

Ectax 103

Christoph Marchgraber

International and EC Tax Aspects of Groups and Companies Guglielmo Maisto, 2008 Comprising the proceedings and working documents of an annual seminar held in Milan in November 2007, this book analyses the tax issues for groups of companies operating in a European or worldwide dimension. The book examines the issues raised by both tax treaty and European law by focusing on selected topics. It first provides an analysis of the group concept under company and commercial law followed by an overview of taxation of groups in common and civil law countries. The tax regime of groups of companies under European law is further considered, both for income tax and VAT. The issues raised by application of tax treaties to groups of companies is then considered, with a particular emphasis on treaty recognition of groups, application of tax treaties to companies included in national group consolidation regimes, and application of the treaty articles on business income and non-discrimination. Individual country surveys provide an in-depth analysis of the above issues from a national viewpoint in selected European and North American jurisdictions.

Multilingual Texts and Interpretation of Tax Treaties and EC Tax Law Guglielmo Maisto, 2005 The book identifies linguistic issues arising in bilateral income tax conventions and presents an in-depth analysis of tax treaty policies on multilingualism and the administrative practice and case law on the issues raised by the translation of treaties. Individual country surveys discuss the use of legal concepts, including those that do not exist in the legal system of one of the two contracting states and the way such concepts should be interpreted in such state (e.g. trust). Further, the use of concepts in one state that are similar but not identical to a treaty concept that is well known only in the other state (e.g. *droit d'auteur* vs copyright) are presented. The book also includes special reports on multilingual issues under both art. 33 of the Vienna Convention and art. 3(2) of the OECD Model Convention and Commentaries. Finally, a specific chapter is devoted to the EU law aspects and a review of the jurisprudence of the European Court of Justice (ECJ).

EC Tax Law David W. Williams, 1998 This book provides a clear, overall and much needed introduction to EC tax law - it is about how taxes are raised in the EU, and how those taxes interact with the constitution and principles of the EU.

EU Tax Law Marjaana Helminen, 2011 This book deals with all the EC law norms that are relevant from the perspective of direct taxes. It explains how these norms are, and should be, interpreted and how they affect national tax laws and the tax treatment in EU Member States. It begins by giving a comprehensive overview of the basic principles and concepts of EC tax law and all relevant articles of the EC Treaty, analysing them in the light of direct tax case law. A discussion follows covering all relevant EC directives and recommendations and other soft law material on direct taxes. Reference is made to all relevant judgments of the EC Court on direct taxes. The book includes a chapter on the tax treatment of the different EU entity forms and the future of corporate taxation, with a separate chapter dedicated to the EC law issues related to transfer pricing and to the EC law norms on administrative assistance in tax matters.

Towards a Homogeneous EC Direct Tax Law Cécile Brokelind, 2007 Issues in 27 member states that might have an impact on their own cases. A new way of thinking is necessary in order to achieve a homogeneous application of non-harmonized community law dealing with direct taxation

