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*Eu Taxation Law*

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## **DEVYN FERNANDA**

### **Introduction to European Tax Law on Direct Taxation**

Edward Elgar Publishing

The effect of the significant changes in tax law at domestic, European, and international levels on investment funds, an important part of global financial services, creates a complex environment for practitioners and a source of debate for academics and policymakers. This is the first book to provide a comprehensive legal and practical analysis of the changes to the complex multilevel tax and regulatory framework concerning different types of investment funds. The contributions, updated as of late 2017, were originally presented at a conference held at the University of Luxembourg in November 2016 under the auspices of the ATOZ Chair for European and International Taxation. The book covers the central questions arising in national law and tax policy, explores the regulatory and tax framework of the European Union (EU), and discusses the multifaceted interactions of both national and EU law with bilateral tax treaties. Through fourteen chapters following a brief introduction, leading academic experts and practising specialists provide decisive insight into: – the regulatory regime for European investment funds; – the tax law and reforms in both Luxembourg and Germany; – the role of the European Commission’s State-aid practices; – examples of case law concerning the application of non-discrimination rules to various investment vehicles; – the impact of tax-specific EU legislation, such as the Parent-Subsidiary Directive, the Tax Merger Directive, and the Anti-Tax Avoidance Directive; – the availability of tax treaty protection for different collective and non-collective investment funds; – the impact of base erosion and profit shifting (BEPS) developments on the taxation of cross-

border investments; – the value-added tax (VAT) treatment of investment funds and their managers; and – the consequences of the global drive towards automatic exchange of information relating to existing cross-border investment structures. With its particular focus on Luxembourg – the leading centre for investment funds in Europe (and second only to the United States globally) and, thus, an instructive model for domestic-level investment fund regulation and taxation – this volume reveals the common issues that arise in virtually every other jurisdiction with a sizeable fund industry. As the first in-depth treatment of the globally significant nexus between investment funds and taxation, the book will prove valuable to policymakers, practitioners, and academics in both financial services and tax law.

*EU Tax Law* Oxford University Press, USA

Economic recovery from the global financial crisis of 2007–2008 has been sketchy, with some areas within the European Union (EU) still trapped in seemingly irremediable industrial stagnation and job loss. EU institutions are called upon to provide concrete amelioration for these situations, through the design and implementation of effective tax policies in accordance with the fundamental principles of EU law. In this original, innovative book, the author presents a new and expanded view of how special tax zones (STZs) – areas of land where territorial advantages are granted on direct and/or indirect taxation – can deliver growth and mitigate economic and social emergency. Recognizing that, although a number of STZs within the EU have been established, there is still no systematic framework for them in the EU legal system, the author works out a comprehensive theory for STZs in the field of European tax law, dealing incisively with the interface of STZs with such essential legal and tax aspects as the following: customs union provisions; benefits on direct and indirect taxation; State-aid rules; free movement of persons; harmful tax

competition; and role of EU social cohesion policies and their implementation. Furthermore, the author develops a new model of STZs for the most disadvantaged areas of the EU – the so-called Social Cohesion Zone – to respond decisively to issues of compatibility with such critical variables of EU law as those dealing with the outer limits set by State-aid rules and fundamental freedoms, clearly demonstrating the model’s practical viability. Detailed reviews of Member States’ practice in existing STZs and their tax regimes are thoroughly described so different variables can be compared. As a comprehensive description of the state of knowledge about STZs, including the relevant background and their current place in EU law, this book has no precedents and no peers. It allows practitioners, policymakers, and academics in tax law to fully understand the relationship between EU law, national legislation, and STZs, focusing on the possibility of reconciling the tax sovereignty of Member States with a supporting and coordinating role of the EU institutions. It will be warmly welcomed by the tax law community.

