

Table of Contents

List of Editors	v
List of Contributors	vii
Preface	xxi
PART I	
Income Tax	1
CHAPTER 1	
A Supplemental Expenditure Tax	
<i>Victor Thuronyi</i>	3
§1.01 Introduction	3
§1.02 Why an SET?	3
[A] Improve Performance of the Income Tax	3
[B] Why a Consumed Income Tax?	4
[C] Why a Supplemental Tax Instead of Replacing the Income Tax?	5
[D] Tax Administration Considerations	6
[E] The Indian Experience with SET	8
§1.03 SET Design Issues	10
[A] In General	10
[B] Specific Design Elements	11
[1] Jurisdictional Basis	11
[2] Income	11
[3] Deductions	12
[4] Treatment of Debts	12
[5] Treatment of Cash	13
[6] Housing	13
[7] Other Consumer Durables	13
[8] Averaging	14
[9] Carryover of Exemption	14

Table of Contents

[10]	International Aspects	15
[11]	Family Unit; Gifts and Bequests	16
[12]	Housing and Other Personal Use Property	16
[13]	Anti-abuse	17
§1.04	Transition	18
Annex 1		21
Annex 2		32
PART II		
	Corporate Tax	35
CHAPTER 2		
	IFRS and the Structural Features of an Income Tax Law	
	<i>Peter Harris</i>	37
§2.01	Comparative Natures of Income Tax and IFRS	39
§2.02	Persons/Reporting Unit	42
§2.03	Wealth, Resources, and Earning Activities	46
[A]	Employment	48
[B]	Business	49
[C]	Investment	51
§2.04	Provision of Resources	52
[A]	Provision of Labour: Services	52
[B]	Defining Assets and Liabilities	53
[C]	Classifying Assets and Liabilities	54
[D]	Allocating Assets and Liabilities	63
§2.05	Measuring Resources	67
[A]	Tax/Accounting Period	67
[B]	Quantum	68
§2.06	Payments	76
[A]	Forms	78
[B]	Allocation to Persons and Earning Activities	79
[C]	Quantification	80
[D]	Characterization	82
[E]	Timing	87
[F]	Source/Situs	93
§2.07	Income Calculation	94
§2.08	Conclusion	95
CHAPTER 3		
	IFRS Any Good for Tax?	
	<i>Milena Hrdinkova</i>	99
§3.01	Introduction	99
§3.02	Procedures and General Principles	101
§3.03	Methodology	104
[A]	Starting Point and Dependency	104

Table of Contents

	[B] Income	106
	[C] Expenses	107
	[D] Recognition, Timing, and Measurement	109
§3.04	Conclusions	115
Annex		117
CHAPTER 4		
Allowances for Corporate Equity		
	<i>Geerten M.M. Michielse, Ruud de Mooij & Charlotte Van Peteghem</i>	121
§4.01	Introduction	121
§4.02	Model Design of an ACE	122
§4.03	Economic Rationale for an ACE	123
§4.04	ACEs in Practice	126
	[A] Inflation Adjustment Systems in Israel and the Netherlands	126
	[B] Dividend Distribution System in Brazil	127
	[C] Partial ACE Systems in Italy and Austria	128
	[D] Incremental ACE System in Italy	128
	[E] Full ACE System in Croatia	129
§4.05	An Assessment of the Belgian ACE	130
	[A] Aims	130
	[B] Design	130
	[C] Effects	133
	[D] Tax Planning	134
	[E] Anti-abuse	136
	[F] Evaluation	137
§4.06	Legal Design of an ACE	138
§4.07	Conclusion	139
CHAPTER 5		
Designing Anti-Base-Erosion Rules for Developing Countries: Challenges and Solutions		
	<i>Thomas Dubut</i>	141
§5.01	Introduction	141
	[A] General Causes, Mechanisms and Negative Consequences of Corporate Tax Base Erosion	141
	[B] Short Overview of the Measures Adopted by Developed Countries against Tax Base Erosion	142
	[1] Transfer Pricing Rules	142
	[2] Thin Capitalization Rules	143
	[3] Controlled Foreign Corporation (CFC) Legislation	143
	[4] General Anti-abuse Provisions: GAAR	144
§5.02	Classification of the Main Anti-Base-Erosion Instruments	145
	[A] Provisions Refusing Deductibility of Expenses ('Base-Erosion Rule')	145
	[1] The French Example	146

