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Tax Treaty Case Law around the Globe 2018

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Tax Treaty Case Law around the Globe 2018

Why this book?

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 35 most important tax treaty cases that were decided around the world in 2017. 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 2018 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.

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Table of Contents

Preface

xxiii

Part One

Scope, Interpretation, Tax Treaty Abuse and Residence

Chapter 1:	Greece: Scope of Application of the Treaty in Case of Income from Unknown Sources <i>Katerina Perrou</i>	3
1.1.	Introduction	3
1.2.	Facts of the case	4
1.3.	The court decision	5
1.4.	Comments on the Court's reasoning	6
1.5.	Conclusion	8
Chapter 2:	France: Tax Treaty Abuse as <i>Fraus Legis</i> <i>Marilyne Sadowsky</i>	9
2.1.	Introduction	9
2.2.	Facts of the case	9
2.3.	The court decision	10
2.3.1.	National law	10
2.3.2.	Conventional law	11
2.3.3.	An abuse of law	11
2.4.	Comments on the court's reasoning	12
2.4.1.	Domestic rules, conventional rules and <i>fraus legis</i>	13
2.4.2.	The state's intention	15
2.5.	Conclusion	15

Chapter 3:	Brazil: Personal Scope in Brazilian Tax Treaties: Treaty Shopping	17
	<i>Luís Eduardo Schoueri and Guilherme Galdino</i>	
3.1.	Introduction	17
3.2.	Facts of the case	18
3.2.1.	Tax authorities' reasoning	19
3.2.2.	Taxpayer's reasoning	20
3.3.	The CARF's decision	21
3.3.1.	The prevention of treaty shopping: Substance and anti-abuse clauses	21
3.3.2.	Reasons for anti-abuse provisions in tax treaties	23
3.4.	Comments on the CARF's reasoning	24
3.4.1.	Treaty shopping and abuse: The need for a tax treaty provision	24
3.4.2.	Anti-treaty shopping provisions in tax treaties versus the disregard of legal entity doctrine	27
3.5.	Conclusion	30
Chapter 4:	Israel: Residence and the Single Tax Principle	31
	<i>Yariv Brauner and Tsilly Dagan</i>	
4.1.	Introduction	31
4.2.	Facts of the case	31
4.3.	The court decision	32
4.4.	Comments on the court's reasoning	33
4.5.	Conclusion	37

Chapter 5:	Luxembourg: Dual Residence and Income Qualification of a Lawyer in Hong Kong	39
	<i>Werner Haslehner</i>	
5.1.	Introduction	39
5.2.	Legal background	39
5.3.	Facts of the case	41
5.4.	The court decision	42
5.5.	Comments on the court's reasoning	45
5.6.	Conclusion	49
Chapter 6:	Belgium: Interpretation of Tax Treaties – The Interaction between Domestic Law and Treaty Law	51
	<i>Anne Van de Vijver</i>	
6.1.	Introduction	51
6.2.	Facts of the case	51
6.3.	The Court's decision	52
6.4.	Comments on the Court's reasoning	55
6.4.1.	Ambulatory interpretation of the treaty	55
6.4.2.	Internal context	56
6.4.3.	Relevant rules of international law	57
6.4.4.	Supplementary means of interpretation	58
6.4.5.	Interaction with EU free movement of capital	60
6.5.	Conclusion	61

