Series Editor's Preface

The LL.M. program in International Tax Law at WU (Vienna University of Economics and Business) is available as either a 1-year full-time or a 2-year part-time program. Students not only attend a vast number of courses for which they prepare papers and case studies as well as sit numerous examinations but also write their master's theses. These theses are a prerequisite for the academic degree Master of Laws (LL.M.).

The program follows a scheme under which the master's theses of one particular program all examine various aspects of the same general topic. Previous general topics have included:

- Electronic Commerce and Taxation (1999/2000 full-time program)
- Partnerships in International Tax Law (2000/2001 full-time program)
- Transfer Pricing (1999/2001 part-time program)
- Exemption and Credit Methods in Tax Treaties (2001/2002 full-time program)
- Permanent Establishments in International Tax Law (2002/2003 full-time program)
- Non-Discrimination Provisions in Tax Treaties (2001/2003 part-time program)
- Triangular Cases (2003/2004 full-time program)
- Tax Treaty Policy and Development (2004/2005 full-time program)
- Source versus Residence in International Tax Law (2003/2005 part-time program)
- The Relevance of WTO Law for Tax Matters (2005/2006 full-time program)
- Conflicts of Qualification in Tax Treaty Law (2006/2007 full-time program)
- Taxation of Artistes and Sportsmen in International Tax Law (2005/2007 part-time program)
- Fundamental Issues and Practical Problems in Tax Treaty Interpretation (2007/2008 full-time program)
- Dual Residence in Tax Treaty Law and EC Law (2008/2009 full-time program)
- Taxation of Employment Income in International Tax Law (2007/2009 part-time program)
- The EU's External Dimension in Direct Tax Matters (2009/2010 full-time program)
- History of Tax Treaties (2010/2011 full-time program)
- Permanent Establishments in International and EU Tax Law (2009/2011 part-time program)
- International Group Financing and Taxes (2011/2012 full-time program)
- Limits to Tax Planning (2011/2013 part-time program)
- Exchange of Information for Tax Purposes (2012/2013 full-time program)
- Tax Policy Challenges in the 21st Century (2013/2014 full-time program)
- Global Trends in VAT/GST (2013/2015 part-time program)

- Non-Discrimination in European and Tax Treaty Law: Open Issues and Recent Challenges (2014/2015 full-time program)
- Preventing Treaty Abuse (2015/2016 full-time program)
- Limiting Base Erosion (2015/2017 part-time program)
- Taxation in a Global Digital Economy (2016/2017 full-time program)
- Arbitration in Tax Treaty Law (2017/2018 full-time program)
- Transfer Pricing and Value Creation (2017/2019 part-time program)
- Special Features of the UN Model Convention (2018/2019 full-time program)
- Hybrid Entities in Tax Treaty Law (2019/2020 full-time program)
- Concept and Implementation of CFC Legislation (2019/2021 part-time program)
- Access to Treaty Benefits (2020/2021 full-time program)
- Justice, Equality, and Tax Law (2021/2022 full-time program)
- Multilateral Cooperation in Tax Law (2021/2023 part-time program)
- Tax and Technology (2022/2023 full-time program).
- The Global Minimum Tax – Selected Issues on Pillar Two (2023/2024 full-time program)
- Environmental Taxation (2024/2025 full-time program)

The respective master's theses were published in edited volumes.

The general topic for the 2023/2025 part-time program was Anti Abuse Rules in International Tax Law and their Interactions. Susi Hjorth Baerentzen introduced the students to the subject matter at the beginning of the program. Christian Knotzer and Ivan Lazarov held workshops in which the structure of the papers and the preliminary results were critically analysed. It was with great commitment that they supported the students who were preparing their theses. Their numerous suggestions helped to improve the quality of those theses and, as a consequence, the quality of the present volume. In my function as both the scientific director of the LL.M. program and the editor of this series, I would like to not only thank those two colleagues for their excellent engagement and efforts but to also express my gratitude to them.

