

Legal Interpretation of Tax Law

Second Edition

Edited by
Robert F. van Brederode
Richard Krever

Series
on International
Taxation

46

 Wolters Kluwer



Legal Interpretation Of Tax Law Series On International Taxation

Brendan G. Carr



Legal Interpretation Of Tax Law Series On International Taxation:

Legal Interpretation of Tax Law Robert F. van Brederode, Richard E. Krever, 2017 Legal Interpretation of Tax Law is a comprehensive multi jurisdiction survey of the interpretation of the corporate income tax and VAT and GST or other general sales tax laws As a result of the globalization of trade and business tax departments and their external advisors are increasingly required to deal with the tax law of foreign jurisdictions Effective consulting whether internal or external requires not only knowledge of tax law per se but also of how tax law is explained and interpreted by the courts of foreign jurisdictions This book is the first to deal comparatively with tax law interpretation in economies engaged in cross border investment at a global level 00The introduction outlines the theoretical approaches to legal interpretation in general and gives an overview of issues and topics relevant to taxation designed to help readers understand the jurisdictional chapters that follow Each author pays detailed attention to such documentary elements as explanatory memoranda administrative rulings judicial precedents judgments of foreign courts legislative debates and OECD guidelines *The Oxford Handbook of International Tax Law* Florian Haase, Georg Kofler, 2023-10-13 International Tax Law is at a turning point Increased tax transparency the tackling of Base Erosion and Profit Shifting BEPS the reconstruction of the network of bilateral tax treaties the renewed discussion about a fair and efficient allocation of taxing rights between States in a global digitalized economy and the bold push for minimum corporate taxation are some expressions of this shift This new era also demonstrates the increased influence of international standard setters such as the OECD the UN and the EU Each of these developments alone has the potential of being disruptive to the traditional world of international tax law but together they have the potential to reshape the international tax system The Oxford Handbook of International Tax Law provides a comprehensive exploration of these key issues which will shape the future of tax law Divided into eight parts this handbook traces the history of international tax law from its earliest days until the present including reflections on the developments that have characterized the last one hundred years The second section places tax law within the broader international context considering how it relates to public and private international law as well as corporate trade and criminal law Sections three and four consider key legal principles and issues such as regional tax treaty models OECD dispute resolution and transfer pricing versus formulary apportionment Subsequent analysis places these issues within their European and cross border contexts providing an assessment of the role of the ECJ state aid and cross border VAT Section seven broadens the scope of this analysis asking how trends in recent major economies and regions have helped shape the current outlook The final section considers emerging issues and the future of international tax law With over sixty authors from 28 different countries the Oxford Handbook of International Tax Law is an invaluable resource for scholars academics and practitioners alike

Comparative Income Taxation Brian J. Arnold, Hugh J. Ault, Graeme Cooper, 2019-12-09 Comparative Income Taxation A Structural Analysis Fourth Edition Hugh J Ault Brian J Arnold taxation of corporations and their shareholders corporate

organization and restructuring taxation of partnerships residence and source taxation controlled foreign company rules restrictions on the deduction of interest courts dealing with tax matters and effect of tax treaties Several new topics including the classification of employees and independent contractors the taxation of pensions patent box regimes the taxation of indirect transfers and the tax challenges of the digital economy have been added Especially timely are discussions of changes stemming from the G20 OECD Base Erosion and Profit Shifting project The introduction has also been expanded to include a new section on European Union EU law as it affects the tax laws of EU Member States This new edition of a classic source of information and analysis for students professors researchers tax practitioners and tax policy officials on the different ways that countries design their income tax systems will be widely welcomed by the international tax community

Research Handbook on Corporate Taxation Reuven S. Avi-Yonah, 2023-08-14 Encapsulating the multitude of challenges faced by the international corporate tax regime this timely Research Handbook provides an in depth comparative legal analysis of corporate income tax as it is practiced across the world With a variety of paths to reform proposed throughout it will prove an invigorating read for tax scholars working on taxation and tax law as well as for tax practitioners and those in fiscal policy seeking ways to improve or navigate the current state of affairs in international corporate tax law

