

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

**CHAPTER 1 – Introduction**

- 1.1 Subject of the study
- 1.2 Objective and scope of the study
- 1.3 Approach and research methods
- 1.4 Materials
- 1.5 Terminology
- 1.6 Outline of the study

**CHAPTER 2 – Investment funds within the European Union**

- 2.1 Investment funds generally
  - 2.1.1 Idea and advantages of investment funds
  - 2.1.2 Operation of investment funds
  - 2.1.3 Classification of investment funds by investment objective
  - 2.1.4 Classification of investment funds by administrative policy
- 2.2 Regulation of investment funds within the European Union
  - 2.2.1 Primary Community law
  - 2.2.2 Secondary Law – UCITS Directive
- 2.3 Investment funds in selected Member States
  - 2.3.1 United Kingdom
  - 2.3.2 Germany
  - 2.3.3 France
  - 2.3.4 Finland
  - 2.3.5 Luxembourg
- 2.4 Conclusions with a comparative survey of other Member States

**CHAPTER 3 – Taxation of investment funds in the residence state**

- 3.1 Introduction
- 3.2 Taxation of investment funds generally
- 3.3 United Kingdom
- 3.4 Germany
- 3.5 France
- 3.6 Finland
- 3.7 Luxembourg
- 3.8 Conclusions with a comparative survey of other Member States

**CHAPTER 4 – Taxation of investments made by investment funds in the source state of income**

- 4.1 Introduction

- 4.2 Taxation of domestic investment funds
- 4.3 Taxation of foreign investment funds
- 4.4 Investment funds and tax treaties
  - 4.4.1 General remarks
  - 4.4.2 On Tax treaty interpretation
  - 4.4.3 Tax Treaty access of investment funds
    - 4.4.3.1 Person
    - 4.4.3.2 Residence
    - 4.4.3.3 Beneficial ownership
    - 4.4.3.4 Limitation of benefits
  - 4.4.4 Specific provisions concerning investment funds
  - 4.4.5 Tax Treaty access of underlying investors
  - 4.4.6 Country practices
- 4.5 Conclusions

## **CHAPTER 5 – Taxation of fund investors**

- 5.1 Introduction
- 5.2 United Kingdom
  - 5.2.1 Resident investor in domestic fund
  - 5.2.2 Resident investor in foreign fund
  - 5.2.3 Non-resident investor in domestic fund
  - 5.2.4 Evaluation
- 5.3 Germany
  - 5.3.1 Resident investor in domestic fund
  - 5.3.2 Resident investor in foreign fund
  - 5.3.3 Non-resident investor in domestic fund
  - 5.3.4 Evaluation
- 5.4 France
  - 5.4.1 Resident investor in domestic fund
  - 5.4.2 Resident investor in foreign fund
  - 5.4.3 Non-resident investor in domestic fund
  - 5.4.4 Evaluation
- 5.5 Finland
  - 5.5.1 Resident investor in domestic fund
  - 5.5.2 Resident investor in foreign fund
  - 5.5.3 Non-resident investor in domestic fund
  - 5.5.4 Evaluation

## **CHAPTER 6 – Investment fund investments and tax enforcement**

- 6.1 Introduction
- 6.2 Tax enforcement of domestic investment fund investments
- 6.3 Tax enforcement of cross-border investment fund investments
  - 6.3.1 National measures
  - 6.3.2 Savings Tax Directive
  - 6.3.3 International exchange of tax information
- 6.4 Conclusions

## **CHAPTER 7 – Taxation of investment fund investments and negative integration**

- 7.1 Introduction
- 7.2 Relevant fundamental freedoms
- 7.3 Discrimination and restrictions on fundamental freedoms in the income tax case law of the European Court of Justice
  - 7.3.1 Discrimination of non-residents
  - 7.3.2 Home-state and host-state restrictions
  - 7.3.3 Justifications
  - 7.3.4 Case law on the free movement of capital
  - 7.3.5 Case law on the freedom to provide services
  - 7.3.6 On tax treaties and Community law
- 7.4 Tax treatment of non-resident investment funds in source state of income
  - 7.4.1 Issue – Withholding taxes at source
  - 7.4.2 Assessment under Community law
- 7.5 Tax treatment of resident investors of foreign investment funds
  - 7.5.1 Issue 1 – Tax benefits
  - 7.5.2 Assessment under Community law
  - 7.5.3 Issue 2 – Anti-avoidance measures
  - 7.5.4 Assessment under Community law
- 7.6 Tax treatment of non-resident investors of domestic investment funds
  - 7.6.1 Issues – Withholding taxes and eligibility for tax benefits at source
  - 7.6.2 Assessment under Community law
- 7.7 Investment fund investments and tax treaties
  - 7.7.1 Issue – Tax treaty provisions affecting investment funds
  - 7.7.2 Assessment under Community law

## 7.8 Conclusions

# **CHAPTER 8 – Taxation of investment fund investments and positive integration**

## 8.1 Introduction

## 8.2 Tax policy objectives in the single investment funds market

### 8.2.1 Tax neutrality

#### 8.2.1.1 General considerations

#### 8.2.1.2 Direct investment vs. investment fund investment

#### 8.2.1.3 Single market neutrality

### 8.2.2 Tax enforcement

### 8.2.3 Other objectives

## 8.3 Solutions to tax problems in the single investment funds market

### 8.3.1 General remarks

### 8.3.2 Measures related to tax treatment

#### 8.3.2.1 Abolition of withholding taxes in the source state of income

#### 8.3.2.2 Elimination of double taxation of income

### 8.3.3 Measures related to tax enforcement

#### 8.3.3.1 Automatic exchange of information

#### 8.3.3.2 Withholding tax system

## 8.4 Conclusions

## 8.5 Final remarks and future prospects

## References

## Table of Cases