

Preface

Both the OECD Model Tax Convention on Income and Capital (OECD Model) and the United Nations Model Double Taxation Convention (UN Model) often serve as a basis for tax treaty negotiations between different jurisdictions around the world, being a designed tool to facilitate legislative harmonization. At the same time, however, the interpretation of a particular tax treaty provision may still differ from country to country due to various reasons. Therefore, the risk of double or even multiple (non-)taxation is not entirely eliminated which adversely affects the international trade in goods and services and the movement of capital and people. In order to promote a uniform interpretation of tax treaties worldwide and hence reduce the risk of double or multiple (non-)taxation, basic knowledge on how various tax treaty issues are dealt with by different jurisdictions is necessary.

It is widely known that a unified approach to interpreting and applying international tax treaty rules can benefit not only the countries that are parties to a particular tax treaty but also their taxpayers as well as international trade and investment in general. Consequently, this topic is of ongoing concern to many tax scholars, practitioners, public officers, and representatives of international organizations.

On 26–28 April 2023, the “Tax Treaty Case Law around the Globe” conference was at the WU (Vienna University of Economics and Business). This international conference took place for the twelfth time and was jointly organized by the Institute for Austrian and International Tax Law of the WU and the European Tax College of Tilburg University. The conference was dedicated to the analysis of the most important international tax treaty law cases decided all over the world in 2022. Thirty-two cases were presented by outstanding tax experts from 22 different tax jurisdictions. Each presentation was followed by an in-depth and fruitful discussion. Conference participants compared interpretation approaches existing in both the OECD and non-OECD Member countries and presented comprehensive conclusions and suggestions. The main scientific results of the conference are presented in this book.

Each report in this book is devoted to a court case or a series of cases on a particular article of the tax treaty at issue (often based on the OECD or UN Model) decided in a certain jurisdiction in 2022. Every report is structured in a similar way, presenting the facts of the case, the decision and reasoning of the court, and the authors’ observations and conclusions, including the possible impact of the decision on the development of international tax law in the respective country and in other jurisdictions. This clear and concise structure provides a solid and accessible overview of the case law on tax treaty application around the world in 2022. The systematic structure of each report allows different tax treaty case law to be studied and compared in a simple and efficient manner.

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

The editors would like to express their sincere gratitude to the Linde Publishing House for their cooperation and swift realization of this publishing project. Ms. Jenny Hill contributed greatly to the completion of this book by editing and polishing the texts for authors for whom English is – for the most part – a foreign language. Furthermore, we are most grateful to Michael Hubmann and Monique Malan who helped with the preparation and realization of the conference and assisted in editing the book. Finally, special thanks go to Matthias Bauer, Nina Nimmerrichter and Caroline Ristic and who were responsible for the organization of the conference in Vienna and who also worked on the publication of this book.

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