Part Two
Permanent Establishment

Chapter 7:	India: Formula One World Championship Case – Three Days May Be Sufficient to Constitute a Fixed Place PE	65
	<i>D.P. Sengupta</i>	
7.1.	Introduction	65
7.2.	Facts of the case	66
7.2.1.	Questions before the AAR	68
7.2.2.	Proceedings before the high court	69
7.3.	Decision of the SC	70
7.3.1.	The jurisprudence relating to a fixed place PE	70
7.3.2.	The various agreements	72
7.3.3.	The arguments of the taxpayer	74
7.3.4.	The arguments of the revenue authority	75
7.4.	Analysis of the Supreme Court	76
7.5.	Comments on the Court’s reasoning	77
7.6.	Conclusion	79
Chapter 8:	Portugal: Can a Servicer Become an Agent Permanent Establishment?	81
	<i>João Félix Pinto Nogueira</i>	
8.1.	Introduction	81
8.2.	Facts of the case	82
8.2.1.	Introduction	82
8.2.2.	Legal framework	84
8.3.	The parties’ arguments	86
8.3.1.	The Portuguese tax authorities’ argument	86
8.3.2.	The taxpayer’s argument	86
8.4.	The Court decision	87

8.5.	Comments on the Court's decision	87
8.5.1.	Decision by an arbitration tribunal	87
8.5.2.	Agent PE	88
8.5.2.1.	The decision	88
8.5.2.2.	The existence of a PE	88
8.5.2.3.	Independent agent	90
8.6.	Conclusion	92
Chapter 9:	Italy: The Shipbuilder's Subcontractor Case	95
	<i>Guglielmo Maisto and Paolo Arginelli</i>	
9.1.	Introduction	95
9.2.	Facts of the case	95
9.3.	The Supreme Court's decision	97
9.4.	Comments on the decision of the Court	98
9.4.1.	Should article 5(2)(g) of the tax treaty be regarded as a provision independent from article 5(1)?	98
9.4.2.	Does article 5(1) of the tax treaty impose an organizational requirement for a PE to exist?	102
9.5.	Conclusion	104
Chapter 10:	Italy: The Fragmented Road Transportation Activity Case	107
	<i>Guglielmo Maisto and Paolo Arginelli</i>	
10.1.	Introduction	107
10.2.	Facts of the case	107
10.3.	The Court's decision	109
10.4.	Comments on the decision of the Court	109
10.5.	Conclusion	111

Chapter 11:	Greece: Attribution of Profits to PE and Limitations of Deductible Expenses under Domestic Law	113
	<i>Katerina Perrou</i>	
11.1.	Introduction	113
11.2.	Facts of the case	114
11.3.	The Court decision	115
11.4.	Comments on the Court's reasoning	117
11.5.	Conclusion	118
	 Part Three Business Profits and Capital Gains	
Chapter 12:	Australia: Setting Interest Rates in Transfer Pricing Disputes	123
	<i>Graeme Cooper</i>	
12.1.	Introduction	123
12.2.	Facts of the case	124
12.3.	The Court decision	126
12.3.1.	Security and covenants	128
12.3.2.	Currency	130
12.3.3.	Implicit support and orphan theory	131
12.4.	Comments on the Court's reasoning	133
12.5.	Conclusion	134
Chapter 13:	Germany: Commercial Activities and Losses – The Negative Progression Proviso	135
	<i>Roland Ismer</i>	
13.1.	Introduction	135
13.2.	Facts of the case	135

13.3.	The Court decision	136
13.4.	Comments on the Court's reasoning	138
13.4.1.	Domestic tax law	138
13.4.2.	Tax treaty law	138
13.5.	Conclusion	139
Chapter 14:	Denmark: Classification of Foreign Income – Article 26(2) of the Nordic Tax Treaty	141
	<i>Søren Friis Hansen</i>	
14.1.	Introduction	141
14.2.	Facts of the case	141
14.3.	The Courts' decisions	142
14.4.	Comments on the Court's reasoning	143
Part Four		
Labour Income, Pensions, Sportsmen, Students and Other Payments		
Chapter 15:	Turkey: Taxation of CFC Earnings Before and After the Distribution of Dividends	147
	<i>Cihat Öner</i>	
15.1.	Introduction	147
15.2.	Facts of the case	149
15.2.1.	General facts	149
15.2.2.	Domestic provisions	150
15.2.2.1.	Participation exemption	150
15.2.2.2.	Conditions for a refund	151
15.3.	DTT provisions	152
15.4.	Application of the CFC rules	154
15.5.	Consequences of the application of the CFC rules	154

