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# Survey of Literature

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## Recent articles on EC Taxation

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Wim van der Beek, Coopers & Lybrand, Amsterdam

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### Harmonization of Corporate Taxes

*Harmonization of Corporate Tax within the EC*

A.J.M. Timmermans

Intertax, 1992/1 (January 1992), p. 13.

The author reviews the pros and cons from a business perspective of either harmonizing corporate taxes or introducing a European corporate tax. In conclusion, the author recommends that priority should be given to partial harmonization. If a European corporate tax is to be introduced, this should be done gradually, and in conjunction with a simultaneous reduction of the domestic corporate taxes.

### Ruding Committee Report

*Memorandum for the EC Committee of Experts*

Confédération Fiscale Européenne

European Taxation, Vol. 32, No. 2 (February 1992), p. 51.

This memorandum sets out the main points of distortion in the taxation of companies within the EC. Attached to the memorandum is an opinion statement of the CFE on the European Company Statute.

*Ruding Committee Report Unveiled; New Measures Proposed for Company Taxes in the EC*

Jens Blumenberg and Richard G. Minor

Tax Notes International, Vol. 4, No. 12 (23 March 1992), p. 563.

The article provides an overview of the Ruding Committee conclusions and recommendations.

*Ruding Committee Recommendations Unlikely To Solve U.K. Surplus ACT Problem*

John G. Goldsworth

Tax Notes International, Vol. 4, No. 15 (13 April 1992), p. 751.

The author comments on the Ruding Committee conclusions and recommendations from a U.K. perspective.

*The EC on the Brink of Full Corporate Tax Harmonization?*

Hubert Hamaekers

European Taxation, Vol. 32, No. 4/5 (April/May 1992), p. 102.

This article comments on the conclusions and recommendations of the Ruding Committee. The author concludes that many European problems could be solved if the classical system would be adopted by all Member States, and if the direct tax directives would be adopted by the EFTA countries.

*Report of the Ruding Committee: Conclusions and Recommendations of the Committee of Independent Experts on Company Taxation*

European Taxation, Vol. 32, No. 4/5 (April/May 1992), p. 105.

Full text of the Preface, Executive Summary and Chapter 10 (Conclusions and Recommendations) of the Ruding Committee Report, as published by the EC Commission on 18 March 1992.

*Commentary on the Ruding Report*

John Chown

European Taxation, Vol. 32, No. 4/5 (April/May 1992), p. 123.

The author summarizes and comments on the Ruding Report, and concludes that although not all the issues are resolved and on some questions the recommendations are seriously flawed, the report really takes the debate a step further.

*A Practitioner's View of the Ruding Report*

Maarten J. Ellis

European Taxation, Vol. 32, No. 4/5 (April/May 1992), p. 129.

The article provides brief comments on the Ruding report, calling for a long term vision of governments and business.

*EC Ponders Distortion and Discrimination*

Gregory Härtl-Watters

International Tax Review, Vol. 3, No. 6 (May 1992), p. 20.

The author analyses the main findings of the

Ruding Committee and reports on comments from the Institute of Fiscal Studies. The author concludes that, if nothing else, the Ruding Committee's conclusions and proposals will ensure that debate remains lively and that the EC retain a momentum towards harmonisation.

*Comments on the Ruding Committee Report*  
Frans Vanistendael

EC Tax Review, 1992/1 (May 1992), p. 3. The author, who is a member of the Ruding committee, reflects on the major issues dealt with in the report, and comments on the principal points of discussion among the committee's members. The author concludes that community action is necessary to eliminate tax distortions in the single market, and recommends to abolish the unanimity voting rule on tax matters regulated by a directive. The article concludes with an overview of the fundamental differences that remain and of the ways and means to resolve these matters.

*Coordinating Business Taxation in the Single European Market: the Ruding Committee Report*

Charles E. McClure, Jr.

EC Tax Review, 1992/1 (May 1992), p. 13. The author provides a general review of the report and its conclusions and recommendations. In his evaluation of the report, the author identifies several weaknesses. The author criticises the committee's failure to choose a definition of neutrality, the recommended minimum statutory rate, the recommendations on inflation adjustment, and the discussion of arm's length pricing.

*The Ruding Committee Report – An Impressive Vision of European Company Taxation for the Year 2000*

Brigitte Knobbe-Keuk

EC Tax Review, 1992/1 (May 1992), p. 22. The author comments on the main findings of the Ruding committee, and reviews the working of the corporate tax systems in use within the EC. The author concludes that the coexistence of different corporate tax systems will adversely affect the working of the single market and fundamental provisions of the EEC Treaty, and that therefore priority should be given to resolving this issue.

