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# Survey of Literature

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## General

### *The Arbitration Convention: Its Origin, Its Opportunities and Its Weaknesses*

Dirk Schelpe

EC Tax Review, 1995/2, p. 68

After a general discussion of the history, background, scope and contents of the Arbitration Convention the author makes recommendations for a future revision of the convention.

### *EC Law and Clauses on 'Limitation of Benefits' in Treaties with the US after Maastricht and the US-Netherlands Tax Treaty*

Adolfo J. Martín-Jiménez

EC Tax Review 1995/2, p. 78

The author discusses the relation between Limitation of Benefits provisions in double tax treaties and EC Law and concludes that tax treaties without a 'subjective clause' may be incompatible with the EC Treaty.

### *Harmonization of Inheritance, Estate and Gift taxes within the EU?*

Frans Sonneveldt and Johan Zuiderwijk

EC Tax Review 1995/2, p. 88

After explaining various concepts and criteria used by Member States in taxing inheritances, estates and gifts, the author concludes that double or multiple taxation may occur. The author expresses the need for harmonization of inheritance, estate and gift taxes and/or elimination of double taxation.

### *What the Merger Directive does not Say*

Joanna C. Wheeler

European Taxation 1995/5, p. 142

Author is of the opinion that the Merger Directive is far from complete in order to achieve its aim. By way of certain examples the author notes that without additional valuation rules the Directive's scheme of relief can be frustrated.

### *The Need for Elimination of Withholding Taxes in a Common Market*

Paul te Boekhorst

European Taxation 1995/5, p. 156

The author shows why, given the disadvantageous effects of withholding taxes in practice for the functioning of the internal market, the abolition of such taxes is of special interest to the European Commission.

### *Holding Structures and Exemptions from Capital Duty*

Koos W. Valkenburg

European Taxation 1995/6, p. 170

This article discusses the exemptions from capital duty which may be obtained when establishing or expanding an international holding structure in the Netherlands in the light of recent Supreme Court case law.

### *Application of the Parent-Subsidiary Directive to Permanent Establishments?*

Francisco Alfredo García Prats

European Taxation 1995/6, p. 179

The author examines the effects of the Parent-Subsidiary Directive when the profits of a subsidiary are transferred to a permanent establishment of the parent company located in a country other than that of the parent company.

### *Using the Treaty of Maastricht to combat Discriminatory Tax Practices in 1995, Examples in France*

Yann Kergall

Intertax 1995/4, p. 173

Editorial on the use of the founding principles of the Maastricht Treaty in the combat against discriminatory tax practices.

### *The Tax Treatment of SME's in the European Union*

John Iekel

Tax Notes International Volume 10/15, p. 1303

Author discusses the fiscal position of SME's in the Member States and the Commission's Recommendation 94/390 EC inviting Member States to adopt initiatives to improve the tax position of SME's.

*Report on Baker & McKenzie 1995 European Tax Conference*

Jan-Willem Gerritsen, Rob van Meerwijk, David Verstraten and Gerald Zaalberg  
Tax Notes International Volume 10/24, p. 1938

Report of a conference held in Brussels on 11 May 1995. The subjects are: restructuring in Europe, securities based incentive programs, taxation of centralised operations and transfer pricing.

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

*ECJ Bans Discrimination against Non-residents*

Prof. Dr. Brigitte Knobbe-Keuk

Intertax 1995/5, p. 234

Article on the 'Schumacker' case and its implications on German tax law.

*ECJ Intervenes in Direct Tax*

Pascal Faes

International Tax Review 1995/4, p. 55

Discussion of the implications of the 'Schumacker' case

*EC Court of Justice Decides Important Case on Taxation of Non-Resident Employees*

Kees van Raad

Tax Notes International Volume 10/10, p. 808

Case note on the 'Schumacker' decision.

*European Court of Justice Rules on Taxation of Non-Resident German Taxpayers*

Jörg Dietrich Kramer

Tax Notes International Volume 10./15, p. 1295

After a description of the 'Schumacker' case the author discusses theoretical and practical problems raised by the European Court's decision.

*An analysis of the European Court of Justice's Schumacker Decision*

Professor Dr. Albert J. Rädler

Tax Notes International Volume 10/20, p. 1683

Author analyses the 'Schumacker' case and concludes that the decision will have considerable impact on the tax laws of Germany, as well as those of the other Member States.

**VAT**

*Introduction to Transitional Measures Applicable in the Context of the Enlargement of the European Union on 1 January 1995*

Prof. Dr. Ben J.M. Terra

International VAT Monitor 1995/1, p. 3

The proposal of the Commission to amend the Sixth VAT Directive and to introduce transitional measures applicable in the context of the enlargement of the European Union on 1 January 1995.

*VAT in the Enlarged European Union: Austria, Finland, Sweden*

Wolfgang Kuhn, Päivi Taipalus and Jan Kleerup

International VAT Monitor 1995/1, p. 8

Series of articles on the VAT systems of the new Member States and the adaption of these systems to the transitional VAT regime.

*European Community: Commission's Report on the Transitional VAT System*

International VAT Monitor, 1995/I, p. 45

Summary of 'Report from the Commission to the Council and the European Parliament on the operation of the transitional arrangements for charging VAT in intra-Community trade (COM(94) 515 final)', followed by a few highlights regarding proof for exempting intra-Community supplies and stock management.

*Austria: Clarification of Certain Provisions in the Austrian VAT Legislation – Introduction*

Wolfgang Kuhn and Suzanne Ourednik

International VAT Monitor 1995/2, p. 96

Overview of the opinion of the Austrian Federal Ministry of Finance on internal market provisions of interest for foreign entrepreneurs.

*Is 1997 Too Soon to Overhaul EU VAT System on Intra-State Trade?*

Nigell Tutt

Tax Notes International Volume 10/10, p. 809

Author discusses the recommendation of the European Federation of Accountants to postpone the introduction of the definitive VAT system in 1997.