EC Tax Review, 2002

Special Features of the UN Model Convention Anna Binder, Viktoria Wöhrer, 2019-10-01 Detailed research on the UN Model Convention's unique features The UN Model Convention has a significant influence on international tax treaty practice and is especially used by emerging and developing countries as a starting point for treaty negotiations. Driven by the aim to achieve consistency in the international tax treaty practice, the structure and content is, to a large extent, similar in the UN Model and the OECD Model. However, whereas the OECD has historically focused its efforts on issues mainly relevant for developed countries, the UN Tax Committee has continuously attempted to specifically take into account tax treaty policies for developing countries when drafting and amending the UN Model Convention. Compared to the OECD Model Convention, the UN Model Convention aims at giving more weight to the source principle. Popular examples are the PE definition in the UN Model which provides for a lower threshold than Article 5 of the OECD Model or Article 12A on Fees for Technical Services which has been introduced with the latest amendment of the UN Model Convention 2017 and allows for a withholding tax to be levied on payments to non-residents when the payer of the fee is a resident of that contracting State irrespective of where the services are provided. Interestingly, in the discussions of the tax challenges arising from the digitalization of the economy, the OECD and the G20 are also exploring options to allocate more taxing rights to the jurisdiction of the customer and/or user, i.e., the 'market jurisdictions'. As this has traditionally been the focus of the UN Model Convention, its unique features and developing countries' practices could be taken into account when exploring new nexus rules that are not constrained by the physical presence requirement. This book contains the master's theses of the full-time LL.M. program 2018-2019 for which 'Special Features of the UN Model Convention' has been chosen as the general topic. With this book, the authors and editors do not aim at discussing each article of the UN Model Convention but rather focus on the unique features of the UN Model Convention, which are explored in detail. This is supplemented with an evaluation of the function and relevance of the UN Tax Committee in the international tax policy discussion and with an analysis of the influences of the OECD's BEPS project on the UN Model. The OECD's BEPS project on the UN Model.

Comparative Fiscal Federalism Reuven S. Avi-Yonah, Michael Lang, 2016-06-20 Judicial review of taxation in the world's two most economically significant multistate systems, the European Union and the United States, has exposed a remarkable divergence. Although there are important differences between the competences of the two tribunals, the fact remains that the European Court of Justice has been much more aggressive in striking down Member State income tax rules than has the United States Supreme Court in comparable cases. This book - the only full-scale comparative analysis of the tax jurisprudence of the two judicial systems, now in an updated second edition - asks: Why this divergence? And what can the two tribunals learn from each other about adjudicating issues that arise from the interaction of tax regimes in the context of a single market? Among the contributory issues and topics covered are the following: - conceptions of sovereignty and federalism; - discrimination in direct tax matters as an obstacle to a meaningful single market; - allocation of taxation competences; - nonresident versus resident taxation; - double burdens on cross-border economic activity; - retroactive recovery of unlawful state aid in the European Union; - role of competition law; - the revenue interests of states; - levels of corporate taxation; - the OECD Model's nondiscrimination rules; and - the preliminary interpretation mechanism of the Court of Justice. An insightful and penetrating analysis of a topic of material importance to

governments, tax policy makers, and tax lawyers on both sides of the Atlantic, this book clearly explains how the Supreme Court and the Court of Justice continue to struggle with the conflict between generally accepted tax principles and the effective prevention of discriminatory treatment of taxpayers. All tax professionals concerned with the interaction of sovereignty, tax assignment, legislation, and judicial decisions in tax law will benefit greatly from its clear-sighted and comprehensive treatment, as well as from its perspectives on the practical implications of each tribunal's decision making.