*The Ruding Report: A Business Point of View*

Yves Darolles and Marco Tucci

EC Tax Review, 1992/1 (May 1992), p. 39. The authors comment on the Ruding report from a business perspective, focusing on factors which may delay or accelerate the pro-

cess of harmonization of corporate taxes. In an annex, the conclusions and recommendations of the Ruding committee report are summarized.

## Direct Tax Measures

*Some Questions on the Parent-Subsidiary Directive and the Merger Directive*

Peter H. Schonewille

Intertax, 1992/1 (January 1992), p. 13.

The author reports on the questions raised during a University of Leyden reading of the direct tax directives in June and July of 1991.

*EC Tax Scene*

Otmar Thömmes

Intertax, 1992/1 (January 1992), p. 65.

In his monthly report on EC tax matters, the author comments on the discrimination of branches compared to companies against the background of the freedom of establishment and the direct tax directives.

*A New Layer of Complication*

J. David B. Oliver

Intertax, 1992/2 (February 1992), p. 82.

In an editorial the author focuses on a new layer of complication emerging as corporate tax directives may be overruled by domestic anti-avoidance rules.

*The Impact of EC Tax Directives on U.S. Groups with European Operations*

Eric Tomsett

Bulletin for International Fiscal Documentation, Vol. 46, No. 3 (March 1992), p. 123.

The article provides an overview of the harmonization of direct taxes within the EC and an outline of the direct tax directives and proposed subsequent measures. The article concludes with the implications of these developments for U.S. groups with European operations.

*Talkback: Conference on EC Directives*

Barnabas Spender

International Tax Review, Vol. 3, No. 6 (May 1992), p. 39.

The author reports on a two day IBFD/KPMG conference on the EC Corporate Tax Directives held in March 1992.

*EC Directives: Do They Need More Than 'Direct' and 'Indirect' Effects to Have Full Efficacy?*

Yann Kergall and Philippe Juilhard

Intertax, 1992/5 (May 1992), p. 266.

In an editorial the authors look into the direct effect, the indirect identification effect and the horizontal effect of directives in the light of recent EC Court decisions.

*EC Tries to Unify Transfer Pricing*

Jean-Pierre Hanin

International Tax Review, Vol. 3, No. 6 (May 1992), p. 32.

The article provides a short outline of the EC Arbitration Convention.

**Implementation of Direct Tax Measures**

*EC Tax Scene*

Otmar Thömmes

Intertax, 1992/2 (February 1992), p. 138.

In his monthly report on EC tax matters, the author provides a brief overview of the state of implementation of the direct tax directives by the Member States at the expiration of the implementation deadline.

*EC Tax Scene*

Otmar Thömmes

Intertax, 1992/3 (March 1992), p. 195.

In his monthly report on EC tax matters, the author explains how companies affected by the delayed implementation of the corporate tax directives can exercise their rights in the EC legal framework.

*EC Tax Scene*

Otmar Thömmes

Intertax, 1992/4 (April 1992), p. 254.

In his monthly report on EC tax matters, the author criticises the restrictive interpretation by some Member States of the corporate tax relief under legislation implementing the parent/subsidiary directive. The author concludes that despite the directive, corporate tax relief for EC source dividends is far from harmonisation.

*Implementation of the Parent-Subsidiary Directive in the Member States*

Rijkele Betten et al.

European Taxation, Vol. 32, No. 4/5 (April/May 1992), p. 130.

In separate reports the authors provide an outline of the (state of) implementation of the parent-subsubsidiary directive in each of the Member States.

*Belgium Develops Holding Company Credentials*

Piet Everaert

International Tax Review, Vol. 3, No. 3 (February 1992), p. 8.

The article provides an outline of the Belgian legislation implementing the parent/subsidiary directive, focusing on the main attractions of Belgium as a location for holding companies.

*Legislation: Belgium*

L. Hinnekens

EC Tax Review, 1992/1 (May 1992), p. 63.

The author provides a brief note on the Belgian (draft) legislation implementing the parent/subsidiary and merger directives.

*Benelux Adopts Case-by-Case Approach*

Peter van Dijk and Robert Rouwers

International Tax Review, Vol. 3, No. 4 (March 1992), p. 9.

The article provides a brief description of the tax regimes for intermediate holding companies in The Netherlands, Belgium and Luxembourg after the coming into force of the parent/subsidiary directive.

*France Adopts EC Law and Brings Controversy*

Catherine Charpentier

International Tax Review, Vol. 3, No. 4 (March 1992), p. 5.

The author provides an outline of the French legislation implementing the parent/subsidiary and mergers directives, and highlights some uncertainties and controversies in the legislation.

*France Enacts Implementing Legislation for EC Mergers Directive*

Olivier Delattre

Tax Notes International, Vol. 4, No. 14 (6 April 1992), p. 685.

