offices. International taxation models that can better tax services, track international flows of capital, and allow a nation to compete in a world market for capital formation are the tools of the modern tax practitioner. International tax policy is now viewed as an integral part of economic policy. This approach is bound to accelerate as the world becomes increasingly flat and better connected. Economic progress is more and more influenced by the movement of services and information, movements that are no longer through ports but through fiber optic lines. This book contributes to the growing literature on international taxation by bringing together theory and experience, current practices and innovation, and our current understanding of some of the challenges now facing and arguably frustrating current international taxation policy. The book will create new avenues of research for scholars, a new awareness for students of International Taxation, and new possibilities for international tax practitioners. The models and examples presented here suggest that there are serious problems with measurability of flows of services and information, and points to an increasingly need for greater harmonization of international taxation, perhaps through coordinated consumption-tax oriented approaches. * Describe the rapidly evolving role of International Taxation in a globalizing information economy * Present theoretical models that act as the basis for successful international tax competition * Describe the experiences and innovations of representative internationalized countries * Discuss some new approaches to International Taxation * Makes the case for new models of international taxation in an increasingly global information world

"The principle of non-discrimination plays a vital role in international and European tax law. This dissertation analyses the interpretation given to that principle in tax treaty practice and in the direct tax case law of the Court of Justice of the

European Union (ECJ) on the fundamental freedoms. The objective of this analysis is twofold: to give a clear and thorough overview of both standards and to determine whether they share a common, underlying principle of non-discrimination. In order to achieve these objectives, a comprehensive selection of case law is discussed from the perspective of the two constitutive elements of discrimination, comparability and the existence of different treatment. Moreover, attention is drawn to the question whether a domestic measure that is found to be discriminatory may nevertheless be justified on the basis of reasons of public interest. Finally, the possible interplay between both standards is addressed. First, the partial overlap of the two non-discrimination rules may cause frictions. Complex triangular situations are possible, with conflicting rules giving rise to interpretation problems. A second issue discussed in this context is whether national courts of EU Member States are influenced by ECJ case law on the fundamental freedoms when interpreting the non-discrimination provision in tax treaties. Given the deficiencies of that provision, courts may be tempted to draw inspiration from the European standard. The relevant case law is discussed in order to determine whether there is indeed such an influence, and whether such an influence is appropriate."--Extracted from publisher website on May 20, 2015.

This text is appropriate for one- or two-term courses covering personal and corporate taxation. Written in an accessible style, this text assumes that the student has no previous education in taxation. Byrd & Chen's Canadian Tax Principles can be used with or without other source materials (this includes the Income Tax Act, Information Circulars, Interpretation Bulletins, and other official materials). The Income Tax Act is referenced in the text where appropriate for further independent study. Students should be able to solve all of the end-of-chapter problems by relying solely on the text as a reference. The text and problem materials are comprehensive of the syllabus requirements of the CGAs, CAs, and CMAs.

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