Comparative Income Taxation Hugh J Ault, Brian J. Arnold, Graeme S. Cooper, 2025-03-14 Comparative Income Taxation A Structural Analysis Fifth Edition Edited by Hugh J Ault Brian J Arnold taxation of corporations and their shareholders corporate organization and restructuring taxation of partnerships residence and source taxation controlled foreign company rules restrictions on the deduction of interest courts dealing with tax matters and effects of tax treaties In addition to the updating of the entire book several new topics including the treatment of hybrid mismatch arrangements Pillar One the 15% Pillar Two Global Minimum Tax and digital services taxes have been added This new edition of a classic source of information and analysis for students professors researchers tax practitioners and tax policy officials on the different ways that countries design their income tax systems will be widely welcomed by the international tax community

Double non-taxation and the use of hybrid entities Leopoldo Parada, 2023-12-11 The topics of double non taxation and hybrid entities have acquired particular importance in a context where transformations in the tax world have led to international commitments materialised in the OECD Base Erosion and Profit Shifting BEPS project In what is the first systematic in depth analysis of the OECD BEPS Action Plan 2 and hybrid entities this timely book provides a critical review of the approach adopted by the OECD and proposes a deeply informed alternative method to deal with the problem of hybrid entity mismatches The author analyses the interaction between the double non taxation outcome and the use of hybrid entities in an approach not strictly linked to any specific tax jurisdiction To this end the analysis includes case studies and examples from a range of jurisdictions emphasising the international tax context also including the application of tax treaties Among the seminal matters covered in this edition are the following foundations of the concepts of double non taxation and

hybrid entities extensive analysis based on the rules of characterisation of foreign entities for tax purposes in the United States Spain Denmark and Germany as well as on the Poland United States and Canada United States tax treaties in depth analysis of the implications of Article 1 2 OECD Model Tax Convention and Article 3 1 Multilateral Instrument MLI especially considering the position of developing source countries detailed analysis of the OECD BEPS Action 2 and its recommendations linking rules including its implementation in the EU Anti Tax Avoidance Directive ATAD and elaborated alternative method to deal with hybrid entity mismatches reactive coordination rule which is informed by the tax policy aims of simplicity coherence and administrability Detailed comparisons between the author s proposal and other existing rules elucidate common points and deviations If merely for its unparalleled clarification of the issues this book will prove of immeasurable value to practitioners tax authorities policymakers and academics concerned with international tax law Beyond that as an authoritative guide that promises to reorient the discussion to what really matters in the debate regarding hybrid entity mismatches this analysis elaborates solutions applicable to a generality of cases worldwide and therefore hugely promotes the urgent quest for alternative views

The Legal Status of the OECD Commentaries Sjoerd Douma, F. A. Engelen, 2008 Since the mid 1980s the legal basis of the practice of tax administrations and courts around the world to conform to the Commentaries when interpreting and applying bilateral tax treaties based on the OECD Model has been the subject of an ongoing academic debate Recently the debate has received new impetus and the primary focus is now on the general principles of international law In particular opinions differ on the question whether the Commentaries can be a source of legal obligations through the principles of acquiescence and estoppel both of which are founded on considerations of good faith and equity and provide specific protection of settled expectations The reports contained in this book address two questions The first is whether under international law the states parties to a tax treaty are legally bound by the OECD Commentaries when interpreting and applying the provisions of the treaty which are identical to those of the OECD Model The second question is whether under the contracting states internal law taxpayers and the tax authorities are equally bound to apply the Commentaries if and when the contracting states themselves are so bound under international law The book brings various legal disciplines public international law international tax law Community law and constitutional law together in order to resolve the legal status of the Commentaries Through interdisciplinary debate the issues have been defined clearly and the exact points at which the opinions differ are identified thereby resulting in a better understanding of the issues at hand

Beneficial Ownership in International Taxation Kuźniacki, Błażej, 2022-08-12 This authoritative book provides a structural global view of evolving judicial and doctrinal trends in the understanding of beneficial ownership in international taxation Błażej Kuźniacki presents a route towards an international autonomous meaning of beneficial ownership while also offering a comprehensive explanation of the divergent understandings and tax policy arguments underpinning its continuing ambiguity

Shortcomings in the EU Merger Directive Frederik Boulogne, 2016-03-23 The European Union EU

