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# Survey of Literature

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## Recent Articles on EC Taxation

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Jeroen H. Elink Schuurman, Coopers & Lybrand, Amsterdam

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### General

#### *Economic Obstacles in Access to Court in Tax Matters*

Allard O. Lubbers and Leo G.M. Stevens  
EC Tax Review, 1994/3, p. 91.

Comparison of the conditions and costs of commencing a court procedure on tax matters in the Member States.

#### *Frontier Workers and the Free Movement of Labour within the European Union*

Leif Weizman

EC Tax Review, 1994/3, p. 100.

Discussion of the tax treatment of frontier workers under legislation and bilateral tax treaties of Member States.

#### *Communications of the Commission on the Improvement of the Fiscal Environment of Small and Medium-sized Enterprises*

Peter Schonewille

EC Tax Review, 1994/3, p. 112.

Author discusses the three main problems of (unincorporated) SME's identified in Commission's communication; financing, administrative complexity and change of ownership.

#### *Ways to Improve the System of Taxation of Small and Medium-sized Enterprises: A Commission Recommendation*

Philippe Pelle

EC Tax Review, 1994/3, p. 117.

Author discusses Commission's recommendation to create tax neutrality between incorporated and unincorporated enterprises.

#### *Quo Vadis European Taxation?*

F. Vanistendael

EC Tax Review, 1994/4, p. 144.

Editorial on the way forward to a full economic integration and tax harmonisation of the EU.

#### *Compatibility of Bilateral Tax Treaties with European Community Law. The Rules*

Luc Hinnekens

EC Tax Review, 1994/4, p. 146.

Author discusses the consequences of incompatibilities of EC tax law with bilateral tax treaties concluded by Member States.

#### *Some Fiscal Aspects of Financing Structures within a Group of Companies and Thin Capitalization Approaches in Europe*

Peter Essers; Geerten Michielse; Guido de Bont and René Offermans

EC Tax Review, 1994/4, p. 167.

Authors discuss the fiscal relevance of the distinction between debt and equity and the main characteristics of debt and equity financing in Belgium, France, Germany, the Netherlands and the United Kingdom.

#### *Harmonizing and Restructuring EC Labour Income Taxation*

Ruud van den Dool

EC Tax Review, 1994/4, p. 185.

A comparison of the structures of labour costs in the Member States.

#### *To withhold or not to withhold, that is the question*

Robert Boon

European Taxation 1994/9, p. 290.

The author points out the inconsistencies with respect to withholding taxes in the EC context. Followed by a comment of Alexander Wiedow in response to Mr. Boon's article.

#### *Do National Anti-Abuse Clauses Distort the Internal Market?*

Prof. Dr. Albert J. Rädler

European Taxation 1994/9, p. 311.

The author concludes that absence of common anti abuse rules in the EC makes intra-Community transactions more difficult than necessary and leads to distortion of the Internal Market.

#### *National Anti-Abuse Clauses and Distortion of the Single Market: Comments on Prof. Dr. Rädler's Article*

Paul Farmer

European Taxation 1994/9, p. 314.

In commenting on Prof. Rädler's article, the author considers whether the EC direct tax

directives are to be interpreted as imposing limits on the anti-abuse provisions which may be applied by the Member States.

*Can a Netherlands Fiscal Unity Really Cross Borders within the European Union?*

Peter Q.M. van Dijk and Arthur G. Goedkoop

European taxation 1994/12, p. 459.

The authors examine recent Supreme Court case law in the context of the EC non-discrimination principles.

*Progress of the European Ideal*

Dieter Endres

International Tax Review 1994/7, p. 14.

The author provides a German view of European tax harmonisation.

**EC Court of Justice and European Court of Human Rights**

*Restrictions on the Fundamental Freedoms Enshrined in the EC Treaty by Discriminatory Tax Provisions – Ban and Justification*

Brigitte Knobbe-Keuk

EC Tax Review, 1994/3, p. 74.

The author discusses the development of EC case law on discriminatory tax provisions in relation to the EC Treaty.

*Human Rights, European Law and Tax Law: The Implications of the Judgements of the Court of Human Rights in re 'Funke' and of the European Court of Justice in re 'Corbiau'*

Marc Dassesse

EC Tax Review, 1994/3, p. 86.

