

Foreword

This volume of essays on the interpretation and implications of international tax treaties was conceived by a group of Canadian and European colleagues of the late David A. Ward, QC, as a tribute to the lasting impact that his life's work has had on the academic study of tax treaties.

David Ward passed away on January 13, 2010, after having practised tax law in Canada for over 50 years. He was a pioneer of the profession. When he founded the Toronto law firm that is now Davies Ward Phillips & Vineberg LLP in 1961, the practice of tax as a legal specialty was in its infancy. David quickly became a formidable leader of the profession in Canada; he had an incisive mind, a strong work ethic, high professional standards, and single-minded devotion to the interests of his clients, and he always acted with the utmost integrity.

This collection of essays is a tribute to David Ward's memory. It highlights two aspects of his career: the study of tax as an academic discipline and the value of gaining an international perspective in order to develop insofar as possible a common global approach to the interpretation and application of tax treaties.

David Ward was a prolific writer; he was the author of over 25 articles and papers on domestic and international tax subjects in the publications of the Canadian Tax Foundation alone. In fact, just prior to his passing, he was completing both a case comment on a recent Canadian transfer-pricing judicial decision¹ and an article on the use of historical documents in interpreting tax treaties, which was published by the International Bureau of Fiscal Documentation in a book of essays in honour of John F. Avery Jones.² It is therefore fitting that the CTF and the IBFD have joined together to sponsor the publication of this book.

Through his involvement in the international tax community David Ward became an active member of the International Fiscal Association, participating both at the IFA's annual congresses and as a leading member of its Canadian branch.

1 David A. Ward, "Commentary: GE Capital Canada Inc. v. R" (2010), 12 ITLR 509-17.

2 David A. Ward, "The Use of OEEC-OECD Historical Documents in Interpreting Tax Treaties," in Philip Baker and Catherine Bobbett, eds., *Tax Polymath: A Life in International Taxation* (Amsterdam: IBFD, 2010), 3-17.

He served on the executive committee of the IFA and as president of the Canadian branch. His involvement with the IFA as well as his keen interest in the academic aspects of tax law led him to become part of a remarkable group of leading tax experts who met informally in connection with each IFA annual congress and at other times to pursue the study of international tax. The work jointly produced by those experts, known as the International Tax Group, is without doubt among the best contributions to academic scholarship that exist in the field, and the group's insights into the interpretation of tax treaties have had tremendous influence on the community of international tax experts. Several of the essays in this volume were written by members of the International Tax Group, and they are a testament to the esteem in which David was held within the group; my two co-editors, Guglielmo Maisto and Angelo Nikolakakis, each of whom has contributed an essay, are both distinguished members of the group.

I would be remiss if I did not make special mention of the contributions of David W. Smith, QC, and Nathan Boidman, two partners of our firm who have written essays in tribute to the memory of our founder. David Smith practised closely with David Ward in Toronto for his entire career, and for many of our clients, the "two Davids" were an unbeatable combination of legal talent. Nathan Boidman was the leader of the tax group at Phillips & Vineberg in Montreal when Davies Ward & Beck merged with that firm. Through the merger, David Ward's name became well known in the legal communities of Canada's two largest cities and internationally in New York.

Given his practice commitments as the leader of a growing and busy law firm and the time he spent in academic research and writing on Canadian and international tax matters, one would have thought that David Ward could not possibly have had any outside interests. Nothing is further from the truth. In addition to raising a family with his wife Nancy, who always accompanied him on his travels around the world, David was an art lover and a prominent collector as well as an avid skier and sailor. In each of these pursuits, David had a drive to succeed, and he never lost his competitive streak. Several young lawyers at our firm were recruited to crew on his yacht during races on Lake Ontario, and tales of their experiences as sailing novices at the mercy of the captain were legendary in the hallways of the firm. All of those young lawyers benefited from the lessons they learned, and many developed lifelong friendships with David and Nancy, which continued even after professional associations had ceased.

I had the privilege of being mentored by David Ward from the first day that I joined his firm as an articling student in 1977. I was always impressed by his intellectual acumen and curiosity and by his creativity, judgment, and wisdom. He liked nothing better than to quickly analyze every new release of Canadian tax legislation, and he was inevitably the first tax lawyer in the firm not only to understand the new statutory provisions but also to identify the ways in which the legislation could be utilized in planning for the benefit of our clients. I constantly admired his passion for combining the practice and the study of tax law

at the highest level. Perhaps more importantly, I have benefited every day of my career from the culture of excellence, collective teamwork, and ethical practice that he fostered as our founding partner.

It is an honour for me, along with my co-editors, Guglielmo Maisto and Angelo Nikolakakis, to present this exceptional collection of essays written in tribute to the memory of David A. Ward, one of the few truly iconic figures in the emergence of the study of international tax law in the 20th century.

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