Merger Directive removes certain tax disadvantages encountered by companies and their shareholders in the course of a restructuring operation. However, in spite of amendments and European Court of Justice's ECJ interpretations of its provisions, various shortcomings remain. This thoroughgoing analysis, broader and deeper than any prior work on the subject, addresses all the Directive's subtopics methodically following the paragraphs of Articles 1-15 in their logical succession. The author analyses the points in which the Merger Directive falls short of attaining its stated objective and he also examines how these shortcomings could be scaled. To do so, he tests the Merger Directive against its own objective: primary EU law, the fundamental freedoms and the unwritten general principles of EU law and non-discrimination provisions in relevant treaties. Each of the following questions is addressed and responded to in depth: Which entities have access to the Merger Directive and which entities should have access to it? Which operations are covered by the Merger Directive and which operations should be covered? Which tax disadvantages to cross-border restructuring operations does the Merger Directive aim to remove, which tax disadvantages have been actually removed, which tax disadvantages remain and how should the Merger Directive be amended to remove the remaining tax disadvantages? How tax avoidance should be combated under Article 15(1) of the Merger Directive, which possible types of tax avoidance can be identified and how the Merger Directive should be amended? Which cases of double taxation does a taxpayer engaging in cross-border restructuring operations potentially encounter and how they can be taken away by the Merger Directive? The key shortcomings that are identified are: the Merger Directive's objective is not stated precisely; minimum harmonisation does not lead to a common tax system; exhaustive lists are used as legislative technique; the Merger Directive does not add much to the outcomes reached through negative harmonisation; and the definitions of qualifying operations are not fully aligned with corporate law. Chapter 6 contains a deeply informed and viable proposal for the amendment of the Merger Directive. This is the first treatment not only to evaluate the Directive's efficacy in detail but also to offer real solutions to its shortcomings. It will be welcomed by policymakers, judges, practitioners and academics, and the recommendations it contains are sure to affect ongoing amendments and jurisprudence on the Merger Directive.

Taxpayers in International Law Juliane Kokott, Pasquale Pistone, 2022-03-24. This ground-breaking book brings clarity to the dynamically developing field of international tax law. It empowers individuals and corporate taxpayers to navigate their way around and helps tax authorities take taxpayers' rights into account from the beginning. The book is the result of several years of research conducted with the support of the International Law Association. *Taxpayers in International Law* puts taxpayers' rights on the global international tax agenda as the necessary counterweight and complement to Base Erosion and Profit Shifting (BEPS). Importantly, it pleads for a global minimum standard of legal protection of the fundamental rights of taxpayers and extracts the content of such rights from relevant constitutional principles of many countries around the world. The book is structured in 3 parts. Part I focusses on the legal sources and on the relations between taxation and international human rights law. Part II identifies general principles

and specific taxpayers rights groups them into 3 categories procedural related to sanctions and substantive and analyses the different implications that arise in each of them Part III features concrete proposals for establishing a global framework for the protection of taxpayers rights including guidelines for tax authorities The book is a unique instrument for the daily work of practitioners and international tax scholars interested in securing the protection of taxpayer s fundamental rights as well as for those involved in tax collection worldwide Taxpayers can refer to the book to find out which rulings and concepts can help them enforce their rights tax authorities and judges can use the book to verify which rights have to be respected Tax Treaties: Building Bridges between Law and Economics ,2010 In this book experts from the field of economics take a different view of tax treaty issues than experts from the field of law In order to encourage the much needed communication between these two groups a cross disciplinary conference was held to discuss selected tax treaty issues from both a legal and economic perspective Twenty five conference papers on eight topics were prepared by lawyers and economists The papers on legal issues were presented and discussed by economists and vice versa The interdisciplinary focus of the conference not only allowed an exchange of knowledge between two groups who think differently about similar issues but also made it possible to better grasp the impact of the thinking of one group on the areas of interest to the other group The outcome of the conference is reflected in this book By showing the legal and the economic approaches to an issue this book improves the general understanding of the two disciplines and demonstrates how the decisions in one discipline may influence the other discipline and its concepts Twenty two contributions are included written by the most distinguished academics practitioners and representatives of several international tax administrations and both tax and economic institutions **General Anti-Avoidance Rules** Benjamín Sevilla Bernabéu,2025-07-15 Information Law Series 48 About this book Imposing Data Sharing among Private Actors is a vital book shedding light on the nature of certain economic and societal balancing exercises required for any compulsory business to business B2B data sharing initiatives because data sharing involves both benefits and potential costs While the economic value originating from data sharing seems evident identifying the legal framework to be applied to it is a challenge This is due to the multiple claims and rights aimed at controlling accessing or benefiting from data processing What s in this book Whether these initiatives pursue economic societal or empowerment objectives their potential benefits must be balanced with the following three considerations that are extensively investigated in the book the economic interests of the data holder personal data protection considerations and long term and collective costs in terms of individual autonomy The analysis elucidates how these aspects have been factored into existing compulsory B2B data sharing initiatives so far particularly in Europe and on how they may be used as a source of inspiration in future initiatives Insightful suggestions on the implementation of these balancing exercises conclude the volume How this will help you Based on law and literature in competition personal data protection and intellectual property the book greatly highlights the necessary balances underlying compulsory B2B data sharing and raises awareness about the crucial need to take the