Klaus Vogel on Double Taxation Conventions Ekkehart Reimer, Alexander Rust, 2022-01-18 Klaus Vogel on Double Taxation Conventions is regarded as the international gold standard on the law of tax treaties. This article-by-article commentary has been completely revised and updated to give you a full and current account of double tax conventions (DTCs). DTCs form the backbone of international taxation, but they raise many interpretational questions. This market leading work will provide you with the answers. Based on the OECD/G20 Multilateral Instrument, the OECD MC and Commentary published in 2017 and the most recent amendments to the UN MC, the book also includes relevant case law and scholarly literature up to and including 2020. Previous editions of the Vogel have been routinely relied on by courts around the world including Australia, Canada, Germany, India, South Africa, the Netherlands and United Kingdom. What's new in this edition? There have been many important developments in this area since the last edition in 2015. The authors discuss these developments and the effect they will have upon practitioners working in this area. They also provide a wealth of new and revised case law, along with the DTCs of emerging countries. You'll find: Reports about major features in the DTC practice of many leading jurisdictions, such as: the DTC practice of Austria, Canada, France, Germany, India, the Netherlands, Switzerland, the UK and the US Sections on divergent country practice covering their national models and networks of bilateral DTCs Thorough analysis of the OECD and UN model, as well as the implementation of these models in practice Amendments of bilateral DTCs, textual or in substance, on the basis of the 2017 Anti-BEPS Multilateral Instrument Coverage of a full range of the latest tax treaties around the world, including important treaties between OECD and BRICS countries This new Fifth Edition of Klaus Vogel on Double Taxation Conventions continues to reflect the unchallenged role of the OECD. The OECD MC, accompanied by the official Commentary, guidelines, reports and other recommendations, has sustained its position as the most important legal instrument in the area of DTCs. On occasion, the UN MC and Commentary diverge from the OECD texts. When this happens, the authors deal with the specifics of the UN MC in separate annotations and analyses, explaining and making sure you understand the differences. How this will help you: All the information you need to confidently advise on issues such as the taxation of income, taxation of capital and the elimination of double taxation Know that your advice to clients is based on the most up-to-date and respected information available, from an outstanding team of editors and authors The editors, Professors Ekkehart Reimer and Alexander Rust, have worked with the late Professor Vogel as well as an international team of top experts to completely update and enhance the content. The writing team comprises: Editors: Prof. Dr Ekkehart Reimer, Heidelberg University and Prof. Dr Alexander Rust, WU Vienna. Authors: Johannes Becker, Federal Ministry of Finance, Berlin; Alexander Blank, University of Erlangen-Nuremberg; Katharina Blank, Federal Ministry of Finance, Berlin; Michael Blank, University of Erlangen-Nuremberg, Prof. Dr Luc De Broe, Catholic University of Leuven; Laga; Prof. Dr Axel Cordewener, Catholic University of Leuven and Flick Gocke Schaumburg ; Prof. Dr Ana Paula Dourado, University of Lisbon; Daniela Endres-Reich, University of Erlangen-Nuremberg; Prof. Dr Werner Haslehner, University of Luxembourg; Prof. Dr Roland Ismer, University of Erlangen-Nuremberg; Prof. Dr Eric C. C. M. Kemmeren , Tilburg University; Prof. Dr Georg Kofler, WU Vienna; Sophia Piotrowski, University of Erlangen-Nuremberg; Prof. Dr Ekkehart Reimer, Heidelberg University; Prof. Dr Alexander Rust, WU Vienna; Annika Streicher, WU Vienna; Prof. Dr. Matthias Valta, Duesseldorf University; Jens Wittendorff, Ernst & Young, Copenhagen and University of Aarhus; Kamilla Zembala, Heidelberg University

Multilateral Tax Treaties Helmut Loukota, Albert J. Rädler, Josef Schuch, Franz Wassermeyer, Gerald Toifl, Christoph Urtz, 1998-04-22 The book is a result of a research project conducted at the Department for Austrian and International Tax Law at the University of Economics and Business Administration in Vienna. The project's aim was to produce a draft multilateral tax treaty modelled on the OECD Model Income Tax Convention, whilst examining in detail difficulties that arise in connection with the multilateralisation of the OECD Model. The expert papers also present a detailed analysis of the arguments for and against the conclusion of a multilateral tax treaty, and of the various European law issues that arise in this context.