15.6.	The relationship between CFC rules and DTT rules	155
15.7.	Eliminating double taxation unilaterally	155
15.8.	The Court decision	156
15.9.	Comments on the Court's reasoning	157
15.10.	Conclusion	161
Chapter 16:	Austria: The Economic Employer Concept <i>Christoph Marchgraber</i>	163
16.1.	Introduction	163
16.2.	Facts of the case	164
16.3.	The Court's decision	164
16.4.	Comments on the Court's reasoning	165
16.5.	Conclusion	167
Chapter 17:	Switzerland: Swiss Federal Supreme Court: Distinction between Income from Employment and Other Income <i>Michael Beusch and Lysandre Papadopoulos</i>	169
17.1.	Introduction	169
17.2.	Facts of the case	169
17.3.	The Court decision	171
17.4.	Comments on the Court's reasoning	173
17.5.	Conclusion	174

Chapter 18:	Netherlands: Unilateral Changes in Exit Taxation of Annuities and Pensions: Tax Treaty Override?	175
	<i>Eric C.C.M. Kemmeren</i>	
18.1.	Introduction	175
18.2.	Facts of the case	177
18.3.	The Court's decision	177
18.3.1.	National tax law	178
18.3.2.	(Tax) treaty law	179
18.3.2.1.	Exit tax in respect of an annuity	180
18.3.2.2.	Exit tax in respect of a pension claim	182
18.4.	Comments on the Court's reasoning	184
18.4.1.	Benchmark and test	184
18.4.1.1.	Benchmark of good faith (legal certainty): Articles 26, 27 and 31 of the VCLT	185
18.4.1.2.	Test of exit tax on annuities and pensions against benchmark of good faith (legal certainty)	186
18.4.1.2.1.	Tax treaty override	187
18.4.1.2.2.	Test of exit tax on annuities and tax treaty override	188
18.4.1.2.2.1.	Negative expenditures should be classified as "items of income" (closed tax treaty system)	189
18.4.1.2.2.2.	Introduction of negative expenditures should be qualified as tax treaty override	191
18.4.1.2.2.3.	Alternatives	193
18.4.1.2.3.	Test of exit tax on pensions against benchmark of good faith (legal certainty)	194
18.4.1.2.3.1.	Exit tax before the change to negative expenditures has been qualified as tax treaty override	194
18.4.1.2.3.2.	Change to negative expenditures should be qualified as tax treaty override	195
18.4.1.2.3.3.	Alternatives	198
18.5.	Conclusions	199

Chapter 19:	Germany: Pensions in Respect of Services Rendered to States	203
	<i>Roland Ismer</i>	
19.1.	Introduction	203
19.2.	Facts of the case	205
19.3.	The Courts' decision	206
19.3.1.	The Fiscal Court of Cologne's decision	206
19.3.2.	The Federal Fiscal Court's decision	207
19.4.	Comments on the Courts' reasoning	207
19.5.	Conclusion	209
Chapter 20:	Portugal: Taxation of Image and Economic Rights of Football Players	211
	<i>João Félix Pinto Nogueira</i>	
20.1.	Introduction	211
20.2.	Facts of the case	213
20.2.1.	Introduction	213
20.2.2.	Legal framework	213
20.3.	The parties' arguments	216
20.3.1.	The tax authorities' argument	216
20.3.2.	The taxpayer's argument	217
20.4.	The Court decision	217
20.5.	Comments on the Court's decision	219
20.5.1.	Introduction	219
20.5.2.	Economic rights	222
20.5.3.	Football players' image rights	224
20.5.3.1.	Introduction	224
20.5.3.2.	Existence of source taxing rights	224
20.5.3.3.	Characterization of the income	225
20.5.3.4.	Non-compete clause	227
20.6.	Conclusion	228

