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The Non-Discrimination Provision in the OECD Model

Guglielmo Maisto / Series Editor

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The Non-Discrimination Provision in the OECD Model

Why this book?
The Non-Discrimination Provision in the OECD Model, comprising the proceedings and working documents of the annual seminar held in Milan in November 2024, is a detailed and comprehensive study on the non-discrimination principle in international tax law, with a specific focus on article 24 of the OECD Model.

First, the book examines the history of article 24 of the OECD Model and its policy rationale.
Then, the book analyses article 24(1) of the OECD Model, addressing questions surrounding the application of the nationality non-discrimination clause in light of recent developments in treaty practice, case law and doctrinal analysis, and also taking into consideration the practical relevance of a combined application of non-discrimination rules for instances of complex discrimination.
The book also considers the relationship between tax treaty non-discrimination and other non-discrimination provisions included in, for instance investment treaties and other non-tax agreements, as well as the interplay between tax treaty non-discrimination and EU Law.

Next, the book moves to analyse the other non-discrimination cases covered by article 24 of the OECD Model, addressing the application of the non-discrimination clause with respect to non-profit and public entities, the permanent establishment non-discrimination provision under article 24(3) of the OECD Model, the deduction non-discrimination provision under article 24(4) of the OECD Model and the ownership non-discrimination provision under article 24(5) of the OECD Model.
The book also addresses the non-discrimination provision in the UN Model and the tax sparing effect that may be triggered in this context.

Finally, the book examines the non-discrimination provision in the context of the Global Minimum Tax under the OECD Pillar Two, addressing the question whether the UTPR violates the ownership non-discrimination provision under article 24(5) of the OECD Model.

Individual country reports complete the book, providing an in-depth analysis of the specific domestic tax regimes and tax treaty practice of several EU and non-EU Member States, namely Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, India, Italy, the Netherlands, New Zealand, Norway, Spain, South Africa, Sweden, Switzerland, the United Kingdom and the United States.

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Prof. Guglielmo Maisto

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