Research Handbook on European State Aid Law E. Szyszczak, 2011-11-01 Erika Szyszczak and the team have come up trumps with a modern comment on state aid and policy. Thank you! Phillip Taylor MBE and Elizabeth Taylor, The Barrister Magazine This fine collection of essays demonstrates in a very articulate way why EU State aid law has taken the centre stage of EU law. In eighteen chapters the reader is provided with a fascinating snapshot of the main issues and developments of the law. The key elements of the EU policy are analysed in a critical way often leading to new insights. In addition the book contains a wealth of material greatly facilitating further research. Piet Jan Slot, University of Leiden, The Netherlands European state aid law needs more self-questioning and more intellectual debate. In my view, this Research Handbook is a very valuable contribution to this necessary process. It correctly identifies the most intellectually problematic issues within state aid law and asks the right questions. This may be due to the balance in the excellent selection of contributors, coming both from the academia and from practice. This guarantees, on the one hand, that the questions are relevant in practice and not purely theoretical but also provides, on the other hand, for a rigorous analytical approach when confronting the issues. The result is a fresh and interesting new look to many of the basic issues of state aid law. JosŽ Luis Buendia Sierra, Garrigues, Brussels, Belgium, and King's College London, UK This Research Handbook provides an in-depth exploration of some of the most difficult and controversial issues in current State aid law and policy. It is unusual in providing not only a legal but also an economic and political science perspective on this rapidly developing area of EU law. The Handbook will be a welcome addition to the shelves of State aid practitioners and academics alike. Kelyn Bacon, Brick Court Chambers, London, UK This timely new Handbook reflects on current issues that confront State aid law and policy in the EU. State aid was a neglected area of competition law until attempts to modernise it became central to the Lisbon process 2000 where the aim was to encourage intelligent State aid by reducing aid to specific sectors and by making better use of aid for horizontal projects central to EU integration concerns. This policy framework has underpinned the new approach to State aid policy in the EU in recent years and informs many of the chapters in this book. Contributions from leading academics, regulators and practising lawyers, discuss topics devoted to modernisation, problems faced by recent enlargements of the EU, the role of State aid in the fiscal crisis and recession, the role of the private

market investor test, regional aid, environmental aid and the review of the Altmark ruling. Perspectives on State aid law and policy from the disciplines of economics and political science are also explored in detail. Research Handbook on European State Aid Law will appeal to academics, regulators, national and EU government officials, practitioners and postgraduate students who are involved in State aid law.

The Impact of Tax Treaties and EU Law on Group Taxation Regimes Bruno da Silva, 2016-07-11 Should the income of a corporate group be taxed differently solely because the traditional structure of the income tax system considers each company individually? Taxation affects business decisions, including location, the form in which business is carried out, and the efficient allocation of company resources. Disparities – differences arising from the interaction of different tax systems – and obstacles – distortions created by domestic legislation arising from differences between domestic and cross-border situations – both become more acute when a business chooses to set up or acquire other companies, thus forming a group, usually operating in multiple jurisdictions. Responding to such ever more common developments, this book is the first in-depth analysis of how tax treaties and EU law influence group taxation regimes. Among the issues and topics covered are the following: – analysis of the different tax group regimes adopted by different countries; – advantages and disadvantages of a variety of models; – application of the non-discrimination provision of Article 24 of the OECD Model Tax Convention to group taxation regimes; – application of the fundamental freedoms of the TFEU to group taxation regimes following the three-step approach adopted by the EU Court of Justice; – uncertainty raised by the landmark Marks & Spencer case, its interpretation and consequences to other group taxations regimes; – interrelations between tax treaties and EU Law in the context of tax groups; and – per-element approach. The analysis considers concrete examples as well as relevant case law. With its analysis of the standards required by the two sets of norms (tax treaties and EU law) and their interaction, particularly in terms of non-discrimination, this book sheds clear light on ways to overcome the disparities and obstacles inherent in group taxation regimes. As a thorough survey of the extent to which the interpretation of tax treaties and EU law affect group taxation regimes, this book has no peers. All taxation professionals, whether working in EU Member States or in EU trading partners, will appreciate its invaluable insights and guidance.

Residence of Individuals Under Tax Treaties and EC Law Guglielmo Maisto, 2010 This book deals comprehensively with the problems raised by residence of individuals for tax purposes. It begins with an overview of residence of individuals in private international law, with a particular emphasis on general principles on residence and conflict of law rules. It then examines issues raised by residence of individuals in EC (non-tax) law. Individual country surveys provide in-depth analyses from a national viewpoint. The following countries are discussed: Australia, Austria, Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Spain, Switzerland and United Kingdom.