[European Tax Law Seventh Edition](#) Kluwer Law International B.V. This handbook is a concise guide for those who are interested in obtaining a basic knowledge of European tax law. Designed for students, it should be useful as well for experienced international tax specialists with little knowledge of European law, for European law specialists who are reluctant to approach the technicalities of direct taxation, and for non-Europeans who deal with Europe for business or academic reasons and need to understand the foundations of European tax law. The book will also be useful to academics without a legal background, in order to approach the technical issues raised by European Union tax law. This third edition has been updated and upgraded. For the purpose of enhancing the handbook’s content and its flexible use, the book

contains (flow) charts, a table of all the ECJ judgments quoted, indicating the marginal number and chapter in which they have been analyzed, and an analytical index. Considering the complexity of European direct tax law and the relevant ECJ case law, such features will also make this handbook an indispensable tool for the most experienced European direct tax law experts. National Legal Presumptions and European Tax Law Cambridge University Press

This meticulously researched book provides a practical commentary on, and analysis of, the harmonised system of Value Added Tax (VAT) in the European Union and each of its Member States. Written by a team of expert practitioners led by KPE Lasok QC, an authority on European law with extensive practical experience of VAT and Customs cases, this book is destined to become the reference work of choice on VAT for both practitioners and scholars.

EU Tax Law Kluwer Law International B.V.

Determining the burden of proof in tax law cases is usually what contributes most to the case's outcome. Legal presumptions – those inferences that are laid down in the law rather than being the result of the court's reasoning – play a critical role in such determinations. This very useful book uncovers the details of such presumptions which are shared among European tax law systems, thus revealing a remarkably clear path through the course of a tax law case in any Member State in the context of EU law. Referring to both legal theory and relevant case law, the author assesses whether and to what extent national legal presumptions may be deemed to be consistent with EU law, and when this is not the case, under which conditions they may be reconciled. The analysis unfolds along such avenues as the following: – the meaning of the concept of legal presumption as developed by legal theory and authoritative academic literature; – special considerations regarding presumptions in customs law, VAT, and direct taxation (harmonized and unharmonized); – how tax authorities use presumptions to simplify the assessment of tax and tackle tax avoidance or evasion, particularly in cross-border situations; – justifications asserted by the Member States in relation to restrictions on fundamental freedoms; and – standards of compatibility for national legal presumptions with EU law resulting from CJEU case law. With reference to national experience, using Italy and Belgium as specific examples, the

analysis culminates in an elaboration of criteria for legal presumptions capable of meeting the test of compatibility with EU law. As an in-depth investigation of possible inconsistencies and conditions for the coexistence of EU and Member State tax law, this book will be welcomed by both taxation authority officials and taxpayer counsel. The understanding it imparts on the actual impact of EU law on the recourse to legal presumptions by national tax legislatures and the protection of European taxpayers is unsurpassed.

Human Rights and Taxation in Europe and the World Kluwer Law International B.V.

Basic knowledge of European Tax Law This concise handbook has become a traditional instrument for gaining basic knowledge of European tax law with emphasis on direct taxes. It is directed at students, experienced international tax specialists with little knowledge of European law, European law specialists and non-Europeans who deal with Europe for business or academic reasons and need to understand the foundations of European tax law. Moreover, this book can be useful to academics without a legal background in approaching technical issues raised by European Union tax law, as well as give inspiration to the most experienced European direct tax law experts. This seventh edition further refines and updates the content, but also enhances the coordination across the chapter and the selection of case law in line with the weight that it carries for the development of European tax law. An indispensable consultation tool - Introduction to European Tax Law on Direct Taxation.

Special Tax Zones and EU Law Cambridge University Press

Major changes in EU tax law demand an analysis of not just the current state of the field, but also forthcoming EU-level policy initiatives and their likely implications for taxpayers, regulators, and national legislatures alike. This book, the first in-depth commentary and analysis of such developments, offers exactly that. Twenty EU tax and policy experts examine the impact of EU Treaty provisions and recent ECJ case law on EU tax law, and provide well-informed assessments of current and anticipated EU tax policy initiatives and their potential impacts. Taxpayers, their advisors, national tax administrations, and national legislators will find relevant chapters to aid their understanding of, and to allow them to proactively address, EU tax law issues, such as: – non-discrimination; – state aid rules; – fundamental freedoms; –

discretionary power of national tax authorities; – tax competition in the internal market; – cross-border exchange of tax information; – corporate tax harmonization; – EU and Member States' external relations; and – the limits of judicial authority in tax policy. As an authoritative, detailed guide to recent and future developments in EU tax law, with highly informed insights into their practical effect, this book will be a welcome addition to the arsenal available to tax practitioners dealing with European tax matters, as well as interested policymakers and academics.