The article provides an overview of the French legislation implementing the mergers directive.

*Transfer of Residence and of Branches between Freedom of Establishment, the Merger Directive and German Transformation Tax Law*

Brigitte Knobbe-Keuk

Intertax, 1992/1 (January 1992), p. 4.

The author reviews the merger directive and German legislation against the background of the freedom of establishment, and identifies the hurdles which may still exist when transferring a branch or the residence of a company.

*German Tax Act of 1992: Amendments Affecting Cross-border Transactions*

Albert J. Rädler and Richard G. Minor

Tax Notes International, Vol. 4, No. 11 (16 March 1992), p. 515.

The authors outline the German Tax Act of 1992, which includes provisions implementing the parent/subsidiary directive and partially implementing the mergers directive.

*Germany Works to Catch Up on EC Directives*

Les Secular and Henning Raabe  
*International Tax Review*, Vol. 3, No. 6 (May 1992), p. 26.

The authors comment on why there has been a delay in implementing the parent/subsidiary and mergers directives in Germany. Main obstacles have been Germany's domestic tax structure and political factors due to economic problems following the unification. The article reviews the progress made so far, and some problems which are still to be tackled.

*Spain Adopts Implementing Legislation for Mergers Directive*

Alex Morris  
*Tax Notes International*, Vol. 4, No. 15 (13 April 1992), p. 747.

The article provides an overview of the Spanish legislation implementing the mergers directive.

*UK Budget Calls for Implementation of EC Direct Tax Measures*

John G. Goldsworth  
*Tax Notes International*, Vol. 4, No. 13 (30 March 1992), p. 627.

The article comments on the U.K. draft legislation implementing the direct tax directives and the arbitration convention.

*UK Implements Directives in Fits and Starts*

Christopher Morgan  
*International Tax Review*, Vol. 3, No. 4 (March 1992), p. 15.

The author provides a summary of where UK law is ahead of or behind its EC obligations under the parent/subsidiary and merger directives and the arbitration convention.

**EC Court of Justice***EC Court of Justice Upholds Discriminatory Provisions of Belgian Tax Code*

Patrick Kelley  
*Tax Notes International*, Vol. 4, No. 9 (2 March 1992), p. 407.

The author looks into the Bachmann case, where the EC Court of Justice upheld the discriminatory measures in the Belgian tax legislation on the basis of the general interest of Member States and in recognition of the coherence of the Belgian tax disposition.

*EC Court of Justice Ruling Slows Progress Toward Creation of 'European Economic Area'*

John Turro  
*Tax Notes International*, Vol. 4, No. 9 (2 March 1992), p. 409.

The author provides a critical review of the December 1991 ruling of the EC Court of Justice on the proposed union accord for the European Economic Area, where the Court held that the proposed system of judicial supervision is incompatible with the EEC treaty.

*European Court of Justice: Duty of Member States to Implement Directives*

Paul te Boekhorst  
*European Taxation*, Vol. 32, No. 4/5 (April/May 1992), p. 179.

The author reviews the decision of the EC Court of Justice in the Bonifaci and Francovich cases, where a Member State was held liable for damages caused by its failure to implement a directive.

*EC Tax Scene*

Otmar Thömmes  
*Intertax*, 1992/5 (May 1992), p. 298.

In his monthly report on EC tax matters, the author reviews the Bachmann case, where the EC Court of Justice upheld that the discriminatory measures in the Belgian tax legislation are allowed. The author concludes that the general rule that the fundamental freedoms prevail over Member States' tax systems should remain applicable.

*Capital Duty: Muwi Bouwgroep Decision*

H.P.A.M. Van Arendonk  
*EC Tax Review*, 1992/1 (May 1992), p. 49.

In a brief note the author comments on the Muwi Bouwgroep decision, where the EC Court of Justice ruled that a block of shares in a company cannot be considered a 'branch of activity' under the EC capital duty directive.

*Customs Duty: Technische Universität München Decision*

J. De Kater  
*EC Tax Review*, 1992/1 (May 1992), p. 52.

The author comments on the decision of the EC Court of Justice on the validity of a ruling of the Commission in a customs duty case. The author concludes that the Court's decision will improve the rules of conduct governing the relationship between the Community authorities and EC citizens.

*Tax Discrimination: Bachmann Decision*

L. Hinnekens and D. Schelpe  
*EC Tax Review*, 1992/1 (May 1992), p. 58.

The authors provide a critical analysis of the Bachmann decision, where the EC Court of Justice upheld that tax discrimination is allowed for reasons of coherence of the Belgian income tax system. They conclude that Community action will be necessary to resolve the undesirable consequences of the

Bachmann decision of the EC Court of Justice, and expect that the Commission will define its views and proposed actions in this respect.