Finally, I am also grateful to the students themselves. They pursued the program with great enthusiasm. This LL.M. program not only gave them the opportunity to interact with academics and scientifically qualified interns from all over the world and to acquire a wealth of knowledge, but they also learned how to effectively address and solve complex issues using a structured approach. The master's theses that are now available bear witness to this. I hope that the results of these papers will both influence scientific discussion and be of use to tax practitioners.

Michael Lang

Preface

The efforts to counter tax avoidance and tax abuse have increased significantly in recent years. The OECD's project on Base Erosion and Profit Shifting (BEPS), in particular, led to the addition of anti-abuse provisions to numerous domestic tax systems and double taxation treaties (DTTs). Alongside very broad and generally phrased rules (general anti-abuse rules [GAARs]), there are provisions that are more targeted (specific anti-abuse rules [SAARs]) with the aim of identifying and preventing abusive tax behaviour on the basis of objective criteria. In addition, countries and international organizations are increasingly relying on non-legally binding instruments. These developments have thus led to a patchwork of provisions in domestic as well as in international law whose interaction with each other is very intricate and remains under-researched. Many of these rules also pose complex challenges in relation to EU law and corresponding case law of the Court of Justice of the EU. With the Anti-Tax Avoidance Directive, the EU has established a legal basis that obligated Member States to incorporate numerous (general and specific) anti-abuse provisions into their domestic tax legislation that were, in part, formerly unknown to their legal systems. This volume is dedicated to contributing to the academic analysis of all of these issues.

Against this background, the topic "Anti-Abuse Rules in International Tax Law and their Interactions" was chosen as the general topic for the master's theses of the part-time 2023–25 class of the postgraduate LL.M. programme in International Tax Law at WU (Vienna University of Economics and Business). The book is divided into three parts. The contributions of the first part deal with questions of the interaction of domestic anti-abuse measures with anti-abuse rules to be found in DTTs and also analyse these questions from an EU law perspective. In the second part, the contributions delve into the intricate interactions of anti-abuse and other rules in DTTs and again incorporate the EU law angle on the challenges identified. The third part of the book is dedicated to anti-abuse rules and principles under EU law and their interaction.

The topics covered in this volume are diverse and comprehensive. They include the interaction of domestic measures with anti-abuse rules in DTTs and the EU law context, the application of domestic SAARs in a DTT context and their interaction with potential instances of treaty override, the application of domestic exit taxation regimes and their interaction with DTTs and EU law, mandatory disclosure rules and their interaction with anti-abuse rules and principles under DTTs and EU law, and the burden of proof under domestic anti-abuse rules and its interaction with EU law and DTTs

Furthermore, the volume explores the relevance of the preamble to the OECD and UN Model Conventions and its interaction with anti-abuse rules, the interaction of the "beneficial ownership" concept with other anti-abuse rules in DTTs and under EU law, the artificial avoidance of permanent establishment (PE) status and its interaction with other anti-abuse rules under DTTs and domestic law, the "special relationship rules" in Articles 11, 12, 12A, and 12B of the OECD and UN Models and their interaction with anti-abuse rules under DTTs, the Limitation on Benefits (LoB) clause and its interaction with other anti-abuse rules in DTTs and EU law, the rule on third-country PEs and its interaction with other anti-abuse rules in DTTs, minimum holding periods under DTTs and EU law and their interaction with other anti-abuse rules, indirect transfers of immovable property, shares, and rights and their interaction with other anti-abuse rules in DTTs, the impact of Pillar Two on the notion of abuse in international taxation and its interaction with anti-abuse rules, the rule for dual-resident companies and its interaction with anti-abuse rules in DTTs and the EU law context, and anti-abuse rules and principles under EU law and their interaction.

This volume aims to provide a comprehensive academic analysis of the intricate interactions between various anti-abuse rules in international tax law. It is hoped that the insights and findings presented in this book will contribute to a deeper understanding of the complexities involved and inform future developments in this field.

Christian Knotzer

Ivan Lazarov