EU Taxation Law Kluwer Law International B.V.

Resumen del editor: "The increasing globalization and the restructuring of the European legal framework by the Treaty of Lisbon are important factors to suggest that the traditional separation of spheres between taxation and human rights should be revisited. This book examines the issues surrounding the impact of the Lisbon Treaty on the guarantee and enforcement of human rights in the area of EU (tax) law and explores the possible development and potential impact of human rights in the field of taxation in this age of global law."

Introduction to European Tax Law: Direct Taxation Kluwer Law International B.V.

EU tax law develops rapidly, especially because of the growing number of judgments from the EU Court on direct tax matters. Therefore, regular updates of the book are necessary. The most recent judgments have clarified the many remaining, unclear issues concerning the impact of EU law on direct taxation. This 2014 edition takes into account all judgments of the EU Court on direct tax matters issued by the end of June 2014. Also, new case law concerning human rights in the EU context together with a lot of new literature is added to this edition. The scope of automatic exchange of tax information between the tax administrations in the European Union has been broadened and this trend is likely to continue. The 2014 amendments to the Savings Directive have been included already in this edition, even though they have to be implemented only before the beginning of 2016. The same is true for the 2014 Parent-Subsidiary Directive amendment concerning hybrid mismatch situations.

European Tax Law, Volume 1 Linde Verlag GmbH

Following each Member State's need to rebuild a strong and stable economy after the 2007 financial crisis, the European Union (EU) has developed a robust new transparency framework

with binding anti-abuse measures and stronger instruments to challenge external threats of base erosion. This is the first and only book to provide a complete detailed analysis of the Anti-Tax Avoidance Package and other recent and ongoing European actions taken in direct taxation. With contributions from both prominent tax academics and Spain's delegates to the European meetings where these rules are debated and promulgated, the book covers such issues and topics as the following: - the development of the EU Strategy towards Aggressive Tax Planning; - recent tax-related jurisprudence of the European Court of Justice; - the Anti-Tax Avoidance Directive; - tax treaties and non-tax treaties with tax consequences both between Member States and between Member States and third countries; - code of conduct for business taxation; - automatic exchange of information; - country-by-country reporting; - arbitration in tax matters; - external strategy for effective taxation regarding non-EU countries; - competition and state aid developments in direct taxation; - the Common Consolidated Tax Base; and - digital significant presence and permanent establishment. As the EU pursues its ambitious tax agenda, taxation's contribution to EU growth and competitiveness and its part in relations with the rest of the world will come into ever clearer focus. In addition to its insights into these trends, the book's unparalleled practical information and analysis will be of great value to tax practitioners dealing with investment analysis, tax planning schemes, and other features of the current international tax landscape.

**PRINCIPLES OF LAW: FUNCTION, STATUS AND IMPACT IN EU TAX LAW (INTERLOAN 309394 - NO RENEWALS).** Kluwer Law International B.V.

Freedom of movement is a key principle of the European Union (EU) resulting in the right of every EU citizen to move and reside freely within the EU. Many EU citizens work in other Member States than their Member State of origin. Direct taxes are not as such covered in the treaties and therefore have much smaller bases for harmonization at EU level than indirect taxes. As a result, decisions of European Court of Justice (ECJ) on the clash between the EU principle of free movement and Member States' direct tax rules have a significant effect on national direct tax systems. This book focuses on the relation between free movement rights of EU citizens and the legal autonomy of Member States in the area of direct taxation and will immediately