The Political Economy of Corporation Tax John Snape, 2011-12-09 Excellent technical writing on corporation tax abounds, but it tends to be inaccessible to public lawyers, political theorists and political economists. Although recent years have seen not only an explosion in public law scholarship but also a reawakening of interest in interpretative political theory and political economy, the potential of these perspectives to illuminate the corporation tax debate has remained unexplored. In this important work, John Snape seeks to reconcile these disparate strands of scholarship and to contribute to a new way of understanding and conceptualising the reform of the law relating to corporate taxation. Drawing on important developments in public law scholarship, the study combines elements of political theory and political economy. It advances a new interpretation of corporation tax law as an instrument of rule, through the maximisation of a nation's economic potential. Snape shows how corporate taxation belongs at the centre of any discussion of economic globalisation, not only because of the potential of national tax systems to influence inward investment decisions but also because of the potential of those decisions to shape the public interest that those tax systems might embody. Following public law and politics models, the book looks afresh at the impact of Britain's political institutions, of the processes of its representative government and of the theory that moulds and orders the values that the corporation tax code contains. This is a timely exploration of cutting-edge issues of public policy.

Double (Non-)Taxation and EU Law Christoph Marchgraber, 2016-04-24 Everywhere, new tax rules are under development to engage with the ever-increasing complexity and sophistication of aggressive tax planning and to reverse the tax base erosion it leads to. The most prominent initiative in this context is the Base Erosion and Profit Shifting (BEPS) project of the OECD. Although double non-taxation is among the main issues the BEPS project intends to address, this book shows that this phenomenon has not yet been fully understood. Focusing on the fundamental freedoms and the State aid rules of the EU, this book thoroughly explains the nature of double non-taxation from an EU law perspective, its relation to double taxation, and the impact of EU law on these phenomena. Among the issues dealt with in the course of the analysis are the following: – locating the gaps and inconsistencies among domestic tax systems exploited by taxpayers; – hybrid mismatch arrangements as a prime example of double non-taxation; – political efforts undertaken within the EU in order to address double taxation and double non-taxation; – double non-taxation in the European VAT system; – the convergence of the fundamental freedoms and the State aid rules; – the ECJ's dilemma with regard to juridical double taxation; – the deviating approach with regard to economic double taxation; – the potential impact of the ECJ's case law on the EU law compatibility of double non-taxation. The tax jurisprudence of the ECJ is referred to and comprehensively analysed throughout this whole book. A final chapter provides an outlook on possible developments in the future. By providing the first in-depth analysis of EU law's impact on double non-taxation – and the double taxation relief standards with which it is intimately related – this book takes a giant step towards greater legal certainty in this challenging area of tax law. It will quickly take its place as a major practical analysis which benefits tax authorities, scholars, and tax practitioners across Europe and even beyond.

Justice, Equality and Tax Law Nevja Čičin-Šain, Mario Riedl, 2022-10-05 An in-depth analysis of the specific aspects of justice, equality and tax law Justice, Equality and Tax Law is a topic that is both old and new at the same time. Even if the society changes, the demands that tax needs to be just and equal seem to be immutable. What changes, of course, is the perception of the content of those demands. International taxation post-BEPS has been fraught with new challenges that warranted urgent responses. These challenges were mainly provoked by the unprecedented rise of the digital economy which truly marked a change in the way business is conducted, how value is created, and how goods and services are produced and consumed. Digitalization, in turn, had repercussions on all aspects of taxation - direct taxation, indirect taxation, and even tax procedures. For instance, the quest for more justice and equality in profit taxes was the reason why, in October 2021, a historical deal based on a two-

pillar solution to address the tax challenges arising from the digitalization of the economy was negotiated within the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting and agreed upon by 137 member countries. It was also the motive behind the shift from a typical vendor collection model to an intermediary collection model supported by centralized registration points in indirect taxes, notably the VAT/GST. Abundant data from the European Union or the OECD signaled an ever-increasing gap between expected VAT revenues and VAT actually collected, making it obvious that the classical system of VAT/GST collection was unable to respond to challenges posed by the digital economy. Therefore, new solutions based on the participation of digital platforms as intermediaries had been introduced. Finally, new technologies, such as blockchain, paved new avenues in enhancing tax compliance. In this context, this volume entitled Justice, Equality, and Tax Law contains not only a selection of the best master's theses of the full-time LL.M. programme in 2021/2022 but also represents an in-depth analysis of various aspects of this evergreen topic.

