



Tax planning and its limits

International tax planning and its limits have continuously been hot topics in the academia as well as in tax practice over the last years. Tax planning may affect both, a taxpayer's overall tax burden and the revenues of the countries in which the taxpayer is doing business. Naturally, these countries and their tax authorities are focusing on measures that shield their tax revenues from international tax planning. Especially nowadays, the topic of tax planning and its limits is therefore increasingly in the focus of these countries as well as of international organizations, such as the OECD.

This book, which comprises the master theses of the part time class of 2011/13 of the postgraduate LLM program "International Tax Law" at WU (Vienna University of Economics and Business), provides for an analysis of various measures and phenomena of tax planning, such as corporate residence, the setup of partnerships and holding companies, transfer pricing, and the shopping into tax treaties, specific tax treaty rules and EU Directives.

The main focus of this book lies on countermeasures to tax planning: CFC rules, thin cap rules, interest barrier rules and tax collection at withholding are examined as examples for national measures. The tax treaty law measures presented in this book include mutual assistance, LOB, subject-to-tax and activity clauses, the beneficial ownership concept, as well as anti-abuse rules of specific allocation rules. Within the EU, anti-tax planning measures must respect Union law, which includes the fundamental freedoms, as well as provisions of secondary EU law, such as the Savings, Merger, Parent-Subsidiary and Interest and Royalty Directive, but also the harmonized area of indirect taxes and the CCCTB.

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