engage tax practitioners and scholars. The author asks (and answers) the question: Has the willingness at EU level to make EU citizenship a key driver behind the integration process come at the expense of national direct tax autonomy? The book's incomparably thorough analysis of the distinctive evolution, mainly via ECJ case law, of the relation between the EU principle of free movement of persons and Member States' direct tax rules includes in-depth discussion of the following elements and more: - the concept of EU citizenship in the EU's constitutional and institutional development; - how the ECJ has interpreted the concept of free movement with regard to economically inactive persons; - how the notion of EU citizenship has widened the ECJ's view on treaty access; - how the ECJ has addressed the clash between free movement of persons and direct taxation in the EU's constitutional context; and - numerous tax policy initiatives with regard to EU citizens before and after the Treaty of Lisbon. This is the first book to investigate in such detail how the ECJ has tried to reconcile specific national direct tax rules with the general EU principle of free movement of persons from the perspective of EU citizenship. This book explains that the ECJ is in the process of reconceptualizing the market freedoms relating to the free movement of persons, also in the area of direct taxation, as part of a broader EU citizenship right for all economically active EU citizens to pursue an economic activity in a cross-border context; a right beyond the aim of realization of the internal market. As an extremely important analysis of the influence of EU law on the direct tax autonomy of Member States, this book is sure to be itself of great influence in the practice and study of taxation in the EU.

*Procedural Rules in Tax Law in the Context of European Union and Domestic Law* Spiramus Press

Value added tax (VAT) is responsible for generating approximately €903 billion per year in tax revenues across the European Union - revenues that play a huge role in budgetary policymaking in the Member States. This extremely useful book provides not only a thorough description of the current state of EU VAT law, but also a detailed explanation of the system's rationale and its legislative provisions. It puts the elements of the system in perspective and shows how they are linked to each other. The focus lies on the rules which can be deduced from the sources of EU VAT law and on their application in practice. The systematic

presentation covers such issues and topics as the following: • sources of EU VAT law, including principles derived from CJEU case law; • principles underlying the EU VAT system; • relations among the layers of VAT law - primary and secondary EU law, national law; • how to apply the VAT legislation and case law; • allocation of taxing rights (place of supply rules); • invoicing requirements and other administrative obligations; • exemptions, VAT rates and the taxable amount; • the right of deduction of input VAT; • intra-Community transactions, importation and exportation; • immovable property; and • how far a national court must and can go in interpreting national provisions in the light of the VAT Directive and the principles underlying the VAT system. The book follows the structure of the VAT Directive/VAT determination scheme, with additional topical chapters on immovable property, intra-Community transactions, and importation and exportation of goods. With its detailed attention to the meaning and interpretation of each legislative provision and court ruling, this book serves as an incomparable guide for practitioners. Its emphasis on the rationale and systematics of the EU VAT system make it an indispensable reference for all tax law professionals and researchers.

**EU Value Added Tax Law** Spiramus Press

As European Union (EU) Member States seek to counteract base erosion and profit shifting (BEPS) practices while avoiding new obstacles to the EU's internal market such as double taxation, the credit method, also known as the foreign tax credit, is one of the essential tools in this balancing act, yet it is one that has given rise to various EU law challenges and questions. This invaluable book - the first in-depth study of the EU law constraints on designing the credit method - delineates the EU law boundaries within which the Member States must operate when they implement this method of tax relief. For the first time, the Court of Justice of the European Union (CJEU) cases that may affect, directly or indirectly, the credit method and its main components are systematically identified and analysed in order to extract the legal findings and principles that define the contours within which the Member States can manoeuvre when considering EU-compatible approaches to the credit method. To this end, among others, this book offers: an extensive study of the historical legal developments of the credit method; an overview of the key design features of the credit method, considering the optional,

variable components, such as the credit limitation (maximum creditable amount), that tailor it to different legal and policy considerations; an analysis of the legal constraints on the key features of the credit method flowing from CJEU case law on the fundamental freedoms, considering the impact of landmark cases and concepts (e.g., Schumacker, neutralization); the EU law implications based on the type of credit method (direct, indirect, imputation) and the feature of the credit method (e.g., credit limitation, credit carryforward); and examples to clearly and concisely illustrate the basic operation of the credit method and some of the main calculation and EU law issues. The author's doctoral dissertation, on which the book is based, was awarded the Wolfgang Gassner Science Prize 2020 and the European Doctoral Tax Thesis Award 2020. As a timely, comprehensive and practical study of the relationship between the credit method and EU law, this book will be welcomed by lawyers and other professionals working with taxation matters, as well as by tax policymakers and academics in the fields of international and European tax law.