Chapter 21:	United States: Payments to Graduate Students	231
	<i>Yariv Brauner</i>	
21.1.	Introduction	231
21.2.	<i>Pei Fang Guo</i>	231
21.2.1.	Facts of the case	231
21.2.2.	The court decision	232
21.2.3.	Comments on the court's reasoning	233
21.3.	<i>Joanna Klubo-Gwiedzinska</i>	235
21.3.1.	Facts of the case	235
21.3.2.	The court decision	238
21.3.3.	Comments on the court's reasoning	239
21.4.	<i>Zhongxia Ye</i>	242
21.4.1.	Facts of the case	242
21.4.2.	The court decision	244
21.4.3.	Comments on the court's reasoning	245
21.5.	<i>Evgeny Kiselev</i>	247
21.5.1.	Facts of the case	247
21.5.2.	The court decision	249
21.5.3.	Comments on the court's reasoning	250
21.6.	Conclusion	251
Part Five		
Royalties		
Chapter 22:	Spain: Aircraft Leasing on a Bareboat Charter Basis – The Meaning of Industrial Equipment in the Royalty Definition	255
	<i>Ricardo García Antón</i>	
22.1.	Introduction	255
22.2.	Facts of the case	255
22.3.	The court decision	256

22.4.	Comments on the court's reasoning	257
22.5.	Conclusion	264
Chapter 23:	Poland: Definition of Industrial Equipment and Payments for the Lease of Computer Hardware with Respect to Royalties	265
	<i>Karolina Tetlak</i>	
23.1.	Introduction	265
23.2.	Facts of the case	266
23.3.	The Court decision	268
23.4.	Comments on the Court's reasoning	270
23.5.	Conclusion	277
Chapter 24:	India: Payment for Use of a Standard Facility Does Not Amount to Fees for Technical Services	279
	<i>D.P. Sengupta</i>	
24.1.	Introduction	279
24.2.	Facts of the case	279
24.3.	The Court decision	286
24.4.	Comments on the Court's reasoning	287
24.5.	Conclusion	288
Chapter 25:	Poland: Taxation of Royalties for Computer Software	289
	<i>Karolina Tetlak</i>	
25.1.	Introduction	289
25.2.	Facts of the case	290

25.3.	The Court decision	292
25.4.	Comments on the Court's reasoning	295
25.5.	Conclusion	304
Chapter 26:	Turkey: Payment for the Right to Use of a Software Program Is Royalty	309
	<i>Cihat Öner</i>	
26.1.	Introduction	309
26.2.	Facts of the case	309
26.2.1.	Claims of the parties	309
26.2.2.	Applicable treaty law	312
26.3.	The Court decision	313
26.4.	Comments on the Court's reasoning	315
26.4.1.	Background	315
26.4.2.	Evaluation	318
26.4.3.	World of possibilities	320
26.5.	Conclusion	321

Part Six

Relief from Double Taxation, LOB and Subject-to-Tax Requirement

Chapter 27:	United Kingdom: <i>R (OAO Aozora GMAC Investment Limited) v. HMRC</i>	325
	<i>Philip Baker</i>	
27.1.	Introduction	325
27.2.	Facts of the case	325
27.3.	Court's decision	328
27.4.	Comments on the Court's reasoning	329
27.5.	Conclusion	330

Chapter 28:	Austria: Severance Payments and Subject-to-Tax Clauses	331
	<i>Christoph Marchgraber</i>	
28.1.	Introduction	331
28.2.	Facts of the case	332
28.3.	The Court's decision	333
28.4.	Comments on the Court's reasoning	335
28.5.	Conclusion	337
Chapter 29:	New Zealand: <i>Lin v. Commissioner of Inland Revenue</i> (High Court and Court of Appeal of New Zealand)	339
	<i>Craig Elliffe</i>	
29.1.	Introduction	339
29.2.	The facts of the case	342
29.3.	The Court decision	343
29.3.1.	The High Court	343
29.3.2.	The Court of Appeal	349
29.4.	Comments on the Court's reasoning	351
29.4.1.	The perplexing question of whether article 23 operates on the premise of tax residence or income source	352
29.4.2.	The meaning of the phrase "in respect of"	354
29.4.3.	The basis for interpreting international tax treaties	357
29.4.4.	The concepts of juridical and economic double taxation	360
29.5.	Conclusion	361