risks involved into consideration It will be highly appreciated by policymakers academics and private actors interested in issues linked to competition law in the digital environment regulation of platforms data governance or the interaction between competition law and personal data protection law

"Taxes Covered" Patricia Brandstetter,2011 This book provides an in depth analysis of recent case law and academic literature and sheds light on the background to the standard formulations used in the provision on the substantive scope of today s tax treaties Why this book The substantive scope of a tax treaty determines the extent of protection it can provide against international double taxation Countries worldwide have adopted the text of Art 2 Taxes covered of the OECD Model Tax Conventions in their bilateral tax treaties However the structure and wording of Art 2 which have remained virtually unchanged since the beginnings of tax treaty law in the 1920s create interpretive issues and uncertainties in practical treaty application This book not only provides an in depth analysis of recent case law and academic literature but also sheds light on the background to the standard formulations so widely used in the provision on the substantive scope of today s tax treaties The source documents used have rarely found their way into publications before historical OEEC and OECD Reports and Minutes originally largely classified as restricted and thus inaccessible to the public for decades provide an insight into the drafting process of Art 2 and the discussions of Delegates from various nations on practical implications for treaty application The book offers a unique perspective on this core treaty provision and aims to provide guidance for determining the taxes covered in any tax treaty

IBFD International Tax Glossary Julie Rogers-Glabush,2009 Authoritative resource for defining tax and tax related terms With the addition of over 120 completely new definitions and over 100 substantially revised descriptions this edition contains more than 2 000 tax terms clearly and concisely defined in English alphabetical listing of some 400 English terms together with their French German Spanish and Dutch equivalents cross referenced listing of terms indicating similar related and contrasting terms abbreviations and bibliographical references to aid further research a list of tax related organizations with brief descriptions and Internet addresses accurate descriptions of both traditional and more obscure terms expanded coverage of terms relating to customs VAT capital taxes transfer pricing and EU tax law terminology a separate extensive list of tax related organizations in some 40 countries

VAT and Financial Services Robert F. van Brederode,Richard Krever,2017-03-06 This book explains the theoretical and policy issues associated with the taxation of financial services and includes a jurisdictional overview that illustrates alternative policy choices and the legal consequences of those choices The book addresses the question how can financial services in an increasingly globalized market best be taxed through VAT while avoiding economic distortions It supports the discussion of the key practical problems that have arisen from the particular complexity of the application of VAT to financial services and allows for the evaluation of best practice by comparing the major current reform models now being implemented

Key Ideas in Tax Law Julian Ghosh KC,2024-03-21 This book provides a short and clear guide to key ideas which underpin the UK tax code and illustrates the wider political and economic issues students need to

know about when studying tax law Some of these key ideas are controversial and the subject of much discussion and debate The book explains the key issues that are of fundamental juristic and philosophical importance and are common to tax codes throughout the world What is a tax Is it different to a civil or criminal penalty Why does this matter Is taxation necessarily a public law concept Does the concept of taxation attract constitutional considerations Why How do the answers to these questions play out when courts have to interpret tax provisions Readers will come away with a clear understanding of the architecture of the UK tax code despite its very real complexity