#### **European Tax Law** IBFD

Time is a crucial dimension in the application of any law. In tax law, however, where an environment characterized by rapid change on the national, European, and international levels complicates the provision of accurate legal advice, timing is particularly sensitive. This book is the first to analyse the relationship between time and three key areas of tax: treaties, EU law, and constitutional law issues, such as legal certainty and individual rights. Among the numerous timing issues arising out of applying tax rules, the book addresses the following: - time limits within which relief must be requested; - statutes of limitation for claiming a tax refund; - transitional issues relating to changes in tax treaties; - attribution of profits and expenses to a moving or closed-down business; - effect of tax-related CJEU decisions and EU directives; - compliance of exit tax regimes with free movement; - limits of retroactivity under principles protected by the EU Charter and the ECHR; and - conflict between efficiency of taxation and individual rights. Derived from a recent conference organized by the prestigious ATOZ Chair for European and International Taxation at the University of Luxembourg, the book brings together contributions from leading tax experts from various areas of tax practice, academia, and the judiciary. Among

other issues, the book notably expands on how economic theory can inform a constitutional analysis of the timing of taxation. There is no other work that concentrates so usefully on the difficulties associated with applying tax rules - whether arising from treaties, jurisprudence, or policy - to changing circumstances over time. This book will quickly prove itself to be an indispensable resource for European tax lawyers, policymakers, company counsels, and academics. [EU Tax Disclosure Rules](#) Kluwer Law International B.V. Should the income of a corporate group be taxed differently solely because the traditional structure of the income tax system considers each company individually? Taxation affects business decisions, including location, the form in which business is carried out, and the efficient allocation of company resources. Disparities - differences arising from the interaction of different tax systems - and obstacles - distortions created by domestic legislation arising from differences between domestic and cross-border situations - both become more acute when a business chooses to set up or acquire other companies, thus forming a group, usually operating in multiple jurisdictions. Responding to such ever more common developments, this book is the first in-depth analysis of how tax treaties and EU law influence group taxation regimes. Among the issues and topics covered are the following: - analysis of the different tax group regimes adopted by different countries; - advantages and disadvantages of a variety of models; - application of the non-discrimination provision of Article 24 of the OECD Model Tax Convention to group taxation regimes; - application of the fundamental freedoms of the TFEU to group taxation regimes following the three-step approach adopted by the EU Court of Justice; - uncertainty raised by the landmark Marks & Spencer case, its interpretation and consequences to other group taxations regimes; - interrelations between tax treaties and EU Law in the context of tax groups; and - per-element approach. The analysis considers concrete examples as well as relevant case law. With its analysis of the standards required by the two sets of norms (tax treaties and EU law) and their interaction, particularly in terms of non-discrimination, this book sheds clear light on ways to overcome the disparities and obstacles inherent in group taxation regimes. As a thorough survey of the extent to which the interpretation of tax treaties and EU law affect group taxation regimes, this book has no peers.

All taxation professionals, whether working in EU Member States or in EU trading partners, will appreciate its invaluable insights and guidance.

#### **EU Citizenship and Direct Taxation** Spiramus Press Ltd

How does EU law affect Member State corporate tax systems and the cross-border activities of companies? This unique study traces the historical development of EU corporate tax law and provides an in-depth analysis of a number of issues affecting companies, groups of companies and permanent establishments. Existing legislation, soft-law and the case-law of the Court of Justice are examined. The proposed CCCTB Directive and its potential application through enhanced co-operation are also considered. In addition to the tax issues pertaining to direct investment, the author examines the taxation of passive investment income, corporate reorganisations, exit taxes and the restrictive effect of domestic anti-abuse regimes. By doing so, the convergences and divergences arising from the interplay of EU corporate tax law and international tax law, especially the OECD model, are uncovered and highlighted.

