

# Direct Taxation: Recent ECJ Developments

Michael Lang (ed.)



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# Direct Taxation Recent Ecj Developments

**Michael Lang**



## **Direct Taxation Recent Ecj Developments:**

**Direct Taxation** Michael Lang, 2003-01-01 At present a number of cases regarding the fundamental freedoms in respect to direct taxation are pending at the European Court of Justice This book shall discuss the national background of the pending cases and a possible infringement of a fundamental freedom by observing the ECJ's testing scheme on the basis of the request for a preliminary ruling and if available of the opinion of the advocate general The pending cases are all presented by highly recognized experts in the field of European tax law of the country that made the request for the preliminary ruling This guarantees that the discussion of obstacles is embedded in the particular tax system **ECJ--recent**

**Developments in Direct Taxation** Michael Lang, Josef Schuch, Claus Staringer, 2006-01-01 A growing number of cases pending before the European Court of Justice ECJ concern the fundamental freedoms and direct taxation This book scrutinises the national background of the most important of these cases and examines possible infringements of fundamental freedoms The focus of each analysis is on the questions submitted to the ECJ by the national courts Moreover where available the opinion of the Advocate General is discussed The cases are presented by esteemed national and European tax law experts This book goes to the heart of the national tax systems exposing hidden obstacles to fundamental freedoms **Value Added Tax and Direct Taxation** Michael Lang, Peter Melz, Eleonor Kristoffersson, Thomas Ecker, 2009

This book provides a comprehensive in depth analysis of the similarities and differences between consumption taxes and direct taxes Fifty contributions are included written by academics practitioners and representatives from several international tax administrations and institutions EC Law and the Sovereignty of the Member States in Direct Taxation Mathieu Isenbaert, 2010 In order to develop a suitable framework for the analysis of the European Court of Justice ECJ case law it is first analysed what significance if any the concept of sovereignty has in the contemporary supranational environment of the European Union All too often tax scholars equate sovereignty with the concepts of competence or jurisdiction It will be established in this thesis that a much more specific and higher level meaning is to be attributed to the sovereignty concept which goes beyond the strictly legal concepts of competence or jurisdiction The cornerstone of this thesis however is an extensive analysis of the case law of the ECJ in direct tax matters including a comparison with its non tax case law A new kind of methodology is used in discussing the cases they are categorized according to whether a discrimination or a restriction based analysis was applied by the ECJ 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 **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 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 *Tax Treaty Case Law around the*

*Globe 2021* Georg Kofler, Michael Lang, Alexander Rust, Jeffrey Owens, Pasquale Pistone, Josef Schuch, Karoline Spies, Claus Staringer, Alfred Storck, Peter Essers, Eric Kemmeren, Cihat Öner, Daniel Smit, 2022-07-19 A Global Overview of International Tax Disputes on DTC This book is a unique publication that gives a global overview of international tax disputes on double tax conventions and thereby fills a gap in the area of tax treaty case law It covers the thirty most important tax treaty cases that were decided around the world in 2020 The systematic structure of each chapter allows for the easy and efficient study and comparison of the various methods adopted for applying and interpreting tax treaties in different cases With the continuously increasing importance of tax treaties Tax Treaty Case Law around the Globe 2021 is a valuable reference tool for anyone interested in tax treaty case law This book is of interest to tax practitioners multinational businesses policymakers tax administrators judges and academics

Multilateral Cooperation in Tax Law Martin Klok, Katharina Moldaschl, 2023-10-03 An in depth analysis of various aspects of multilateral cooperation in tax law Tax evasion and aggressive tax planning causing base erosion and profit shifting BEPS has been a widely discussed topic among academics and tax policy makers over the past decades Increasing globalization and digitalization have contributed to the intensification of this issue in recent years At the same time states continue to largely insist on their sovereignty in the area of tax law However due to their cross border nature issues related to BEPS are shared problems among the states and can typically not be solved by a single nation Therefore multilateral cooperation represents an option to build a bridge between the states demand for sovereignty and the problems caused by BEPS In this regard the OECD the UN and the EU play an important role in introducing international tax standards in an attempt to effectively address tax evasion and aggressive tax planning in many ways The interaction and cooperation between different international supranational EU and regional organizations is an ongoing process In this context the topic Multilateral Cooperation in Tax Law was selected as the general topic for the master s theses of the part time 2021/23 class of the postgraduate LL M programme in International Tax Law at WU Vienna University of Economics and Business This volume aims to develop academic insights provide practical guidance and enable an in depth analysis of various aspects of this topic The book is divided into four parts The first part deals with a general overview of the understanding of multilateral cooperation the background that led to the need for multilateral cooperation and the different stakeholders that play a relevant role in it While the chapters included in the second part focus on the most important developments on an international level OECD and UN the chapters encompassed in the third part analyse the multilateral cooperation initiatives of the EU Finally the chapters included in part four deal with selected issues related to multilateral cooperation in tax law including mutual assistance and exchange of information dispute resolution mechanisms and measures in digitalized businesses