Preventing Treaty Abuse Daniel Blum, Markus Seiler, 2016-09-19 Analysis of notion roots and measures of treaty abuse The OECD initiative on Base Erosion and Profit Shifting has put the issue of treaty abuse and the means to counter it on top of the global political agenda Preventing treaty abuse is therefore currently one of the most debated topics in international tax law Diverging national legal traditions in combatting abuse both under domestic and tax treaty law have led to a globally diversified legal framework in this respect and make the OECD s agenda to harmonize these attempts even more challenging The aim of this book is to analyze the notion of treaty abuse its historical roots and the measures to counter it The book s topics cover a wide range of both policy and legal issues The contributions main focus lies on analyzing the proposals put forward by the OECD in BEPS action items 6 and 7 In addition this book analyzes the lessons which can be learnt from the US tax treaty policy and elaborates on the effects the intensified fight against treaty abuse will have from a Non OECD member state perspective Also EU law is taken into account and the question raised which impact the fundamental freedoms might have on the development of new anti avoidance rules Finally the relation between domestic and treaty based anti avoidance is analyzed in great detail identifying the methodical problems of ensuring a sound and abuse safe legal framework With this book the authors and editors hope to contribute to the discussion on selected issues of preventing treaty abuse and the challenges they present to policy makers judges tax administrations and tax advisers

Принцип in dubio contra fiscum в российском налоговом праве Александр Чочиев, 2020-08-25 in dubio contra fiscum

Tax and Government in the 21st Century Miranda Stewart, 2022-09-08 With an accessible style and clear structure Miranda Stewart explains how taxation finances government in the twenty first century exploring tax law in its historical economic and social context Today democratic tax states face an array of challenges including the changing nature of work the digitalisation and globalisation of the economy and rebuilding after the fiscal crisis of the COVID 19 pandemic Stewart demonstrates the centrality of taxation for government budgets and explains key tax principles of equity efficiency and administration Presenting examples from a wide range of jurisdictions and international developments Stewart shows how tax policy and law operate in our everyday lives ranging from family and working life to taxing multinational enterprises in the global digital economy Employing an interdisciplinary approach to the history and future of taxation law and policy this is a valuable resource for legal scholars practitioners and policy makers

Australian national bibliography ,1961

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Table of Contents Legal Interpretation Of Tax Law Series On International Taxation

1. Understanding the eBook Legal Interpretation Of Tax Law Series On International Taxation
 - The Rise of Digital Reading Legal Interpretation Of Tax Law Series On International Taxation
 - Advantages of eBooks Over Traditional Books
2. Identifying Legal Interpretation Of Tax Law Series On International Taxation
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Legal Interpretation Of Tax Law Series On International Taxation
 - User-Friendly Interface
4. Exploring eBook Recommendations from Legal Interpretation Of Tax Law Series On International Taxation

- Personalized Recommendations
 - Legal Interpretation Of Tax Law Series On International Taxation User Reviews and Ratings
 - Legal Interpretation Of Tax Law Series On International Taxation and Bestseller Lists
5. Accessing Legal Interpretation Of Tax Law Series On International Taxation Free and Paid eBooks
 - Legal Interpretation Of Tax Law Series On International Taxation Public Domain eBooks
 - Legal Interpretation Of Tax Law Series On International Taxation eBook Subscription Services
 - Legal Interpretation Of Tax Law Series On International Taxation Budget-Friendly Options
 6. Navigating Legal Interpretation Of Tax Law Series On International Taxation eBook Formats
 - ePub, PDF, MOBI, and More
 - Legal Interpretation Of Tax Law Series On International Taxation Compatibility with Devices
 - Legal Interpretation Of Tax Law Series On International Taxation Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Legal Interpretation Of Tax Law Series On International Taxation
 - Highlighting and Note-Taking Legal Interpretation Of Tax Law Series On International Taxation
 - Interactive Elements Legal Interpretation Of Tax Law Series On International Taxation
 8. Staying Engaged with Legal Interpretation Of Tax Law Series On International Taxation
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Legal Interpretation Of Tax Law Series On International Taxation
 9. Balancing eBooks and Physical Books Legal Interpretation Of Tax Law Series On International Taxation
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Legal Interpretation Of Tax Law Series On International Taxation
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Legal Interpretation Of Tax Law Series On International Taxation
 - Setting Reading Goals Legal Interpretation Of Tax Law Series On International Taxation
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Legal Interpretation Of Tax Law Series On International Taxation

- Fact-Checking eBook Content of Legal Interpretation Of Tax Law Series On International Taxation
- Distinguishing Credible Sources

13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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