#### [European Tax Law](#) Edward Elgar Publishing

The seventh edition of this two-volume set brings a comprehensive and systematic survey of European Tax Law up to January 2018. It provides a state of the art clarification and analysis of the implications of the EU Treaties and secondary EU law for national and bilateral tax law. From the consequences of the EU free movement rights - to the soft law meant to put a halt to harmful tax competition. The seventh edition of European Tax Law offers a cutting-edge analysis of the field surrounding tax law across Europe. It puts forward a thought-provoking discussion of the current EU tax rules, as well as of the EU Court's case law in tax matters. Previous editions were highly regarded as a staple overview of EU tax law among EU tax law practitioners, policymakers, the judiciary and academics alike. With its updated legislation and case-law up to January 2018, this new edition maintains its unparalleled depth and clarity as the go-to reference book in the field. This first volume of the abridged student edition of 'European Tax Law' covers: 1. The consequences of the EU free movement rights, the EU State aid prohibition, the EU Charter of Fundamental Rights and the general principles of EU law for national tax law, tax treaties, national (tax) procedure, State liability and relations with third States, as they appear from the

case law of the Court of Justice of the EU 2. Secondary EU law in force and proposed on direct taxes: the Parent-Subsidiary Directive, the Tax Merger Directive, the Interest and Royalties Directive, cross-border tax dispute settlement instruments, the Anti-Tax Avoidance Directive and the C(C)CTB proposal 3. The exchange of information and other administrative assistance in the assessment and recovery of taxes between the EU Member States 4. Soft Law on Harmful Tax Competition 5. Procedural matters and the extent of judicial protection The upcoming second volume of this set will cover harmonization of indirect taxation, energy taxation and capital duty, as well as administrative cooperation in the field of indirect taxation.

**Taxation in European Union** Kluwer Law International B.V. This book examines recent developments and high-profile debates that have arisen in the field of international tax law and European tax law. Topics such as international tax avoidance, corporate social responsibility, good governance in tax matters, harmful tax competition, state aid, tax treaty abuse and the financial transaction tax are considered. The OECD/G20 project on Base Erosion and Profit Shifting (BEPS) features prominently in the book. The interaction with the European Union's Action Plan to strengthen the fight against tax fraud and tax evasion is also

considered. Particular attention is paid to specific BEPS deliverables, exploring them through the prism of European Union law. Can the two approaches be aligned or are there inherent conflicts between them? The book also explores whether, when it comes to aggressive tax planning, there are internal conflicts between the established case law of the Court of Justice and the emerging policy of the European institutions. By so doing it offers a review of issues which are of constitutional importance to the European Union. Finally, the book reflects on the future of international and European tax law in the post-BEPS world.

*European Tax Law* Edward Elgar Publishing

Selected issues of the various non-discrimination concepts Non-discrimination plays an important, if not crucial, role in many areas of law, such as constitutional law, human rights law, world trade law, EU law and tax treaty law. Both direct and indirect taxation are affected by the various types of non-discrimination provisions. From a practical point of view, the non-discrimination provisions within the EU legal framework and the non-discrimination concept under Article 24 of the OECD Model are important examples in this respect. In both areas of non-discrimination law, there are many open issues which have been debated for a long time and have evolved as evergreens of non-

discrimination in the area of taxation; examples are the meaning of the ECJ's case law on the "finality" of losses or the compatibility of group regimes with Article 24 of the OECD Model. Other problems have emerged only recently, because of current developments at the OECD level, notably the BEPS project. Therefore, non-discrimination suggested itself as a general topic for the master theses of the full-time LL.M. program in 2014/2015. This book takes up and deals with selected issues in depth. Although the relevant non-discrimination provisions are different in wording and context, often the same issues can be analyzed under both the EU fundamental freedoms and Article 24 of the OECD Model. The results under these non-discrimination provisions may differ. However, similar policy considerations and arguments often influence the final decisions. With this book, the authors and editors contribute to the discussion on selected issues of the various non-discrimination concepts and the challenges they present.

EU Corporate Law and EU Company Tax Law Bloomsbury Publishing

What is the impact of European Union law on Member State corporate tax systems and the cross-border activities of companies?