Series Editor’s Foreword

The postgraduate program in International Tax Law at the Vienna University of Economics and Business Administration is available either as a one-year full-time or a two-year part-time program. Students not only attend a vast number of courses, for which they prepare papers and case studies, and sit numerous examinations, they also write their Master’s theses. Writing a thesis is a prerequisite for the academic degree “Master of Laws (LL.M.)”.


The general topic for the 2005/2006 full-time program was “The Relevance of WTO Law for Tax Matters”. A common subject not only encourages students to discuss their theses with each other, but also permits supervision of the students in accompanying courses. Michael Daly introduced the students to the subject matter at the beginning of the year. Judith Herdin-Winter and Ines Hofbauer held seminars in which the structure of the papers and the intermediate results were critically analyzed. It was with great commitment that they supported the students who were preparing their Master’s theses, and their numerous suggestions helped improve the quality of the Master’s theses and, as a consequence, the quality of the present volume. In both my function as the scientific director of the postgraduate program and as the editor of this series I wish to express my gratitude to my two colleagues.

I am also grateful to the students themselves. They pursued the program with great enthusiasm. This postgraduate program not only gave them the opportunity to talk to academics and scientifically qualified interns from all over the world and to acquire a wealth of knowledge, they also learned how to tackle and solve complex issues using a structured approach. The Master’s theses now available bear witness to this. I hope that the results of these papers will both influence scientific discussion and be of use to tax practitioners.

Michael Lang
Editors’ Preface

The present volume comprises the Master’s theses of full-time students in the 2005/2006 class of the postgraduate LLM program “International Tax Law” at the Vienna University of Economics and Business Administration. The general topic of their theses was “The Relevance of WTO Law for Tax Matters”.

Tax scientists and tax practitioners in recent years have become more and more aware of the fact that WTO law may have an influence on national and international tax law. This holds true not only for indirect taxes and tax subsidies but also for direct taxes. The WTO Agreements, and especially the GATT Agreement with its annexed Treaties and the GATS Agreement, contain several explicit provisions on the subject of direct and indirect taxes and even on its delimitation from tax treaty law. This entails overlap particularly with regard to the law of subsidies, prohibition of discrimination, and most-favored-nation obligations.

This volume is dedicated to the analysis of the intersection between WTO law, on the one hand, and national, international and European tax law, on the other hand. It aims at highlighting the concept of non-discrimination under the GATT and GATS and its tax-relevant carve-out provisions. Furthermore, this volume strives to compare the non-discrimination principle in the GATT and GATS with the one to be found under DTC and European tax law. An additional goal is to examine subsidies under WTO law and to compare it e.g. with the European State aid rules or with the OECD’s and EU’s harmful tax competition projects. Lastly, a number of theses are devoted to dispute settlement under WTO law and discuss to what extent the dispute settlement procedures provided therein are suitable for tax actions.

We considered it our task to provide the students with comments and support in writing their papers and to be available as discussion partners. In a seminar we organized in May 2006 at the Vienna University of Economics and Business Administration, the students had the opportunity to present and defend their papers. However, it was all important to us that the students develop their own ideas. Thus, responsibility for the contributions and the views taken therein remains solely with the authors.

It was a great pleasure to work with students coming from different countries and different professional backgrounds. We would like to thank the students for their commitment and congratulate them on the successful completion of their studies.

We would like to express our gratitude to Linde publishing house for the opportunity to publish the present results of intensive research and discussions – also on behalf of all of the authors. As always, the Linde publishing house facilitated the publication through their professional and unbureaucratic cooperation.

Judith Herdin-Winter
Ines Hofbauer