On the basis of case law the author discusses the application of the European Convention on Human Rights to the tax field.

*Free Movement of Capital and Capital Income Taxation within the European Union*

Ana Paula Dourado

EC Tax Review, 1994/4, p. 176.

On the basis of relevant ECJ decisions, the author identifies the rules requiring non-discrimination in capital income taxation.

*Removal of Discrimination – a Never Ending Story*

Bruno Gouthière

European Taxation 1994/9, p. 296.

This article focuses on the problem areas that still exist despite case law from the European Court of Justice.

*The Prohibition of Income Tax Discrimination in the European Union: What does it mean?*

Prof. S. van Thiel

European Taxation 1994/9, p. 303.

The author discusses the meaning and scope

of the prohibition of discrimination in European law. The author disagrees with the contention that non-discrimination is a never ending story.

*Cases before the European Court of Justice*

Julie Kajus

International VAT Monitor 1994/5, p. 255.

Overview of the VAT cases pending before the European Court of Justice and Decided VAT cases which have been published in the weekly reports of the European Court of Justice between 1 September 1993 and 21 August 1994.

**EU Enlargement**

*Compatibility of the Tax System of Applicant States with EC Direct Taxation. Sweden*

Stefan Ersson and Ingrid Melbi

European Taxation 1994/7, p. 198.

Authors discuss to what extent Swedish tax law complies with the EC direct tax system.

*Sweden: Income Tax Changes for Companies*

Inger Wisell

European Taxation 1994/10–11, p. 432.

This note describes new rules concerning the taxation of dividends from abroad and summarizes other recent tax changes.

*Austrian VAT and Direct Tax Reforms*

Christian Herbst and Claudia Annacker

International Tax Review 1995/1, p. 19.

Authors discuss the amendments of Austrian tax laws required by EU membership.

*Value-added Tax the Biggest Worry*

Rupert Sayer

International Tax Review 1995/1, p. 17.

Author discusses the administrative burden of the EC-VAT regime for new Member States.

*Finland Brings in Indirect Taxation*

Arto Kukkonen and Karin Collin

International Tax Review 1995/1, p. 22.

Authors discuss the amendments of Finnish tax laws required by EU membership.

**Direct Tax Measures in Member States**

*Germany: A Solution to the Problem of the Taxation of Non-Residents and Frontier Workers?*

Otmar Thömmes and Ingrid Kiblböck

European Taxation 1994/7, p. 202.

The authors examine a draft bill dealing with the taxation of non-resident individuals and frontier workers in the light of an EC Recommendation.

*Denmark: Government Blocks Madeira Route*

Leif Weizman

European Taxation 1994/9, p. 315.

This note examines Denmark's reasons for unilaterally terminating its treaty with Portugal.

*Germany: Cross-Border Division of Companies*

Katrin Köster

European Taxation 1994/9, p. 317.

The author describes recent changes in the law on cross-border divisions.

*Spain: A Fiscal Cold War?*

Stella Raventós

European Taxation 1994/10–11, p. 431.

The author criticises a ruling by the Spanish tax authorities which denies application of the Parent Subsidiary Directive implementation as well as the Spain-Luxembourg tax treaty to Luxembourg SOPARFI's.

*Italy: Recent Changes in the Italian Tax Legislation*

Stefan Guiso-Gullisay

Intertax, 1994/6–7, p. 292.

Overview of recent amendments to Italian tax legislation.

*Inconsistent Rules in Belgium*

Pascal Faes

International Tax Review 1994/8, p. 39.

Author discusses that Belgium has not fully implemented the EU merger directive. The tax implications of a merger involving a Belgian company and one from another Member State are uncertain.

*Italian Ministry of Finance Issues Circular on Dividend Tax Refunds Under Parent-Subsidiary Directive and Tax Treaties*

Andrea Manganelli

Tax Notes International Volume 9/15, p. 1103.

Author discusses the Italian withholding tax regime for dividends paid by Italian companies to shareholders in France, United Kingdom, Germany and the Netherlands.

*Cross-Border Mergers in the European Union: The Luxembourg Perspective*

Jean-Pierre Winandy

Tax Planning International Review 1994/8, p. 14.

Author discusses Luxembourg company law and tax law aspects of cross border mergers in the light of EC directives and indicates discrepancies and problem areas.