**Tax and Technology** Annika Streicher, Svitlana Buriak, 2023-10-13 The challenges and opportunities of new technologies in the tax field Technological developments induced major reforms in the regulatory international and domestic tax landscapes as well as in the developments in the use of technology by tax

administrations and taxpayers New technology especially the innovations in virtual asset light cross border business organizations data analytics service and process automation on one hand disrupted the well established legal tax principles and rules and on the other stimulated informed data driven and structured solutions in tax compliance Technological advances affected nearly every area and each aspect of taxation Direct tax regulations indirect tax law and tax procedures including tax compliance and tax control functions International organizations such as the Organization for Economic Co operation and Development OECD the United Nations UN and the European Commission as a supranational organization fostered critical legislative reforms and proposals among which are the OECD Two Pillar Solution to Address the Tax Challenges Arising from Digitalisation of the Economy Article 12B of the UN Model Tax Convention to tax automated digital services new rules for tracing transfers of crypto assets in the EU as well as the EU s VAT e commerce package and VAT in the Digital Age package While these proposals aim to address a wide range of the benefits and challenges of Economy 4.0 certain questions arise concerning the consistency of the legislative developments with their initial objectives the appropriateness of the legal form for the economic substance of the regulated relations for the effectiveness of the regulations as well as their coherence This volume contains a collection of scientific chapters on the general topic Tax and Technology that were successfully completed by the 2022/2023 LL.M graduates of the Institute for Austrian and International Tax Law WU The volume is divided into three parts that contain the contributions dealing with the impact of the technology on international tax law indirect tax law and procedural law Each chapter provides an in depth analysis of a unique research question aiming to innovatively contribute to the current debate and develop a practical approach for implementing the findings

*Transfer Pricing Aspects of Intra-Group Financing* Raffaele Petruzzi, 2013-10-20 For corporate managers maximization of the profits and the market value of the firm is a prime objective The logical working out of this principle in multinational enterprises has led to an intense focus on transfer pricing between related companies principally on account of the very attractive tax advantages made possible Inevitably numerous countries have established transfer pricing legislation designed to combat the distortions and manipulations that are inherent in such transactions This important book one of the first in depth analysis of the current worldwide working of transfer pricing in intra group financing and its resonance in law presents the relevant issues related to loans financial guarantees and cash pooling analyses an innovative possible approach to these issues and describes new methodologies that can be implemented in practice in order to make intra group financing more compliant with efficient corporate financing decisions and the generally accepted OECD arm's length principle Comparing the tax measures implemented in the corporate tax law systems of forty countries this study investigates such aspects of intra group financing as the following corporate finance theories studies and surveys regarding financing decisions application of the arm's length principle to limit the deductibility of interest expenses impact of the OECD's Base Erosion and Profit Shifting BEPS project transfer pricing issues related to intra group financing credit risk in corporate finance rationales

utilized by credit rating agencies and the assessment of arm's length nature of intra group financing The author describes ways in which the application of the arm's length principle can be strengthened and how the related risk of distortion and manipulation can be minimized The solutions and methodologies proposed are applicable to any business sector Given that determination of the arm's length nature of transactions between related companies is one of the most difficult tasks currently faced by taxpayers and tax administrations around the world this thorough assessment and analysis will prove extraordinarily useful for in house and advisory practitioners corporate officers academics international organizations and government officials charged with finding effective responses to the serious issues raised In addition to its well researched analysis the book's comparative overview of how loans financial guarantees and cash pooling are currently addressed by OECD Member States and by their national courts is of great practical value in business decision making *Free Movement and Tax Treaties in the Internal Market* Maria Hilling, 2005 This book deals with the impact of the free movement rules in the EC Treaty on tax treaties in the internal market This is a highly relevant issue since a provision in breach of the free movement rules is inapplicable The potential far reaching consequences following the preclusion of tax treaty provisions makes it important for taxpayers and governments of the Member States of the EU to predict when a provision in a tax treaty may be in conflict with free movement law This book identifies the rights and obligations stemming from the free movement rules As they are not very detailed the case law is crucial Hence this book includes extensive case law studies focusing primarily on cases where the Court of Justice of the European Communities ECJ has interpreted the free movement rules in relation to tax treaty provisions and unilateral income tax legislation This study provides a systematization of such case law highlighting consistencies and inconsistencies BOOK JACKET [Tax Notes International](#), 2007 **EC Tax Review**, 2002

**Fundamental Issues and Practical Problems in Tax Treaty Interpretation** Michael Schilcher, Patrick Weninger, 2008 This volume deals in Part I with general principles of tax treaty interpretation including many general issues of international law and especially treaty law Part II is dedicated to specific tax treaty provisions that trigger particularly interesting interpretation questions Part III is concerned with situations in which states disagree on the interpretation of tax treaties **European Tax Law** B. J. M. Terra, Peter Jacob Wattèl, 2012 This reference book offers a systematic survey of the implications of European integration especially of the Treaties on European Union and on the functioning of the EU for national taxation and of EU tax harmonization policy It contains a discussion of the EU tax rules in force and of the European Court's case law in tax matters Its contents are divided into six main themes 1 the far reaching consequences of the EC Treaty provisions and principles for national tax law for tax treaties for national tax procedure and for the national budget as shown by the case law of the Court of Justice of the EC 2 Community harmonization policy and coordination policy as regards indirect taxes and direct taxes including soft law 3 Community law in force on indirect taxes value added tax Community Customs Code excises and energy taxation capital duty 4 Community law in force on direct taxes Parent Subsidiary Directive

Merger Directive Interest and Royalties Directive Transfer Pricing Arbitration Convention Savings Interest Directive 5 Tax aspects of the European Economic Interest Grouping EEIG and the European Company SE 6 Administrative cooperation and recovery assistance between the Member States This completely revised edition brings the survey of European tax law up to December 2011     *Bulletin for International Taxation* ,2009     **Legal Issues of Economic Integration** ,2004

European Union Michael Lang,2008 This book provides a comprehensive analysis of the tax treaty policies of ten East European Countries along with the trends over time It goes into details on the bilateral tax treaty provisions of these countries and in particular the deviations from the OECD Model and offers a perspective on developments that can be expected in the tax treaty area     *Reports of Cases Before the Court of Justice and the Court of First Instance* Court of Justice of the European Communities,2006     **ECJ - Recent Developments in Direct Taxation 2007** ,2007



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