Chapter 30:	France: Loss-Making Companies and the Deductibility of Taxes Paid Abroad	363
	<i>Marilyne Sadowsky</i>	
30.1.	Introduction	363
30.2.	Facts of the case	363
30.3.	The Court decision	364
30.3.1.	Tax treaties with China and New Zealand	364
30.3.2.	Tax treaties with other countries	365
30.4.	Comments on the Court's reasoning	366
30.4.1.	Conditions attached to the deductibility of taxes paid abroad	366
30.4.2.	Blanket prohibition on deductibility	368
30.5.	Conclusion	369

Part Seven

Non-Discrimination, Exchange of Information and MAP

Chapter 31:	Argentina: Non-Discrimination – <i>Pirelli Neumáticos SAIC Case</i>	373
	<i>Mirna Solange Screpante</i>	
31.1.	Introduction	373
31.2.	Facts of the case	374
31.3.	The Court's decision	376
31.4.	Comments on the Court reasoning	377
31.4.1.	Relationship between limitations of deductions in domestic law with the non-discrimination clause in double tax treaties	377
31.4.2.	The letter of the law as first source of interpretation	378
31.4.3.	Cross-border expenses: The importance of the non-discrimination clause	380
31.4.3.1.	General implications	380

31.4.3.2.	Implications on interest deductions and other financial payments	382
31.4.4.	Transactional adjustments based on the arm's length principle as permitted justification of discrimination	383
31.4.4.1.	General implications	383
31.4.4.2.	Relationship between thin capitalization rules and transfer pricing rules in Argentine ITL	384
31.5.	Conclusion	386
Chapter 32:	Netherlands: Non-Discrimination Clause under Dutch/Israeli Tax Treaty and Dutch Group Taxation Regime	387
	<i>Daniël S. Smit</i>	
32.1.	Introduction	387
32.2.	The applicable legal framework and facts of the case	388
32.2.1.	The applicable legal framework	388
32.2.2.	The facts of the case	389
32.3.	The Court decision	391
32.4.	Comments on the Supreme Court's reasoning	391
32.4.1.	Relationship with previous Dutch case law	391
32.4.2.	The OECD Commentary of 2008	393
32.4.3.	Diverging case law in other countries	394
32.4.4.	Diverging case law of the Court of Justice of the European Union	395
32.4.5.	Most-favoured-nation treatment?	396
32.4.6.	Assessment	397
32.5.	Conclusion and final remarks	399

Chapter 33:	Switzerland: Exchange of Information and “Stolen Data”	401
	<i>Lysandre Papadopoulos</i>	
33.1.	Introduction	401
33.2.	Facts of the cases	402
33.2.1.	Case of 16 February 2017 (ATF 143 II 202)	402
33.2.2.	Case of 17 March 2017 (ATF 143 II 224)	403
33.3.	The court decisions	404
33.3.1.	Case of 16 February 2017 (ATF 143 II 202)	404
33.3.2.	Case of 17 March 2017 (ATF 143 II 224)	405
33.4.	Comments on the Court’s reasoning	407
33.4.1.	Common reading of the FSC’s decisions	407
33.4.2.	Unilateral commitment as a precondition for dismissal of assistance?	408
33.4.3.	Application of the principle of legality of the evidence?	409
33.5.	Conclusion	411
Chapter 34:	Spain: Taxpayers’ Rights, Corresponding Adjustments and the Right to Initiate MAPs and Arbitration	413
	<i>Adolfo Martín Jiménez</i>	
34.1.	Introduction	413
34.2.	Facts of the case	414
34.3.	The National Court decision	416
34.4.	Confirmation of the Court decision	417
34.5.	Comments on the Court decision	417
34.5.1.	The relevant issues	417
34.5.2.	The (retroactive) effect of the Commentary on Article 25 of the OECD Model	417
34.5.3.	The taxpayer’s right to initiate the MAP	418

