Introducing an Advance Tax Ruling (ATR) Regime

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

Tax Policy Challenges in the 21st Century

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

Formulary Apportionment for the Internal Market

The advent of electronic commerce has caused many to question the continued viability of sourced-based taxation. This thesis argues that source-based taxation is theoretically justifiable for income that arises from international transactions which are conducted in an electronic commerce environment.

Introducing an Advance Tax Ruling (ATR) Regime

Considers the treatment of income from private employment under tax treaties containing provisions analogous or similar to Article 15 of the OECD model. This book offers an
analysis of these provisions as well as suggestions for improvements in the application and interpretation. It approaches the analysis from the perspective of five countries.

Transfer Pricing Aspects of Intra-Group Financing

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


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

E-commerce and Source-based Income Taxation

E-commerce and Source-based Income Taxation

International Taxation Handbook
Environmental Fiscal Challenges for Cities and Transport

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


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

CJEU - Recent Developments in Value Added Tax 2016

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

Optimization of Tax Sovereignty and Free Movement

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

The EU VAT System and the Internal Market

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

EC Law Aspects of Hybrid Entities

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.

**International Tax Planning and Prevention of Abuse**

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

**Interpretation of Tax Treaties under International Law**

**Taxation of International Performing Artistes**

BEPS Action 5 is one of the four BEPS minimum standards which all Inclusive Framework members have committed to implement. One part of the Action 5 minimum standard is the transparency framework for compulsory spontaneous exchange of information on certain tax rulings which, in the absence of transparency, could give rise to BEPS concerns. Over 135 jurisdictions have joined the Inclusive Framework and take part in the peer review to assess their compliance with the transparency framework.

**Global Trends in VAT/GST and Direct Taxation**

**Advanced Income Tax Law Course for Internal Revenue Agents**

**The principle of non-discrimination in international and European tax law**

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

**A VAT/GST Model Convention**

**Taxing German-Dutch Cross-Border Activities**

**EC Law and the Sovereignty of the Member States in Direct Taxation**

**Advance Tax Rulings and Principles of Law**

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

**Taxation of Cross-border Partnerships**

**Protecting Privacy in China**

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

**Taxation of Investment Funds in the European Union**

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

**Procedural Rules in Tax Law in the Context of European Union and Domestic Law**

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

**IBFD International Tax Glossary**

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.

Optimization of Organization And Legal Solutions Concerning Public Revenues And Expenditures in Public Interest

This report reflects the outcome of the second annual peer review of the implementation of the Action 5 minimum standard and covers 92 jurisdictions. It assesses implementation for the 1 January 2017 – 31 December 2017 period.


Legitimate expectations in Luxembourg tax law

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

Taxation of Foreign Business Income Within the European Internal Market

This timely work seeks to identify the differences between the domestic procedural rules and principles of an array of EU and non-EU countries and analyse them in the context of European Union law requirements. Specific attention is paid to the impact of State aid rules on procedural law in tax matters, on constitutional law requirements as well as tax treaty law issues. Since customs law is already harmonized in the form of the Community Customs Code, it serves as a starting point to examine the extent to which harmonized procedural law is possible. Harmonized procedural law is also discussed in the context of a possible future Common Consolidated Corporate Tax Base as well as an EU tax levied at the European Union level.

Legal Remedies in European Tax Law

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

International Tax Law

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