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Controlled Foreign Company Legislation

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Controlled Foreign Company Legislation

Why this book?

Controlled foreign company legislation is an international tax topic that has become increasingly important in recent years. Both the OECD and the European Union have taken initiatives to introduce controlled foreign company rules as anti-avoidance tax provisions that are applicable by a large number of states. The OECD released its recommendations on strengthening controlled foreign company rules in the Base Erosion and Profit Shifting Project Action 3 Final Report. The European Union consequently adopted Council Directive 2016/1164, laying down rules against tax avoidance practices that directly affect the functioning of the internal market and introducing the obligation for Member States to implement controlled foreign company rules in their domestic legislation. The aim of this book is to provide tax authorities, policymakers, courts and practitioners with an overview of the effectiveness of controlled foreign company rules and the approach towards recent amendments in the participating countries introducing or changing such rules.

The book comprises 41 national reports from countries across the globe and is the outcome of a conference on controlled foreign company legislation that took place from 4-7 July 2019 in Rust (Austria). More than 100 experts, including the authors of the national reports, were brought together to discuss recent developments in the field of controlled foreign company legislation. A general report highlights the most important findings of the conference.

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Preface

In recent years, several important developments have taken place with respect to anti-tax avoidance provisions under international and European tax law. Controlled foreign company rules as anti-abuse provisions have been increasingly gaining in importance. Both the OECD and the European Union took initiatives to promote and introduce controlled foreign company rules as anti-avoidance tax provisions. The OECD released its recommendations on strengthening controlled foreign company legislation in the Base Erosion and Profit Shifting Action 3 Report that was issued in October 2015. The European Union consequently adopted Council Directive 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, introducing the obligation for Member States to implement controlled foreign company rules in their domestic legislation. The transposition deadline in respect to the controlled foreign company rules to be implemented by Member States was set at 31 December 2018.

From 4-7 July 2019, the Institute for Austrian and International Tax Law hosted its annual Rust Conference. Participants from more than 41 countries representing all continents were brought together to discuss recent developments in the field of controlled foreign company legislation, which was also the general topic of the conference. The focus of the conference revolved around the actual implementation of the controlled foreign company rules, the relationship between them and tax treaties/constitutional law/European Union law, the shortcomings of the current controlled foreign company rules and recommendations for an increased effectiveness of the controlled foreign company legislation. The conference participants presented their own country's perspective on different substantive and procedural aspects.

We are very grateful to all National Reporters and authors. They displayed enormous discipline in completing their National Reports, taking into account the guidelines provided. They participated in the discussions at the conference with great enthusiasm. After presenting the results at the conference, they immediately completed their National Reports. The editors believe that the reports presented in this book are of high value and, therefore, will be of particular interest for academics, tax consultants, public officers and all of those interested in international tax law.

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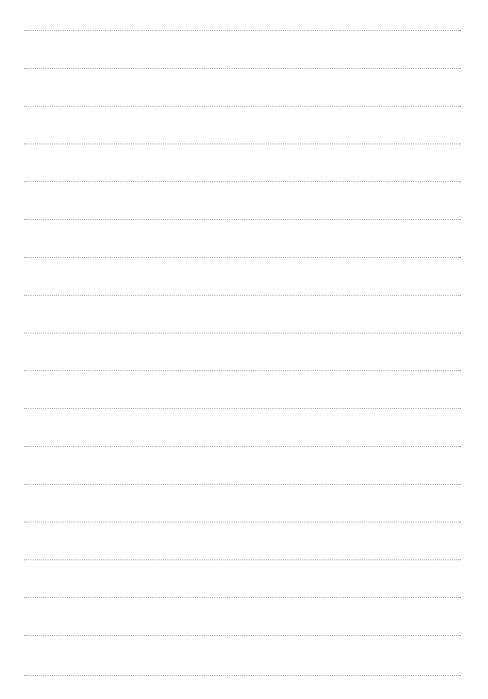
sincere thanks to IBFD for its cooperation and the swift realization of this publication project. Ms Jenny Hill contributed greatly to the completion of this book by editing and polishing the texts for the authors, for whom English is – to a great extent – a foreign language. Above all, we would like to thank the members of the secretariat and the research assistants of the Institute for Austrian and International Tax, especially Ms Renée Pestuka, Ms Angelina Papulova, Ms Lisa Maria Ramharter, Ms Ioana-Felicia Rosca and Mrs Layomi Gunatilleke-Jester who were responsible for the organization and preparation of the conference in Rust as well as the publication of this book. Without their dedication and talent for organization, the success of the conference and the completion of this book would not have been possible.

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