Time and Tax: Issues in International, EU, and Constitutional Law Werner Haslehner, Georg Kofler, Alexander Rust, 2018-12-20 Time is a crucial dimension in the application of any law. In tax law, however, where an environment characterized by rapid change on the national, European, and international levels complicates the provision of accurate legal advice, timing is particularly sensitive. This book is the first to analyse the relationship between time and three key areas of tax: treaties, EU law, and constitutional law issues, such as legal certainty and individual rights. Among the numerous timing issues arising out of applying tax rules, the book addresses the following: – time limits within which relief must be requested; – statutes of limitation for claiming a tax refund; – transitional issues relating to changes in tax treaties; – attribution of profits and expenses to a moving or closed-down business; – effect of tax-related CJEU decisions and EU directives; – compliance of exit tax regimes with free movement; – limits of retroactivity under principles protected by the EU Charter and the ECHR; and – conflict between efficiency of taxation and individual rights. Derived from a recent conference organized by the prestigious ATQZ Chair for European and International Taxation at the University of Luxembourg, the book brings together contributions from leading tax experts from various areas of tax practice, academia, and the judiciary. Among other issues, the book notably expands on how economic theory can inform a constitutional analysis of the timing of taxation. There is no other work that concentrates so usefully on the difficulties associated with applying tax rules – whether arising from treaties, jurisprudence, or policy – to changing circumstances over time. This book will quickly prove itself to be an indispensable resource for European tax lawyers, policymakers, company counsels, and academics.

International Tax Law Andrea Amatucci, 2012-07-01 With a century of solid theory behind it, tax law confronts a new reality: the weakening of the tenacious link between the sovereignty of states and taxation. Yet it is to the continuity of certain themes and principles inherent in the various national tax systems that tax law scholarship continues to look, even as it develops new principles designed to meet the expanding processes of internationalization. This completely updated collection of essays offers an expert comparative analysis, conducted by a sample of the best international tax law scholars, of the fundamental theory of tax law and of the prospects in the near future of tax legislative systems. The emphasis falls naturally on tax theory, jurisprudence, and legislative development in the Member States of the European Union (particularly in Italy, Germany, and Spain), where the process of tax harmonization has been under way for many years. The effect of these processes, via the relevant tax treaties, on the tax systems of Japan and the United States provides a secondary emphasis. Practitioners and academics in tax law will find in this book an invaluable understanding of the challenges that tax law theory strives to meet at this crucial moment in economic history. The essays present a full and reliable exposition of the current theoretical approaches adopted by the various schools of thought in the field, as well as of the main contributions of jurisprudence.

Tax Planning with Holding Companies - Repatriation of US Profits from Europe Rolf Eicke, 2009-01-01 The book deals with tax planning with holding companies located in Europe, Asia of the Caribbean. It analyses the problem of repatriating U.S. profits from Europe, going far beyond the routing of income via different companies. Instead, the approach includes an analysis of the interdependencies between international tax competition, holding company regimes, and tax planning concepts in order to establish a basis for tax planning measures regardless of the fast changing legal environment for holding companies in the different countries.

Research Handbook on European Union Taxation Law Christiana HJI Panayi, Werner Haslehner, Edoardo Traversa, 2020-01-31 Offering a comprehensive exploration of EU taxation law, this engaging Research Handbook investigates the associated legal principles in the context of both direct and indirect taxation. The important issues and debates arising from these general principles are expertly unpicked, with leading scholars examining the status quo as well as setting out a clear agenda for future research.

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Ectax 103 Introduction

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