Table of Contents

	[2] The Belgian Example	148
	[3] The Italian Example	149
	[4] Base-Erosion Rule and Developing Countries	149
[B]	Imposing a Withholding Tax on International Payments	150
	[1] The Withholding Tax on International Payments in Developing Countries	151
	[2] The Withholding Taxes on International Payments in Developed Countries	152
	[3] Specific Issues with Withholding Taxes for International Payments for Services	152
	[4] The Issue of Withholding Taxes on International Payments for Goods	153
§5.03	Specific Issues of Anti-Base-Erosion Measures for Developing Countries	154
	[A] Anti-Base-Erosion Measures and Administrative Simplification	154
	[B] Anti-Base-Erosion Measures and Tax Revenues Increase	155
	[C] Anti-Base-Erosion Measures and Foreign Investment Attractiveness	155
§5.04	Conclusion	155
PART III		
	International Coordination	157
CHAPTER 6		
	The Troubling Role of Tax Treaties	
	<i>Kim Brooks & Richard Krever</i>	159
§6.01	Introduction	159
§6.02	The Shifting of Taxing Rights Away from Capital Importing Countries	162
§6.03	Are Tax Treaties Necessary?	165
§6.04	Rationales for Reducing Source Taxation	168
	[A] Recognizing Administrative Limitations: Forgoing Tax on Business Income Not Derived through a Permanent Establishment	169
	[B] Reducing Costs for Domestic Businesses: Limiting Tax on Interest Income	170
	[C] Reducing the Cost of Accessing Intangible Property Rights: Limiting Taxation of Royalties	172
	[D] Attracting More Foreign Direct Investment: Limiting Withholding Tax Imposed on Dividends	173
	[E] Achieving Non-tax Strategic Benefits	174
§6.05	The Case for Defining a Country's Taxing Jurisdiction in Domestic Legislation as Opposed to Tax Treaties	175
§6.06	Returning to Thuronyi: Renegotiating International Tax Norms	177

CHAPTER 7	
International Standards, Base Erosion and Developing Countries	
<i>Ana Paula Dourado</i>	179
§7.01 Tax Good Governance and Holistic Approaches	179
§7.02 Background: The 1998 OECD Report ' <i>Harmful Tax Competition: An Emerging Global Issue</i> '	180
§7.03 Harmful Tax Competition and BEPS	180
§7.04 BEPS and Developing Countries	182
§7.05 Exchange of Information as an International Standard	183
§7.06 International Standards, Hercules Legislators and Developing Countries	184
§7.07 The Global Standard on Automatic Exchange of Information, Taxpayers Rights and Developing Countries	187
§7.08 The Meaning of 'Information' for the Purposes of Exchange of Information and BEPS Action Plan 10	192
§7.09 Information Exchange and BEPS as Valid International Standards: Some Proposals	193
CHAPTER 8	
Exchange of Information in Developing Countries	
<i>Wendela van den Brink</i>	195
§8.01 Introduction	195
§8.02 Base Erosion and Profit Shifting	196
§8.03 Exchange of Information and Developing Countries	196
§8.04 Issues Concerning Other Actions under the Action Plan on BEPS	199
§8.05 Conclusion	201
PART IV	
Value Added Tax	203
CHAPTER 9	
The VAT and Customs Treatment of the Mining Industry in Sub-Saharan Africa	
<i>Alain Charlet</i>	205
§9.01 Introduction	205
§9.02 The VAT and Customs Treatment of Extractive Industries: An Evolutionary Tax Regime That Follows the Phase of Activity of the Holder of the Mining Right	213
[A] Some Legal Background	213
[B] VAT and Customs Exemptions Granted by Mining Codes	215
[1] The VAT and Customs Regime Applicable during the Exploration and Development Phases	215
[2] The VAT and Customs Regime Applicable during the Production Phase: A Return to the General Law	219

