

Klaus Vogel on Double Taxation Conventions

4th revised edition

by Johannes Becker, Michael Blank, Alexander Blank, Axel Cordewener, Luc De Broe, Ana Paula Dourado, Daniela Endres, Werner Haslehner, Roland Ismer, Eric C.C.M. Kemmeren, Georg Kofler, Ekkehart Reimer, Katharina Riemer, Alexander Rust, Matthias Valta, Kamilla Zembala

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Klaus Vogel on Double Taxation Conventions Ekkehart Reimert, 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 upto 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

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Preventing Treaty Abuse Daniel Blum, Markus Seiler, 2016-09-19 Analysis of notion roots und 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

International and Comparative Taxation: Essays in Honour of Klaus Vogel Klaus Vogel, Moris Lehner, Arndt Raupach, Michael Rodi, 2002-09-03 Compilation of the 16 English language contributions of Staaten und Steuern States and Taxes the original festschrift to honour Klaus Vogel

The principle of non-discrimination in international and European tax law Niels Bammens, 2012 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

Tax Treaty Case Law around the Globe 2022 Eric Kemmeren, Peter Essers, Stan Stevens, Ton Stevens, Cihat Öner, Michael Lang, Georg

Kofler, Jeffrey Owens, Pasquale Pistone, Alexander Rust, Josef Schuch, Claus Staringer, Karoline Spies, Daniel Blum, 2023-11-29 A Global Overview of International Tax Disputes on DTC This book is a unique publication that provides a global overview of international tax disputes in respect of double tax conventions and thereby fills a gap in the area of tax treaty case law It covers the 37 most important tax treaty cases that were decided around the world in 2021 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 2022 is a valuable reference tool for anyone interested in tax treaty case law including tax practitioners multinational businesses policymakers tax administrators judges and academics *Taxation in a Global Digital Economy* Ina Kerschner, Maryte Somare, 2017-10-04 Time to discuss anti BEPS measures around digitalization In the course of the BEPS Report on Action 1 it was concluded that there was no instantaneous need for specific rules to address base erosion and profit shifting BEPS made possible by the digitalization of enterprises and new digital businesses At the same time it was acknowledged that general measures may not suffice with the assessment of results to begin in 2020 While awaiting possible fundamental reforms of the tax framework it is time to discuss anti BEPS measures bearing in mind the peculiar features of the digital economy such as increased mobility no need for physical presence and dematerialization The Book focuses on five key areas of interest International Tax Policy Tax Treaty Law Transfer Pricing Indirect Taxation Issues EU Law Taxation in a Global Digital Economy analyses the issues and addresses the five key areas of interest from various viewpoints **The Oxford Handbook of International Tax Law** Florian Haase, Georg Kofler, 2023 Divided into eight parts this handbook traces the history of international tax law from its earliest days until the present 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 **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 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

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

Transfer Pricing and Value Creation Raffaele Petruzzi, Romero J.S. Tavares Esq., 2019-09-02 Value Creation and its effects on Transfer Pricing and tax law Emerging from the OECD G20 BEPS Project a new somewhat fuzzy notion of Value Creation came to permeate not only Transfer Pricing language but also wider allocation rules and anti abuse provisions in international tax law The notion of Value Creation reframes the interpretation and application of the Arm s Length Principle ALP that is embedded in Articles 7 and 9 of the OECD Model Convention This new Value Creation notion and approach assist in understanding key enterprise functions while different industry sectors manifest these concepts in various ways Situating such notions and this approach within the law of tax treaties and analyzing terms of the OECD Transfer Pricing Guidelines alongside their factual context is the aim of this book Here law students address Transfer Pricing and Value Creation in sectors as varied as commodities trade automotive consumer products food and beverages pharmaceutical and life sciences telecommunications and the key topic of value creation in a digitalized economy Our LL M students were required to address issues not explored in legal research and to discuss factual topics relevant for Transfer Pricing All students focused on topics that are new to the international tax debate that keep evolving and on factual matters that often escape legal research

The Impact of Community Law on Tax Treaties: Issues and Solutions Pasquale Pistone, 2002-03-11 Study on the question of harmonization of direct taxation among European Community Member States how Member States must comply with EC Law as they apply their tax treaties how EC law regulates cross border tax issues within the Community and how EC law affects tax treaties between EU Member States and third countries The book provides expert commentary on 27 leading tax cases from the European Court of Justice and gives the proposal of EC Model Tax Convention which combines existing provisions of international tax law with the principles of Community tax law

Beneficial Ownership: Recent Trends Michael Lang, Pasquale Pistone, Josef Schuch, Claus Staringer and Alfred Storck, 2013 The concept of beneficial ownership is frequently called one of the most decisive questions in international tax law Despite this fact neither scholars nor courts have found a generally accepted definition This book provides a comprehensive overview of the latest developments concerning the concept of beneficial ownership Highly renowned tax experts both from academia and practice analyse the most important decisions recently made by courts around the world Moreover the recently published OECD Discussion Draft on the meaning of beneficial ownership is being taken into account and the meaning of the term beneficial owner used in European tax law in comparison to its meaning in tax treaty law is

being assessed The authors not only draw a better picture of the status quo but also enhance the discussion of the future meaning of the term beneficial owner **The 2010 OECD Updates** Dennis Manolito Weber, S. van Weeghel, 2011-01-01