34.5.4.	Limitation of the scope of the grounds that competent authorities may use to deny the initiation of the MAP	419
34.5.5.	The practical effect of the judgment	423
34.6.	Conclusion	427
Chapter 35:	Canada: Transfer Pricing Adjustment after a Competent Authority Agreement: <i>Sifto Canada Corp. v. The Queen</i>	429
	<i>David G. Duff</i>	
35.1.	Introduction	429
35.2.	Facts of the case	429
35.3.	The Court decision	432
35.3.1.	The substance of the mutual agreement	433
35.3.2.	Whether the CRA entered into a settlement agreement with the taxpayer	434
35.3.3.	Effect of the settlement agreement and the competent authority agreement	435
35.3.4.	The settlement agreement and domestic law	435
35.3.5.	The competent authority agreement and international law	436
35.3.6.	Conclusion	437
35.4.	Comments on the Court's reasoning	438
35.5.	Conclusion	439
Contributors		441

Preface

Both the OECD Model Tax Convention on Income and on Capital (OECD Model) and the United Nations Model Double Taxation Convention (UN Model) are designed as a tool for legislative harmonization and therefore often serve as a basis for tax treaty negotiations between different jurisdictions worldwide. At the same time, however, interpretation of a particular tax treaty provision may still differ from country to country due to a number of reasons. The risk of double/multiple (non-) taxation is therefore not entirely removed, and this will adversely affect the international exchange of goods and services and movements of capital, technology and persons. In order to facilitate a uniform interpretation of tax treaties worldwide and, hence, reduce the risk of double/multiple (non-) taxation, basic knowledge is needed on how various tax treaty issues are resolved by different jurisdictions.

It is widely known that a unified approach to interpretation and application of international tax treaty rules may benefit not only the countries/parties to a certain tax treaty, but also their taxpayers, as well as international trade and investments in general. This topic is therefore an ongoing concern for many tax practitioners, representatives of international organizations, and public officers and tax scholars.

The “Tax Treaty Case Law around the Globe” conference was held at Tilburg University from 24-26 May 2018. This international event took place for the seventh time and was jointly organized by the European Tax College of Tilburg University and the Institute for Austrian and International Tax Law of WU. The conference was dedicated to the analysis of the most important cases on international tax treaty law decided in 2017 in different tax jurisdictions worldwide. Thirty-five cases were presented by outstanding tax experts from more than 20 different countries. Each presentation was followed by an intensive and fruitful discussion. The participants of the conference compared the interpretation approaches existing in both OECD and non-OECD member countries and came up with comprehensive conclusions and suggestions. The main scientific results of the conference are presented in this book.

Each report in this book is dedicated to a court case or a number of cases on a particular article of the tax treaty at issue (often based on the OECD or UN Model) which was decided in a certain jurisdiction in 2017. Every report is structured in a similar way: the facts of the case, the decision and reasoning of the court and the observations and conclusions of the authors, including

the possible impact of the decision on international tax law development in the respective country and other jurisdictions, are presented.

This clear and concise structure enables a solid and accessible overview of the global case law on tax treaty application in 2017. The systematic structure of each report allows for different tax treaty case law to be studied and compared in a comprehensive and efficient way.

The editors believe that the reports presented in this book are of high value and will therefore be of particular interest for tax consultants, public officers, academics and all those interested in international tax law. The fact that many domestic decisions are otherwise available only in a national language makes the material contained in this book even more valuable.

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