Table of Contents

§9.03	VAT and Customs Issues Specific to the Mining Industry	222
	[A] The Question of the Input VAT Cost on Goods and Services Excluded from the Right to Deduct: The Specific Issue of Fuel Used for Power Generators	223
	[B] The VAT Refund Issue when the Mining Company Starts Producing	225
	[C] Customs and VAT Exemptions for Subcontractors	227
	[D] The Misuse of Mining Conventions as a Tool to Provide a Legal Basis to Further Exemptions	230
	[E] Control of the Scope of VAT and Customs Exemptions: The Mining List and Ring-Fencing Issues	233
	[F] Possible Conflict between National VAT and Customs Treatment of Extractive Industries and Regional Norms	237
	[G] The VAT Treatment of the Transfers of Mining Rights or of an Interest in an Entity Holding a Mining Right	241
	[1] The VAT Treatment of the Transfer of a Mining Right	242
	[2] The VAT Treatment of the Transfer of an Interest in a Mining Right	244
	[3] The VAT Treatment of the Disposal of an Interest in an Entity Holding a Mining Right	246
§9.04	Conclusion	247
	Annex	249
CHAPTER 10		
VAT Design and Some Lessons from Victor		
	<i>Alan Schenk</i>	259
§10.01	Introduction	259
§10.02	Initiation into Technical Assistance	260
§10.03	Structure of a Legal Department Project to Draft a VAT	263
	[A] Preparation in Advance of Mission	263
	[B] First Phase of Mission on the Legal System and Administrative Capacity	263
	[1] VAT Refunds	265
	[2] Rebate of Tax from Repealed Sales Tax	266
	[3] Taxation at the Border	266
	[C] Second Phase of Mission to Address Tax Base and Administrative Issues	267
	[D] Post-mission Work	269
	[E] VAT Regulations and Allied Legal Documents	269
§10.04	Importance of Revenue Estimation	269
§10.05	Replacing a Sales Tax Involving Entrenched Interests	269
§10.06	Pioneering Efforts to Enact a Broad Tax Base in Developing Countries	271

Table of Contents

§10.07	Role of Finance Minister and Tax Officials in Supporting a Broad-Based VAT	272
§10.08	Regional Harmonization without Regional Action	273
§10.09	Suggestions for Enhancement of VAT Technical Assistance	273
§10.10	Conclusion	274
PART V		
	Anti-Money Laundering	275
CHAPTER 11		
	Using Anti-Money Laundering Measures to Improve Tax Compliance <i>Emmanuel Mathias & Gianluca Esposito</i>	277
§11.01	Introduction	277
§11.02	How the AML Framework Enhances Tax Compliance	280
	[A] Prevention of Financial Institutions Being Misused by Tax Evaders	280
	[B] Detection of Potential Tax Crimes by Financial Institutions and Dissemination of Relevant Information to the Revenue Administration	281
	[C] Including AML Information in the Tax Audit and Debt Collection Processes	283
	[D] Formalization of the Economy and Entity Transparency	284
	[E] Ability to Effectively Prosecute Tax Evaders That Are Out of Reach of Administrative Sanctions	287
	[F] Deterrent Effect of Criminal Measures Supports Tax Compliance	288
§11.03	Challenges for Effective Mobilization of the AML Framework	289
	[A] Legal Issues	289
	[1] Definition of Tax Crimes and Relation to International Cooperation	289
	[2] Self-Laundering	291
	[3] Data Protection	292
	[B] Institutional Issues	293
	[1] Role of Supervisors	293
	[2] Domestic Cooperation between Tax, AML and Law Enforcement Authorities	293
	[3] International Cooperation, Including Relationships with Ongoing Initiatives Such as Automatic Tax Information Exchange	294
	[4] Capacity Issues	295
§11.04	Conclusion	296
	Annex	297