Virtually all international taxation provisions ultimately stem from two fundamental sources both originating at the OECD The Model Tax Convention on which more than 3 000 bilateral tax treaties are based and the Transfer Pricing Guidelines During 2010 major revisions were made to both This unique book provides an expert analysis of current important topics in international taxation and transfer pricing As such it is a welcome and valuable resource for tax lawyers and consultants corporate tax advisers government officials and others involved in the international tax law market as well as for academics and researchers in the field **Multinational Enterprise, Political Risk and Organisational Change** Neil

Forbes, Takafumi Kurosawa, Ben Wubs, 2018-12-17 Hitherto the organization of international business has been studied mostly from a managerial point of view or by examining the relationship between firms and the economy Yet the development of the modern multinational firm the most important type of business organisation has been strongly influenced by the conflicts that bedeviled the twentieth century The volatile macroeconomic and political environments experienced by international business point to how important it is to study political risk Consequently Multinational Enterprise Political Risk and Organisational Change From Total War to Cold War breaks new ground it argues that non market elements and historical context are key to understanding the way international business has been organised This edited volume offers an historical approach to analysing how multinational enterprise has developed over time and around the world through a series of well crafted chapters on important topics in international economic and business history written by authorities in their respective fields of study and research The study is based on the underlying premise that the coming of the two World Wars the devastating and long term consequences of such total wars and the ideological challenge of the Cold War acted as a pivot points in shaping the nature and character of multinational firms By examining such phenomena this study offers insights to anyone who has an interest in business economic or political history management and business studies or international relations Chapter 1 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution Non Commercial No Derivatives CC BY NC ND 4 0 license **International Company**

Taxation Ulrich Schreiber, 2013-01-30 The book is written for students of business economics and tax law It focuses on investment and financing decisions in cross border situations In particular the book deals with Legal structures of international company taxation International double taxation Source based and residence based income taxation International investment and profit shifting International corporate tax planning International tax planning and European law Harmonization of corporate taxation in the European Union International tax planning and tax accounting International tax law is designed to avoid international double taxation and to combat international tax avoidance Nevertheless companies investing in foreign countries may suffer from international double taxation of profits On the other hand these companies

may also be able to exploit an international tax rate differential by means of cross border tax planning Ulrich Schreiber holds the chair of Business Administration and Business Taxation at the University of Mannheim He serves as co editor of Schmalenbachs Zeitschrift f r betriebswirtschaftliche Forschung zbf and Schmalenbach Business Review sbr and is affiliated with the Centre for European Economic Research ZEW as a research associate Ulrich Schreiber is a member of the Academic Advisory Board of the Federal Ministry of Finance German Tax and Business Law ,2005 Providing treatment of landlord and tenant matters this book covers both commercial and residential issues The reader is informed with the changing complexities of legislation and case law in this area The coverage of cases and legislation is complemented by practical advice on issues facing practitioners in their daily work *Applying the Arm's Length Principle to Intra-group Financial Transactions* Robert Danon,Vikram Chand,Guglielmo Maisto,Amanda Pletz,2023-08-29 It is well known that intercompany financing arrangements have become increasingly subject to scrutiny in contexts of applying transfer pricing and anti tax avoidance related rules With contributions by more than 50 leading global transfer pricing and international tax experts from law firms multinational enterprises academia and tax administrations this book provides unparalleled insights into the application of the Arm s Length Principle to different types of financial transactions application of anti avoidance rules to various intra group financial arrangements as well as the business value creation process and the dispute management landscape that underlie intra group financial transactions With in depth analysis of the legislation and market developments that fuel the diverse range of financing options available to market participants and loaded with practical examples and case studies that cover the legal and economic considerations that arise when analysing intra group finance the contributors examine such topics and issues as the following national anti abuse rules applicable to financial transactions tax treaty issues role of credit ratings and impact of implicit support loans cash pooling financial guarantees transfer pricing aspects of performance guarantees mezzanine financing considerations for crypto financing impact of crises situations such as COVID 19 how treasury operations can be structured in a group and the decision making process involved how hedges offset or mitigate risks how to apply the arm s length principle to factoring and captive insurance transactions comparability analysis for various transactions special considerations for transactions carried out by a permanent establishment EU state aid and its interaction with transfer pricing rules dispute prevention and resolution tools under the OECD UN and EU frameworks and developing countries perspectives focusing on Brazil India and South Africa Given the challenges facing taxpayers and tax authorities alike this book will prove an immeasurably valuable reference guide to support tax practitioners tax administrations and tax scholars in developing standards and policies in dealing with intra group financing issues

Alternative Dispute Resolution and Tax Disputes Werner Haslehner,Timothy Lyons,Katerina Pantazatou,Georg Kofler,Alexander Rust,2023-01-20 Arbitration has been promoted as the future of tax dispute resolution in recent years in line with the increase in complexity of international tax law This authoritative book presents existing legal rules on the

matter provides a review of the arguments in favour of tax arbitration discusses the practical and legal challenges for its wide spread adoption and compatibility with existing domestic and international norms It also answers key questions for the practical implementation of a modern tax arbitration system *International Tax Planning and Prevention of Abuse* Luc De Broe, 2008 This study considers how tax authorities attempt to strike down international tax avoidance structures in particular those involving the use of conduit and base companies set up by third country residents for purposes of treaty shopping and EC Directive shopping The book focuses on the interaction between provisions and judicially developed doctrines of domestic tax law preventing international tax avoidance on the one hand and norms of international law in particular tax treaties and rules of Community law on the other It also considers treaty based anti avoidance measures such as the beneficial ownership requirement and limitation on benefits provisions This part of the study compares and analyses the case law of Australia Austria Belgium Canada the Czech Republic Finland France Germany India the Netherlands Switzerland the United Kingdom and the United States

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