## Value Added Taxes

### *Removal of Fiscal Frontiers: The New Directive Amending and Supplementing the Sixth Directive*

Ben J.M. Terra and Julie Kajus

International VAT Monitor, 2/3 – 1992 (February/March 1992), p. 2.

The article provides an outline of the EC Directive on the transitional VAT system which will come into effect upon the removal of the fiscal frontiers as per 1 January 1993. The article also contains the full text of the directive, and an overview of the Sixth Directive showing which sections have been changed.

### *Removal of Fiscal Frontiers: Statistics Relating to the Trading of Goods between Member States*

Ben J.M. Terra

International VAT Monitor, 4 – 1992 (April 1992), p. 2.

The article provides an outline of the EC regulation on statistics, which introduces a

statistical collection system relating to the trading of goods between Member States after the removal of the fiscal frontiers as per 1 January 1993.

## Excise Taxes

### *Intrigues Around the Tobacco Excise in the European Community*

Sijbren Cnossen

Intertax, 1992/2 (February 1992), p. 127.

The article provides an analysis and overview of tobacco excises in the EC, and of the controversies in the harmonisation process of these excises. The author recommends that specific (quantity based) rates be used rather than ad valorem rates.

## Ecotax and Carbon Tax

### *Book Review: The European Carbon Tax*

Leo G.M. Stevens

EC Tax Review, 1992/1 (May 1992), p. 47.

The article provides a review of a report by the Institute for Fiscal Studies on the EC Commission's proposals for a European carbon tax. The author concludes that the report contains all of the important policy issues concerning the implementation of a carbon tax.

# Recent books on EC taxation

### *EC Initiatives in Direct Taxation and the National Responses*

Theo Feskens and David Oliver (editors)

Coopers & Lybrand

Kluwer Law and Taxation, Deventer, May 1992

Bound, approx. 220 pages, approx. DFLs 110, US\$ 58

ISBN 90-6544-639-7

This book provides a historical review of the process of harmonization of direct taxes in the EC, and a summary of the national responses of all the Member States to the EC direct tax measures so far adopted, commenting on the progress made in each of the member states. The book concludes with a review of prospective developments, which also looks into the recommendations of the Ruding Committee and the implications of the changes for EC based and non-EC based multinationals.

### *The EEC Merger and Parent-Subsidiary Directives of 23 July 1990 in Practice*

Jean M. Cougnon et al.

Établissements Émile Bruylant, Brussels, 1992

Bound, 260 pages, BFRs 2,250/BFRs 2123 ISBN 2-8027-0586-5

The authors examine the implementation of the parent/subsidiary and merger directives in Belgium, France, The Netherlands and the UK, and the effects of the directives as implemented on cross-border and domestic transactions. The country reports provide information on the situation in each Member State, on the brink of and after implementation of the directives.

### *EC Corporate Tax Law*

Otmar Thömmes and Rijkele Betten (editors)

IBFD, Amsterdam, 1991

Loose-leaf, two volumes, initial subscription DFLs 950.

When completed, this publication will provide a detailed overview of and commentary

on the EC direct tax measures and their implementation in each of the Member States. The publication contains the full text of the direct tax measures in three languages, as well as the English texts of other relevant documentation. The publication is scheduled to be completed by Mid 1992, and will be updated twice a year.

*Taxation of Pensions in the EC*

Jon Kvist

Kluwer Law and Taxation, Deventer, May 1992

Bound, 76 pages, DFLs 65, US\$ 34

ISBN 90-6544-623-0

This book describes the tax aspects of social security in the EC, and provides a national overview of the field of taxation and social security and related topics in the light of the Internal Market and its completion.

*Introduction to Value Added Tax in the EC after 1992*

Ben Terra and Julie Kajus

Kluwer Law and Taxation, Deventer, May 1992

Bound, approx. 178 pages, DFLs 70, US\$ 36

ISBN 90-6544-622-2

This book offers an introduction to the system of VAT in the EC based on the Sixth directive and an overview of the VAT developments towards the completion of the internal market. The book contains an integrated text of the Directives, adopted and proposed, as well as the text of the amending directive in view of the abolition of fiscal frontiers.

*A Guide to the Sixth VAT Directive*

Ben Terra and Julie Kajus

IBFD, Amsterdam, 1992

Bound, two volumes, DFLs 395.

The book provides comprehensive coverage of all aspects of the Sixth VAT Directive. It gives an introduction to VAT, the relationship with other EC measures and the history of the Sixth directive. The book provides the full text of the directive in each of the EC languages and a commentary on each of the articles of the directive.